

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

6 May 2014

To: MEMBERS OF THE FINANCE, INNOVATION AND PROPERTY ADVISORY BOARD

(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Finance, Innovation and Property Advisory Board to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Wednesday, 14th May, 2014 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of interest
3. Minutes

To confirm as a correct record the Notes of the meeting of the Finance, Innovation and Property Advisory Board held on Wednesday, 8 January 2014

Matters for recommendation to the Cabinet

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Matters submitted for Information

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| 15. | Urgent items | |

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

16. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

Matters for Recommendation to the Cabinet

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Matters submitted for Information

24. Urgent items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

To be determined at Annual Council

TONBRIDGE AND MALLING BOROUGH COUNCIL

FINANCE, INNOVATION AND PROPERTY ADVISORY BOARD

Wednesday, 8th January, 2014

Present: Cllr A K Sullivan (Chairman), Cllr R Taylor (Vice-Chairman), Cllr J Atkins, Cllr T Bishop, Cllr M O Davis, Cllr D A S Davis, Cllr P J Homewood, Cllr S R J Jessel, Cllr Mrs F A Kemp, Cllr Miss A Moloney and Cllr C P Smith

Councillors Mrs J A Anderson, J A L Balcombe, O C Baldock, M A C Balfour, M A Coffin, D J Cure, N J Heslop, S M King, R D Lancaster, B J Luker, Mrs S Murray, M R Rhodes and H S Rogers were also present pursuant to Council Procedure Rule No 15.12.

PART 1 - PUBLIC

FIP 14/1 DECLARATIONS OF INTEREST

Councillor M Davis declared an Other Significant Interest in the Application for Discretionary Rate Relief by Tonbridge and Malling Leisure Trust on the grounds of being a member of the Trust's Board and withdrew from the meeting during its consideration. He also indicated a potential interest in some items in the Capital Plan for the same reason.

FIP 14/2 MINUTES

RESOLVED: That the notes of the meeting of the Finance, Innovation and Property Advisory Board held on 2 October 2013 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET

FIP 14/3 REVENUE ESTIMATES 2014/15

The report of the Director of Finance and Transformation referred to the responsibility of the Cabinet under the constitution for formulating initial proposals in respect of the budget. Reference was made to the role of the Advisory Board in assisting the Council and Cabinet in the preparation of the budget within the context of the Medium Term Financial Strategy and the Council's priorities. An outline was given of the process for referring the Advisory Board's recommendations to the Overview and Scrutiny Committee prior to consideration by the Cabinet on 4 February and thereafter by the Council at its Budget meeting.

The report set out the framework for considering the estimates in terms of the Medium Term Financial Strategy together with a number of service specific issues. Attention was drawn to the alteration of the format of the Estimates Booklet to mirror the composition of the new directorates following the corporate establishment changes.

The Director of Finance and Transformation drew attention to the key messages arising from the provisional local government finance settlement including the position regarding New Homes Bonus funding. The implications of implementing the Council Tax 'freeze' grant were discussed and concern expressed at the uncertainty in respect of the threshold set by the Secretary of State for local referenda to approve or veto council tax increases above a level which had yet to be notified.

Further to the report to the Advisory Board on 28 August 2013, Members were updated on the achievement of the first savings tranche of £1.1 million together with the issues which had a negative effect on the 'funding gap'. It was noted that the Medium Term Financial Strategy would continue to be updated during the budget cycle as more information became available.

RECOMMENDED: That


(1) the draft Revenue Estimates contained in the booklet be endorsed; and

(2) within the context of the financial pressures outlined in the report, the Overview and Scrutiny Committee be requested to consider the draft Revenue Estimates contained in the booklet and make appropriate recommendations to the Cabinet for its special meeting on 4 February 2014.

FIP 14/4 CAPITAL PLAN REVIEW

Consideration was given to the report of the Director of Finance and Transformation which reviewed the current position of the existing Capital Plan (List A). It also recommended new schemes for adding to List C, some existing List C schemes for deletion or evaluation over the coming year and schemes for inclusion on List B from those List C schemes previously selected for evaluation. Members were reminded that any aspirations in respect of capital schemes needed to be set within the context of the significant financial challenge facing the Council.

Attention was drawn to the effect of the increase in Disabled Facilities Grant in 2014/15 and the scrutiny review of Housing Assistance which were likely to result in the provisions being adjusted at the Cabinet meeting.

RECOMMENDED: That the following be endorsed for consideration by the Overview and Scrutiny Committee: 

- (1) the Capital Plan (List A) position as shown in Annex 2 to the report;
- (2) the amendment of List C as detailed in paragraph 1.5.1 of the report;
- (3) the selection for evaluation of those List C schemes shown in paragraph 1.6.3 of the report;
- (4) the transfer of the schemes listed in paragraph 1.7.3 of the report from List C to List B and in the case of the river wall, Wouldham scheme a specific earmarked reserve be established in the sum of £700,000 and this scheme sit outside the annual allowance of £320,000 with an implementation date for Capital Plan purposes of 2015/16; and
- (5) endorsement of the draft Capital Strategy, as set out at Annex 5 to the report, for adoption and publication on the Council's website.

FIP 14/5 APPLICATIONS FOR DISCRETIONARY RATE RELIEF

Decision Notice D140001MEM

The joint report of the Director of Finance and Transformation and Cabinet Member for Finance, Innovation and Property gave details of renewal applications for discretionary rate relief and new applications for discretionary rate relief and rural rate relief which were considered in accordance with the previously agreed criteria for determining such applications.

RECOMMENDED: That

- (1) in respect of the reapplications for relief set out at Annex 2 to the report, 20% discretionary rate relief be awarded in each case with effect from 1 April 2013, time limited to 31 March 2015;
- (2) the new applications for discretionary rate relief be determined as follows:

Tonbridge and Malling Leisure Trust Facilities at 1-5 Martin Square, Larkfield; Larkfield Leisure Centre; Angel Centre, Tonbridge; Tonbridge Swimming Pool and Poult Wood Golf Centre – 20% discretionary relief be awarded as set out at Annex 3 to the report, time limited to 31 March 2015;

Think Twice Limited in respect of 17 Kings Hill Avenue and Suite 1, 35 Kings Hill Avenue, Kings Hill, West Malling – no discretionary relief be awarded; and

(3) in respect of the new application for rural rate relief for the Post Office at 30 Swan Street, West Malling, 40% discretionary relief be awarded time limited to 31 March 2015.

FIP 14/6 REVIEW OF FEES AND CHARGES 2014/15

The joint report of the Director of Finance and Transformation and Director of Central Services brought forward for consideration proposals in respect of those fees and charges which fell within the remit of the Cabinet Member for Finance, Innovation and Property and those where there was no appropriate Advisory Board.

RECOMMENDED: That

(1) in respect of the recovery of legal fees payable by third parties, the Council's fees continue to follow the Supreme Court guideline hourly rates as set out at paragraph 1.2.1 of the report;

(2) the proposed unchanged scale of fees for local land charges searches and enquiries set out at paragraph 1.3.5 of the report be adopted with effect from 1 April 2014; and

(3) the current photocopying charge of 10p (inclusive of VAT) for each page of the same document or additional copies of the same page plus postage as appropriate be retained.

FIP 14/7 REVIEW OF FEES FOR STREET NAMING AND NUMBERING SERVICES

Consideration was given to the report of the Chief Executive on a review of fees for Street Naming and Numbering services, responsibility for which had transferred to the GIS officer in IT Services.

RECOMMENDED: That the fee schedule for Street Naming and Numbering, as set out at Annex 2 to the report and summarised at paragraph 1.9.1 thereof, be adopted from 1 April 2014.

FIP 14/8 COUNCIL TAX AND BUSINESS RATES UPDATE REPORT

Decision Notice D140002MEM

The report of the Director of Finance and Transformation gave details of recent developments in respect of council tax and business rates and recommended a change to the options available for the payment of council tax.

RECOMMENDED: That payment books no longer be produced for council tax payments.

[In accordance with Council Procedure Rule No 8.5 Councillor C Smith requested that his vote against the motion be recorded.]

FIP 14/9 EXTENSION OF INSURANCE ARRANGEMENTS

Decision Notice D140003MEM

Consideration was given to the report of the Director of Finance and Transformation in respect of the extension of the Council's current insurance contract for a further three years.

RECOMMENDED: That the existing insurance arrangements with Zurich Municipal be extended for a period of three years to June 2017.

MATTERS SUBMITTED FOR INFORMATION

FIP 14/10 BENEFITS UPDATE

Members were advised of current issues arising in the benefits field including performance and workload of the Benefits Section and progress with various aspects of welfare reform. A copy of a letter from Lord Freud, Minister for Welfare Reform, was presented which set out the new timetable for the introduction of universal credit and the planned transfer of housing benefit claims to nationally administered pension credit. Details were also given of the discretionary housing payments scheme and the reasons for not making a bid for additional funding.

FIP 14/11 CHANCELLOR'S AUTUMN STATEMENT

The report provided an overview of the main issues affecting local authorities contained within the Chancellor's Autumn Statement. A copy of a letter to local authority leaders from the Secretary of State for Communities and Local Government was annexed to the report, confirming that the Government would be fully refunding local authorities for the loss in revenue resulting from the changes to business rates.

FIP 14/12 INFORMATION TECHNOLOGY UPDATE REPORT

The report of the Chief Executive provided an update on a number of work streams being carried out by IT Services in support of the Council's Transformation Strategy. This included reference to Quick Response Codes, Resource Space, My Account, online forms and Modern.gov.

MATTERS FOR CONSIDERATION IN PRIVATE

FIP 14/13 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

PART 2 - PRIVATE

MATTERS FOR RECOMMENDATION TO THE CABINET

FIP 14/14 DEBTS FOR WRITE OFF (REASON: LGA 1972 SCH 12A PARA 2 - INFORMATION LIKELY TO REVEAL INFORMATION ABOUT AN INDIVIDUAL)

Decision Notice D140004MEM

The report of the Director of Finance and Transformation recommended approval of the writing-off of debts considered to be irrecoverable. The circumstances surrounding one particular business rate debt were drawn to the attention of Members and discussed. Details were also given of debts under £1,000 which had been written-off in accordance with Financial Procedure Rule 17.2 together with cumulative totals of debts in the current and previous financial years and information on budgeted bad debt provision.

RECOMMENDED: That the 55 items shown in the schedule totalling £201,159.56 be written off for the reasons stated without adjustment.

FIP 14/15 PROPOSED NEW LEASES OF SHOP UNITS AT TWISDEN ROAD, EAST MALLING (REASON: LGA 1972 SCH 12A PARA 3 - FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON)

Decision Notice D140005MEM

The report of the Director of Central Services gave details of proposed terms and conditions for new leases on four premises located at Twisden Road, East Malling.

RECOMMENDED: That the new leases be offered on the terms outlined in the report.

FIP 14/16 PROPOSED LICENCE AGREEMENTS FOR CATERING AND FISHING ARRANGEMENTS AT LEYBOURNE LAKES COUNTRY PARK (REASON: LGA 1972 SCH 12A PARA 3 - FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON)

Decision Notice D140006MEM

Further to Decision No D130146MEM, the report of the Director of Central Services gave details of proposed licences for catering and fishing arrangements to be granted following the results of competitive

quotations.

RECOMMENDED: That

- (1) licences be granted to the two local fishing clubs as detailed in the report; and
- (2) on the results of the 'Best Quotations' exercise, the catering and main fishing licences be granted to the successful applicants on the basis set out in the report.

FIP 14/17 PROPOSALS FOR THE FUTURE OF TWO DISUSED PUBLIC CONVENIENCES (REASON: LGA 1972 SCH 12A PARA 3 - FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON)

Decision Notice D140007MEM

The report of the Director of Central Services referred to the decision to close the Council's public conveniences at Lamberts Yard and The Ridgeway, Tonbridge with effect from 1 April 2013 (Decision No D120156MEM). Consideration was given to the future options for the buildings.

RECOMMENDED: That the future of the disused public conveniences be progressed via public auction on the basis set out in the report.

The meeting ended at 9.48 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 NATIONAL NON-DOMESTIC RATES – NEW-BUILD EMPTY PROPERTY RELIEF AND REOCCUPATION RELIEF

A report advising Members of the government's schemes for new-build empty property relief and reoccupation relief, and requesting Members to approve the adoption of those schemes by this Council

1.1 Introduction

1.1.1 The above schemes have been formulated by the government but the government has not amended the non-domestic rates legislation to reflect the terms of the schemes. In each case, it is open to the local authority not to adopt the schemes. However, if the local authority adopts either or both of the schemes, it would pay the relief granted under its discretionary powers contained in Section 47 of the Local Government Finance Act 1988 (the same section under which we grant discretionary rate relief to charities and other non profit-making bodies). The government has stated that it will reimburse local authorities in full for any relief granted under the schemes.

1.1.2 I set out below details of the two schemes.

1.2 New-build empty property relief

1.2.1 Most newly-built non-domestic property is exempt from non-domestic rates for a period of three months (in the case of non-industrial premises) or six months (in the case of industrial premises). Rates become payable after the exemption has ended. However, the government is of the opinion that the risk of having to pay non-domestic rates on an empty commercial property might act as a disincentive to developers. Therefore this scheme gives a local authority scope to waive the empty rates due for a period of up to 18 months from the date of the property's completion. It is the government's view that by giving local authorities the scope to waive the empty rates that waiver will help to stimulate the construction industry.

1.2.2 Full details of the scheme are contained in the guidance notes issued by the Department for Communities and Local Government, which I attach at **[ANNEX 1]**. However, the main features of the scheme are:

- 1) The property must be a non-domestic property and unoccupied.
- 2) The property must have been completed after 1 October 2013 and before 30 September 2016.
- 3) 100% relief from empty rates may be granted for 18 months or so long as the property remains unoccupied.
- 4) The relief 'runs' with the property, i.e. if there is a change of ownership whilst the property is unoccupied, the new owner receives the benefit of the remaining term of the relief.

1.3 Reoccupation relief

1.3.1 Members might recall my report to Cabinet of 25 March this year regarding retail rate relief. The purpose of that relief is to support the retail sector. It gives relief of up to £1,000 in each of the years 2014/15 and 2015/16 against business rates bills for retail premises (including pubs, cafes, restaurants and charity shops) with a rateable value of up to £50,000.

1.3.2 Reoccupation relief is similar insofar as the government wishes to '*encourage thriving and diverse town centres and to see the number of vacant shops decrease.*' The relief is intended to promote the reoccupation of shops that have been empty for a long period of time and to '*reward businesses that make this happen.*'

1.3.3 Full details of the scheme are contained in the guidance notes issued by the Department for Communities and Local Government, which I attach at **[ANNEX 2]**. However, the main features of the scheme are:

- 1) The property has been reoccupied but was unoccupied for at least 12 months prior to reoccupation.
- 2) The reoccupation occurred between 1 April 2014 and 31 March 2016.
- 3) The property, when previously in use, was wholly or mainly used for retail purposes.
- 4) The property is being used other than as a payday loan shop; betting shop; or pawnbroker's.
- 5) Subject to the above conditions being met, then relief of 50% of the rates due may be awarded for a maximum period of 18 months from the date of reoccupation.

1.3.4 As with new-build relief, reoccupation relief 'runs' with the property.

- 1.3.5 Members might wish to note that there is a significant difference between retail rate relief and reoccupation relief. Although some properties, for instance those used for the provision of financial services to the public, were excluded from the definition of retail premises for the purpose of retail rate relief, they are considered to be retail premises for reoccupation relief.

1.4 Legal Implications

- 1.4.1 If the Council decides to adopt one or both of these schemes, then there are no legal implications, as the Council has power to grant the reliefs afforded by the schemes under the discretion given to local authorities by Section 47 of the Local Government Finance Act 1988. Conversely, because the relief under the schemes is discretionary, if the Council decides not to adopt one or both of the schemes, there are no legal implications. Members might wish to note that, in respect of reoccupation relief, the government has said that it *'expects local government to grant relief to qualifying ratepayers.'*

1.5 Financial and Value for Money Considerations

- 1.5.1 If the Council adopts one or both of the schemes there are no financial or value-for-money implications for the Council, as any relief granted in accordance with the scheme(s) will be reimbursed in full by the government.

1.6 Risk Assessment

- 1.6.1 Although there is no legal risk in either adopting or not adopting the scheme(s), I believe that there is a reputational risk in not adopting the scheme(s).
- 1.6.2 The scheme or reoccupation relief offers assistance to the ratepayers of the Borough who have taken on properties that have been empty for a substantial period of time, thereby assisting with the vitality of town/village centres. That, in turn, should ultimately benefit our residents. As the relief can be given at no-cost to the Borough, it might appear perverse not to adopt the scheme of relief.
- 1.6.3 In the case of new-build empty property relief, it would appear to be sensible to encourage the construction industry as, in the longer-term, newly-built properties will attract business rates. As with reoccupation relief, as the relief can be given at no-cost to the Borough, it might appear perverse not to adopt the scheme.

1.7 Equality Impact Assessment

- 1.7.1 See 'Screening for equality impacts' table at end of report

1.8 Recommendations

- 1.8.1 Members are **REQUESTED** to **RECOMMEND** to Cabinet that:
- 1.8.2 a scheme of new-build empty property relief be adopted as described in the guidance issued by the Department for Communities and Local Government; and

- 1.8.3 a scheme of reoccupation relief be adopted as described in the guidance issued by the Department for Communities and Local Government; and
- 1.8.4 that I be given delegated authority to grant relief in accordance with the adopted scheme(s), subject to any disputed entitlement to relief being referred to the Finance, Innovation and Property Advisory Board.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

contact: Paul Griffin

Nil

Sharon J Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision relates purely to commercial premises.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	The decision relates purely to commercial premises.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.



Department for
Communities and
Local Government

Business Rates

New Build Empty Property – Guidance

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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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About this guidance

1. This guidance is intended to support local authorities in administering the “Business Rates New Builds Empty Property Relief” under the principles of the scheme. This Guidance applies to England only. The Government published a technical consultation document *Business Rates New Build Empty Property* on 12 June.
2. Further to that consultation, this guidance sets out the detailed criteria in which central Government will fund additional relief for empty new builds.
3. The Guidance in certain areas has attempted to clarify aspects of the relief after taking into consideration comments received during the consultation. The Guidance does not replace existing legislation on empty property relief or any other relief.
4. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

Introduction

5. The Chancellor announced in his Autumn Statement on 5 December 2012 that, subject to consultation, the Government will exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to the state aids limits. This document sets out the detail required for the delivery of that policy.
6. The purpose of the measure is to help stimulate construction. Construction decisions take into account the risk of paying empty property rates on newly built commercial property if the property does not become fully occupied straight away. Reducing this risk may incentivise some commercial property projects to go ahead that wouldn't otherwise, helping to stimulate the construction industry.
7. The Government's ability to take further action on empty property rates needs to be balanced against the costs involved, the targeted support the Government have already provided on business rates and the overriding need to reduce public expenditure and support the economy generally by reducing the deficit. However, the Government are keeping the matter under review and will keep consultation response comments in mind as we go forward.

Section 1:

New Build Empty Property Relief

How will the exemption be provided?

8. As this is a temporary measure, we are not changing the rules on when a property becomes liable for empty property rates. Instead we are providing the exemption by reimbursing local authorities that use their discretionary relief powers (under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances. It will be for individual local billing authorities to decide to grant relief under section 47 but central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified.
9. Through this mechanism, central government will guarantee to reimburse local government (both billing authorities and those major precepting authorities within the rates retention system) for the cost to them of relief falling under these circumstances. The precise calculation of that compensation will depend upon the type of authority.

Which properties will benefit from relief?

10. Properties that will benefit from the relief will be all unoccupied non domestic hereditaments that are wholly or mainly comprised of qualifying new structures.
11. We intend that “structures” means:
 - a) foundations and/or
 - b) permanent walls and/ or
 - c) permanent roofs
12. We intend that “new” means:
 - a) completed less than 18 months previously, and
 - b) completed after 1 October 2013 and before 30 September 2016.
13. New structures are to be considered “completed” when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed unless a completion notice has been served in respect of such a building or part of a building - in which case it would be the date specified in that notice.

14. In terms of considering whether a hereditament is *wholly or mainly* comprised of qualifying new structures, we intend that “mainly” means more than half. As the test is made in regards to the composition of the structure, it will not be relevant to consider matters such as the rateable value or use of parts of the property. However, factors such as the area or volume of the property will be relevant. Whilst the policy is not intended to capture properties that have been refurbished¹, it is intended to capture those that have been the subject of substantial structural construction, so for example those properties that are built on existing foundations or built around a retained façade are likely to benefit from the relief.

Splits, mergers, and changes to existing hereditaments

15. Where a hereditament is created as a result of a split or merger of other properties, or where the existing hereditament is altered for example with an extension, the same test will apply i.e. the hereditament must be wholly or mainly comprised of new structures completed within the necessary timeframes to benefit from the exemption. We want to ensure that, on the one hand, ratepayers do not benefit merely because the property has split or merged but, on the other hand, ensure that ratepayers have some flexibility to adapt their properties without losing the relief. There will be some instances where this is not clear cut (such as where a hereditament is formed from the merger of a hereditament that comprises mainly or wholly of new structures with a hereditament that comprises structures that are not new) – in such cases we propose that the relief is only funded where the new hereditament wholly or mainly comprises qualifying new structures. Annex A sets out some examples.

Change of ownership

16. The relief will run with the property rather than the owner. So if a developer initially owns a hereditament that qualifies for the relief he/she will be able to sell/lease the property with the benefit of the remaining term of the relief, subject to the ratepayer’s State Aid de minimis limits.

Properties built before 1 October 2013

17. Properties that are completed before 1 October 2013 will not benefit from these proposals. However, hereditaments comprising such properties will not be subject to empty property rates for the first 3 or 6 months they are empty, in the normal way.

How much relief will be available?

18. The Government will fund authorities to provide 100% relief in the prescribed circumstances, up to State Aid de minimis limits.

¹ Section 46A of the 1988 Act provides that references to a new building in that section “include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes part of, a different hereditament or different hereditaments.” There will be situations where a “new building” within the meaning of s46A will not be eligible for our relief.

19. State Aid refers to financial support from a public or publicly-funded body given to organisations, which has the potential to distort competition and affect trade between member states of the European Union. Providing discretionary relief to ratepayers might, depending on the circumstances, amount to State Aid.
20. State Aid is generally prohibited by European Community rules. However, there are exceptions to this, and some financial aid is allowed under the 'de minimis' rules if the total amount of funding received by an organisation does not exceed a prescribed limit. Currently, funding over a three year period must not cumulatively exceed €200,000.
21. In order to avoid potential State Aid issues, authorities should treat relief granted in the prescribed circumstances in accordance with the de minimis rules. Government will not fund any relief that would lead to the de minimis limit being exceeded with respect to any ratepayer. Local authorities will need to administer the relief in such a way to ensure the de minimis rules are complied with.
22. State Aid Guidance available at:
<https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>

How long is the relief for?

23. The policy is for the new build empty property exemption to apply to unoccupied non domestic properties for the first 18 months following completion, if completed after 1 October 2013 and before 30 September 2016.
24. The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 provide that empty property rates are not payable until a non-industrial property has been empty for 3 months or an industrial property has been empty for 6 months
25. So in practice, an unoccupied new build property would benefit from the relief for periods that rates are payable – i.e once the initial 3 or 6 month rate free period has expired, subject to the State Aid limit.
26. A simple example is a new build office that is unoccupied from the date it is completed for 18 months. In such a circumstance the ratepayer would not be required to pay rates for the first 3 months under the 2008 Regulations and then would benefit from 15 months new build empty property relief provided through section 47 of the Local Government Finance Act 1988.
27. However, we anticipate that properties may switch between being occupied and unoccupied. As we do not want to discourage property owners from trying to find an occupier for their property, even if it is only on a short term basis, we intend that the ratepayer would be able to benefit from the relief for any relevant period in the 18 months. The application of this is complicated by the initial rate free periods when the property becomes empty. So for example, a new shop that is initially

unoccupied for 8 months and becomes occupied for 4 months but becomes unoccupied again for 6 months will be treated as follows:

- 3 months – no rates payable
- 5 months – new build empty property relief
- 4 months – property occupied (occupier rates payable in the normal way)
- 3 months – no rates payable
- 3 months – new build empty property relief

28. At the end of the 18 month period, the funding of the relief will end. If the property continues to be unoccupied (and no further relief is granted by the authority) rates will be payable in accordance with section 45 of the Local Government Finance 1988 and the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008.
29. If a hereditament has been subject to apportionment under section 44A of the Local Government Finance Act 1988 (partly occupied hereditaments), the same principles may be applied to the unoccupied portion – although we expect cases where relief would be payable in such circumstances to be rare.

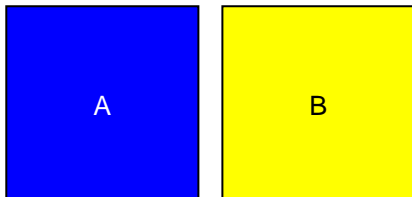
How will the relief work in Enterprise Zones?

30. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, New Build property relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Finance Act 1988.

Section 2:

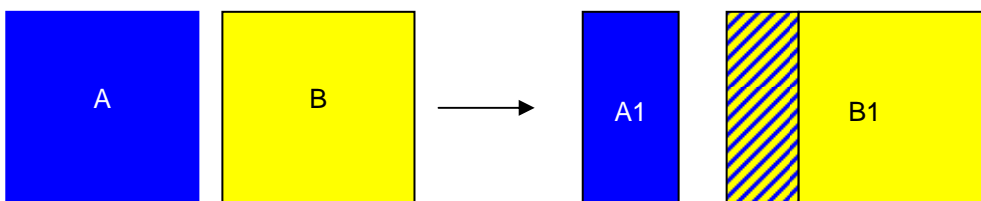
Examples of qualifying properties

Example 1 – A new build property and an existing property



31. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
32. All of Property A's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered 'new' until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to then.
33. None of Property B's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed in the late 1990s and as such, the hereditament would not be eligible for this relief.

Example 2 – A new build property splits and merges with an existing property

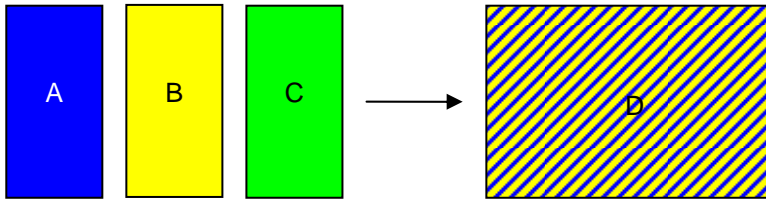


34. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
35. Part of property A splits and merges with property B. Two new hereditaments are formed on 1 October 2014 – A1 and B1.
36. All of Property A1's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered 'new' until 30 September 2015 and as such the

hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.

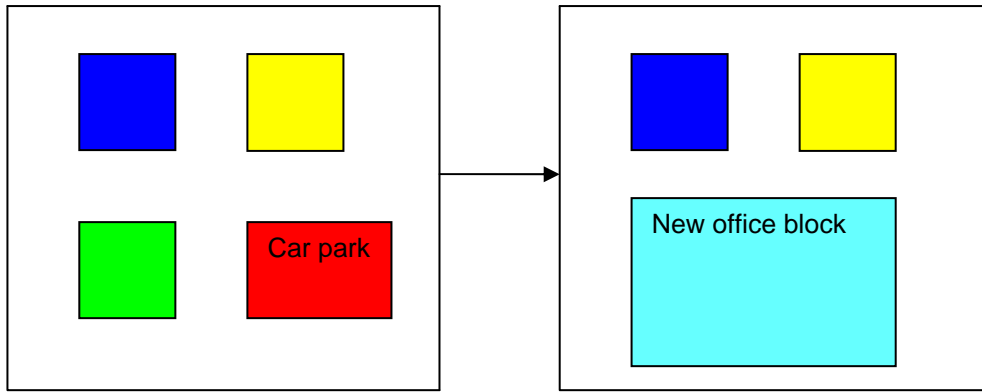
37. Some of Property B1's structures comprise qualifying new structures – as some of the foundations, permanent walls and permanent roof were completed on 1 April 2014. However as more than half of the hereditament's structures were completed in the late 1990s, the hereditament would not be eligible for this relief.

Example 3 – three new build properties (with different completion dates) merge



38. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built from scratch, completed on 1 May 2014. Property C is an office block built from scratch, completed on 1 June 2014.
39. The properties subsequently merge to form a new hereditament on 1 July 2014 – property D. The structures of properties A, B and C equally make up Property D's structure.
40. Until 30 September 2015 property D comprises *wholly* of qualifying new structures as the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. Between 1 October 2015 and 31 October 2015 property D comprises *mainly* of qualifying new structures as two thirds of the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. From 1 November 2015 property D *does not* comprise wholly or mainly of qualifying new structures as only one third of the structure was completed more than 18 months previously. On that basis Property D would be eligible for relief for any period for which empty property rates are payable up to 31 October 2015.

Example 4 – a single hereditament comprising a large site with 3 separate small single storey properties and a car park is redeveloped. One of the small properties is demolished and a new large office block is built on the site of the small property and the car park. The site continues to be a single hereditament.



41. The foundations, permanent walls and permanent roof of the new office block were completed on 1 April 2014 and comprise more than the aggregate amount of foundations, permanent walls and permanent roofs of the two remaining small properties. On that basis the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.

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Department for
Communities and
Local Government

Business Rates Reoccupation Relief

Guidance

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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Business Rates Reoccupation Relief – Guidance

About this guidance

1. This guidance is intended to support local authorities in administering the “Reoccupation Relief” announced in the Autumn Statement on 5 December 2013. This Guidance applies to England only.
2. This guidance sets out the detailed criteria which central government will use to determine funding in respect of Reoccupation Relief. The Guidance does not replace existing legislation on retail properties, any other relief, or development control.
3. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

Introduction

4. The government wants to encourage thriving and diverse town centres and wants to see the number of vacant shops decrease. This relief is intended to encourage reoccupation of shops that have been empty for a long period of time and reward businesses that make this happen.
5. The government announced in the Autumn Statement on 5 December 2013 that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.
6. This document provides guidance to authorities about the operation and delivery of the policy.

Section 1:

Reoccupation Relief

How will the relief be provided?

7. As this is a temporary measure that applies to ratepayers moving into previously empty retail premises between 1 April 2014 and 31 March 2016 only, the government is not changing the legislation around the reliefs available to properties. Instead the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended), to grant relief. It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). The government expects local government to grant relief to qualifying ratepayers.
8. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15, 2015-16, 2016-17 and 2017-18. Central government will provide payments of the local authorities' share to authorities at the end of the relevant years.

Which properties will benefit from the relief?

9. Properties that will benefit from the relief will be occupied hereditaments that:
 - When previously in use, were wholly or mainly used for retail as set out in paragraph 11 below
 - Were empty for 12 months or more immediately before their reoccupation
 - Become reoccupied between 1 April 2014 and 31 March 2016
 - Are being used for any use (ie not just retail use) except as set out in paragraph 13 below
10. There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use. However, State Aid De Minimis limits may limit the amount of relief given.

What is retail use?

11. In relation to a premises' previous use for the purposes of Reoccupation Relief we consider retail to mean:

- i. *Hereditaments that were being used for the sale of goods to visiting members of the public:*
- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc)
 - Charity shops
 - Opticians
 - Post offices
 - Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
 - Car/ caravan show rooms
 - Second hand car lots
 - Markets
 - Petrol stations
 - Garden centres
 - Art galleries (where art is for sale/hire)
- ii. *Hereditaments that were being used for the provision of the following services principally to visiting members of the public:*
- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
 - Shoe repairs/ key cutting
 - Travel agents
 - Ticket offices e.g. for theatre
 - Dry cleaners
 - Launderettes
 - PC/ TV/ domestic appliance repair
 - Funeral directors
 - Photo processing
 - DVD/ video rentals
 - Tool hire
 - Car hire
- iii. *Hereditaments that were being used for the provision of the following services principally to visiting members of the public:*
- Financial services (e.g. banks, building societies, bureaux de change, payday loan shops, betting shops, pawn brokers)
 - Other services (e.g. estate agents, letting agents, employment agencies)
- iv. *Hereditaments that were being used for the sale of food and/ or drink to visiting members of the public:*
- Restaurants
 - Takeaways
 - Sandwich shops
 - Coffee shops
 - Pubs
 - Bars

12. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed were broadly similar in nature to those above and, if so, to consider them to be retail. Conversely, properties that were not broadly similar in nature to those listed above should not be considered to be retail.

Reoccupied use

13. The new use of the reoccupied premises can be for any use (i.e. not just retail uses) except for hereditaments wholly or mainly being used as betting shops, payday loan shops, and pawn brokers¹.
14. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area or where it would not help a shopping area to thrive. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.

How much relief will be available?

15. Relief will be available for 18 months from the first day the hereditament becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the hereditament remaining continuously occupied.
16. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
17. Under this scheme the relief available for each property is 50% of the business rates liability after any mandatory or other discretionary reliefs (other than retail relief) have been applied, up to State Aid De Minimis limits. The relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
18. Of course, councils may use their discretionary powers to offer further discounts outside this scheme (and under local rate retention, 50 per cent of the cost would be locally funded and 50 per cent funded by central government).

¹ In the context of the public debate about the cumulative impact of betting shops, payday loan shops and pawn brokers the Government does not consider it the best use of public funds to offer tax relief that would encourage and incentivise the proliferation of these types of uses.

State Aid

19. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However Reoccupation Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)².
20. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)³) and the requirement to convert the aid into Euros⁴.
21. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Section 3 of this guidance contains a sample De Minimis declaration which local authorities may wish to use. Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance⁵.

Splits, mergers, and changes to existing hereditaments

22. Where a new hereditament has been created by a split or merger of hereditament(s), the new hereditament will be eligible for the Reoccupation Relief where at least half of the floor area of the new hereditament is made up of retail hereditaments that have been empty for 12 months or more (subject to meeting the other criteria in paragraphs 9 and 13).
23. Where a hereditament in receipt of Reoccupation Relief splits or merges to form new hereditaments, the new hereditaments will not be eligible for the remaining term of Reoccupation Relief.
24. Where a hereditament in receipt of Reoccupation Relief becomes unoccupied for any period of time less than 12 months it will not be eligible for any further Reoccupation Relief on occupation. However, if a hereditament that has previously received Reoccupation Relief becomes empty for 12 months or more it will be eligible for an additional 18 months Reoccupation Relief if the criteria are met.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

³ The 'New SME Definition user guide and model declaration' provides further guidance:

http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

⁴ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

⁵ Detailed State Aid guidance can also be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

Change of ratepayer

25. The relief will run with the property rather than the ratepayer. So if a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief, subject to the new ratepayer's State Aid de minimis limits.

How will the relief work in Enterprise Zones?

26. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Reoccupation Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003. Local authorities should not claim funding for Reoccupation Relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

Section 2:

Calculation examples for 2014-15

Example 1 – A property that was previously a pub and was empty for 14 months becomes occupied on 1 April 2014 as a restaurant with a rateable value of £40,000.

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482	= £19,280
Minus Reoccupation Relief for 2014-15 = £19,280 x 0.5	= £9,640
Minus 12 months retail relief = £9,640 - £1,000	= £8,640
Rates due 2014-15 (including reoccupation and retail relief)	= £8,640

Example 2 – A property that was previously a small department store and was empty for 2 years splits into the following 2 separate hereditaments which become occupied on 1 April 2014:

- a) a gym with a rateable value of £10,000
- b) an office with a rateable value of £70,000

Gym:

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471	= £4,710
Minus small business rate relief of 33% (£3,140)	= £1,570
Minus Reoccupation Relief of 50% = £1,570 x 0.5	= £785
Rates due (including all reliefs)	= £785

Office

Rateable Value = £70,000

Rates due (excluding any reliefs) = £70,000 x 0.482	= £33,740
Minus Reoccupation Relief for 2014-15 = £33,740 x 0.5	= £16,870
Rates due 2014-15 (including reoccupation relief)	= £16,870

Section 3:

State Aid

Sample paragraphs that could be included in letters to ratepayers about Reoccupation Relief

The government announced in the Autumn Statement on 5 December 2013 that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.

Awards such as Reoccupation Relief are required to comply with the EU law on State Aid⁶. In this case, this involves returning the attached declaration to this authority to confirm whether you have received any other De Minimis State Aid, which might include for example the £1000 Retail Relief that you may be in receipt of for premises other than the one to which this letter relates, and to confirm that the award of the Reoccupation Relief for this premises does not cause you to exceed the €200,000 an undertaking⁷ can receive under the De Minimis Regulations EC 1407/2013.

Please complete the declaration and return it to the address above. In terms of declaring previous De Minimis aid, we are only interested in public support which is De Minimis aid (State Aid received under other exemptions or public support which is not State Aid does not need to be declared).

Under the European Commission rules, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes). Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'De Minimis' aid for the next three years.

⁶.Further information on State Aid law can be found at <https://www.gov.uk/state-aid>

⁷ An undertaking is an entity which is engaged in economic activity. This means that it puts goods or services on a given market. The important thing is what the entity does, not its status. Thus a charity or not for profit company can be undertakings if they are involved in economic activities. A single undertaking will normally encompass the business group rather than a single company within a group. Article 2.2 of the de minimis Regulations (Commission Regulation EC/ 1407/2013) defines the meaning of 'single undertaking'.

‘De minimis’ declaration

Dear []

BUSINESS RATES ACCOUNT NUMBER: _____

The value of the business rates Reoccupation Rcelief to be provided to [name of undertaking] by [name of local authority] is £ [] (Euros []).

This award shall comply with the EU law on State Aid on the basis that, including this award, [name of undertaking] shall not receive more than €200,000 in total of De Minimis aid within the current financial year or the previous two financial years). The De Minimis Regulations 1407/2013(as published in the Official Journal of the European Union L352 24.12.2013) can be downloaded at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>.

If you have previously received De Minimis aid, please list below. If you have not previously received De Minimis aid, please mark as ‘nil’.

Amount of De Minimis aid	Date of aid	Organisation providing aid	Nature of aid
€			

I confirm that:

- 1) I am authorised to sign on behalf of _____[name of undertaking]; and
- 2) _____[name of undertaking] shall not exceed its De Minimis threshold by accepting this Reoccupation Relief.

SIGNATURE:

NAME:

POSITION:

BUSINESS:

ADDRESS:

DATE:

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 CORPORATE DEBT RECOVERY POLICY

A report advising Members of minor revisions to the Council's Corporate Debt Recovery Policy.

1.1 Introduction

1.1.1 The Council's Corporate Debt Recovery Policy was adopted in July 2012 following a meeting of the Finance and Property Advisory Board (**Decision No: D120099MEM**). The Policy is subject to review and this report advises of the outcome of the latest review.

1.2 The Review of the Policy

1.2.1 I have reviewed the current Policy, which can be viewed at:

http://www.tmbc.gov.uk/__data/assets/pdf_file/0005/71168/Corporate-Debt-Recovery-Policy.pdf

1.2.2 Although no fundamental changes appear necessary, I have taken the opportunity to update the Policy to reflect some administrative changes. The main changes are:

- 1) The change in my designation from Director of Finance to Director of Finance and Transformation.
- 2) The decommissioning of the Finance and Property Advisory Board and the creation of the Finance, Innovation and Property Advisory Board.
- 3) The fact that bailiffs are now termed 'enforcement agents'.
- 4) The transfer of responsibility for recovery of benefit overpayments from the Exchequer Services Manager to the Revenue and Benefits Manager.

- 5) The introduction of 'direct earnings attachments' for the recovery of benefit overpayments.

1.2.3 The updated Policy is attached at **[ANNEX 1]**.

1.3 Legal Implications

1.3.1 There is no legal requirement to have a Corporate Debt Recovery Policy but the Local Government Ombudsman has previously advocated the publication of a Council Tax Debt Recovery Policy, which is included in the Corporate Policy.

1.4 Financial and Value for Money Considerations

1.4.1 None

1.5 Risk Assessment

1.5.1 In view of the Local Government Ombudsman's past views, it would be prudent to have a current Policy.

1.6 Equality Impact Assessment

1.6.1 See 'Screening for equality impacts' table at end of report

1.7 Recommendations

1.7.1 Members are **REQUESTED** to **RECOMMEND** the revised Corporate Debt Recovery Policy to Cabinet for approval.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

contact: Paul Griffin
Tel: 01732 876083

Sharon J Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The policy will apply equally to all debtors and the policy takes account of factors that might lead to the different treatment of debtors because of their circumstances and the waiving of debts on humanitarian grounds.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	The policy does not seek to promote equality but rather to deal with all debtors in a fair manner.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		See Question a above.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

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Corporate Debt Recovery Policy

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Annex B - Housing Benefits Overpayment Policy

Annex C - General Debt Recovery Policy

Annex D - Parking Recovery Policy

Annex E - National Non-Domestic Rate Recovery Policy

Appendix 1 - Debt Collection value based action plan.

Introduction

The Council aims to ensure that all monies due to the Council are recovered economically, efficiently and effectively in order for it to continue to provide services and keep the council tax as low as possible for those who are liable to pay it. In pursuit of that aim, the Council will endeavour to treat all customers equally, in-line with the Council's standards of customer-care and will differentiate between those who can pay, but do not, and those having genuine difficulty in paying. Each annex provides details of debt recovery procedures employed that may be specific to that particular service. However, the key principles noted below are common to all debt recovery procedures and must be included in any new or amended procedures.

Statement of Intent

The Council will treat all debtors in a consistent manner which is fair, sympathetic, firm and cost-effective whilst ensuring that it distinguishes between those who cannot pay and those who will not pay.

At all times the action taken to recover debts will take account of, and comply with, other relevant Council policies including but not limited to – equality, violence at work, and the vulnerable persons policy.

Corporate Debt Recovery Policy

Key Principles

The following key principles will be applied to all areas of debt recovery:

- Hard copy invoices/bills and notices are issued and sent to debtors promptly and in accordance with published/statutory requirements.
- Where a debtor is in receipt of housing benefit and/or council tax reduction, the Council will make every effort to ensure that the debtor is receiving the maximum benefit to which they are entitled.
- Debtors who cannot pay will, as far as possible, be distinguished from those who will not pay.
- Recovery action will be fair and equitable with the aim of ensuring that, where debtors have the means, they fulfil their obligation to pay their debts.
- An appraisal of the debtor's circumstances will be undertaken and used as the basis for agreeing mutually acceptable repayment arrangements.
- We will aim to strike a fair balance between the claims of Tonbridge and Malling Borough Council and those of competing creditors. Where such a need is identified, debtors will be asked if they have considered seeking assistance from a money advice service such as the CAB.
- Every effort will be made to maintain communication with debtors.
- Irrecoverable Debts
When a debt is deemed to be irrecoverable the process outlined in the Council's Financial Rules will be implemented.

Further Information

Additional information relating to the repayment of Council debts may be obtained from the Financial Services.

By e-mail: financial.services@tmbsc.gov.uk

Corporate Debt Recovery Policy

Annex A - Council Tax Recovery Policy

Foreword

The Council aims to ensure that all monies due to the Council are recovered economically, efficiently and effectively in order for it to continue to provide services and keep the council tax down for everyone who is liable to pay it. In pursuit of that aim, the Council will endeavour to treat all customers equally, and in-line with the Council's standards of customer-care, and differentiate between those who can pay, but do not, and those having genuine difficulty in paying. This policy specifically addresses issues relating to the recovery of council tax debts. However, it must be read in the context of the Council's Corporate Debt Recovery Policy.

The recovery process

- Reminder notices, final notices and summonses are issued in accordance with the recovery timetable approved each year by the Director of Finance and Transformation.
- Following the hearing of summonses by the Magistrates, information request letters will be issued within seven days, or as soon as practicable thereafter.
- Pre-bailiff/enforcement agent letters will be issued 21 days after the issue of information request letters, or as soon as practicable thereafter.
- All cases not subject to a payment arrangement (see below), or other recovery action, will be sent to the Council's bailiff/enforcement agent 14 days after the issue of pre-bailiff/enforcement agent letters.

Payment arrangements

- Except in exceptional circumstances, all arrangements will require the debt to be paid within the current financial year.
- Arrangements for payment of a debt, where the debt will not be cleared by the end of the current financial year, will be agreed only where there is a proven inability to clear the debt by the end of the year. Unless agreed otherwise by a senior officer, such arrangements will be made only if the debtor completes and returns a financial statement form.
- All payment arrangements will be confirmed in writing to the debtor.
- If an information request letter has already been sent to the debtor, a payment arrangement will be made only on condition that the information request is completed by the debtor and returned to the Council (unless the arrangement is over a period of less than one month).
- Once a case has been passed to the bailiff/enforcement agent, it is not the Council's practice to intervene in discussions between the bailiff/enforcement agent and the debtor as to collection of the debt. The Council will intervene in exceptional circumstances, by, for example, coming to a payment arrangement direct with the debtor. However, such payment arrangements will not be made without the express agreement of a senior officer.

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- The purpose of all arrangements is to achieve payment of the debt in the shortest possible time, at a rate that is realistically affordable by the debtor. Where possible, a lump sum payment “up front” will be sought from the debtor. Where more than one council tax account is involved (e.g. if the debtor has moved), priority will be given to keeping payments for the current year up-to-date. Debtors will be encouraged to set up a direct debit for the current year’s payments.
- Where a debtor is on Income Support/JSA (IB)/ESA (IR)/Pension Credit, an arrangement will not be agreed to (unless there are exceptional circumstances) that allows the debtor to pay less than the current recovery amount that can be attached from their state benefit.
- If an arrangement is broken, the debtor will be contacted no later than one month after the default occurs. The debtor will be given the chance to bring the arrangement up-to-date before it is cancelled.
- Where a debtor has defaulted on one arrangement, a further arrangement will not be agreed unless there is a good reason why the original one was broken.

Reminders, final notices and summonses

- Once issued, a reminder, final notice or summons will be withdrawn only for one of the following reasons:
 1. It has been issued in error; or
 2. the issue of the notice has crossed with the taxpayer’s payment (a notice is unlikely to be withdrawn on more than one occasion for this reason); or
 3. a senior officer has agreed the withdrawal; or
 4. it appears that the person will not be liable to pay the amount of the debt shown on the notice, for example because they have moved or they have a pending benefit claim. The notice will be withdrawn only once it has been confirmed that there will be nothing left to pay.
- A final notice may be withdrawn if the taxpayer agrees to change to payment by direct debit (and sets up an instruction).
- Where appropriate, the withdrawal of summonses will be confirmed in writing.
- Debtors in receipt of reminders, final notices and summonses are encouraged to convert to direct debit.

Costs

Costs may be cancelled where:

1. the Magistrates’ Court has ordered their cancellation; or
2. although the issue of the summons was legally correct, the Council has reason to believe that the taxpayer was genuinely unaware of the debt; or
3. there is evidence of extreme hardship; or
4. a senior officer of the Council has agreed to their withdrawal.

The amount of the costs is not negotiable.

Bailiffs/Enforcement agents

- Once the Council has passed a debt to its bailiffs/enforcement agents for collection, the bailiff/enforcement agent will generally be allowed to collect the

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debt with minimal interference from the Council. Any debtor wishing to make a payment arrangement against a debt that is with the bailiff/enforcement agent will be referred to the bailiff/enforcement agent.

- The Council wishes to ensure that its bailiffs/enforcement agents are acting within the law and in accordance with the standards expected by the Council. Any evidence of malpractice by the bailiff/enforcement agent will be investigated by the Council.
- The Council will not seek to interfere with the level of fees charged by the bailiff/enforcement agent unless it appears that they are not legally correct.
- The Council will withdraw a case from the bailiffs/enforcement agents if:
 1. it was sent to the bailiff/enforcement agent in error; or
 2. the Council is collecting another debt from the debtor by means of deductions from income support/JSA (IB)/ESA (IR)/pension credit; or
 3. it would be more effective to use a different recovery method, for example attachment of the debtor's earnings; or
 4. at a senior officer's discretion, the circumstances of the debtor are exceptional for any reason.

Attachment of Earnings Orders (AEOs)

- An AEO is the Council's preferred method of recovery.
- Once an AEO has been issued to an employer of the debtor, it will not be withdrawn without the express agreement of a senior officer.
- Generally employers will be instructed to implement orders strictly in accordance with the legislation.
- Where an employer fails to implement an AEO, the case will be referred to a senior officer who will pursue the matter with the Council's solicitor.

Deductions from Income Support/JSA (IB)/ESA (IR)/Pension Credit

On account of the low income from these payment methods, they are generally used only when it is not possible to secure a higher level of payment from the debtor.

Debt Counselling

- If someone has contacted a debt counselling agency (e.g. CCCS, CAB), we will take a sympathetic line. Where a financial statement has been prepared, and the information supplied has been accepted, any reasonable offer of payment that is based on the statement will be considered and accepted if appropriate.
- If a case is already with the bailiff/enforcement agent by the time the debtor seeks advice, the case will be left with the bailiff/enforcement agent until he has been able to ascertain whether there are sufficient goods on which to levy. The bailiff/enforcement agent will be contacted and made aware of the debtor's circumstances. Having done this, the bailiff/enforcement agent will be requested to cease further action unless it is apparent that the debtor is able to pay the debt.

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Bankruptcy

The Council recognises that sometimes it might have no alternative other than to commence bankruptcy proceedings for the recovery of unpaid council tax. In order to establish whether bankruptcy is the most appropriate method of recovery, the officers of the Council will refer to the Council's document entitled "Guidelines for staff in respect of the use of bankruptcy".

Charging Orders

- A charging order may be made against a dwelling where the owner is subject to a liability order for unpaid council tax, subject to the amount of the liability order plus costs being at least £1,000.
- In deciding whether to apply for a charging order, each case will be considered, on its merits, by a senior officer of the Council. An application for an order is made to the County Court.
- In deciding whether to grant an order, the court must consider all aspects of the case, such as the personal circumstances of the debtor and whether any other person would be unduly prejudiced by the making of an order.
- If the making of a charging order by the Court does not produce payment from the debtor, then the Council will consider asking the Court for an Order for Sale.
- If the debtor's outstanding debts (mortgage, council tax etc.) might exceed the estimate of the likely sale price of the property at auction, we will still proceed in applying for a charging order if the difference between the two were marginal. If the difference were more than marginal, then we might still proceed if other factors were relevant, for example:
 1. the general good of the community, taking into account factors such as the appearance of the area; or
 2. the desire to bring an empty property onto the market and available for occupation; or
 3. the prevention of an ever-accumulating debt.

Committal

- Where all other methods of recovery have either failed or are considered inappropriate, the Council will apply to the Magistrates' Court for a warrant of commitment against the debtor.
- On account of the potentially serious consequences to the debtor of imprisonment, all of the debtor's personal circumstances will be fully considered by a senior officer before pursuing this course of action.

Irrecoverable Debts

- The council may write off the whole, or a proportion, of a debt depending on the circumstances of the particular case. The most common circumstances in which the council will write off a debt are where:
 1. It is uneconomical to pursue recovery; or
 2. There are humanitarian grounds for not pursuing recovery; or
 3. The debtor has died; or
 4. The debtor cannot be traced; or

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5. The debtor has been declared bankrupt.

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ANNEX B - Housing Benefits Overpayment Policy

Introduction

An overpayment is defined under Housing Benefit legislation, as being any payment to which there was no entitlement. This policy is designed to set out guidelines for Benefits staff when dealing with benefit overpayments. It is essential that each case should be reviewed on its merits and that appropriate action be taken only after considering all the facts. Any discretion should be exercised in a fair and reasonable manner. However, this policy is intended to set a framework within which recovery actions can be made.

Policy Aims

The aims of the policy are to:

- maximise the recovery of all overpaid benefit through the measures set out below, and
- recover overpaid benefit in the most cost-effective way.

Affected parties will be notified in accordance with regulations and will be clearly informed of any rights to dispute the Council's decisions.

When identifying that an overpayment has arisen, the following factors need to be determined:

- the cause of the overpayment;
- whether or not the overpayment is recoverable;
- whether or not we should seek to recover the overpayment;
- from whom recovery will be sought;
- the method of recovery and, if the amount is to be recovered by instalments, the periodic amount that is to be recovered.

Housing benefit overpayment staff should negotiate instalment repayment rates at a level that will fully repay the debt within the current financial year when practical to do so. However, where a claimant can show that these levels of recovery will cause undue hardship to themselves or their family, then reduced instalments may be agreed if a financial statement is submitted to the Housing Benefit Overpayment Section.

Causes of overpayments

Benefit overpayments can be caused by any one or combination of the reasons shown below:

- notification of a change of circumstance after the change has occurred;
- failure by a claimant to notify a change of circumstances;
- the deliberate withholding of information by an interested party (for example a landlord);

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- the provision of incorrect information by a claimant or someone acting on their behalf;
- fraudulent encashment of a benefit payment cheque;
- the death of a claimant, and
- from errors made by staff of the Department of Work and Pensions and/or the Council's own staff. These are known as "official errors".

Deciding if an overpayment is recoverable

When deciding if an overpayment is recoverable all of the pertinent facts, supporting evidence and the Benefit Regulations must be taken account of by the Benefits Section.

Generally, all overpayments are recoverable except when they are the result of an "official error". However, even these are recoverable if it is decided that the claimant could reasonably have been expected to realise that it was an overpayment at the time payment was made.

Due regard of the circumstances relating to the individual case shall be taken into account when deciding if recovery of the overpayment is appropriate.

Deciding if an overpayment should be recovered

Having decided that an overpayment is recoverable a decision then needs to be made on whether or not recovery action is to be taken.

A decision not to recover an overpayment is permissible by law but should only be made in exceptional circumstances under the authorisation of the Director of Finance. The Council's Financial Rules set out the procedures for writing off such debts.

Deciding if non-recovery of recoverable overpayments is appropriate

Where it is believed that the recovery of an overpayment, taking into account social factors, is unreasonable and will cause hardship or significant distress, no recovery shall be sought.

Subject to the approval of the Director of Finance and Transformation, Benefits Overpayment staff will consider not taking recovery action in instances where the claimant's social factors are exceptional and in the following circumstances when known:

- the claimant (or any partner) is terminally ill;
- the claimant is about to enter a residential home; or
- the claimant is suffering from a mental illness.

Deciding from whom benefit should be recovered

From April 2006 the Regulations state that if an overpayment was caused by misrepresentation or failure to disclose information, the overpayment must be

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recovered from the person who actually misrepresented or failed to disclose that information.

If the overpayment was caused by an official error it must be recovered from the person who, at the time of receiving the overpayment or any notices relating to the payment, could reasonably have been expected to realise that it was an overpayment.

If neither of the above apply the overpayment can be recovered from:

- the claimant;
- the claimant's partner, if they were members of the same household, both at the time of the overpayment and when it is being recovered; or
- the person to whom the overpayment was paid

Appeals against overpayments and recovery

When the Council receives an appeal, within the allowed time period, against the calculation of an overpayment or the decision as to whom it is recoverable from, by a person entitled to appeal the decision then any action to recover the overpayment should be suspended awaiting the outcome of the appeal.

However, if the debtor wishes to make payments against the debt these will not be refused.

Methods of recovery

Overpayments may be recovered by one or more of the following options provided that no undue hardship is caused to the claimant or former claimant:

- deductions from ongoing benefit;
- deductions from earnings
- the issue of an invoice;
- from ongoing benefit paid by another Council;
- deductions from other benefits paid to the claimant by the Department for Work and Pensions; or
- recovery from payments to a landlord in respect of the benefit due to other tenants where that benefit is paid directly to the landlord. Applies in specific 'blameless tenant' circumstances such as when the tenant has died or moved address.

Deductions from ongoing benefit

There are two prescribed rates of deduction from ongoing benefit depending on whether the overpayment has arisen as a result of fraud or not. These rates are usually reviewed annually, normally in April. For illustrative purposes with effect from April 2014 the standard rates were:

- a) £18.25 in the case of a claimant having been found guilty of fraud or having made an admission under caution of deception or fraud for the purpose of gaining benefit or they have agreed to pay a penalty under Section 45A of the Administration Act and the agreement has not been withdrawn; and
- b) £10.80 in other cases.

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The following additions may also be made:

- half of any applicable earnings disregard; □
half of any disregarded regular voluntary or charitable payment; and
- half of any war disablement pension or war widow's pension. TMBC has chosen to omit these pensions from its recovery considerations.

These are the maximum mandatory rates of overpayment recovery and may be reduced if individual circumstances warrant such a course of action. Higher rates of recovery are possible if these are arranged with the consent of the person they are being recovered from.

Deductions from earnings

It is now possible, to recover overpaid benefit via direct earnings attachments. These operate in a very similar way to attachment of earnings orders in respect of unpaid council tax. Previously it was only possible to attach a debtor's earnings in respect of overpaid benefit after a County Court judgment had been obtained. This is no longer the case.

Issue of an invoice

In the case of deceased debtors, invoices will be issued to the estate of the individual. In these instances recovery action will be dependent upon the specific circumstances of each case.

Recovery of overpayments for cancelled claims will be started by the issue of an invoice. In the first instance the aim will be to recover the overpayment by a single payment. However, where the claimant can show that this is unaffordable, payment by instalment may be negotiated. It is at this stage that investigations into recovery via third parties (other local authorities and DWP) may be undertaken.

Where the debtor is no longer entitled to benefit because their income is too high, instalments may be agreed after taking into account their net disposable income and reasonable financial needs (the applicable amount used in the last calculation of benefit subject to changes in respect of dependents). Net disposable income may be estimated without the need for absolute proof.

Repayments must be set at levels that the former claimants can reasonably be expected to pay. As a rule of thumb, instalments should not usually be greater than 50% of the "excess income" as calculated in accordance with the previous paragraph. Instalments can be renegotiated at any time to take account of varying circumstances.

- If the debtor fails to make payment in full or agree an arrangement to pay within 14 days of the invoice being issued (and there is no ongoing dispute) a reminder will be sent.
- If payment in full or an arrangement is not then made within a further 16 days a "Letter before Action" will be issued. This will advise the debtor that legal action or referral to a debt collection agency will be commenced if payment is not received in full or an arrangement made within a further 10 days.

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- If the debtor fails to respond appropriately within 10 days the debt may be referred to the County Court or a debt collection agency. The decision on which of these actions is to be taken is solely dependent on which one is expected to maximise the amount recovered.
- If the County Court has issued a judgment against the debtor, then, if the debt remains unpaid, we may pass the debt to a bailiff/enforcement agent to collect. In the case of judgments for higher value debts these may be transferred to the High Court and referred to a High Court enforcement officer for collection.
- Debt referred to a debt collection agency shall be on a commission only basis. Such commission shall not be passed on to the debtor nor shall the debt collection agency be empowered to take recovery action, unless authorised by the Director of Finance and Transformation, other than as follows: Reminder letters, Telephone calls, Text messages and Home visits.

Deductions from benefits paid by another local authority

Where the former claimant fails to repay an invoiced overpayment, and is in receipt of benefit from another Local Authority, that Authority is to be asked to recover the overpayment by weekly deductions.

Recovery by deduction from benefits paid by the DWP

If the former claimant fails to repay an invoiced overpayment, and is in receipt of one of the benefits listed in Regulation 105 of the Housing Benefit Regulations 2006, the appropriate office is to be asked to recover the overpayment from one or more of the benefits received.

Recovery of overpayments from Landlords and Agents

If the debtor continues to be entitled to receive benefit then the recovery will normally be by deduction from ongoing benefit paid to the landlord unless the landlord has agreed to repay the debt in full directly.

However, in instances where the debtor is no longer entitled to receive benefit, the Social Security Administration (Fraud) Act 1997 allows the recovery of an overpayment of benefit to be made from a current tenant of a landlord even though the debt relates to a former tenant of the landlord. This only arises when the landlord was paid direct for the former claimant and an overpayment arose. This method of recovery is exceptional and must only be used in the appropriate circumstances. Recovery is said, in these circumstances, to be being made from “blameless tenants”.

Legal Considerations

If, having exhausted all of the above mentioned actions, the debt remains unpaid the Council will consider the appropriateness of other legal action. As an example, if the debtor owns property, it may be possible to place a Land Registry charge on the property. In such instances guidance will be sought from the Council’s legal section.

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Write Off Procedure

Outstanding overpayments will be regularly reviewed to identify any debts that are irrecoverable and need to be authorised for write-off by the Director of Finance and Transformation under delegated powers or by the Finance, Innovation and Property Advisory Board. The delegated authority for write offs is as follows and additional information is provided in **[Appendix 1]** to this document:

- The Director of Finance and Transformation may authorise the write-off of debts up to £1,000.
- Debts of over £1,000 need to be authorised for write-off by the Cabinet..

The following are circumstances where a recoverable overpayment might be reasonably considered for write-off: -

- the debtor has absconded and cannot be traced via Locta, Experian, CIS etc;
- the debtor has died leaving no estate;
- the debt has been returned by the Magistrates' Court;
- the debt is uneconomical to collect; or
- it is considered inappropriate to recover a debt due to the physical and/or mental condition of the debtor.

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ANNEX C - General Debt Recovery Policy

Introduction

These procedure notes provide guidelines for the recovery of the Council's general debts. General debts are those debts held on the Council's Sales Ledger System and do not include – Council Tax, Business Rates, Car Park Penalty Charge Notices, Housing Benefit Overpayments or Statutory Fines.

Debtors will be notified in accordance with relevant regulations (sewerage schemes, emergency Building Control works etc) and will be clearly informed of any rights they may have to dispute the Council's decisions.

Debt Recovery Process

Invoices are raised on a daily basis and, for debt recovery purposes, a notional 'due by' date of seven days after the date of the invoice is used. If the invoice is not paid within seven days and the debtor has neither queried the charge nor requested payment by instalments (see below) debt recovery proceedings will commence.

- § The first reminder letter is issued 18 days after the date of the invoice
- § A legal notice is issued 32 days after the date of the invoice
- § A Letter Before Action is issued 46 days after the date of the invoice
- § The debt is passed to a debt collection company 76 days after the date of the invoice.
- § If, after a maximum of 90 days with the debt collection company, the debt has not been recovered in full or an instalment arrangement entered into, the debt is returned to the Council for legal action to be considered.

The Director of Finance & Transformation may amend the timings of each of these actions as appropriate.

Court action should not be instigated solely because of the legal right of the Council to do so, but because it is a reasonable route left open after other means of recovery have been attempted.

Instalment Arrangements

A Chief Officer in consultation with the Director of Finance & Transformation may enter into or agree other payment terms which reflect the ability of the debtor to repay their debt or where there are special circumstances that need to be taken into consideration. Instalment arrangements may usually only be arranged for non-corporate debtors or charities and only after their specific circumstances have been fully considered. In practice the amount of the instalments and term of the arrangement are governed by the debtors' financial situation and their ability to pay.

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If at all possible the arrangement should provide for the debt being repaid as soon as possible and within the current financial year. If the repayment term exceeds 12 months the Council may apply an interest rate where allowable.

If a debtor fails to adhere to an agreed instalment arrangement the debt becomes payable in full as soon as the payment has been missed. However, if the debtor forewarns the Council that they will be unable to make a payment and the reason given is acceptable, the arrangement may be allowed to continue with either the term extended or the value of the missing payment incorporated into the remaining instalments.

Legal Considerations

If, having exhausted all of the above mentioned actions, the debt remains unpaid the Council will consider the appropriateness in taking formal legal action in line with prevailing legal requirements. In such instances guidance will be sought from the Chief Solicitor.

If the debtor owns property it may be possible to place a Land Registry Charge on the property. Again, in such instances, the advice of the Chief Solicitor should be obtained.

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ANNEX D - Parking Penalty Charge Notice Debt Recovery Policy

Foreword

The Council aims to ensure that all monies due to the Council are recovered economically, efficiently and effectively in order for it to continue to provide services and keep the council tax down for everyone who is liable to pay it. In pursuit of that aim, the Council will endeavour to treat all customers equally, and in line with the Council's standards of customer-care, and differentiate between those who can pay, but do not, and those having genuine difficulty in paying. This policy specifically addresses issues relating to the recovery of Penalty Charge Notice debts. However, it must be read in the context of the Council's Corporate Debt Recovery Policy.

Introduction

The recovery process for Penalty Charge Notices is governed, in the main, by legislation. Parts of the process are automated to ensure that each case is treated consistently and that the necessary time scales are respected and achieved. Whenever possible, and within the constraints of the legal process, the Council will consider mitigation, at any stage, in a sympathetic but consistent manner, in line with the adopted policies of the South East Parking Group and national guidelines. Where the driver has not offered mitigation, or it has been rejected, the legal process will proceed to recover the outstanding charge.

Legal enforcement and recovery process

- All drivers are legally entitled to 14 days in which to pay the Penalty Charge Notice at a 50% discounted rate. The system is set to allow a further 3 days for delays in posting and processing before the amount increases to the full charge.
- The discount period is extended for a further 14 days from the date of any reply to representations or mitigation.
- After 30 days, unpaid Penalty Charge Notices will be referred to the DVLA to identify the registered keeper. The law expects the registered keeper to be responsible for unpaid Penalty Charge Notices.
- Statutory Notices and reminders will then be sent, in a timely manner within the guidelines, to the registered keeper informing him/her of the consequences of not making full payment and allowing him/her to make contact with the Council to arrange payment of the outstanding balance or offer fresh mitigation as to why enforcement should not continue. Each communication, including the original Penalty Charge Notice, provides details of the appeals procedure and offers opportunities to contact the Council to resolve the outstanding matter.
- At the relevant stage the case will be prepared for Debt Registration at the Traffic Enforcement Centre where an order for recovery is sought. The opportunity still exists for the registered keeper to make contact and arrange payment or in some circumstances seek an independent review.

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- All cases not subject to a successful payment arrangement (see below), or not subject to an accepted challenge or appeal by the TEC or Traffic Penalty Tribunal, will be sent to the Council's bailiff 36 days after the issue of an Order of Recovery.

Payment arrangements

- Arrangements will not normally be considered when the charge is at the discount stage.
- Requests to make payments by instalments will only be considered if supported by financial evidence.
- Other than in exceptional circumstances, all arrangements will require the debt to be paid within one calendar year.
- The purpose of all arrangements is to achieve payment of the debt in the shortest possible time but at a rate that is realistically affordable by the debtor.
- The debtor will normally be expected to make an immediate initial payment.
- Payment arrangements will be confirmed in writing to the debtor.
- Where more than one Penalty Charge Notice is involved, the arrangement will endeavour to clear cases at the most advanced stage of enforcement first.
- If an arrangement is broken the debtor will be contacted no later than one month after the default occurs and be given the opportunity to bring the arrangement up-to-date. Failure to do so will result in the cancellation of the arrangement and the immediate resumption of the enforcement process.
- Where a debtor has defaulted on one arrangement it is unlikely that a second one will be agreed unless there is a good reason why the original one was broken.
- Once a case has been passed to the bailiff it is only he who can determine and agree any further payment arrangement. It is not the Council's practice to intervene in discussions, between the bailiff and the debtor, as to the collection of the debt although it would expect the Bailiff to show due consideration to any particular circumstances that might justify any arrangement.

Debt Counselling

- The Council will normally adopt a sympathetic view to any approach by a debt counselling agency provided a financial statement is submitted and is accepted. It will endeavour to agree an appropriate sum and rate of repayment in all cases.
- If the approach is made after the case is already with the bailiff then the bailiff will be advised of the circumstances and requested to cease further action until both the Council and the Bailiff have been able to assess the situation and determine what course of action is appropriate.
- This may include continuing with the execution of the distress warrant or returning it, pending the debtor being in a better position to settle the debt.

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Bailiffs/Enforcement Agents

- The Council will only use Bailiffs that are members of a recognised professional body and are committed to working in accordance with national guidelines and / or regulations.
- The Council will ensure that its bailiffs are acting within the law and in accordance with the standards expected by the Council. Any evidence of malpractice by the bailiff will be investigated fully by the Council.
- Once the Council has passed a debt to its bailiffs for collection, the bailiff will generally be allowed to collect the debt with minimal interference from the Council. Any debtor wishing to make a payment or an arrangement against a debt that is with the bailiff will be referred to the bailiff.
- The Council will not seek to interfere with the level of fees charged by the bailiff, unless it appears that they are not legally correct. However it will seek their co-operation in minimising their fees in appropriate circumstances.
- The Council will normally only withdraw a case from the bailiff if in the opinion of a Senior Officer there are exceptional circumstances, or on the advice of the Bailiff himself.
- The Council will maintain regular contact with each Bailiff company ensuring that overall performance is satisfactory and that any specific cases do not require an alternative approach. The Council will normally rely upon the professional judgement of the Bailiff in all cases.
- The Council will seek to engage a minimum of two Bailiff Companies to encourage maximum performance and offer flexibility where necessary. Each bailiff will be expected to return unexecuted warrants well within the lifetime (1 year) of that warrant to enable an alternative company to attempting tracing and execution of the warrant.

Bankruptcy

- If a debtor provides a Bankruptcy Order, or any other evidence of insolvency, dated after the issue of the Penalty Charge Notice/s, the Council would write off the Notice. However a claim would be lodged with the receiver in the hope that some payment would be forthcoming.
- Any Penalty Charge Notice issued after any Bankruptcy or Insolvency Order was made, would be payable and dealt with in accordance with the above policy.

Irrecoverable Debts

If a debt appears irrecoverable the Council may write off the whole, or a proportion, of a debt depending on the circumstances of the particular case. The most common circumstances in which the council will write off a Penalty Charge Notice are where:

- The Bailiff considers there are insufficient funds upon which to levy distress
- The debtor cannot be traced
- The debtor has died
- The debtor has been declared bankrupt.
- It is uneconomical to pursue recovery
- There are humanitarian grounds for not pursuing recovery

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ANNEX E - National Non-Domestic Rate Recovery Policy

Foreword

The Council aims to ensure that all monies due to the non-domestic rate pool are recovered economically, efficiently and effectively. In pursuit of that aim, the Council will endeavour to treat all customers equally, and in-line with the Council's standards of customer-care, and differentiate between those who can pay, but do not, and those having genuine difficulty in paying. This policy specifically addresses issues relating to the recovery of non-domestic rate debts. However, it must be read in the context of the Council's Corporate Debt Recovery Policy.

The recovery process

- Reminder notices, final notices and summonses are issued in accordance with the recovery timetable approved each year by the Director of Finance and Transformation.
- Following the hearing of summonses by the Magistrates, pre-bailiff letters will be issued as soon as practicable thereafter.
- All cases not subject to a payment arrangement (see below), or other recovery action, will be sent to the Council's bailiff/enforcement agent 14 days after the issue of pre-bailiff/enforcement agent letters.

Payment arrangements

- Except in exceptional circumstances, all arrangements will require the debt to be paid within the current financial year.
- Arrangements for payment of a debt, where the debt will not be cleared by the end of the current financial year, will be agreed only where there is a proven inability to clear the debt by the end of the year. Unless agreed otherwise by a senior officer, such arrangements will be made only if the debtor completes and returns a financial statement form.
- All payment arrangements will be confirmed in writing to the debtor.
- Once a case has been passed to the bailiff/enforcement agent, it is not the Council's practice to intervene in discussions between the bailiff/enforcement agent and the debtor as to collection of the debt. The Council will intervene in exceptional circumstances, by, for example, coming to a payment arrangement direct with the debtor. However, such payment arrangements will not be made without the express agreement of a senior officer.
- The purpose of all arrangements is to achieve payment of the debt in the shortest possible time, at a rate that is realistically affordable by the debtor. Where possible, a lump sum payment "up front" will be sought from the debtor.
- Where more than one non-domestic rate account is involved (e.g. if the debtor has moved), priority will be given to keeping payments for the current year up-to-date. Debtors will be encouraged to set up a direct debit for the current year's payments.
- If an arrangement is broken, the debtor will be contacted no later than one month after the default occurs. The debtor will be given the chance to bring the arrangement up-to-date before it is cancelled.

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- Where a debtor has defaulted on one arrangement, a further arrangement will not be agreed unless there is a good reason why the original one was broken.

Reminders, final notices and summonses

- Once issued, a reminder, final notice or summons will be withdrawn only for one of the following reasons:
 1. It has been issued in error; or
 2. the issue of the notice has crossed with the ratepayer's payment (a notice is unlikely to be withdrawn on more than one occasion for this reason); or
 3. a senior officer has agreed the withdrawal; or
 4. it appears that the person will not be liable to pay the amount of the debt shown on the notice, for example because they have moved. The notice will be withdrawn only once it has been confirmed that there will be nothing left to pay.
- A final notice may be withdrawn if the taxpayer agrees to change to payment by direct debit (and sets up an instruction).
- Where appropriate, the withdrawal of summonses will be confirmed in writing.
- Debtors in receipt of reminders, final notices and summonses are encouraged to convert to direct debit.

Costs

- Costs may be cancelled where:
 1. the Magistrates' Court has ordered their cancellation; or
 2. although the issue of the summons was legally correct, the Council has reason to believe that the taxpayer was genuinely unaware of the debt; or
 3. there is evidence of extreme hardship; or
 4. a senior officer of the Council has agreed to their withdrawal.
- The amount of the costs is not negotiable.

Bailiffs/enforcement agents

- Once the Council has passed a debt to its bailiffs/enforcement agent for collection, the bailiff/enforcement agent will generally be allowed to collect the debt with minimal interference from the Council. Any debtor wishing to make a payment arrangement against a debt that is with the bailiff/enforcement agent will be referred to the bailiff.
- The Council wishes to ensure that its bailiffs/enforcement agents are acting within the law and in accordance with the standards expected by the Council. Any evidence of malpractice by the bailiff/enforcement agent will be investigated by the Council.
- The Council will not seek to interfere with the level of fees charged by the bailiff/enforcement agent, unless it appears that they are not legally correct.
- The Council will withdraw a case from the bailiffs/enforcement agents if:
 1. it was sent to the bailiff/enforcement agent in error; or
 2. it would be more effective to use a different recovery method; or
 3. at a senior officer's discretion, the circumstances of the debtor are exceptional for any reason.

Corporate Debt Recovery Policy

Debt Counselling

- If someone has contacted a debt counselling agency (e.g. CCCS, CAB), we will take a sympathetic line. Where a financial statement has been prepared, and the information supplied has been accepted, any reasonable offer of payment that is based on the statement will be considered and accepted if appropriate.
- If a case is already with the bailiff/enforcement agent by the time the debtor seeks advice, the case will be left with the bailiff/enforcement agent until he has been able to ascertain whether there are sufficient goods on which to levy. The bailiff/enforcement agent will be contacted and made aware of the debtor's circumstances. Having done this, the bailiff/enforcement agent will be requested to cease further action unless it is apparent that the debtor is able to pay the debt.

Insolvency

- The Council recognises that sometimes it might have no alternative other than to commence insolvency proceedings for the recovery of unpaid non-domestic rates. In order to establish whether insolvency is the most appropriate method of recovery, the officers of the Council will refer to the Council's document entitled "Guidelines for staff in respect of the use of bankruptcy".

Security For Unpaid Rates

- If a ratepayer has an interest in a property (occupied or unoccupied), the Council may enter into an agreement that any interest is made the subject of a charge to secure payment.
- In consideration of such a charge, the Council will take no further recovery action for the amount concerned for a period specified in the agreement.
- The agreement may not be made for a period of more than three years. It may extend to further amounts becoming due from the ratepayer and it may provide for the payment of interest on sums outstanding (and for that interest, also to be subject to the charge).

Committal

- Where all other methods of recovery have either failed or are considered inappropriate, the Council will apply to the Magistrates' Court for a warrant of commitment against the debtor.
- On account of the potentially serious consequences to the debtor of imprisonment, all of the debtor's personal circumstances will be fully considered by a senior officer before pursuing this course of action.

Irrecoverable Debts

- The council may write off the whole, or a proportion, of a debt depending on the circumstances of the particular case. The most common circumstances in which the council will write off a debt are where:
 1. It is uneconomical to pursue recovery; or
 2. There are humanitarian grounds for not pursuing recovery; or
 3. The debtor has died; or

Corporate Debt Recovery Policy

4. The debtor cannot be traced; or
5. The debtor has been declared insolvent.

Corporate Debt Recovery Policy

Appendix 1 - Value based action plan

Amount	Recovery action sequence	Write off action
£0 to £1	No action.	Submit to Director of Finance and Transformation for write off as uneconomic to pursue.
£1.01 to £15	<ul style="list-style-type: none"> • Overpayment notification. • Issue invoice or deduct from on-going benefit. • Issue first reminder. 	Submit to Director of Finance & Transformation for write off as uneconomic to pursue if the debt remains unpaid 35 days after the issue of the first reminder.
£15.01 to £499.99	<ul style="list-style-type: none"> • Overpayment notification. • Issue invoice or deduct from on-going benefit. • Issue first reminder. • Issue Letter before Action. • Check Locta, DWP & Experian. • Refer to debt collection agency. 	Submit to Director of Finance & Transformation for write off as uneconomic to pursue when debt collection agency return the debt as uncollectable (no payment arrangements)
£500.00 to £1,000.00	<ul style="list-style-type: none"> • Overpayment notification. • Issue invoice or deduct from on-going benefit. • Issue first reminder. • Issue Letter before Action. • Check Locta, DWP, Experian • Use tracing agents, proactive telephone calls and home visits. • Refer to debt collection agency. • If no payment arrangement is made with 'agency then if the debtor is working or possesses sufficient assets apply to the County Court for judgement. Utilise Charging orders, consider attachment of earnings, instruct County Court Bailiffs, consider insolvency. 	Submit to Director of Finance & Transformation for write off on return of debt as uncollectable by the debt collection agency or action via the Court proves ineffective or not appropriate (due to case information)
£1,000.01 and greater.	As for over £500.01.	Submit to FI&PAB via Director of Finance & Transformation for write off upon return of debt as uncollectable by the debt collection agency or if action via the Court proves to be either ineffective or not appropriate.

Corporate Debt Recovery Policy

**Adopted July 2012
Revised May 2014**

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 ADMINISTRATION OF BUSINESS RATES

A report advising Members of a consultation document issued by the government entitled 'Administration of business rates in England: discussion paper' and requesting members to authorise me to respond to the questions posed in the paper.

1.1 Introduction

1.1.1 The consultation paper was issued by the government in April this year and can be found at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/302634/PU1623_administration_of_business_rates_discussion_paper.pdf

1.1.2 The foreword to the paper states that the Government wishes to make the tax system simpler so that it should be '*easy to understand and to comply with, so that businesses spend less time on their tax affairs and more time getting on with what they do best.*'

1.1.3 To the above end, the government wishes to '*improve the business rates system in England so that it works better in the 21st century*' and '*to find ways to make the business rates system simpler, more transparent and more responsive to economic circumstances.*'

1.1.4 The consultation paper poses a number of questions about the operation of the current business rates system and invites views from ratepayers, ratepayers' agents, others in the rating profession, and local authorities. Responses are requested by 6 June.

1.2 The consultation paper

1.2.1 Members will observe from the consultation paper that many of the questions posed are aimed more at the recipients of bills for business rates rather than the local authorities who issue the bills. Therefore, in many cases I have not considered it appropriate to formulate a response for Members to approve.

However, I am, of course, happy to take on board any additional responses Members wish to make.

1.2.2 The following are the questions posed in the consultation paper followed, after each question, by my suggested response.

- 1) The Valuation Office Agency is currently required to set rateable values that are based on the annual rental value of each property at a certain date. What are your views on this approach whilst recognising that the government believes business rates should continue to be based on rental property values?

Proposed response

We consider that rateable values should continue to be based on annual rental value at a certain date.

- 2) What are your views on a less individualised approach to arriving at a rateable value, such as banding, a system of 'zones', indices, or rolling revaluations, as described above?

Proposed response

We see some merit in the suggestion that indices should be used, between revaluations, to adjust rateable values if there are different indices used for different classes of property. It appears to us that this would, perhaps, mitigate what many see as the unfairness caused by the relative value of different classes of property changing between revaluations. However, this would involve, we presume, an increase in the number of adjusted bills issued to ratepayers because of changes to rateable values. Therefore, although the system might be perceived as fairer, it would not be perceived as simpler or more efficient. In addition, administrative costs would increase.

- 3) Moving from the current system to one where properties were placed in bands would result in bills rising for some ratepayers and falling for others. What would be considered an acceptable variance from current bills?

Proposed response

We do not consider that a system of banding should be introduced, as this would introduce a sense of unfairness in those at the lower end of each band and would result in a large number of appeals from ratepayers 'at the margin' whilst not decreasing appeals from ratepayers not at the margin.

- 4) What are your views on the Valuation Office Agency's use of the 'receipts and expenditure' and 'contractors basis' valuation methods used to value property that is not normally let? What do you think about how these methods are applied?

Proposed response

We do not have a view on this question

- 5) Do you have any views on the way that public houses are valued?

Proposed response

No

- 6) Some ratepayers have suggested establishing annual, 2-yearly, or 3-yearly revaluations instead of the normal 5 yearly cycle. How frequently do you think the rateable value of a property should be re-assessed at a revaluation, bearing in mind possible impacts on the predictability and volatility of bills? Why?

Proposed response

We believe that the current cycle is about right, bearing in mind the additional administration that would be involved in more frequent revaluations. Furthermore, we have concerns over the complexity that might occur if there were more frequent revaluations, for example if a system of transitional relief still applied. We believe that that such complexity would militate against making the system simpler for ratepayers to understand.

- 7) Would your views change if more frequent revaluations meant:
- a) rates bills changed more often i.e. were less stable and less predictable than currently?

Proposed response

See our response to Q6 above

- b) it were necessary to use a less individualised approach to valuing property than currently which would mean that ratepayers with different rents, who at the moment pay significantly different bills, might pay the same amount?

Proposed response

We fail to understand how ratepayers with different rents, paying the same amounts, would fit with the government's intention to make the system more responsive to economic circumstances (see foreword to the paper). The annual rental value of a property does not strongly correlate to a business's profitability and, by paying the same amount, that appears to us to be adding to the perceived unfairness of the present system.

- 8) Do you think ratepayers would be more, less, or just as likely to appeal the rateable value of their property if revaluations were more frequent?

Proposed response

We believe that the effect might well be neutral.

- 9) Reducing the time allowed to prepare a revaluation from the current 2 years would also reduce the time available for ratepayers to check their rateable values and prepare for changes to their rates bills. It would also mean the Valuation Office Agency would have less time to collect and analyse rental evidence to prepare valuations. How do you think this would impact ratepayers and local authorities?

Proposed response

By shortening the period, we feel that this might lead to a lower degree of accuracy and lead to more challenges to valuations. If there is a perceived level of inaccuracy in the valuation list, this could lead to a high level of resistance to the payment of rate bills, ultimately impacting on local authority finances.

- 10) What is your understanding of how a revaluation affects final business rates bills? Would you like to receive more information from the government on how this works?

Proposed response

We do not consider it appropriate to respond to this question.

- 11) Do you feel that you understand your rates bill? What would help you to understand it better?

Proposed response

We do not consider it appropriate to respond to this question.

- 12) There are a number of reliefs available for certain types of property or property use which can reduce the amount of business rates you pay. What do you think of the general level of awareness about the reliefs available?

Proposed response

Although we do not consider it appropriate to respond to the question, we would comment that the number of reliefs, particularly those introduced at short notice and/or for a fixed period (for example retail rate relief and new-build empty property relief), and to the complexity of the system for ratepayers. The de minimis requirements in respect of some reliefs are incomprehensible to some small businesses and divert them from getting on with what they do best.

- 13) What is your experience, in general, of how the reliefs system is administered?

Proposed response

We do not consider it appropriate to respond to this question.

- 14) Some reliefs are applied automatically to bills and some require ratepayers to request them from their local authority. What are your views on this?

Proposed response

We do not consider it appropriate to respond to this question, as the government is addressing this question to ratepayers. However, we note that all reliefs are generally well advertised by local authorities and are specifically drawn to ratepayers' attention when their annual bills are issued.

- 15) Your business rates bill is calculated by your local authority (council). If you receive business rates relief of any kind, this should be listed on your bill. Do you have views on how the reliefs you receive are currently shown on your bill?

Proposed response

We do not consider it appropriate to respond to this question.

- 16) Bills (demand notices) are issued to ratepayers by billing authorities. They calculate final bills by multiplying a property's rateable value as set by the Valuation Office Agency, by the business rates multiplier as set by central government, less any mandatory or discretionary reliefs, including transitional relief. What are your views on how clearly bills show the way in which a final business rates liability is calculated? How might bills be made easier to understand?

Proposed response

Taking account of the complexity of the calculation and the requirements of the law, it is difficult to see how the bills might be made any easier to understand without curtailing the amount of information given.

- 17) The government is interested to know whether the following aspects of the current system for billing and collection of business rates present issues for business ratepayers, and if so, how these might be addressed:

a) Bills are usually issued to ratepayers in paper form

b) Format of bills may vary across billing authorities, though core content should be the same

c) Each property is separately liable for rates and so ratepayers receive a separate bill for each property they occupy

d) Changes to the rateable value of a property can lead to an additional, amended bill being issued to the ratepayer

Proposed response

We are unaware of the above issues causing difficulties to a significant number of our ratepayers.

- 18) It can be difficult for the Valuation Office Agency to identify promptly changes to a property that may mean its rateable value should change, particularly if these changes cannot be seen from outside the property. When the change is finally identified, this can result in backdated bills for the ratepayer. To what extent do you think this is an issue for business ratepayers? What could all parties reasonably do to limit the number of situations where this happens?

Proposed response

The government might wish to consider introducing a statutory duty requiring ratepayers to notify the Valuation Office of relevant changes to their properties. It is noted that under the benefits system benefit claimants are required to notify changes of circumstance.

- 19) Changes to rateable values can be made within the life of the rating list, and up to one year after the next list has been compiled. Most backdated bills or refunds are backdated to the date when the change to the rateable value of the property came into effect. What are your views on this?

Proposed response

In principle we do not have a difficulty with this. However, for budgeting purposes we consider that better information as to appeals and their potential effect has to be supplied to us by the Valuation Office. To assist us in addressing backlogs and impacts on the finances of councils, appeals need to be dealt with promptly. In addition, if there were a requirement on ratepayers to notify relevant changes that might affect the valuation of their properties, if they failed to do so in a timely manner the government might wish to consider the rules that apply under the benefits system, i.e. the claimant does not receive the full benefit of any beneficial change. The number of backdated adjustments, whether positive or negative, and their effect on local authorities, could be lessened if it were possible for more valuations to be accurate in the first place and not open to challenge.

- 20) Currently, the Valuation Office Agency collects rental information from ratepayers using forms of return sent by post. What is your experience of

completing forms of return? Do you have suggestions for improving the way that you are asked to provide information to the Valuation Office Agency?

Proposed response

We do not consider it appropriate to respond to this question.

- 21) Do you have suggestions for improving the quality of data provided to the Valuation Office Agency, while minimising the burdens on business?

Proposed response

We do not consider it appropriate to respond to this question.

- 22) The Valuation Office Agency publishes data on its website that shows rateable value and floorspace. What are your views on how the Valuation Office Agency could improve the data it makes available? If you had greater access to Valuation Office Agency data, how would you use it?

Proposed response

We do not consider it appropriate to respond to this question.

- 23) There are currently legal constraints that apply to the data which the Valuation Office Agency can share with ratepayers. Greater sharing of data could help the system run more smoothly. How do you think this could be achieved?

Proposed response

We do not consider it appropriate to respond to this question.

1.3 Legal Implications

1.3.1 None

1.4 Financial and Value for Money Considerations

1.4.1 None

1.5 Risk Assessment

1.5.1 Not applicable

1.6 Equality Impact Assessment

1.6.1 See 'Screening for equality impacts' table at end of report

1.7 Recommendations

1.7.1 Members are **REQUESTED** to **RECOMMEND** to Cabinet that I be authorised to respond to the questions in the consultation paper as outlined above subject to any amendments made by your Board.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Paul Griffin

Nil

Tel: 01732 876083

Sharon J Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision is merely a decision as to the response to a government consultation paper.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	The decision is merely a decision as to the response to a government consultation paper.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Joint Report of the Director of Finance and Transformation and Cabinet Member for Finance, Innovation and Property

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 APPLICATIONS FOR DISCRETIONARY RATE RELIEF

A report giving details of new applications for discretionary rate relief.

The previously agreed criteria for determining applications for discretionary rate relief are attached at [ANNEX 1].

1.1 New applications for discretionary rate relief

1.1.1 Members will be aware that discretionary rate relief can be granted (as shown at [ANNEX 1]) either as a top-up to mandatory rate relief (in respect of charitable organisations and community amateur sports clubs) or, on its own, to non profit-making organisations that are not charities etc. (and do not therefore qualify for mandatory rate relief).

1.1.2 With the introduction of the business rate retention scheme on 1 April 2013, there is no longer a direct cost to the Council in awarding relief. However, Members should note that all awards of relief affect the Council's business rate yield; for 2014-15, it has been estimated that £167,000 discretionary relief will be awarded.

1.1.3 Since the last meeting of the Board, we have received two new applications for rate relief, and one for renewal of relief, that have reached a stage where they are ready for Members' consideration. We give below further details of these applications.

1.1.4 Members' attention is also drawn to the 'main criteria' which are as follows:-

The organisation:

- 1) is a registered community amateur sports club;
- 2) has members;
- 3) gives discounts to members;

- 4) meets one or more of this Council's key priorities;
- 5) is the sole facility in its area.

1.2 Roselands Pre-school, Higham School Road, Tonbridge, Kent, TN10 4BB. Rateable Value £17,000

- 1.2.1 The applicant is a registered charity and we have therefore granted 80% mandatory rate relief. It is for Members to decide whether discretionary relief should be granted as well.
- 1.2.2 The applicant provides early years education for children from ages 2½ to 5 to enable a smooth transfer to primary school.
- 1.2.3 Members may recall that a renewal application from Poppy Pre-School was considered at the 24 July 2013 meeting of this Board. Members recommended that the applicant be awarded the maximum 20% discretionary 'top-up' relief award (Decision Notice D130090MEM refers).
- 1.2.4 In light of this previous decision, Members might therefore be inclined to grant a maximum award of 20%. The property is a new assessment, which came into rating with effect from 1 April 2013. Therefore, should Members decide to award 20% top-up discretionary relief, the applicant will receive an additional £3,240.20 relief.
- 1.2.5 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2015.
- 1.2.6 **Healthy Planet Foundation, Unit 5, Burnt Ash Road, Quarry Wood Industrial Estate, Aylesford, Kent, ME20 7XB. Rateable Value £35,000**
- 1.2.7 The applicant is a registered charity and we have therefore granted 80% mandatory rate relief. It is for Members to decide whether discretionary relief should be granted as well.
- 1.2.8 The applicant's mission is to help individuals and businesses by promoting greener and healthier choices to be implemented in their everyday lives.
- 1.2.9 The property is used to store books that were destined for landfill which are then distributed for free.
- 1.2.10 As it would appear that residents of the Borough do not directly benefit from the applicant's services, Members may wish to recommend to Cabinet that relief should not be granted.

- 1.2.11 Should Members decide to award 20% top up discretionary relief, the applicant will receive an additional £4,268.25 relief.
- 1.2.12 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2015.
- 1.2.13 **The Charity Bank Ltd, 194 High Street, Tonbridge, Kent, TN9 9BD. Rateable Value £35,250.**
- 1.2.14 The applicant has recently advised us that, following changes in capital rules for banks, the Charity Commission deemed the bank's new capital structure was incompatible with its charitable status. The applicant therefore ceased to be a registered charity from 31 May 2013 and is not entitled to 80% mandatory relief from that date.
- 1.2.15 Despite ceasing to be a registered charity, the bank retains its name 'Charity Bank' with the approval of the Charity Commission as it still has the same charitable aims and remains the only UK regulated bank that lends solely to charities, social enterprises and other social purpose organisations.
- 1.2.16 As the change in status only reflects the required technical change to the capital structure, the applicant is requesting a similar award of discretionary relief as their activities have not changed.
- 1.2.17 Should Members be inclined to grant an award of 80% discretionary relief, the applicant will receive £24,691.22 relief. The net effect on the business rate yield for 2014-15 will be nil however, as the applicant was previously in receipt of 80% mandatory relief.
- 1.2.18 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2015.

1.3 Legal Implications

- 1.3.1 As the granting of relief is a discretionary action, the only implication would be a challenge by way of judicial review if an organisation were unhappy with a decision. Such a challenge can succeed only when the Council behaves unreasonably.

1.4 Financial and Value for Money Considerations

1.4.1 In respect of all applications for rate relief, the financial considerations of granting relief are as set out in the body of the report. If relief is not granted, there is a beneficial impact on the Council's finances. This should not prevent each application being considered on its own merits however, as there must be some degree of consistency to prevent a legal challenge.

1.5 Risk Assessment

1.5.1 The only risk that we are aware of is a legal challenge to the Council's decisions (see above). This is unlikely.

1.6 Equality Impact Assessment

1.6.1 See 'Screening for equality impacts' table at end of report

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

contact: Glen Pritchard
01732 876146

Applications for relief from the organisations referred to in the main body of the report received between 17 December 2013 and 25 April 2014, and held in Financial Services.

Sharon Shelton
Director of Finance and Transformation

Martin Coffin
Cabinet Member for Finance,
Innovation and Property

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Where a grant of relief is not being recommended, the decisions could affect the viability of a business within the community thereby affecting all persons within the community rather than particular groups.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	The decisions being recommended affect businesses rather than individuals.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

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CRITERIA TO BE USED IN DETERMINING APPLICATIONS FOR DISCRETIONARY RATE RELIEF

Part 1 - Non profit-making bodies

Previous awards of discretionary rate relief

The Council wishes to promote equality between organisations when granting discretionary rate relief. Therefore, when considering an application for discretionary rate relief, it will have regard to previous awards of relief to bodies of a similar nature to the applicant body. Unless specific considerations apply, the Council is likely to award relief to the same value as previously awarded to such similar bodies. Previous grants of relief for properties occupied by charities or non profit-making organisations include as follows:

100% discretionary rate relief granted to:

- Sports clubs where community amateur sports club status has been refused

20% top-up relief granted to:

- Sports clubs if registered as community amateur sports clubs
- Recreational facilities, sports grounds and playing fields occupied by charities

Applications where special considerations may apply

Where the applicant body does not fall into one of the categories where relief has been awarded in the past (see above), relief may be granted only if the applicant body:

- caters for special needs (see below for an explanation of this term); or
- supplies facilities that would not otherwise be available in the area; or
- provides a service that supports the Council's key priorities. For the year 2012/15 these priorities are:

- § Continued delivery of priority services and a financially viable Council.
- § Sustainable regeneration of Tonbridge town centre and economic development in communities across the Borough.
- § A continuing supply of homes, including affordable housing to buy and rent, and prevention of homelessness.
- § Children and young people who are safe, involved, with access to positive activities.
- § A clean, smart, well maintained and sustainable Borough.
- § Low levels of crime, anti-social behaviour and fear of crime.

§ Healthy living opportunities and community well-being

Meaning of ‘special needs’

Does the organisation cater for a section of the community which the Council considers particularly deserving of support, e.g. persons with disabilities, persons with learning difficulties, the very young or the very old?

Where the applicant body provides such special needs or supplies facilities that would not otherwise be available in the area or supports the Council’s key priorities, the maximum amount of relief will generally be awarded, subject to the following.

Other considerations

In determining awards of relief, the Council will bear in mind all the facts of each case. In particular, the Council may consider the following factors:

- **Membership**
Does the organisation operate a membership scheme?
- **Membership discounts**
Are discounts available for members (for example elderly/disabled etc.)?
- **Key priorities**
Do the organisation’s objectives meet at least one of the Council’s key priorities?
- **Sole facility**
Is the organisation’s property the sole facility in its area of operation?
- **Fees, charges etc**
Is the cost of membership such that it would exclude a large section of the community?
- **Access to facilities**
Are the organisation’s facilities available generally or at certain times to non-members?
- **Provision of facilities**
Have the facilities been provided by self-help or grant aid from the Borough Council, local or public authorities or others?
- **Development of skills**
Does the organisation provide training or education for its members? Are there schemes for particular groups, e.g. young people, the disabled, the retired, the unemployed etc?

Restrictions on the granting of relief

In determining whether relief should be awarded, the Council will be inclined not to grant relief or to limit the amount of relief awarded in the following cases.

- **National charities**
As a general rule, the Council is unlikely to grant relief to national charities located within the Council’s area unless there is some specific benefit to the residents of Tonbridge and Malling over and above the benefit to the residents of other areas in which the charity operates.

- **Charity shops and other premises operated by trading arms of charities**
The Council is unlikely to grant relief to charity shops and other premises operated by the trading arms of charities.
- **Bodies operating in only part of the Council's area**
Where an applicant body is a national organisation but operates only in part of the Council's area, any relief that may be awarded will generally be reduced pro rata the population of the area of the Borough that receives benefit from that organisation. This restriction will not generally apply if the body is not a national body and has been established to benefit only a part of the Council's area.
- **Bodies operating a restrictive membership policy**
It is not the Council's general policy to grant relief to bodies that operate a restrictive membership policy unless such restrictions are necessary because of the size of the property occupied by the body or in order to ensure a pre-determined level of ability or required standard of achievement for a particular sport or activity.
- **Bodies occupying premises with high rateable values**
The Council, when determining an application for relief will consider the rateable value and location of the applicant's premises. Are the premises of a size, and their location, appropriate to the organisation?

Special cases

The Council recognises that there will be occasions when an applicant body does not satisfy the above criteria. Nothing in these criteria shall be taken as restricting the Council's ability to depart from its general policy as to the granting of relief if it sees fit to do so bearing in mind the facts of the case.

Affordability

Applicants for discretionary rate relief should note that the cost of discretionary relief falls partly on the Council. As such, in determining the level of relief to be granted, the Council must have regard to its budgetary position.

Part 2 – Applications not falling within Part 1

From 1 April 2012, the Council may also award relief to any local ratepayer to encourage new business and investment as well as to support local shops or community services.

Businesses located in rural settlements can currently apply for relief and these applications are considered using the criteria listed in the Council's policy in respect of Rural Rate Relief.

For all other applications (either not falling within Part 1 of these criteria or within the criteria for rural businesses), a decision on whether relief should be granted in any particular case should only be considered once the Borough Council has sought the views of the appropriate parish council, local members and the county council. Members should also consider if the other precepting authorities are willing to fund (partly or otherwise) the cost of relief awarded.

Affordability

Applicants for discretionary rate relief should note that the cost of awards of such relief is borne by the Council. For awards of discretionary relief falling within Part 2 of these criteria (and excluding rural businesses), the Council is liable to fund 100% of the amount awarded.

Part 3 - General

In determining the level of relief to be granted, the Council must have regard to its budgetary position. Although the Council will aim to achieve equality between applicants in terms of the level of relief that it grants, this might not always be possible. The Council has the right, subject to giving the requisite notice required by law, to vary or terminate the level of relief that it has previously granted either in respect of a particular organisation/business or in respect of a class of organisation/business or to all organisations/businesses in receipt of relief.

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 FINANCIAL PLANNING AND CONTROL

This report provides information on the following key budget areas for the year ended 31 March 2014: Salaries; Major Income Streams; Investment Income; and the Leisure Services Business Unit. The report also provides details of variations and virements that have been agreed in relation to the 2013/14 revenue budget. This information is then summarised to provide an indicative overall outturn position for 2013/14. In addition, the report provides details of variations identified through revenue budget monitoring in respect of 2014/15. The report also updates Members on capital expenditure and variations that have been agreed in relation to the capital plan.

1.1 Salaries Monitoring Statement

1.1.1 Appended for information at **[Annex 1]** is a budgetary control statement that compares actual expenditure on basic salaries, temporary staff, overtime, superannuation and national insurance for the year ended March 2014, with the revised estimate for 2013/14. The statement identifies **net management savings of £120,550** have been achieved.

1.2 Income Monitoring Statement

- 1.2.1 Appended for information at **[Annex 2]** is a budgetary control statement that compares our major sources of income from fees and charges for the year ended March 2014, with the revised estimate for 2013/14.
- 1.2.2 Members will note that overall income for the year ended March 2014 is **£160,528 more** than the revised estimate.

1.3 Treasury Management

Externally Managed Core Funds

- 1.3.1 The Council's Fund Manager achieved a gross return of 0.23% for the year ended March 2014 compared to a 7-day Libid benchmark of 0.41%. Investment income achieved for the year ended March 2014 is £35,285.
- 1.3.2 However, due to the way the fund is valued and the accounting for unrealised gains/losses, the sum of £49,210 (representing unrealised losses of £51,576 carried forward at 31 March 2014 less the unrealised losses of £2,366 brought forward at 1 April 2013) is to be added to the investment income figure above. Therefore, investment income reported in our outturn booklet for the year ended March 2014 will be £84,495 which equates to a return of 0.56%.
- 1.3.3 At the end of March 2014 the value of the fund stood at £13.4m. This was invested at an average rate of 0.61% and an average maturity of 0.78 years.

Internally Managed Cash Flow Funds

- 1.3.4 The Council achieved a gross investment return of 0.69% on its internal cash flow investments for the year ended March 2014. This equates to investment income of £75,130 excluding interest due on the defaulted Landsbanki investment. In accordance with accounting requirements, notional interest on the Landsbanki investment of £20,198 for 2013/14 will be added to this figure when reported in our outturn booklet for the year ended March 2014.
- 1.3.5 In cash terms, the value of cash flow funds managed internally at the end of March 2014 stood at £5.6m. This was invested at an average rate of 0.87% and an average maturity of 5 days.

All Investments

- 1.3.6 The combined return figure for externally and internally managed investments is compared with the revised estimate for 2013/14 later in this report.

1.4 Leisure Services Business Unit (LSBU)

- 1.4.1 The trading statement for the LSBU to the end of October 2013 shows a deficit of £414,875 compared with the 2013/14 revised estimate of £367,000 producing an **adverse variance of £47,875**.
- 1.4.2 An analysis of the position in respect of the four sites is given in the table below.

Leisure Services Business Unit	Revised Estimate £	Provisional Outturn £	Variance £
Angel Centre	134,600	149,060	14,460
Larkfield Leisure Centre	15,650	31,859	16,209
Tonbridge Swimming Pool	73,650	89,081	15,431
Poult Wood Golf Centre	143,100	144,875	1,775
Total	367,000	414,875	47,875

1.5 Approved Variations to the Revenue Budget

1.5.1 There were no approved variations to the revised revenue estimates for 2013/14 reported to Council on 18 February 2014.

1.6 Virements

1.6.1 There were no virements to the revised revenue estimates for 2013/14 reported to Council on 18 February 2014.

1.7 Revenue Budget Summary 2013/14

1.7.1 We are currently working on closing the accounts for 2013/14 and an examination of spend to date compared with the revised estimates for 2013/14 would suggest a net favourable variance of £152,692 across all Services including that separately identified above.

1.7.2 The table below provides a broad overview of the expected outturn for the year ended March 2014.

Description	Budget to March £	Actual to March £	Variance £
Salaries Monitoring Statement	9,734,850	9,614,300	(120,550)
Income Monitoring Statement	(5,137,350)	(5,297,878)	(160,528)
Treasury Management	(164,400)	(179,823)	(15,423)
Leisure Services Business Unit	367,000	414,875	47,875
Business Rates Retention Scheme	(2,494,774)	(2,266,594)	228,180
Proposed Transfer to Reserves	-	50,000	50,000
General Fund Services	5,721,518	5,539,272	(182,246)
Net Favourable Variance	8,026,844	7,874,152	(152,692)

- 1.7.3 This would suggest a contribution to the General Revenue Reserve of **£223,842** compared with the Revised Estimate figure of £71,150.

1.8 Revenue Budget Monitoring 2014/15

1.8.1 As part of our budget monitoring and control arrangements Chief Officers confirm that budgetary control has been undertaken within the Service areas under their control each month and at the same time highlight those areas, if any, which they wish to bring to the attention of the Director of Finance and Transformation. In addition, the Accountancy Section also monitors budgetary performance across the whole range of services during the year. At the time of writing this report the following areas have been brought to my attention.

1.8.2 The RPI increase from 1 March 2014 in respect of the Refuse Collection and Recycling, Amenity and Street Cleansing and Public Conveniences Cleansing contracts was 0.3% less than estimated. As a consequence the contract payments will be in the order of £11,000 less than the current estimate.

1.8.3 Paper recycling income is now expected to be £50,000 less than that estimated following reduction in the price paid for paper and tonnages collected.

1.8.4 Telephone (landline) allowances are no longer paid to staff. This will produce annual savings of £4,500.

1.8.5 The Council has been awarded the following grants from central government which will be used to fund as yet unbudgeted expenditure:

- Discretionary Housing Payments £75,494 (in addition to budgeted £90,000)
- Welfare Reform Grant £18,015

1.8.6 Management Team have approved the following under delegated authority:

- Contract extension of the Welfare Advisor post until 30 November 2014 at a cost of £14,350.
- Various changes to the Development Control section producing an annual saving of £7,050.
- Regrading and increase of hours within Leisure services at an annual cost of £20,200.

1.9 Capital Monitoring Statement

1.9.1 Appended for information at **[Annex 3]** is a capital monitoring statement which compares actual capital expenditure for the period 1 April 2013 to 31 March 2014 with the 2013/14 Capital Plan. The Capital Plan for 2013/14 is based on the 2013/14 budgets that were approved by Council on 18 February 2014.

- 1.9.2 Prior year's expenditure is only shown for finite schemes for which there is a budget in 2013/14. Where schemes are of a rolling programme nature, prior year's expenditure has not been shown in order to avoid large, generally meaningless, totals building up.
- 1.9.3 Capital Plan schemes which are scheduled to start in 2014/15 and beyond have not been shown. The budget profile for these schemes can be found in the 2014/15 Revenue and Capital Budgets Book.
- 1.9.4 Members will note a Capital Plan spend of £1.1m against the revised 2013/14 budget of £1.9m. The majority of this underspend will be rolled forward for use in 2014/15.

1.10 Approved Variations to the Capital Plan

- 1.10.1 Whilst there are no variations that affect the capital monitoring statement at **[Annex 3]** a scheme, with gross costs estimated to be in the region of £33,000, was approved as a matter of urgency. The scheme will enable equipment to be purchased to progress individual voter registration which starts in June 2014. It is expected that the majority of scheme costs will be funded by a government grant. A report on the scheme is to be considered at the next meeting of Overview and Scrutiny Committee and Cabinet.

1.11 Capital Plan Issues

- 1.11.1 The capital plan monitoring statement, as presented to this Board, is essentially aimed at monitoring the financial performance of the capital plan overall and on a Service and scheme basis. Notes have been provided to supply further information where this is felt to be particularly relevant. Other monitoring reports, which provide greater information about individual schemes, are presented by the Services to the relevant Advisory Board.

1.12 Legal Implications

- 1.12.1 This report fulfils the requirement of the Local Government Act 2003 which places a statutory duty on the authority to monitor income and expenditure against budget and to take action if overspends or shortfalls in income emerge. If monitoring establishes that the budget situation has deteriorated, authorities are required to take such action as they consider necessary. This might include action to reduce spending in the rest of the year, to increase income or to finance all or part of the shortfall from reserves.

1.13 Financial and Value for Money Considerations

- 1.13.1 As set out above.

1.14 Risk Assessment

1.14.1 Budgetary control is a prerequisite of good financial management, financial planning and control and needs to be reviewed to ensure it remains effective and relevant.

1.15 Equality Impact Assessment

1.15.1 See 'Screening for equality impacts' table at end of report

1.16 Recommendations

1.16.1 Members are asked to **note** and **endorse** the contents of the report.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

contact: Neil Lawley

Nil

Sharon Shelton

Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Report details results of internal budget monitoring regime.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	See comment above.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N / A

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

Salaries Budgetary Control Monitoring Statement

Annex 1

Period Ended Last Day of March 2014

2013/14 Financial Year

	Revised Budget 2013/14 (a)	Provisional Outturn 2013/14 (b)	Above (Below) Budget (b - a)
Service	£	£	£
Central			
Administrative & Property	690,100	689,050	(1,050)
Legal	344,050	341,200	(2,850)
Personnel	653,100	633,700	(19,400)
Executive			
Executive	616,750	587,750	(29,000)
Information Technology	748,900	736,150	(12,750)
Finance	2,046,100	2,017,700	(28,400)
Planning, Housing & Environmental Health			
Environmental Health & Housing	1,171,600	1,167,950	(3,650)
Planning	1,784,900	1,722,750	(62,150)
Transportation	686,200	651,150	(35,050)
Street Scene & Leisure	1,160,050	1,139,600	(20,450)
Management Savings	9,901,750	9,687,000	(214,750)
Shared Working Arrangements	(99,400)	(74,200)	25,200
Sub-total	9,802,350	9,612,800	(189,550)
Non-budgeted spend on recruitment & other expenses to the end of March			1,500
Budgeted management savings to the end of March			100,000
Budgeted senior management restructure to the end of March			(32,500)
Net Management Savings			(120,550)

Financial Services
29 April 2014

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Income Budgetary Control Monitoring Statement

Annex 2

Period Ended Last Day of March 2014**2013/14 Financial Year**

	Revised Budget 2013/14 (a)	Provisional Outturn 2013/14 (b)	(Above) Below Budget (b - a)
Service	£	£	£
Central			
Land Charges	(273,600)	(307,226)	(33,626)
Licensing	(244,050)	(276,813)	(32,763)
	-----	-----	-----
Sub-Total	(517,650)	(584,039)	(66,389)
	-----	-----	-----
Planning, Housing & Environmental Health			
Planning Fees	(640,000)	(692,212)	(52,212)
Building Regulations	(330,000)	(333,068)	(3,068)
Short Stay Car Parking	(1,400,000)	(1,444,351)	(44,351)
Long Stay Car Parking	(490,000)	(486,095)	3,905
Penalty Charge Notices	(205,000)	(180,332)	24,668
Car Parks Season Tickets	(200,000)	(210,801)	(10,801)
Residents Parking Permits	(92,000)	(96,809)	(4,809)
	-----	-----	-----
Sub-Total	(3,357,000)	(3,443,668)	(86,668)
	-----	-----	-----
Street Scene & Leisure			
Recycling	(891,700)	(899,014)	(7,314)
Golf Green Fees	(371,000)	(371,157)	(157)
	-----	-----	-----
Sub-Total	(1,262,700)	(1,270,171)	(7,471)
	-----	-----	-----
Grand Total	(5,137,350)	(5,297,878)	(160,528)
	-----	-----	-----

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
SUMMARY OF SERVICES

	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014
	£'000	£'000	£'000
Capital Plan Schemes			
Planning, Housing & Environmental Health	712	663	415
Street Scene & Leisure	548	318	173
Corporate	111	96	97
Sub-total	1,371	1,077	685
Capital Renewals			
Planning, Housing & Environmental Health	n/a	120	5
Street Scene & Leisure	n/a	362	191
Corporate	n/a	382	234
Sub-total	n/a	864	430
Total	1,371	1,941	1,115

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
PLANNING, HOUSING AND ENVIRONMENTAL HEALTH

	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014
	£'000	£'000	£'000
Capital Plan Schemes			
Car Parking	67	77	71
Transportation	347	22	15
Environmental Improvements	57	33	23
Land Drainage / Flood Defence	167	143	131
Housing Investment Programme	74	388	175
Environmental Health	0	0	0
Sub-total	712	663	415
Capital Renewals	n/a	120	5
Total Planning, Housing and Environmental Health	712	783	420

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
PLANNING, HOUSING AND ENVIRONMENTAL HEALTH

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Environmental Improvements					
(a) Tonbridge Town Centre Enhancement - Phase 1	P01FH	57	33	23	
Total Environmental Improvements to Summary		57	33	23	
Land Drainage / Flood Defence					
Drainage					
(i) Drainage Improvement Programme Less DEFRA Grant	P01HR	57 (28)	10		
Sub-total		29	10	0	
(b) Flood defence					
(i) East Peckham Flood Alleviation	P01HP	138	133	131	Outstanding claim now resolved.
Total Land Drainage / Flood Defence to Summary		167	143	131	

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
PLANNING, HOUSING AND ENVIRONMENTAL HEALTH

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Housing Investment Programme					
(a) House Renovation Grants					
(i) Disabled Facilities Grants - Mandatory Less Grant Repayments Less Government Grant	P03AC	n/a n/a n/a	680 (415)	666 (13) (415)	An additional £60,000 was vired from the Housing Assistance budget to meet the increased demand for DFGs. The £14,000 remaining from this virement has been allocated for approved works in 2013/14 which will be completed in 2014/15. Net underspend of £27,000 to be rolled forward.
Sub-total		n/a	265	238	
(ii) Housing Assistance Less Grant Repayments	P03AD	n/a n/a	87 	54 (117)	
Sub-total		n/a	87	(63)	
Sustainable Communities Programme					
(i) Renewable Energy Schemes	P03AM	74	36		Project delayed due to unexpected government consultation. Outcome expected early 2014/15. £30,000 to be rolled forward to 2014/15.
Total Housing Investment Programme to Summary		74	388	175	
Environmental Health					
(a) Air Quality Impact Study Less Government Grants and Other Contributions	P02BE		150 (150)		Project delayed and due to commence in 2014/15.
Sub-total		0	0	0	
Total Environmental Health to Summary		0	0	0	

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
PLANNING, HOUSING AND ENVIRONMENTAL HEALTH

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000		
Capital Renewals					
(a) CCTV Capital Renewals	P01BA	n/a	133	5	New CCTV equipment repairs are currently covered by warranty. Underspend to be rolled forward to cover equipment post warranty. Potential to review costs after warranty expires.
(b) Car Parking	P01JF	n/a	9		
Environmental Protection	P02EB CR01	n/a	8		Noise equipment lasted longer than anticipated.
Provision for Inflation / Savings Target	P01JZ/P02EZ	n/a	(30)		
Total Capital Renewals to Summary		n/a	120	5	

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
STREET SCENE & LEISURE

	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014
	£'000	£'000	£'000
Capital Plan Schemes			
Street Scene	n/a	104	122
Bradford Street Leisure & Community Centre	0	0	0
Tonbridge Swimming Pool	0	92	0
Sports Grounds	19	20	1
Open Spaces	24	16	0
Capital Grants	398	25	0
Other Schemes	107	61	50
Sub-total	548	318	173
Capital Renewals	n/a	362	191
Total Street Scene and Leisure	548	680	364

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
STREET SCENE & LEISURE

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Street Scene					
(a) Green Waste Bins Growth / Replacement	P02BC	n/a	52	49	Increase in reserve stock to offset anticipated increase in bin costs.
(b) Refuse Bins Growth / Replacement	P02DA	n/a	52	73	
Total Street Scene to Summary		n/a	104	122	
Bradford Street Leisure & Community Centre					
(a) New Bradford Street Leisure & Community Centre Less Contribution from Developer	P05MB				Scheme no longer being progressed.
Sub-total		0	0	0	
Total Bradford Street Leisure & Community Centre to Summary		0	0	0	
Tonbridge Swimming Pool					
(a) Car Park Improvement / Extension	P05CM		92		Delay in progress due to ongoing negotiations on lease of land.
Total Tonbridge Swimming Pool to Summary		0	92	0	

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
STREET SCENE & LEISURE

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Capital Grants					
(a) Capital Grants to Organisations 2003/04 to 2008/09 Schemes	P05HK	395	25		Outstanding scheme at Carroty Wood expected to be fully claimed during 2014/15.
Plaques	P05HZ	3			
Sub-total		398	25	0	
Total Capital Grants to Summary		398	25	0	
Other Schemes					
(a) Tonbridge Cemetery					
(i) Memorial Safety	P05KV	78	15	8	Works in progress re closed Churchyards.
(ii) Path Improvements Less Developer Contributions	P05KB		15 (12)	15 (12)	Works completed.
Sub-total		0	3	3	
(iii) Memorial Garden Vaults	P05KC		35	35	Works completed.
(b) Memorial Garden Improvement Less Fund Raising & Developer Contributions	P05KA	29	25 (25)	20 (20)	Works progressing in liaison with the Tonbridge Memorial Garden Trust.
Sub-total		29	0	0	
(c) Community Group Funding	P05KS	n/a	8	4	
Total Other Schemes to Summary		107	61	50	

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
STREET SCENE & LEISURE

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Capital Renewals					
(a) Recycling Initiatives	P02EBCR02	n/a	26	1	}
(b) Sports Grounds & Open Spaces	P05KGBC05	n/a	108	66	}
(c) Angel Centre	P05KGBC01	n/a	51	30	}
(d) Larkfield Leisure Centre	P05KGBC02	n/a	141	39	}
(e) Tonbridge Swimming Pool	P05KGBC04	n/a	83	28	}
(f) Poult Wood Golf Course:					}
Clubhouse	P05KGBC03	n/a	6	10	}
Grounds Maintenance	P05KGBC06	n/a	27	6	}
Course	P05KGBC07	n/a	11	11	}
Provision for Inflation / Savings Target	P05KZ	n/a	(91)		}
Total Capital Renewals to Summary		n/a	362	191	

Provision for renewal of life - expired or obsolete assets. Renewals schedule subject to annual review.

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
CORPORATE

	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014
	£'000	£'000	£'000
Capital Plan Schemes			
Information Technology Initiatives	112	71	86
Other Schemes	(1)	25	11
Sub-total	111	96	97
Capital Renewals	n/a	382	234
Total Corporate	111	478	331

CAPITAL PLAN MONITORING STATEMENT 2013/14 TO 31 MARCH 2014
CORPORATE

	Code	Expenditure To 31/03/13	2013/14 Estimate Inc Prior Year Slippage	2013/14 Actual to 31 March 2014	
		£'000	£'000	£'000	
Information Technology Initiatives					
(a) General IT Developments	P06DA	n/a	35	58	Includes additional expenditure associated with Modern.Gov system (£12,000) and SQL server licences (£13,000) required following a compliance audit.
(b) Document Management System Expansion	P06DE	51	9		
(c) Cash Receipting System	P06DB	61	4	4	
(d) Tablets for Members / Senior Officers	P06DC		23	24	
Total Information Technology Initiatives to Summary		112	71	86	
Other Schemes					
(a) Christmas Displays Capital Grant	P06FG	19	5	5	
(b) Local Strategic Partnership Less Performance Reward Grant	P06FJ	129 (149)	20	6	
Sub-total		(20)	20	6	
Total Other Schemes to Summary		(1)	25	11	

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Information

1 E-BILLING UPDATE

A report to provide information to Members regarding council tax and business rates online billing and account information that will be available to customers via the Council's website.

1.1 Introduction

1.1.1 In order to support the transformation and channel shift agendas, plans are in place to deliver the option for taxpayers and ratepayers to be able to view their bills on the Council's website rather than having a paper bill posted to them. There are also plans to provide other useful information to these taxpayers and ratepayers about their accounts via the website.

1.1.2 This option will be available for taxpayers and ratepayers by signing up to the "My Account" facility on the Council's website.

1.2 Services To Be Offered

1.2.1 Once a taxpayer or ratepayer has signed up to "My Account" and requested online billing:

- 1) The request will be authenticated so that there is no doubt that personal information is being provided to the correct person(s);
- 2) From the moment the request to view online bills is successfully authenticated, bills will be available to view online in PDF format;
- 3) A history of bills will be provided on the website, from the time that the request has been authenticated, so that if an adjusted bill is produced, the taxpayer or ratepayer can juxtapose the previous bill with the latest bill;
- 4) PDF bills will be viewable from mobile and tablet devices in addition to desktop and laptop PCs.

1.2.2 Various real-time account information will be available once the taxpayer or ratepayer has signed up to “My Account” and been successfully authenticated. Currently the information that can be provided to the customer is subject to investigation and development but ultimately the aim is to display/facilitate the following on/through the website:

- 1) The balance of the taxpayer’s council tax account or the ratepayer’s business rates account;
- 2) Details of the next payment due;
- 3) Details of current discounts, reliefs or exemptions;
- 4) The option will be available to set up a direct debit from within “My Account”;
- 5) The option will be available to request an email prompt when a payment becomes overdue.

1.2.3 Subject to everything progressing in accordance with the plan, we anticipate that residents should be able to access this information by the autumn. I will keep Members up to date with progress

1.3 Legal Implications

1.3.1 The Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 allows for the service of demand notices (bills) by billing authorities in an electronic format on any person who has agreed to accept electronic service.

1.3.2 These regulations specifically state that service of the demand notices via a secure website is legal. However, this can be done only once the taxpayer or ratepayer has provided an email address to the billing authority.

1.3.3 It should be noted that it is not legal to compel taxpayers or ratepayers to accept a demand notice electronically; both parties must be in agreement for service by this method.

1.4 Financial and Value for Money Considerations

1.4.1 If high take-up of the services via “My Account” is achieved, significant savings can be achieved. For every taxpayer or ratepayer receiving bills on the website, there will be savings achieved through reduced production, printing, administration and postage costs. The rising cost of postage means that the level of savings will, in practice, increase each year when costs are compared to what it would have cost to send every bill using the postal service.

1.4.2 Greater efficiency can be achieved through “channel shift” where taxpayers and ratepayers can seek information and have general account queries answered on

the website. This will reduce the amount of customer contact at our office, in terms of telephone, face-to-face and written contact. This will free up resources to allow other aspects of service delivery to be improved.

- 1.4.3 It will be necessary to carry out certain exercises in an attempt to maximise take-up of the new services. There are certain options that could be used that would carry no additional cost to the Council, such as adding a promotional email footer to external emails; another would be to add text to the website. There are also other options that would carry a cost such as production of promotional flyers. Options will be explored in due course.

1.5 Risk Assessment

- 1.5.1 No formal risk assessment is required at this stage.

1.6 Equality Impact Assessment

- 1.6.1 No formal equality impact assessment is required at this stage. Members will note that there is no obligation to use the services being described in this report. Introduction of online services may, for certain people, mean that they are able to better connect with the Council as it will provide a 24/7 option..

1.7 Policy Considerations

- 1.7.1 Customer Contact
1.7.2 Communications.

Background papers:

Nil

contact: William Waight/David
Partridge

Sharon Shelton
Director of Finance & Transformation

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TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Information

1 FLOOD SUPPORT SCHEMES UPDATE

The report gives an update on the four flood support schemes to be administered by local authorities.

1.1 Introduction

1.1.1 The Government announced a number of schemes to support businesses and homeowners recover from the impacts of flooding between December 2013 and March 2014. Of these schemes, four are to be administered by local authorities.

1.1.2 The costs of the four schemes are to be funded by Government. The four schemes to be administered by local authorities are:

- 1) 100% Business Rate Relief for three months
- 2) Business Support Scheme
- 3) Council Tax Discount for three months
- 4) Repair and Renew Grant Scheme

1.1.3 An update on each of the four schemes is given below.

1.2 100% Business Rate Relief for three months

1.2.1 The eligibility criteria are as follows: The property has been flooded in whole or in part; and as a result of the flooding the business activity undertaken at the property was adversely affected; and the rateable value on that day was less than £10 million.

1.2.2 Three months rate relief to start on the day the property first met the criteria. In calculating the cost of the relief to be refunded it is assumed that all other reliefs have first been applied. The scheme does not cover relief for any property which was empty at the time it was flooded as there was no business activity on the premises at the time.

1.2.3 At the time of writing our records put the number of business premises that flooded at 113 broken down into the following categories.

- 76 awarded business rate relief at a cost of £295,973.
- 25 with no liability after all other reliefs have first been applied.
- 10 empty properties.
- 2 not rated for business rates purposes.

1.3 Business Support Scheme

1.3.1 Scheme to support small and medium sized businesses. Eligible businesses will be able to claim for support towards costs over and above that which would normally be covered by insurance. Eligible businesses are those whose premises flooded and other businesses in the affected area that suffered a significant loss of trade.

1.3.2 The Council has received a grant allocation of £250,000 for the Business Support Scheme.

1.3.3 The approach taken has been to adopt a two-tier flat rate grant aid regime. A higher flat rate grant for those businesses whose premises flooded and a lesser sum for other businesses in the affected area that suffered a significant loss of trade.

1.3.4 At the time of writing the first phase, businesses whose premises flooded, can be broken down into the following categories:

- 55 awarded grant aid totalling £133,000 (52 x £2,500 and 3 x £1,000).
- 28 not yet returned grant form.
- 27 not classed as small / medium sized business.
- 3 with more than one business property.

1.3.5 Details about the second phase, other businesses in the affected area that suffered a significant loss of trade, have recently been made available on the Council's website.

1.4 Council Tax Discount for three months

1.4.1 The eligibility criterion is as follows: People whose homes have been flooded.

1.4.2 Local authorities can use powers under section 13A of the Local Government Finance Act 1992 to grant council tax discounts on properties affected by flooding. The Government will reimburse local authorities that grant council tax discounts in

line with the eligibility criterion set out above. Ordinarily the cost of these discounts is met in full by the billing authority.

- 1.4.3 At the time of writing our records show 158 residential properties flooded, but remain occupied and 109 where the property is uninhabitable and the householder moved out. Where the property is uninhabitable due to flooding a 100% discount for up to twelve months has been granted and where the property was flooded, but remained occupied a three month council tax discount has been granted.
- 1.4.4 Clearly, the cost of the uninhabitable discount is not restricted to three months, but up until the householder is able to move back in. The Government has recently announced that it will fund the cost of the discount up until the householder is able to move back in.
- 1.4.5 As at 31 March 2013 the cost of the uninhabitable discounts stood at £41,226. The cost of the three month council tax discounts granted is £64,312.

1.5 Repair and Renew Grant Scheme

- 1.5.1 Financial support to businesses and homeowners that had been flooded to pay for work that improves a property's ability to withstand future flooding over and above repairs that would normally be covered by insurance. Grants of up to £5,000 available.
- 1.5.2 It will be for the local authority to adopt a local scheme and decide whether to provide a grant and at what level (subject to the production of evidence that the agreed measures have been appropriately installed).
- 1.5.3 Scheme commenced 1 April and to date we have received around 55 enquiries about the scheme, but wait to see how many of these progress to an application. Four applications have been received, of which two have been approved and two are work in progress.

1.6 On-Line Portal

- 1.6.1 Ministers are keen to be kept abreast of progress being made at the local level in relation to the four flood support schemes and to this end require an on-line weekly flood recovery data and funding return to be completed.

1.7 Bellwin Claim / Severe Weather Recovery Grant

- 1.7.1 The Council submitted its Bellwin Claim on 24 March in the sum of £125,439 less the first £26,262 to be met by the Council giving the sum of £99,177 which was received in full on 9 April.
- 1.7.2 The Council has also received the sum of £249,469 under the Severe Weather Recovery Grant scheme to help with recovery efforts.

1.8 Legal Implications

1.8.1 There are a number of legislative requirements to consider in respect of one or more of the flood support schemes detailed above which will be addressed as appropriate.

1.9 Financial and Value for Money Considerations

1.9.1 As set out above. It should be noted that some of the schemes bring with them cash flow implications the extent of which will depend largely on the promptness of reimbursement by Government of sums foregone or paid out.

1.10 Risk Assessment

1.10.1 Risk of adverse cash flow implications the extent of which will depend largely on the promptness of reimbursement by Government of sums foregone or paid out.

1.11 Equality Impact Assessment

1.11.1 See 'Screening for equality impacts' table at end of report

1.12 Policy Considerations

1.12.1 Community

Background papers:

Nil

contact: Sharon Shelton
Neil Lawley

Sharon Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Approach adopted will be consistently applied to those businesses and homeowners that meet the criteria.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	Approach adopted will be consistently applied to those businesses and homeowners that meet the criteria.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		See responses above.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

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TONBRIDGE & MALLING BOROUGH COUNCIL

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Matters for Information

1 PUBLICATION OF ALLOWANCES PAID TO MEMBERS DURING THE FINANCIAL YEAR 2013/14

Publication of the Statement is required in accordance with regulation 15 (3) of the Local Authorities (Members Allowance) (England) Regulations 2003.

1.1 Background

1.1.1 In accordance with regulation 15 (3) of the Local Authorities (Members Allowance) (England) Regulations 2003, the Council is required to publish the actual allowances paid to Members during the course of the financial year 2013/14. The Statement attached at [Annex 1] to this report was placed on display at the Council's Kings Hill and Tonbridge Castle offices and also appears on the Council's website.

1.2 Legal Implications

1.2.1 This is a requirement for all local authorities and publication is consistent with the requirements for data transparency.

1.3 Financial and Value for Money Considerations

1.3.1 As set out above.

1.4 Risk Assessment

1.4.1 Failure to publish the Statement in accordance with the relevant regulation could result in adverse publicity and criticism against the Council.

1.5 Policy Considerations

1.5.1 Communications

Background papers:

contact: Brian Courtney

Nil

Sharon Shelton
Director of Finance & Transformation

**In accordance with regulation 15 (3) of the Local Authorities
(Members Allowance) (England) Regulations 2003, I hereby publish
details of allowances paid to the Councillors of Tonbridge & Malling
Borough Council during the financial year 2013/14.**

Member	Basic	Special Responsibility	Mileage	Subsistence/ Expenses	Carers Allowance
ALLISON A W	5076.00	987.70	162.25		
ANDERSON J A	5076.00	8067.00		162.40	
ATKINS J	5076.00		185.00		
ATKINSON J A	5076.00				
BALCOMBE J A L	5076.00	7455.84		34.40	
BALDOCK O C	5076.00	8067.00			
BALFOUR M	5076.00	2011.66			
BATES P A	5076.00		461.95		
BELLAMY J M	5076.00	1057.50	88.50		
BISHOP T	5076.00				
BOLT P F	5076.00	45.50	442.45		
BRANSON V M C	5076.00	2385.00	283.28		
BROWN B A	5076.00	211.50			
BROWN C	5076.00	2538.00			
CHARTRES F R D	5076.00	33.50			
COFFIN M A	5076.00	8067.00			
CURE D J	5076.00	151.30	324.30		
DALTON R W	5076.00	1539.50			
DAVIS D A S	5076.00	1057.50	589.25		
DAVIS M O	5076.00	1692.00	193.90		
EDMONDSTON-LOW T	5076.00	529.20			
ELKS J R L	5076.00				
EVANS D W	3384.00				
GALE C M	5076.00	264.20			
HESLOP M F	5076.00	8067.00	216.00		240.00
HESLOP N J	5076.00	17664.00	864.50	88.37	56.70
HOLLAND E M	5076.00	1480.50	240.40		
HOMWOOD P J	5076.00	168.00			
JESSEL S R J	5076.00				
KEELEY D	5076.00		131.40		
KEMP F A	5076.00	5121.50			
KING S M	5076.00	264.20			
LANCASTER R D	5076.00	5121.50	168.00		
LUCK S L	3120.00	264.20	498.15	25.80	
LUKER B J	5076.00	8067.00			

**In accordance with regulation 15 (3) of the Local Authorities
(Members Allowance) (England) Regulations 2003, I hereby publish
details of allowances paid to the Councillors of Tonbridge & Malling
Borough Council during the financial year 2013/14.**

Member	Basic	Special Responsibility	Mileage	Subsistence/ Expenses	Carers Allowance
MOLONEY M A C	5076.00	5273.00			
MURRAY S M	5076.00	8067.00	890.10	40.80	
OAKLEY A S	5076.00				
PARRY-WALLER M	5076.00	264.20			
RHODES M R	5076.00	8067.00			
ROBINS T J	5076.00	1302.50			
ROGERS H S	5076.00	211.50	1358.65		
SAYER A G	5076.00	1155.50	298.55		
SERGISON J L	5076.00	2749.50	251.15		
SHRUBSOLE S O	5076.00	264.20			
SIMPSON E A	5076.00	3576.64			
SMITH C P	5076.00	1155.50			
SMITH D W	5076.00				
SPENCE S V	5076.00	1367.00			
SULLIVAN A K	5076.00	5287.50	651.30		
TAYLOR F M	1159.84				
TAYLOR R G	5076.00	264.20	183.70		
TRICE D J	5076.00	264.20	310.65		
WOODGER C J	5076.00				
Totals	266539.84	131648.24	8793.43	351.77	296.70
Independent Members of Standards Committee					
ASHTON D S		513.00			
GLEDHILL J M		513.00			

Sharon Shelton
Director of Finance & Transformation
April 2014

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

14 May 2014

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Matters for Information

1 **BENEFITS UPDATE**

A report advising Members of current issues arising in the benefits field

1.1 **Performance and Workload of the Benefits Service**

1.1.1 At the previous Board meeting I advised Members of the continuous improvement in the number of days taken to assess new benefit claims and I am pleased to be able to report that the trend is ongoing. Most recent performance indicators show an average of 28.5 days to process a new benefit claim and 7.5 days to process a change in circumstances.

1.1.2 These figures are particularly encouraging as they cover one of the busiest periods of the year and set the Service in good stead for the oncoming financial year. Current workload is high, as expected for the time of year.

1.1.3 The 2013/14 annual performance saw new benefit claims taking on average 37.8 days and change in circumstances, 8.7 days to process. The Council paid out £34.5m in housing benefit in 2013/14.

1.1.4 The number of households claiming housing benefit and / or council tax reduction has reduced slightly over the past year, about 30 less homes compared to that of 6 months prior. The number of households with 'in-work' claims has risen by about 70 over the same period, indicating a trend of movement from 'out of work' to 'in work'.

1.2 **Discretionary Housing Payments (DHP)**

1.2.1 The fund of £129,610 for 2013/14 was used in full to help households, mainly to support those suffering financial loss through welfare reforms. The Service received 578 applications for DHP, of which, 400 awards were made.

1.2.2 Our Government grant for DHP for 2014/15 has risen to £165,494.

1.3 Welfare Reforms

- 1.3.1 There has been no further significant news on the testing and roll-out of Universal Credit. Plans remain for national implementation to start during 2016.
- 1.3.2 The benefit cap, introduced in July 2013, which restricts non-working households to a maximum of £500 total 'benefit' income remains unchanged in its application. Since introduction, 30 households in the Borough have been restricted by the cap. There are currently 18 cases with housing benefit restrictions ranging from £2.06 to £241.22 per week.
- 1.3.3 The social sector size criteria restriction or spare room subsidy, commonly known as bedroom tax, continues to bite with 582 households affected in the Borough. Overall, this reform has caused a reduction in housing benefit payments of around £600,000 in the last year. This has been the most common reason for application and award of DHP. The Service works alongside our Housing Service and other organisations to find longer term solutions to shortfalls in income created by this cut. However, the majority of those households affected have not made applications for DHP and through conversation with social landlords across the Borough, the level of rent arrears has by no means proportionately increased. That said, a great deal of effort and resource is dedicated by all those concerned to manage this reform in preventing rent arrears and homelessness as far as possible.

1.4 Legal Implications

- 1.4.1 None

1.5 Financial and Value for Money Considerations

- 1.5.1 None

1.6 Risk Assessment

- 1.6.1 No risk identified

Background papers:

contact: Andrew Rosevear

Nil

Sharon Shelton
Director of Finance and Transformation

TONBRIDGE & MALLING BOROUGH COUNCIL

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1 COUNCIL TAX AND BUSINESS RATES UPDATE REPORT

A report detailing recent developments in respect of council tax and business rates.

1.1 Collection of council tax and business rates

1.1.1 As at 31 March 2014, the unaudited, final collection rate for council tax, for the year 2013/14, was 98.29%. This is marginally below the target set for the financial year (98.5%). The final collection rate for 2012/13 was 98.46%.

1.1.2 As at 31 March 2014, the unaudited, final collection rate for business rates, for the year 2013/14, was 99.53%. This is marginally below the target set for the financial year (99.6%). The final collection rate for 2012/13 was 99.71%.

1.1.3 The reduction in the council tax collection rate is due mainly, I believe, to the introduction of the council tax reduction scheme. Approximately 2,000 households paid council tax for the first time in the financial year 2013/14, having previously been in receipt of 100% council tax benefit. Although 77% of the council tax due from these households was eventually paid (a far higher amount than was originally predicted), the shortfall did affect the overall collection rate.

1.1.4 The difficult economic conditions also still continue to affect council taxpayers' ability to pay. In 2013-14, 21,500 reminders and 4,000 summonses were issued for non-payment, a 50% increase on the amount sent in 2012-13. This additional recovery work has increased the Revenue Team's workloads significantly, so to achieve a collection rate as high as this, is, in my opinion, an excellent achievement.

1.1.5 Although the 'in-year' council tax collection rate dropped slightly, I am pleased to advise that the collection of previous year council tax arrears improved in the last financial year, with approximately £710,000 collected (an increase of approximately £50,000 on the amount collected in 2012/13).

1.1.6 As always, I can assure Members that every effort is being made to maintain a high collection rate, and that we are doing all that is possible to collect the council

tax that is due to the Council. That being said, the change to the council tax reduction scheme for the 2014-15 and 2015-16 financial years, with eligible taxpayers paying at least 18.5% of the annual charge (compared to 8.5% in 2013-14) poses another significant challenge for the Revenue Team. It remains to be seen whether these taxpayers will budget for, and pay, this additional charge; if not, this may have a detrimental effect on the collection rate this financial year.

- 1.1.7 I shall update Members, as to the collection rates for 2014/15, as at 30 April 2014, for both council tax and business rates, on the evening of the meeting.

1.2 Legal Implications

- 1.2.1 Nil.

1.3 Financial and Value for Money Considerations

- 1.3.1 The percentage of council tax and business rates collected during the year impacts on the Council's finances and, consequently, on the level of council tax for future years.

1.4 Risk Assessment

- 1.4.1 Nil.

Background papers:

Nil

contact: Glen Pritchard
01732 876146

Sharon Shelton
Director of Finance and Transformation

TONBRIDGE & MALLING BOROUGH COUNCIL

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Matters for Information

1 FRAUD UPDATE

Summary

This report informs Members of the work carried out by the Fraud Investigation Team during 2013/14, the progress of the Single Fraud Investigation Service and the potential impact on this Council.

1.1 Resources and Performance 2013/14

- 1.1.1 The Council has had a successful investigation team for a number of years. The primary role of the team has always been the investigation of benefit related fraud but in recent years work has expanded into other areas such as the investigation of Council Tax discounts and exemptions and Housing Fraud.
- 1.1.2 A number of changes occurred during 2013/14. Members will be aware that the shared Fraud Manager, James Flannery, left in June 2013 and was replaced by James Larkin in August 2013. In addition to this, one of the full time investigators opted for flexible retirement and took up a compliance role within the team. The team now consists of one full-time investigator, one part-time investigator, a part time compliance officer and a manager shared with Gravesham Borough Council, spending 50% of his time with Tonbridge & Malling.
- 1.1.3 During the year, the team received 392 referrals in relation to various alleged frauds. Of these referrals 218 were accepted for investigation or compliance enquiries dependent on the type of allegation and evidence available. 174 cases were rejected on the basis of insufficient information or because they were more suitable for investigation by the Department for Work and Pensions (DWP).
- 1.1.4 A total of 196 investigations were completed throughout the year. Of these, 121 were concluded with no evidence of fraud having been found. 53 were considered to be customer errors, these being 50 cases where overpayments of benefit were identified and 3 where excess discounts/exemptions were found but further fraud action was not deemed appropriate. It is worth noting that DWP guidance will not allow a benefit case to be considered a proven fraud unless a sanction is applied.

- 1.1.5 A total of 22 Cases were concluded with fraud having been proven and these cases resulted in the issue of 7 cautions, one of which related to a false application for housing, 5 administrative penalties for benefit offences with a total value of £5,137.58, all of which is retained by the authority upon repayment, and 10 successful prosecutions. A list of the prosecution cases is attached. **[Annex 1]**
- 1.1.6 A Civil penalty of £70 was also applied in a case where a person negligently failed to notify the authority of a change in circumstances that affected their entitlement to a Council Tax single person discount. The full value of any such penalties is retained by Tonbridge and Malling.
- 1.1.7 The result of these investigations led to a reduction of £3,775.44 paid out in Housing Benefit (HB) each week and a reduction of £710.50 in Council Tax Reduction Scheme (CTRS) each week.
- 1.1.8 These investigations also resulted in overpayments of £357,683.25 of HB and £50,358.13 of CTB being identified. They also identified additional Council Tax revenue of £3,590.81 through removal of CTRS and fraudulent discounts. The Council receive the same ration of this amount as their element of Council Tax.
- 1.1.9 The full value of additional revenue is believed to be higher but until recently it has been difficult to record relevant figures. Work is underway to record better statistics on such figures in 2014/15 and provide members with a more accurate picture in the future.

1.2 National Fraud Initiative Update

- 1.2.1 Members will be aware that the Council participates in a national data matching exercise undertaken by the Audit Commission every two years. Following the demise of the Audit Commission this role will fall under the Cabinet Office in future.
- 1.2.2 The 2012/13 exercise led to receipt of 974 referrals relating to Housing Benefit and CTRS claims. The current position in relation to this exercise is outlined in the following paragraphs.
- 1.2.3 Approximately 930 referrals have been closed, some rejected because the authority was already aware of the information while others were closed following investigation or other enquiries. 44 referrals remain open with ongoing investigations.
- 1.2.4 Concluded cases have led to weekly HB reductions of £878.45 and weekly CTRS savings of £156.66 and have identified overpayments totalling £56,905.18 for HB and £10,935.89 for CTB. Administrative penalties have been applied as a result of two of these cases and further sanctions are anticipated from the cases still ongoing.

- 1.2.5 A large number of these cases are included within the performance stats mentioned above but as the exercise commenced in January 2013, some cases may have been concluded prior to the 2013/14 year.
- 1.2.6 The 2014-15 exercise covers suspected council tax fraud, matching the authority's Single Person Discount data against the electoral register. These referrals identify households who receive a single person discount but have more than one person listed on the electoral register.
- 1.2.7 The authority's participation in this exercise is compulsory so the referrals received have to undergo further checks to identify any discrepancies in records. The most recent exercise has led to receipt of 549 referrals relating to single person discount anomalies.

1.3 Single Fraud Investigation Service (SFIS)

- 1.3.1 As part of the move towards Universal Credit the DWP decided to introduce SFIS with the intention of this service investigating all benefit related fraud.
- 1.3.2 Despite the Universal Credit introduction date still not being certain, the DWP have decided to continue with the introduction of SFIS. All Chief Executives were sent a letter in March 2014 stating that there would be an implementation programme for SFIS commencing October 2014 and completing by March 2016.
- 1.3.3 The intention of the DWP is to transfer all local government staff "who are assigned solely or primarily to benefit investigation work" to the DWP under a Cabinet Office Statement of Practice, which will be "TUPE- like" arrangement, following the principles of TUPE as closely as possible. Councils are able to determine whether or not they believe investigators are solely or primarily assigned to benefit related work
- 1.3.4 The letter to Chief Executives was followed up by roadshows where local government representatives were given an outline of the timetable for the transfer and the conditions of transfer. Since the roadshows, the Local Government Association and Unison have queried the legality of this TUPE-like arrangement and discussions are ongoing.
- 1.3.5 According to the information provided at the roadshows, individual LA's will be notified of their month of transfer, during the implementation period, in early May. At the time of writing this report, no confirmation had been received.
- 1.3.6 Under SFIS the DWP will investigate all benefit related fraud, including HB. However, as the DWP do not administer HB, where evidence relating to HB claims is required in relation to investigations, they will make a request to the local authority to supply relevant material.
- 1.3.7 CTRS is not a benefit and therefore SFIS will not include this in their investigation. The DWP announced at the roadshows that they have set up a working party to

explore legislative requirements for joint working and sharing of information. It is anticipated that new legal gateways will have to be drawn up for the sharing of information and that local authorities will be required to investigate CTRS separately, conducting joint interviews where appropriate. There is no indication at this stage how CTRS offences will be treated in terms of criminal prosecution.

1.4 Potential Impact on Local Authority Fraud Teams

- 1.4.1 The local authority has a duty to safeguard public funds as set out under section 151 of the Local Government Act 1972. The investigation of suspected fraud forms part of this safeguarding.
- 1.4.2 All of the investigators employed by Tonbridge and Malling have undertaken formal training and are fully aware of the legislative restrictions and requirements associated with the investigation of criminal offences. The loss of all our investigators to the DWP would seriously affect the ability to investigate any other areas of fraud such as CTRS.
- 1.4.3 Historically, funding for investigation teams has been through the DWP Administration Grant and although this is guaranteed for 2014/15 it is likely to be reduced from 2015/16 onwards, or potentially removed completely. The method of calculating this reduction is under consideration by the DWP but at this stage there is no indication of what factors will be considered for determining this change.
- 1.4.4 All local authorities will still continue to have the need to investigate fraud in other areas. However, the problem for the Council is how this can be funded without becoming a growth item.
- 1.4.5 The Government has announced a fund of approximately £16.6m to be distributed to local authorities during 2014/15 and 2015/16 in order to continue fraud investigation. At the present time there is no indication whether this is a one off amount or how it will be distributed.
- 1.4.6 A number of surveys conducted by the National Fraud Authority and the Audit Commission in recent years have identified a number of key areas where councils are believed to be at risk of fraud and where potential losses far exceed the costs of maintaining a fraud presence. Some of these areas are details in this report and demonstrate where there will still be a need for investigation skills within the Council 'post SFIS'.

1.5 Council Tax Reduction Scheme

- 1.5.1 Although the CTRS scheme replaced CTB it is not a benefit and SFIS will not investigate any suspected fraudulent cases.
- 1.5.2 The main beneficiary of any successful investigation will be the County who are the main precept authority. Unlike CTB, any overpayment will not result in a loss

of subsidy to Tonbridge & Malling but will be debited directly to the taxpayers' CT account and, in the event that the overpayment cannot be collected, the 'burden' will be shared between the precept authorities according to their share of Council Tax.

- 1.5.3 Unlike the other discounts and exemptions relating to Council Tax, CTRS has specific legal powers of investigation under new legislation set out in the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013. These powers give LA's the ability to obtain relevant information from financial institutions, educational bodies and utility companies as well as a number of other sources.
- 1.5.4 These new regulations have also introduced criminal offences relating to false statements for CTRS claims and for failing to report changes in circumstances. The taxpayer is now required to report any change of circumstances with 21 days of them happening.
- 1.5.5 The authority has the option to apply a civil penalty where a person negligently fails to report a change affecting their CTRS entitlement, regardless of whether this is considered fraud. However, if a person is found to have committed an offence, the authority may prosecute. The authority also has the option to offer a Caution or Administrative Penalty as an alternative to a prosecution. It is worth noting that any civil or Administrative Penalty is retained by the Borough Council in full.
- 1.5.6 The Council has approximately 7,000 CTRS cases and during 2013/14, 344 of the referrals received and 169 of the completed investigations were connected to CTRS claims. Cases where discrepancies were identified led to a weekly reduction in CTRS of £710.50.
- 1.5.7 The average life of a benefit claim was estimated to be 32 weeks. While CTRS is not a benefit, applying this same calculation to the savings identified in 2013/14 could mean potential revenue of £22,736 in future years in total for which the Council would benefit to the same ratio of their Council Tax share. As this is no longer covered by subsidy received from central government, the losses fall directly on the authority and its residents.

1.6 Council Tax Discounts and Exemptions

- 1.6.1 Historically, where discounts and exemptions were found to be incorrect they were removed with any monies owed as a result being added to the taxpayer's council tax account.
- 1.6.2 Where a single person discount is claimed incorrectly the authority has the power to impose a fixed penalty if the taxpayer has provided incorrect information or changes in circumstances have not been reported promptly. These fixed penalties are set at £70 and are retained by the Borough Council in full.

- 1.6.3 False statements or failing to report changes in circumstances relating to discounts and exemptions are criminal offences and the authority does have the power to instigate proceedings against those found to have committed offences.
- 1.6.4 The Audit Commission report, Protecting the Public Purse 2013, reported that based on the annual fraud survey issued to local authorities, it was estimated that anywhere from 4%-6% of single persons discount claims could be fraudulent.
- 1.6.5 Tonbridge and Malling currently has approximately 14,497 council tax accounts with 25% single person discounts. The average 25% discount, taking into account the total council tax charge, is £450pa. This means that based on the estimates of 4%-6%, the authority could identify additional council tax of approximately £260,946 to £391,419 per annum.
- 1.6.6 While Kent County Council (KCC) would be the main beneficiary of any additional council tax revenue identified through fraud as they are the largest precept authority, Tonbridge and Malling could still receive additional income of £31,313 to £46,970 per annum.
- 1.6.7 KCC are currently exploring options for targeting resources towards the investigation of this type of fraud.

1.7 Housing

- 1.7.1 As Members are aware, the Council has a duty to ensure that housing applications are not fraudulent. TMBC was the first in Kent to successfully prosecute for a fraudulent housing application.
- 1.7.2 The Investigations Section work closely with the Housing Section and provides an advisory and investigation function for any applications that require reviewing.
- 1.7.3 The Housing Section makes a contribution to the cost of the Investigations Section in relation to this work.
- 1.7.4 New legislation has recently been introduced that has introduced criminal offences relating to the sub-letting and non-occupation of social housing. Part of this new legislation enables Local Authorities to undertake prosecutions for these offences on behalf of social landlords.
- 1.7.5 It is intended to approach a number of our social landlords with a view to exploring their interest in the authority providing an investigative service and/or undertaking prosecutions on their behalf.
- 1.7.6 One of the larger Housing Associations was approached to gauge their interest, and although no formal meetings took place it was felt that the costs may be the issue deterring them from entering into any arrangement for services to be provided.

- 1.7.7 Other Local Authorities have already started to undertake such work on behalf of Social Landlords and rather than charge a fee for investigation, they are carrying out the investigations for free in return for nomination rights on properties recovered through investigation. This is, potentially, an avenue to explore.
- 1.7.8 The Audit Commission estimates that nationally, the average cost to house a family in temporary accommodation for a year is approximately £18,000. As a result, any property recovered that enables a person to be taken out of temporary accommodation therefore saving the authority £18,000.
- 1.7.9 In Tonbridge and Malling the average cost for temporary accommodation is approximately £60 per night. This equates to just under £22,000 per year. If the authority were to undertake investigations on behalf of local social landlords, the nomination rights on any properties recovered would represent a £22,000 saving.

1.8 National Non-Domestic Rates

- 1.8.1 The Council had, in the past, simply been the collecting authority for these rates on behalf of central government. The new retention scheme, which came into effect in April 2013, gives the Council a direct financial interest in resolving fraudulent claims for discounts and exemptions in increased collections.
- 1.8.2 Recent surveys by the Audit Commission have identified this as an area of emerging trend in fraud and error, and have promoted the idea of increased investigation into this area.
- 1.8.3 Any fraudulent claims can be investigated using the offences under the Fraud Act 2006 and any costs awarded for successful prosecutions are retained by the Borough Council.

1.9 Internal Fraud

- 1.9.1 Recent national surveys have also suggested that, during a period of recession, there is a trend for internal fraud to increase and this is estimated to be approximately 1% of expenditure. The Council has a zero-tolerance policy towards fraud and has recently provided on-line fraud awareness training to staff. As Members are aware, any suspicions or concerns can be raised under the Council's Confidential Reporting Code (Whistleblowing).
- 1.9.2 Historically, there has been minimal internal fraud at this Council and there were no internal fraud allegations reported during 2013/14.
- 1.9.3 This low level of fraud could be partially due to the sound internal controls in place and the anti-fraud culture of the organisation. However, if there are any reported suspicions of internal fraud, these would require trained investigators to carry out an investigation in line with the legislative framework. Investigators can also support Internal Auditors in maintaining sound internal controls through specialist fraud prevention and detections skills.

1.10 Summary of Future Needs

- 1.10.1 The Council will continue to require a level of investigation skills in the future in order to safeguard public money and comply with the requirements of Section 151 Local Government Act 1972. I am currently in the process of considering what that level should be, how this is to be supplied and how it can be financed. Anticipated savings achieved through successful investigation could potentially make this a 'self-financing' initiative. I shall report back to Members again once I have 'firmed up' on the potential way forward.
- 1.10.2 The details in this report outline the potential losses to fraud that could be saved through investment in future investigation and, longer term, there is the possibility of the County Council setting up a fraud hub in the form of a 'data warehouse.' This would involve a shared database to allow potential fraud to be identified at an early stage through data matching with the suspected frauds identified being passed on for investigation at a local level.
- 1.10.3 Kent Financial Officers are currently reviewing the whole position of fraud resources county-wide, and as part of this work discussion is taking place with KCC and the other major preceptors as to how funding or resources for Council Tax work could be secured.

1.11 Legal Implications

- 1.11.1 The Council has a legal duty under s151 of Local Government Act 1972 and the Accounts and Audit Regulations to ensure that there are appropriate systems in place to prevent and detect fraud.

1.12 Financial and Value for Money Considerations

- 1.12.1 An embedded anti-fraud culture helps to prevent and detect fraudulent activity. The latest figures, supplied by the National Fraud Authority, suggests that local government has £1.9 billion of undetected fraud beyond the £207m identified.

1.13 Risk Assessment

- 1.13.1 National statistics suggest that if fraud is investigated with the results being published on a regular basis including local press then this will act as a deterrent to other potential offenders.

Failing to have an efficient and effective fraud resource would lead the authority to be open to an increased level of fraud resulting in possible significant losses.

Background papers:

contact: James Larkin

Nil

Sharon Shelton
Director of Finance & Transformation

Successful Prosecutions 2013-2014

Annex 1

Name	Brief Details	Value	Date of Conviction	Sentence
Sean Byrne	Mr Byrne was found to have been employed full time in construction since 2008. Partner was also found to have been working in retail since 2011. None of the income had been declared for benefit purposes.	£14,301.71	02/05/2013	42 days imprisonment, suspended for 12 months 300 hours unpaid work £100 Costs
Amanda Babington	Miss Failed to declare the residence of her partner and the fact that they were married in 2011.	£9,917.49	28/05/2013	90 hours unpaid work £250 Costs
Jody Sharpe	DWP led investigation. Miss Sharpe failed to declare the residence of her partner, who was employed full time.	£29,150.74	18/06/2013	6 months imprisonment suspended for 2 years 2 year supervision order with Education activity requirement
Chantelle Harper	Miss Harper failed to declare the residence of her partner who was employed	£4,509.04 (+£3,156.79 DWP Benefits)	24/09/2013	24 month court order which included a 24 month supervision order and 12 sessions on a women's programme £60 Costs
Amanda Martin	Miss Martin was found to have her partner resident. The previous declaration regarding him vacating the property was deemed to be false and that the desertion was fictitious.	£14,371.38 (+£4,485.25 DWP Benefits)	13/12/2013	12 month community supervision order 10 sessions at a woman's group £40.00 costs plus a £60.00 victim surcharge
Nicola Brimsted	Ms Brimsted failed to declare the residence of her partner.	£36,005.96 (+£19,237.17 DWP Benefits)	01/02/2014	6 months imprisonment suspended for 18 months 100 hours unpaid work
Cindi Gould	DWP led case where subject was arrested on suspicion of failing to declare the residence of her partner. She was subsequently charged with the offence.	£41,998.27 (+£39,968.84 DWP Benefits)	20/02/2014	**Details of sentence unknown
Katie O'Connor	Mrs O'Connor failed to declared the residence of her partner and the fact he was employed	£9,992.94	18/03/2014	12 month community order with 60 hours unpaid work Full costs awarded plus £60 victim surcharge

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