

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

Julie Beilby BSc (Hons) MBA

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

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**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](mailto:committee.services@tmbc.gov.uk)

16 January 2015

To: MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Overview and Scrutiny Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 27th January, 2015 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

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## **MEMBERSHIP**

Cllr Miss A Moloney (Chairman)  
Cllr T J Robins (Vice-Chairman)  
Cllr Mrs E A Simpson (Vice-Chairman)

Cllr A W Allison  
Cllr J Atkins  
Cllr Ms J A Atkinson  
Cllr Mrs P Bates  
Cllr C Brown  
Cllr D J Cure  
Cllr R W Dalton  
Cllr Miss J R L Elks  
Cllr Mrs E M Holland  
Cllr D Keeley

Cllr Mrs F A Kemp  
Cllr S M King  
Cllr A G Sayer  
Cllr Miss S O Shrubsole  
Cllr Ms S V Spence  
Dr G Court  
Mr P J Drury  
Mr D Still  
Mr D Thornewell

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Apologies for absence

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Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

Wednesday, 11th June, 2014

**Present:** Cllr Miss A Moloney (Chairman), Cllr T J Robins (Vice-Chairman), Cllr J Atkins, Cllr Ms J A Atkinson, Cllr Mrs P Bates, Cllr D J Cure, Cllr R W Dalton, Cllr Mrs E M Holland, Cllr D Keeley, Cllr S M King, Cllr A G Sayer, Dr G Court and Mr D Still

Councillors Mrs J A Anderson, M A Coffin, N J Heslop, B J Luker and M R Rhodes were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs E A Simpson (Vice-Chairman), A W Allison, Mrs F A Kemp, Ms S V Spence and D Thornewell (Co-opted Member).

#### PART 1 - PUBLIC

##### **OS 14/10 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **OS 14/11 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Overview and Scrutiny Committee held on 28 January 2014 be approved as a correct record and signed by the Chairman.

##### **OS 14/12 RE-APPOINTMENT OF CO-OPTED MEMBERS**

**RESOLVED:** That pursuant to Article 6.05 of the Council's Constitution, Dr G Court, Mr P Drury, Mr D Still and Mr D Thornewell be co-opted to the Overview and Scrutiny Committee for the current municipal year.

#### MATTERS FOR RECOMMENDATION TO THE CABINET

##### **OS 14/13 CORPORATE PERFORMANCE PLAN 2012/15 - REVIEW AND UPDATE**

The joint report of the Leader and Chief Executive invited Members to review the Borough Council's updated Corporate Performance Plan for 2012/15. The Plan included a review of progress after the first two years of its three year term, with further progress expected this year.

It was reported that the updated Plan showed extremely good progress during the first two years based against the improvement themes,

assessment of performance indicator results against targets and comparison of year on year indicator results.

Annex 1 to the Plan showed progress against each of the projects that underpinned the 62 improvement themes.

It was noted that the Corporate Performance Plan was a principal means of driving performance improvement and delivery for money. It communicated clearly to Members, staff, stakeholders and residents the Borough Council's key priorities and targets, how the priorities and targets were achieved and where the Borough Council was looking to improve.

Members agreed that it was important that the Borough Council continued to monitor and review performance and key indicators.

Finally, Members asked that their thanks to the Improvement and Development Manager for his contribution be recorded.

**RECOMMENDED:** That the Corporate Performance Plan be adopted.

**OS 14/14 USE OF URGENCY PROCEDURES TO APPROVE A NEW CAPITAL PLAN SCHEME TO SUPPORT THE INTRODUCTION OF INDIVIDUAL ELECTORAL REGISTRATION**

In accordance with the Borough Council's constitution the report of the Chief Executive sought retrospective approval to the addition of a new Capital Plan scheme to purchase hardware necessary for the implementation of Individual Electoral Registration (IER). It was reported that scheme costs would be met in full by Government grant.

IER introduced considerable changes to the way in which residents would register to vote and represented a new way of working at every level and in every part of the process. In order to facilitate the work associated with mailings out and the processing of forms when they returned a number of pieces of equipment were required. A scheme evaluation template setting out the hardware requirements was provided at Annex 1 of the report.

Members were pleased to note that the Cabinet Office had approved the Borough Council's bid for grant funding and had met the costs in full. It was also noted that the purchase of new hardware, including maintenance cover, represented good value for money compared to outsourcing the mailing work. In addition, the equipment would be used for as many other corporate functions as possible to support all areas of service delivery.

Finally, Members asked that their thanks to the Elections and Special Projects Manager for his contribution be recorded.

**RECOMMENDED:** That

- (1) the purchases required for the implementation of Individual Electoral Registration, set out in the report, be endorsed; and
- (2) the grant funded scheme be added to the Capital Plan.

**DECISIONS TO BE TAKEN BY THE COMMITTEE****OS 14/15 FUTURE SCRUTINY REVIEW PROGRAMME**

The report of the Chief Executive set out proposals for further topics to be reviewed by the Overview and Scrutiny Committee.

It was suggested that the next two issues to be addressed by informal review groups, drawn from the membership of the Overview and Scrutiny Committee, should deal with the capital plan renewals process and the actions undertaken to return empty residential properties to active use.

The focus of both reviews was outlined in the report and supported by Members. Particular reference was made to the importance of challenging processes, especially regarding capital renewals, to improve budget accuracy and to avoid significant underspends on capital renewals budgets and potential impacts on the Medium Term Financial Strategy. In addition, assessing the scale of empty private sector housing in the borough and reviewing the processes and support in place had the potential to address the negative impact on a locality and encourage them back into active residential use.

**RESOLVED:** That two informal Review Groups be established to investigate the capital plan renewals and empty homes processes on the terms set out in the report.

**MATTERS FOR CONSIDERATION IN PRIVATE****OS 14/16 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 CABINET****OS 14/17 REVIEW OF POSTAGE AND COURIER COSTS**

**(Reason: LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)**

The report of the Management Team established the existing expenditure on postage, possible alternatives to Royal Mail and also looked at the current cost of the Borough Council's courier service and possible options to disseminate information more cost effectively.

Potential annual savings had been identified and the potential options for change were outlined in the report. Changes in demand and new technologies made it possible for the Borough Council to review its work processes and Members were reassured that any adjustment in working practices would not disadvantage residents.

**RECOMMENDED:** That

- (1) the Borough Council use Royal Mail accredited accounts for the majority of its postal needs, pursue all possible options for savings with Royal Mail and the use of the franking machine be discontinued;
- (2) the guaranteed early delivery postal service be discontinued;
- (3) any cheaper and appropriate alternatives to the use of Royal Mail be investigated in the longer term;
- (4) that the current courier service be discontinued; and
- (5) that, in the interim, a reduced courier service be introduced using existing caretaker staff until all such information is able to be delivered via electronic means, in line with the business transformation agenda.

The meeting ended at 8.05 pm

# Agenda Item 4

Any Executive Decisions which have been “called in”

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of the Chief Executive

#### Part 1- Public

#### Matters for Recommendation to Council

#### 1 OVERVIEW AND SCRUTINY COMMITTEE – ANNUAL REPORT

To receive and endorse a report on the business undertaken by the Committee over the past year.

#### 1.1 Background

1.1.1 To enhance governance arrangements, as suggested by the Audit Committee in 2013, a report is produced annually to improve transparency of the Overview and Scrutiny function.

1.1.2 This report therefore sets out a draft Annual Report for endorsement by the Committee and referral to the Council. The draft report is attached as Annex 1.

#### 1.2 Legal Implications

1.2.1 None

#### 1.3 Financial and Value for Money Considerations

1.3.1 As addressed via individual reviews.

#### 1.4 Risk Assessment

1.4.1 N/A

#### 1.5 Equality Impact Assessment

1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### 1.6 Recommendations

1.6.1 That the draft Overview and Scrutiny Annual Report, as attached as Annex 1, **BE ENDORSED**.

Background papers:

contact: Gill Fox

Nil

Julie Beilby  
Chief Executive



**Annual Report  
of the  
Overview and Scrutiny Committee**

**Overview and Scrutiny Committee – 27 January 2015**

## **1. Background**

- 1.1 This report sets out a summary of the activities and work undertaken by the Overview and Scrutiny Committee over the 2014 calendar year. Full details of all the reviews undertaken and other matters considered by the Committee over this period are set out in the relevant agenda papers and minutes.
- 1.2 During 2014, two programmed meetings of the Committee took place on 28 January and 11 June. In addition to these formal meetings, a number of informal scrutiny review group meetings were arranged under the chairmanship of the Committee's two Vice-Chairman. These met outside the normal meeting calendar to look at specific issues in more detail prior to the matter being dealt with by the full committee. This form of working has enabled the Committee to undertake a wider range of review work over the year and has enabled Members to investigate relevant issues in greater detail. It is expected that this style of working will be carried forward into 2015.
- 1.3 Set out below are details of each of the Committee's main meetings and a brief description of the work undertaken.

## **2. Overview and Scrutiny Committee Meeting – 28 January 2014**

- 2.1 The agenda for this meeting included the budgetary matters that required review and endorsement prior to their formal consideration by the Cabinet. The following matters were discussed:
- Revenue Estimates 2014/15
  - Capital Plan Review 2013/14
- 2.2 Two further reports were submitted in relation to the work of the two review groups, looking into Concessionary Fees and Charges and the review of Disabled Facilities Grant Contributions and Housing Assistance Funding.
- 2.3 The review group looking at Fees and Charges concluded that all concessions operated by the Council should, in future, be linked to recipients of the Council Tax Reduction Scheme. It recommended that the following be approved:
1. The current 100% concession for pest control services should be retained;
  2. The current 100% concession for bulky goods collection should be retained and additional marketing of the service and of the Saturday Household Waste Service should be undertaken;
  3. A review of the discounts for leisure services/activities by undertaken by the Leisure and Arts Advisory Board to simplify the rates which apply;
  4. The criteria which govern access to the Council's concessions be made consistent across services and in the future be based primarily on those eligible for the Council Tax Reduction Scheme;

5. To reflect the finding of the equalities impact assessment disability/incapacity be added to the qualifying criteria for all concessions, should a single card be introduced;
  6. Eligibility for access to concessions should be assessed and reviewed on an annual basis only in order to streamline administrations of the concessions scheme;
  7. The introduction of a single discount card be supported in principle but should be subject to further investigation taking into account examples of best practice; and
  8. Additional marketing and promotion of the discount card scheme should be considered to encourage greater take up by those eligible.
- 2.4 The review of Disabled Facilities Grant contributions and Housing Assistance Funding, recommended:
1. The existing level of capital plan funding for Disabled Facilities Grants should be retained for the time being but reviewed again when changes to the funding regime take place in 2015; and
  2. The capital plan budget for discretionary housing assistance be set at £90,000 and part funded by way of grant repayments as detailed in paragraph 1.6 of the report.
- 2.5 All of the above recommendations were subsequently considered and endorsed by the Cabinet.
- 2.6 A report setting out the future review work programme was also presented and it was resolved that review groups would be established to investigate Memberships / subscriptions and Postage/ courier costs.
- 3. Overview and Scrutiny Committee Meeting – 11 June 2014**
- 3.1 This meeting received the Corporate Performance Plan – Review and Update report. It was noted that the Corporate Performance Plan was a principal means of driving performance improvement and value for money and it was recommended that the Corporate Performance Plan be adopted.
- 3.2 In accordance with the Borough Council's constitution a report of the Chief Executive sought retrospective approval to the addition of a new Capital Plan scheme to purchase hardware for the implementation of Individual Electoral Registration (IER), it was recommended that this be endorsed and the grant funded scheme be added to the Capital Plan.
- 3.3 A future review programme was also endorsed at this meeting, it was resolved that Review Groups would be established to investigate the Capital Plan Renewals Provisions and another to review the Empty Homes process.
- 3.4 The recommendations from the review of Postage and Courier Costs were also brought to this meeting, with the following recommendations endorsed:

- (1) the Borough Council use Royal Mail accredited accounts for the majority of its postal needs, pursue all possible options for savings with Royal Mail and the use of the franking machine be discontinued;
- (2) the guaranteed early delivery postal service be discontinued;
- (3) any cheaper and appropriate alternatives to the use of Royal Mail be investigated in the longer term;
- (4) that the current courier service be discontinued; and
- (5) that, in the interim, a reduced courier service be introduced using existing caretaker staff until all such information is able to be delivered via electronic means, in line with the business transformation agenda

3.5 By the end of the calendar year, review groups for Empty Homes and the Capital Renewals Provisions had met and recommendations for each were due to be considered at the Overview and Scrutiny Committee held on 27 January 2015.

## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Recommendation to Cabinet

**MEMBERS ARE ASKED TO BRING WITH THEM THE REVENUE ESTIMATES BOOKLET CIRCULATED WITH THE AGENDA FOR THE MEETING OF THE FINANCE, INNOVATION AND PROPERTY ADVISORY BOARD**

#### 1 REVENUE ESTIMATES 2015/16

The Council has a statutory duty to set the level of council tax for the forthcoming financial year by 11 March. Under the Budget and Policy Framework Rules of the Constitution, the Cabinet is responsible for formulating initial draft proposals in respect of the Budget. The role of this Committee is to assist both the Cabinet and the Council in the preparation of the Budget for 2015/16 within the context of the Medium Term Financial Strategy and the Council's priorities.

#### 1.1 Introduction and Timetable

- 1.1.1 The Cabinet is responsible for formulating initial draft proposals in respect of the Budget. This report is intended as the basis for recommendations from this Committee to the Cabinet.
- 1.1.2 A special meeting of the Cabinet is scheduled for the 12 February to consider the recommendations of this Committee and of the Finance, Innovation and Property Advisory Board and, in addition, take into account the Council's final grant settlement.
- 1.1.3 At that special meeting on the 12 February, the Cabinet will need to formulate its final proposals in respect of the Budget for 2015/16 and the council tax to be levied in respect of the Borough Council. The Full Council will meet on the 17 February to approve the Budget and set the Council Tax. The Full Council may adopt or amend the Cabinet's proposals.
- 1.1.4 The role of this Committee is to consider both the Revised Estimates for 2014/15 and the Estimates for 2015/16 within the context of the Medium Term Financial Strategy and the Council's priorities. For completeness, details of how we are

updating the Medium Term Financial Strategy are contained within this report for information.

- 1.1.5 Copies of the Booklet containing the draft Revenue Estimates has already been circulated to all Members with the agenda for the meeting of the Finance, Innovation and Property Advisory Board. Please bring your copy of the Booklet to this meeting. If Members require further copies, please contact Michael Withey, Principal Accountant on extension 6103 or by e-mail at michael.withey@tmbc.gov.uk
- 1.1.6 Members will note from the Booklet that the 2015/16 Estimates total £12,396,350 **prior** to making a contribution to/from the General Revenue Reserve. This represents a **decrease of £1,022,850** or 7.6% over the Original Estimates for 2014/15. Members are referred to the report presented to the meeting of the Finance, Innovation and Property Advisory Board for further details on the Estimates.
- 1.1.7 It is likely that there will need to be changes made to the Estimates as we move through the budget setting process. It is the intention of the Director of Finance and Transformation to bring these together for the Cabinet Budget meeting in February, rather than introduce them in a piecemeal fashion.

## 1.2 Medium Term Financial Strategy

- 1.2.1 To recap, the Council's current Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets over a rolling ten-year period, and it is this Strategy that underpins the budget setting process each year and over the strategy period. The aim of the Strategy is to give us a realistic and sustainable plan that reflects the Council's priorities. The MTFS sets out the high level objectives the Council wishes to fulfil over the agreed time span. These are:
- To achieve a **balanced revenue budget** that delivers the Council's priorities by the end of the strategy period.
  - To retain a **minimum of £2.0m** in the General Revenue Reserve by the end of the strategy period.
  - Seek to set future increases in council tax having regard to the guidelines issued by the Secretary of State.
  - Over the strategy period, **continue to identify efficiency savings and opportunities for new or additional income sources** within the Council's budget to contribute towards the identified 'funding gap'; and, if necessary thereafter, **seek appropriate reductions in service costs** following consultation, as necessary, with taxpayers.
  - Set a **maximum 'annual capital allowance'** each year as part of the budget setting process for all new capital schemes (set at £320,000 from

the Council's own resources) and give priority to those schemes that generate income or reduce costs.

- 1.2.2 The MTFs sets out, not only the projected budgets for the period, but also the levels of council tax that are projected to be required to meet the Council's spending plans. Underneath the Strategy for the budget setting year sits detailed estimates formulated in conjunction with Services taking into account past outturn, current spending plans and likely future demand levels / pressures.
- 1.2.3 Members are fully aware that the Council faces an increasingly significant financial challenge as a result of the Coalition Government's budget deficit reduction programme which has resulted in a reduction in the financial support it can offer to local government.
- 1.2.4 We believe, however, that our MTFs is resilient and the financial pressures likely to confront us can be addressed in a measured and controlled way. Clearly, the absolute size of the budget 'funding gap' will influence the timescales we can afford ourselves to address the problem.
- 1.2.5 Members will recall that when setting the budget for 2014/15 in February 2014 projections at that time suggested a 'funding gap' between expenditure and income of circa £1.875 million. Based on the above projection it was further suggested that we break the savings target into three tranches (tranche one £650,000, tranche two £700,000 and tranche three £525,000 to be achieved by ideally the start of the year 2016/17, 2017/18 and 2019/20). However, in order to maintain momentum and focus a savings target has been set for the start of next year (2015/16) by breaking out the first savings tranche into two parts, i.e. £200,000 followed by £450,000.
- 1.2.6 The MTFs will need to be updated and rolled forward as part of the 2015/16 budget setting process. Further information about this, together with the issues that Cabinet will need to address when updating the MTFs are set out later in this report at paragraph 1.9.

### **1.3 Provisional Local Government Finance Settlement**

- 1.3.1 On 18 December 2014, provisional Settlement Funding Assessments for 2015/16 were published. Each local authority's actual allocation for 2015/16 is expected to be confirmed in January 2015. Ordinarily, indicative figure for the following year are also made available, but with the General Election next year, indicative figures for 2016/17 have not been provided. The Spending Review 2015 due to take place shortly after the General Election will tell us more about the financial landscape for local government beyond 2015/16 with the potential for multi-year settlements which, if introduced, will aid financial planning.
- 1.3.2 Our provisional Settlement Funding Assessment for 2015/16 is £3,678,599. This represents a cash decrease of £678,519 or 15.6% when compared to the equivalent figure of £4,357,118 in 2014/15. Included in the Settlement Funding

Assessment is the parish councils' indicative allocation in respect of the council tax support scheme, however, it is not separately identified.

- 1.3.3 In addition, the Council's grant award under the New Homes Bonus (NHB) scheme in 2015/16 is £3,101,153 compared to £2,395,874 in 2014/15. Grant funding including NHB is, therefore, £6,779,752. A breakdown of the total grant funding into the various funding streams is set out in the table below.

	2014/15 £	2015/16 £	Cash Increase / (Decrease)	
			£	%
Local Share of Business Rates	2,049,945	2,089,115	39,170	1.9
Revenue Support Grant	2,307,173	1,589,484	(717,689)	(31.1)
<b>Settlement Funding Assessment</b>	<b>4,357,118</b>	<b>3,678,599</b>	<b>(678,519)</b>	<b>(15.6)</b>
New Homes Bonus	2,395,874	3,101,153	705,279	29.4
<b>Total Grant Funding</b>	<b>6,752,992</b>	<b>6,779,752</b>	<b>26,760</b>	<b>0.4</b>

- 1.3.4 In recent years the government has referred to the increase / (decrease) in an authority's **spending power**; and this is what tends to be quoted in media coverage. The increase in spending power calculated by the government is given as 0.3% and although not one and the same is not that different to the increase in our grant funding including NHB. Members will note that the decrease in our Settlement Funding Assessment was negated by the grant award under the NHB scheme.

- 1.3.5 Our concern has always been what happens when NHB in its current form 'ceases' and/or it is replaced by something else, and we hit the metaphorical 'cliff edge'. Putting to one side NHB, it is worth noting that, **of the twelve district councils in Kent, Tonbridge & Malling Borough Council continues to receive the lowest Settlement Funding Assessment both in total and per head.**

#### 1.4 Local Referendums to Veto Excessive Council Tax Increases

- 1.4.1 The Localism Act gives local communities the power to veto excessive council tax increases. The Secretary of State will determine a limit for council tax increases which has to be approved by the House of Commons. If an authority proposes to raise council tax above this limit they will have to hold a referendum to get approval for this from local voters who will be asked to approve or to veto the rise.
- 1.4.2 Members may recall as part of the 2013 Spending Review we were advised that the threshold was to be set at 2% for 2015/16 and this was reaffirmed on 18 November 2014. It should be noted that beyond 2015/16 the Medium Term



Financial Strategy assumes a 3% increase in council tax year on year. To put this into context, 1% currently equates to about £85,000.

- 1.4.3 It was also announced as part of the 2013 Spending Review that funding for council tax freezes in 2014/15 and 2015/16 will **become part of local authority's baseline funding**. To this end the Government announced that it will provide funding equivalent to a **1.0%** increase in council tax in 2014/15 and 2015/16. As a result, and in the absence of information to the contrary, I am assuming that the **freeze funding due to be handed out in 2015/16 will continue indefinitely**.

## 1.5 Business Rates Retention

- 1.5.1 Members will be aware that, from April 2013, the Government introduced the Business Rates Retention scheme. For medium term financial planning purposes we continue to assume that the business rates baseline attributed to TMBC is not notably different to the actual business rates income. If our actual income is less than the baseline set the authority will have to **meet a share of that shortfall up to a maximum of circa £153,800 this year, 2014/15**. This figure increases each year in line with inflation.

## 1.6 New Homes Bonus

- 1.6.1 The sustainability of the New Homes Bonus in its current form remains a concern.
- 1.6.2 For medium term financial planning purposes, I have assumed that there will be a phased withdrawal of the current NHB model from 2016/17 onwards and that the model will be replaced with something else, but with a reduced level of funding. It should be noted that, depending on how any replacement 'model' allocates funding to individual local authorities, there is a real risk that the Council could see its **overall grant funding reduce by more than is presently reflected in the Medium Term Financial Strategy**.
- 1.6.3 It is of course impossible to estimate with any certainty what that might mean for TMBC, but our working assumption is that this could require a **further potential savings tranche of circa £700,000**.

## 1.7 Draft Capital Plan

- 1.7.1 A report elsewhere on this agenda seeks to advise Members of the way forward on the Capital Plan. The criteria established to guide the inclusion of new schemes to List C ('wish' list) and ultimately the inclusion of schemes on List A (schemes assigned budget provision) are:
- to meet legislative requirements including health and safety obligations;
  - funded from external resources; and
  - reduce revenue expenditure and or generate income.

- 1.7.2 The Capital Plan review report recommends schemes for inclusion on List B, the short-list of schemes for possible inclusion in the Capital Plan. Members are reminded that the selection from List B, of schemes to be included in the Capital Plan (List A) – if any – will be made at Cabinet on the 12 February for endorsement by Council. With this in mind Members are advised that other than loss of investment income the revenue consequences of new capital schemes **have yet to be incorporated within the Estimates.**
- 1.7.3 It is important to ensure that the revenue reserve for capital schemes can continue to fund capital expenditure at least until we reach a position where the annual contribution to the reserve matches the funding required for the replacement of existing assets (vehicles, plant and equipment) as well as recurring capital expenditure.
- 1.7.4 As a result there is an annual capital allowance for all other capital expenditure. Any 'bids' for capital schemes or discretionary capital grants are to be assessed in the context of the annual allowance. Members are reminded that in setting the budget for 2014/15 that allowance was set at £320,000. It should be noted based on current projections that from 2018/19 the Council will need to borrow to fund such expenditure.

## **1.8 Consultation with Non-Domestic Ratepayers**

- 1.8.1 Before the Borough Council determines the amount of its total estimated expenditure and makes calculations of its requirements for the ensuing financial year, it consults representatives of its non-domestic ratepayers about its expenditure proposals (including capital expenditure). The consultees, who include the local Chambers of Commerce as well as a group of the larger ratepayers in the Borough, receive on request information and copies of the draft budgets and are invited to make written representations if they deem it appropriate. Any points of clarification required are dealt with by telephone, written correspondence or, if appropriate, an informal meeting with officers.
- 1.8.2 Any comments or representations received from the consultees will be reported to Members during the budget process as appropriate.

## **1.9 Update of our Medium Term Financial Strategy**

- 1.9.1 When updating the MTFS we need to take into account the following (not exclusive) factors:
- those factors that have contributed towards addressing the 'funding gap';
  - those factors that have taken matters in the 'wrong' direction;
  - the announcement on the level of council tax increase for 2015/16 above which the local authority would be required to seek the approval of their electorate via a local referendum and the government's commitment in

partnership with local authorities to freeze council tax in England for a further year;

- the ongoing impact of the Business Rates Retention scheme; and
- award of New Homes Bonus.

1.9.2 Members will recall we set ourselves a savings target this year of £200,000 and I am extremely pleased to report to date savings in the order of £475,000 have been achieved. However, after taking into account those issues outside our control that either take the 'funding gap' in the right or wrong direction, **net savings in the order of £325,000 have been achieved** when compiling the Revenue Estimates for 2015/16.

1.9.3 In addition, the council tax base is higher than estimated as a result of better than expected growth, positive improvement in the council tax base in respect of the council tax reduction scheme and changes to discounts and exemptions approved by Council in November 2014. This, in turn, **making a contribution to the savings target of circa £150,000.**

1.9.4 A summary of the make-up of the net savings achieved in the order of **£475,000** can be found at **[Annex 1]**. As a result we have not only met this year's savings target, but began to make 'in roads' into the next savings tranche, although of course a significant financial challenge remains.

1.9.5 Assuming a **council tax referendum threshold of 2%** (see paragraph 1.4.2) **the updated 'funding gap' (savings target) is circa £1.4 million.** As in previous iterations of the MTFS the savings target can be broken down into tranches. For example, the savings target could be broken down into three tranches.

- 1) Tranche one £200,000 to be achieved by 1 April 2016.
- 2) Tranche two £700,000 to be achieved by 1 April 2017.
- 3) Tranche three £500,000 to be achieved by 1 April 2018.

1.9.6 If Members were minded, in due course, to implement a **council tax 'freeze'**, then, assuming the 2015/16 freeze funding continues indefinitely in the 'baseline' (see paragraph 1.4.3) **the updated 'funding gap' (savings target) would be in the order of £1.525 million.** The savings target could again be broken down into three tranches.

- 1) Tranche one £325,000 to be achieved by 1 April 2016.
- 2) Tranche two £700,000 to be achieved by 1 April 2017.
- 3) Tranche three £500,000 to be achieved by 1 April 2018.

- 1.9.7 The figures above are, presently, indicative figure intended to give Members a 'flavour' of the choices and challenges ahead. However, it can be seen from the above that the implications of accepting the grant to freeze council tax as opposed to a council tax increase of 1.99% adds around £125,000 to the overall savings we have to make.
- 1.9.8 Clearly, the Medium Term Financial Strategy will continue to be updated as we move through the 2015/16 budget cycle and as more information becomes available. Members will note from this latest 'update' that the projected funding gap is £1.4 million (increase in council tax 1.99%) or £1.525 million (council tax freeze).

### **1.10 Finance, Innovation and Property Advisory Board**

- 1.10.1 The draft Revenue Estimates were considered in detail at the meeting of the Finance, Innovation and Property Advisory Board on 7 January where a number of officers were available to answer detailed questions.
- 1.10.2 It is not our intention to replicate the officer representation at this meeting and assume that Members will wish to focus on the strategic aspects of the Estimates rather than the detail. If Members do have detailed questions, please contact Neil Lawley, Chief Financial Services Officer on extension 6095 or by e-mail at [neil.lawley@tmbc.gov.uk](mailto:neil.lawley@tmbc.gov.uk) in advance of the meeting. Where appropriate, he will liaise with the relevant Services and advise accordingly.
- 1.10.3 The Finance, Innovation and Property Advisory Board endorsed the draft Revenue Estimates as presented.

### **1.11 Legal Implications**

- 1.11.1 There are a number of legislative requirements to consider in setting the Budget which will be addressed as we move through the budget cycle.
- 1.11.2 The Localism Act gives local communities the power to veto excessive council tax increases. The Secretary of State will determine a limit for council tax increases which has to be approved by the House of Commons. If an authority proposes to raise council tax above this limit they will have to hold a referendum to get approval for this from local voters who will be asked to approve or veto the rise.

### **1.12 Financial and Value for Money Considerations**

- 1.12.1 As set out above.

### **1.13 Risk Assessment**

- 1.13.1 The Local Government Act 2003 requires the Chief Financial Officer, when calculating the Council Tax Requirement, to report on the robustness of the estimates included in the budget and the adequacy of the reserves for which the budget provides. Consideration will and is given to the risks associated with any

budget setting process where various financial and other assumptions have to be made. To mitigate the risks detailed estimates are formulated in conjunction with Services taking into account past outturn, current spending plans and likely future demand levels / pressures and external advice on assumptions obtained where appropriate.

1.13.2 The Medium Term Financial Strategy sets out the high level financial objectives the Council wishes to fulfil and underpins the budget setting process for the forthcoming year and over the Strategy period. As the Council's high level financial planning tool the Strategy needs to be reviewed and updated at least annually and in the current climate regularly reviewed by Management Team.

1.13.3 The increased uncertainty and volatility particularly in some of our major sources of income (business rates and New Homes Bonus) make financial planning that more difficult with the increased risk of significant variances compared to projections.

1.13.4 Any increase in council tax above the relevant threshold, even by a fraction of a percentage point, would require a referendum to be held.

#### **1.14 Equality Impact Assessment**

1.14.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### **1.15 Recommendations**

1.15.1 The Committee is requested to:

- 1) Consider the draft Revenue Estimates contained in the Booklet and make such recommendations, as it considers appropriate, to Cabinet for its special meeting on 12 February.

Background papers:

Nil

contact: Sharon Shelton  
Neil Lawley

Sharon Shelton  
Director of Finance and Transformation

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**Revenue Savings 2015/16**

	<b>£'000</b>
<b>Savings Identified to Date</b>	
Ground Maintenance Contract	(100)
Establishment Changes (Nov 14)	(98)
Establishment Changes (Jun 14)	(86)
2013/14 Outturn Review	(73)
CCTV Capital Renewals	(30)
Building Control Shared Service	(25)
Print Section	(21)
External Fund Manager	(15)
Members Special Responsibility Allowance	(8)
Courier - Non Staff Costs	(7)
Wrotham Car Park	(6)
Telephone Allowances	(5)
Total Savings	<u>(474)</u>
<b>Other Factors Impacting on MTFS</b>	
Disabled Facilities Grants	(26)
Additional Annual Pension Contributions	(22)
Summons Costs Recovered	(20)
Environmental Health Contracts RPI Increase	15
Building Repairs Reserve Contribution	25
Gateway Income	25
Penalty Charge Notices	25
Benefits Administration Grant	50
Recycling Income	80
Total Other Factors	<u>152</u>
<b>Net Savings Identified</b>	<u>(322)</u>
<b>Savings Target for 2015/16</b>	(200)
<b>Additional Savings Identified</b>	<u>(122)</u>
Council Tax Base	(150)
<b>Total Savings Over Target for 2015/16</b>	<u><u>(272)</u></u>

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Recommendation to Cabinet

**MEMBERS ARE ASKED TO BRING WITH THEM THE CAPITAL PLAN BOOKLET CIRCULATED WITH THE AGENDA FOR THE MEETING OF THE FINANCE, INNOVATION AND PROPERTY ADVISORY BOARD**

#### **1 CAPITAL PLAN REVIEW 2014/15**

**This report considers progress on the 2014/15 Capital Plan Review and requests endorsement of recommendations to Cabinet.**

#### **1.1 Introduction**

- 1.1.1 The capital plan process, as outlined below, provides a means of maintaining a pool of schemes (List C) from which schemes can be selected for evaluation and possible implementation. It also provides an opportunity to review the provisions for schemes which are already in the Capital Plan (List A).
- 1.1.2 The criteria established to guide the inclusion of new schemes to List C (wish list) and ultimately the inclusion of schemes on List A (schemes assigned budget provision) are:
- to meet legislative requirements including health and safety obligations;
  - funded from external resources; and
  - reduce revenue expenditure and or generate income.
- 1.1.3 The subsequent recommendations where appropriate have regard to these criteria.
- 1.1.4 The review takes place within the context of the revenue estimates, reflecting the fact that capital schemes have an impact on revenue. Positive impacts may include potential to increase income or reduce operating costs. Negative impacts may include loss of income during construction and will include loss of investment income where the project costs are met from the Council's resources.

1.1.5 The Capital Plan review process started at the Finance, Innovation and Property Advisory Board on 7 January 2015, where Members considered the following issues:

- 1) The position of the existing Capital Plan (List A).
- 2) The addition of new schemes to List C and the removal of schemes no longer required.
- 3) The selection of schemes from List C for evaluation over the following year.
- 4) Consideration of those List C schemes which have been evaluated.

## **1.2 Capital Plan Funding**

1.2.1 Members will be aware that the Council continues to face a significant financial challenge as a result of the Coalition Government's budget deficit reduction programme which has resulted in a reduction in the financial support it can offer to local government.

1.2.2 Capital expenditure is currently funded from the revenue reserve for capital schemes, grants from government and other bodies, developer contributions and from capital receipts derived from the sale of assets. The revenue reserve for capital schemes provides the main source of funding for existing and any new schemes that are introduced into the Capital Plan.

1.2.3 It is important to ensure that the revenue reserve for capital schemes can continue to fund capital expenditure at least until we reach a position where the annual contribution to the reserve matches the funding required for the replacement of existing assets (vehicles, plant and equipment) as well as recurring capital expenditure.

1.2.4 As a result there is an annual capital allowance for all other capital expenditure. Any 'bids' for capital schemes or discretionary capital grants are to be assessed in the context of the annual allowance. The annual allowance is set at £320,000. It should be noted, based on current projections, that from 2018/19 the Council will need to borrow to fund such expenditure.

## **1.3 Recommendations from Finance, Innovation and Property Advisory Board**

1.3.1 The position of the existing Capital Plan (List A) presented to the Finance, Innovation and Property Advisory Board and summarised in **[Annex 1]** was endorsed. Details in respect of the existing Capital Plan (List A) can be found in the report to the Finance, Innovation and Property Advisory Board.

1.3.2 The schedule of schemes recommended to be added to and schemes to be deleted from List C **[Annex 2]** was endorsed.

- 1.3.3 The schedule of List C schemes recommended for evaluation including one for Fast-Track evaluation **[Annex 3]** was endorsed. In addition, three schemes selected for evaluation in a previous Review: Tonbridge Farm Sportsground Provision of Toilets, Leybourne Lakes Country Park Facility Improvements and Tonbridge to Penshurst Cycle Route Refurbishment, are also to be evaluated over the coming year. Under normal circumstances, schemes successfully coming through the evaluation process, and progressing to List A, might be expected to be implemented in 2016/17.
- 1.3.4 The schedule of evaluated schemes **[Annex 4]** recommended for transfer from List C to List B was endorsed noting:
- 1) In respect of the Tonbridge Town Lock scheme this is an additional funding requirement of £100,000 to that currently reflected in the Capital Plan to be met from a pending developer contribution and in the interim from the Council's own resources.
  - 2) The Tonbridge School Athletics Track Improvements scheme is expected to be progressed in the year 2018/19 subject to the identification of developer contributions / external grant sources.
  - 3) In respect of the LLC Health Suite Refurbishment scheme this is an additional funding requirement of £60,000 to that currently reflected in the Capital Plan.

## 1.4 Capital Strategy

- 1.4.1 The Chartered Institute of Public Finance and Accountancy has supplied the following background notes: "The Capital Strategy should describe how the investment of capital resources will contribute to the achievement of the authority's key objectives and priorities that are detailed in their Performance Plans and Community Plans/Strategies. An authority's Capital Strategy should be one of the key, overarching strategies that support service plans. The strategy will also determine priorities between the various services and look for opportunities for cross-cutting and joined-up investment. The authority's Capital Strategy should describe how the deployment of capital resources contributes to the achievement of the described goals. It will also help to ensure that issues around property and other assets are fully reflected in the Council's planning."
- 1.4.2 The updated Capital Strategy attached at **[Annex 5]** has been designed to be published on the Council's website. The Strategy has no annexes but incorporates links to a number of other documents or web pages which are referred to in the text and are available on the Council's website or the internet.
- 1.4.3 The update has followed the policy of evolution, rather than revolution. The Key Financial Statistics in paragraph 2.1 of the annex have been updated to reflect the 2014/15 estimates and the balance sheet as at 31 March 2014. Elsewhere, examples of our current practice have been updated where appropriate.

Throughout the annex the type face of any new and or amended text and figures has been presented in bold italics.

- 1.4.4 The Peer Review Challenge reinforced the recognition that future strategies will need to take into account the fact that the main source of funding for new capital plan schemes, the revenue reserve for capital schemes, is expected to be exhausted in 2018/19 at which stage the Council will need to borrow to fund such expenditure.
- 1.4.5 The Finance, Innovation and Property Advisory Board endorsed the Capital Strategy as presented.

## **1.5 Legal Implications**

- 1.5.1 None.

## **1.6 Financial and Value for Money Considerations**

- 1.6.1 The transfer of schemes from List C to List B has no financial impact. The transfer of schemes from List B to List A will be considered by Cabinet on 12 February in the context of the Medium Term Financial Strategy and the overall budget position.
- 1.6.2 The Capital Strategy outlines a capital plan process which follows the CIPFA Prudential Code and in addition to meeting the Council's Key Priorities and Improvement Actions, focuses on value for money.

## **1.7 Risk Assessment**

- 1.7.1 Where a scheme is to be funded, in full or in part, from a pending developer contribution and in the interim from the Council's own resources there is a risk of an unbudgeted commitment if that developer contribution is not forthcoming.
- 1.7.2 Financial implications of new schemes to be considered by Cabinet at the February budget meeting.
- 1.7.3 Failure to endorse a satisfactory Capital Strategy may lead to a capital programme which does not fully support the Council's Key Priorities and Improvement Actions.

## **1.8 Equality Impact Assessment**

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.9 Summary of Recommendations**

- 1.9.1 It is **RECOMMENDED** that the recommendations to Cabinet by the Finance, Innovation and Property Advisory Board detailed at paragraph 1.3 be endorsed.

1.9.2 It is **RECOMMENDED** that Cabinet be asked to endorse the Capital Strategy as attached at **[Annex 5]** for adoption by Council and publication on the Council's website.

Background papers:

contact: Michael Withey  
Neil Lawley

Nil

Sharon Shelton  
Director of Finance and Transformation

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**CAPITAL PLAN REVIEW 2014/15**  
**Capital Plan (List A) Summary**

	Expenditure To 31/03/14	2014/15 Estimate inc Prior Year Slippage	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate	2020/21 Estimate	Total Scheme Estimate
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Capital Plan Schemes</b>									
<b>Service</b>									
Planning, Housing & Environmental Health	635	603	505	965	265	265	265	265	3,768
Street Scene & Leisure	543	548	102	112	112	127	112	112	1,768
Corporate	71	64	30	90	30	30	30	30	375
Sub-total	1,249	1,215	637	1,167	407	422	407	407	5,911
<b>Capital Renewals</b>									
<b>Service</b>									
Planning, Housing & Environmental Health	n/a	25	10	185	28	22	11	48	329
Street Scene & Leisure	n/a	351	500	399	619	426	243	556	3,094
Corporate	n/a	470	365	299	316	306	258	324	2,338
Sub-total	n/a	846	875	883	963	754	512	928	5,761
<b>Grand Total</b>	1,249	2,061	1,512	2,050	1,370	1,176	919	1,335	11,672

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**Capital Plan Review 2014/15**

**Recommendations in respect of List C**

**Booklet  
Annex 3  
Page No**

**Schemes to be added to List C**

**Street Scene and Leisure**

Country Parks: Installation of Automatic Bollards

CP 52

**Corporate**

IT Initiatives: Revenues and Benefits Document Management

CP 53

IT Initiatives: Revenues and Benefits Citizen's Access

CP 54

**Schemes to be deleted from List C**

**Corporate**

IT Initiatives: Public Access to Online Personal Data

CP 53

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**Capital Plan Review 2014/15**

**Schemes selected for evaluation from List C**

**Booklet  
Annex 3  
Page No**

**Street Scene and Leisure**

Country Parks: Installation of Automatic Bollards

CP 52

**Corporate**

IT Initiatives: Revenues and Benefits Document Management (Fast-Track)

CP 53

IT Initiatives: Revenues and Benefits Citizen's Access

CP 54

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## Capital Plan Review 2014/15

## Recommendations in respect of evaluated schemes

	Capital Cost £'000	Estimated Annual Revenue/ Renewals Cost £'000		Booklet Annex 4 Page No
<b>Planning, Housing and Environmental Health</b>				
Car Parking Action Plan Phase 9	20	1	Transfer from List C to List B	CP 55
Tonbridge Town Lock	100		Transfer from List C to List B	
<b>Street Scene and Leisure</b>				
LLC Installation of UV Pool Disinfectant Plant	150	11	Transfer from List C to List B	CP 56
Tonbridge School Athletics Track Improvements	150		Transfer from List C to List B	CP 59
LLC Health Suite Refurbishment	60	3	Transfer from List C to List B	
<b>Corporate</b>				
IT Initiatives: Revenues and Benefits Document Management (Fast-Track)	60	5	Transfer from List C to List B	CP 61
<b>Total</b>	<b>540</b>	<b>20</b>		

Taking into account the schemes expected to be funded from developer contributions / external grant sources the sum to be met from the Council's own resources is £230,000 which is within the current annual capital allowance set by Members of £320,000.

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of Finance & Transformation

#### Part 1- Public

#### Matters for Recommendation to Cabinet

### 1 ANNUAL REVIEW OF ANTI-FRAUD POLICIES

#### Summary

This report informs Members of the outcome of a review of the Anti-Fraud Policies of the Council. The review has identified that some minor changes are required to the Anti-Fraud & Corruption Policy and the Housing & Council Tax Benefit Anti-Fraud Policy and recommends that these changes are adopted.

#### 1.1 Introduction

1.1.1 The Anti-Fraud and Corruption Policy is used to provide structure to the combating of fraud and corruption, which the Council may be subject to. Due to their specific investigation requirements, separate policies have been developed specifically for Housing & Council Tax Benefit Fraud and for Council Tax Fraud including council tax reduction, discounts and exemptions.

1.1.2 It is a requirement that these policies are reviewed annually and the updates to these following the annual review are summarised in this report. The Policy documents are also attached as annexes with proposed deletions scored through and additions shown in red italics for ease of reference.

#### 1.2 Anti-Fraud & Corruption Policy

1.2.1 This policy was last reviewed and approved by Council in February 2014. The recent review has identified some minor changes are required to the policy, which are detailed in the following paragraphs. A copy of the revised policy is also attached. **[Annex 1]**

1.2.2 References to the Audit Commission at paragraphs 4.20, 5.2 and 7.2 have been deleted due to their pending abolition and at paragraphs 5.2 and 7.2 have been replaced with Grant Thornton LLP as the Council's External Auditor.

1.2.3 The Fraud Manager has been added to the list of contacts at paragraph 5.4

1.2.4 Members are asked to recommend approval of the revised policy to Council via Cabinet.

### **1.3 Housing & Council Tax Benefit Anti-Fraud Policy**

1.3.1 This policy was last reviewed and approved by Council in February 2014. The recent review has identified one minor change. A copy of the revised policy is attached. **[Annex 2]**

1.3.2 Paragraph 5.6, which read 'The Investigation Manager will circulate a quarterly report on the outcome of referrals. This report will include the source of the cases and details of the fraud type. This report will be given to the Service Manager – Revenues & Benefits and all benefit staff' has been deleted.

1.3.3 Members are asked to recommend approval of the revised policy to Council via Cabinet.

### **1.4 Council Tax Reduction, Discount and Exemption Anti-Fraud Policy**

1.4.1 The review found that no changes were required to this policy. A copy of the policy is attached. **[Annex 3]**

### **1.5 Action Following Approval of Policies**

1.5.1 When these policies are approved by full Council they will be circulated to all staff with computer access using Netconsent and will be updated on the Council website.

### **1.6 Legal Implications**

1.6.1 These policies are not mandatory but do comply with best practice and refer to the relevant legislation where appropriate.

### **1.7 Financial and Value for Money Considerations**

1.7.1 Fraud prevention and detection is an area subject to central government focus with initiatives such as Protecting the Public Purse, National Fraud Initiative and Fighting Fraud Locally maintaining a high profile. The message coming from these initiatives is that effective fraud prevention and detection releases resources from fraud.

1.7.2 These policies comply with recognised best practice and reinforce the zero tolerance stance of the Council towards fraud. Effective fraud prevention minimises losses to the Council through fraud.

### **1.8 Risk Assessment**

1.8.1 The policies reflect best practice and the culture of the Council is aimed at minimising the risk of fraud. The policies are supported by the internal control mechanisms in place and form part of the overall control environment of the Council.



## 1.9 Equality Impact Assessment

1.9.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 1.10 Recommendations

1.10.1 Members are asked to **recommend** that:

- 1) Following consideration by Cabinet, Council approve the following policies:
  - Anti-Fraud & Corruption Policy **[Annex 1]**.
  - Housing & Council Tax Benefit Anti-Fraud Policy **[Annex 2]**.
  - Council Tax Reduction, Discounts & Exemptions Anti-Fraud Policy **[Annex 3]**.

Background papers:

contact: James Larkin

Nil

Sharon Shelton  
Director of Finance & Transformation

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# **ANTI-FRAUD & CORRUPTION POLICY**

## Contents

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**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**Anti-Fraud & Corruption Policy**

**1 INTRODUCTION**

- 1.1 Tonbridge & Malling Borough Council is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud, bribery and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. Such activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in its Corporate Plan. In response to this, the Anti-Fraud & Corruption Policy is designed to: -
- encourage prevention;
  - promote detection, and
  - support investigation.

**2 DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION**

- 2.1 Fraud is defined as:

*The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain.*

- 2.2 This may involve:

- Dishonestly making a false representation to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly failing to disclose information for which there is a legal duty to disclose, in order to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly abusing a position, where the person occupying the position is expected to safeguard, or not act against, financial interests to make a gain, to cause loss or to expose another to a risk or loss.

- 2.3 Fraud can be any act of deception which acts to the financial detriment of the Council. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this Policy.

- 2.4 Bribery is defined as:

*The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.*

2.5 Corruption is defined as:

*The giving and/or acceptance of an inducement or reward which influences the action of any person.*

### 3 THE COUNCIL'S COMMITMENT

3.1 In developing and operating its anti-fraud, bribery and corruption arrangements, the Council will:

- Where possible, take action to prevent fraud, bribery and corruption activity occurring.
- Encourage the detection of such activity.
- Promote Member, officer, the general public and other stakeholder awareness of fraud, bribery and corruption.
- Offer specific training on these issues to officers in key positions within the organisation.
- Encourage Members, officers, the general public and other stakeholders to report any concerns or suspicions.
- Investigate any substantiated concerns or suspicions in a fair and confidential manner.
- Take action as appropriate based on the outcomes of investigations.

### 4 PREVENTION OF FRAUD, BRIBERY & CORRUPTION

#### Recruitment and induction

- 4.1 The Council recognises that a key preventative measure in the fight against fraud, corruption and bribery is to take effective steps at the recruitment stage to verify the propriety and integrity of the previous records of potential employees of the organisation. The Council has a Recruitment Guide in place, which should be adhered to in recruiting both permanent and temporary/contract staff. This guidance requires a number of checks at the recruitment stage to establish and confirm the previous records of potential employees, including the take up of written references and Criminal Records Bureau checks for certain identified posts.
- 4.2 The Council has developed a formal induction process for new employees and a Staff Handbook which is issued to new employees as part of the induction process. These are intended to develop an awareness of the Council's internal control arrangements, key policy documents and the Employee Code of Conduct.
- 4.3 As elected representatives of the local community, newly-elected Members are also required to complete an induction to assist them in understanding the Council, its decision-making arrangements and the requirements of the Member Code of Conduct. These matters are also detailed in the handbook issued to all Members.

## **Training**

- 4.4 The Council recognises that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry these out within the Council's framework of policies and procedures. Training is particularly important where employees are required to operate within financial systems or handle monies or personal/confidential information.
- 4.5 The Council will promote a general awareness of fraud, bribery and corruption to all employees and Members, with specific training provided to officers engaged in the prevention and detection of such activity to ensure that they have the necessary skills to carry out these functions.

## **Internal Control Arrangements**

- 4.6 The Council as a whole operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. The Constitution forms the main spine of these arrangements and includes the Council's financial procedure rules and contract procedure rules.
- 4.7 Responsible officers are expected to ensure that effective internal control arrangements are incorporated into the design or development of systems and procedures. Such arrangements would include ensuring adequate segregation of duties, authorisation and physical security controls to protect the Council from error, misappropriation or loss.
- 4.8 Members and officers are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 4.9 The Council has established a Standards Committee to deal with matters relating to the Member's Code of Conduct.

## **Organisational Culture and Conduct**

- 4.10 The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud, bribery and corruption. The Council operates a zero-tolerance approach towards fraud, bribery and corruption activity.
- 4.11 The Council supports the Seven Principles of Public Life identified by the Nolan Committee and recognises that these are fundamental to developing an effective working environment which does not allow or tolerate fraud, bribery and corruption activity. Further information on the Seven Principles of Public Life can be found as **Annex 1** to this document.
- 4.12 The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In particular, Members and officers are expected to adhere to their relevant Code of Conduct and declare any interests they may have that could or could be perceived, to influence them in any decision-making they may be involved in relating to Council business. Members and Officers are also required to declare any gifts or hospitality they are offered relating to their role

or Council business, whether these are accepted or declined.

- 4.13 Managers should strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. There is also a Confidential Reporting Code in place to enable staff to raise any concerns where staff feel unable to raise concerns with their manager.
- 4.14 The Council also expects that individuals and organisations (e.g., suppliers, contractors, partners and service providers), that it comes into contact with will act with integrity in their dealings with the Council and without thought or actions involving fraud and corruption.

#### **Internal Scrutiny Arrangements**

- 4.15 The Council has an internal audit function which has the responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisation's objectives. This work of internal audit will include review of the existence and effectiveness of the Council's internal control arrangements. Any review work undertaken by the internal audit function will give due consideration to the risk of fraud or corruption within the area subject to audit.
- 4.16 Assurance of the effective operation of internal control arrangements is requested from management annually as part of the Council's arrangements for preparing the Annual Governance Statement. Managers are required to specifically provide assurance on the effective operation of internal control arrangements and staff awareness of this Policy. Managers also have a responsibility to carry out regular risk reviews and to raise concerns if they identify any areas where there is a potential weakness in internal controls.
- 4.17 The Audit Committee also have a role in providing independent assurance to the Council on the adequacy of the Council's control environment. This role is discharged by the committee through the receipt of regular reports on the work and findings of internal and external audit, and the Council's governance and risk arrangements.

#### **External Scrutiny Arrangements**

- 4.18 The Council is subjected to a high degree of external scrutiny of its affairs by a variety of bodies and people.
- 4.19 As part of its statutory duties, the External Auditor is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, bribery and corruption.

#### **Working with others**

- 4.20 The Council is committed to working with other organisations to prevent and detect fraud, bribery and corruption through undertaking specific initiatives and ensuring that arrangements are in place to encourage the exchange of information between the Council and other agencies. Though not intended to be exhaustive, the Council currently works with the following:



- Department for Work and Pensions
- Kent Police
- National Health Service
- Inland Revenue
- National Anti-Fraud Network
- National Fraud Initiative
- Kent Audit Group
- Local Authority Investigation Officers Group
- Kent Investigation Officers Group
- ~~The Audit Commission~~

## 5 DETECTION OF FRAUD, BRIBERY & CORRUPTION

- 5.1 The Council has put in place a range of internal control arrangements within its systems and processes to detect inappropriate or dishonest activity, including budget monitoring and reconciliations. These arrangements should be sufficient in themselves to detect fraud, corruption and bribery activity should this occur. The Council recognises, however, that the detection of such activity is often as a result of the alertness of employees, Members, the general public and other stakeholders.
- 5.2 Members of the public and stakeholders are encouraged to come forward and report any concerns or suspicions they may have through:
- The Council's Confidential Reporting Code, which is available at [www.tmbc.gov.uk/assets/audit/CRC.pdf](http://www.tmbc.gov.uk/assets/audit/CRC.pdf) , from Council offices or by calling 01732 844522
  - The Council's Internal Audit team (01732 876086)
  - The Council's External Auditor, ~~the Audit Commission~~ *Grant Thornton LLP*
- 5.3 Concerns or suspicions directly relating to benefit fraud, Council Tax Reduction Scheme fraud, Council Tax fraud or housing fraud should be reported to the fraud investigation team through the council website or via the benefit fraud hotline. (01732 876337)
- 5.4 Elected Members are also encouraged to come forward and report any concerns or suspicions they may have of fraud, corruption or bribery to:
- the Chief Internal Auditor
  - *the Fraud Manager*
  - the Director of Finance & Transformation
  - the Monitoring Officer
  - the Chief Executive
- 5.5 Employees are encouraged to report any concerns or suspicions in the first instance to their Line Manager or Service Manager where it is appropriate to do so. However, if the issues are of a serious or sensitive nature or involve management concerns they may be reported directly to the Audit & Fraud Team or may be raised use the Whistleblowing Charter which is available on

the Council website.

- 5.6 The Council's Financial Procedure Rules require Chief Officers to immediately notify the Director of Finance & Transformation of any financial irregularity or suspected financial irregularity.
- 5.7 The Council recognises that on occasions, employees, Members and organisations working with the Council may not want to express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. In such instances, persons are urged to report concerns or suspicions through the channels set out in the Council's Confidential Reporting Code.

## 6 INVESTIGATION

- 6.1 Any Manager with information about suspected fraud, bribery or corruption activity must report this immediately to the Chief Internal Auditor, Audit Manager or Fraud Investigation Manager. Managers are also responsible for:
- recording and securing all evidence received and collected;
  - ensuring that evidence is sound and adequately supported;
  - implementing Council disciplinary procedures where appropriate.
- 6.2 The Council has established a corporate approach to co-ordinate the investigation of allegations of fraud and corruption to ensure the effective use of the skills and resources within the organisation. This approach is intended to utilise officers from Internal Audit, Fraud Investigations and Personnel based on the nature of the allegation and the investigatory skills required.
- 6.3 The Council has a formal procedure for conducting such investigations which allows for investigations to be carried out impartially and with complete confidentiality. As well as looking to confirm or refute allegations of fraud and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent or deter the reported activity from recurring.
- 6.4 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a Council employee.
- 6.5 Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that the issue will be pursued. The matter may be referred to the Police. Any such decision will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.
- 6.6 When making decisions about prosecutions, the Council will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions
- 6.7 The Council will seek, where appropriate, to maximise the recovery of any loss to the Council.

- 6.8 The investigation process must not be misused. The Council will treat any reporting of unfounded malicious allegations seriously. Where employees are concerned, any such finding from the investigation process may be treated as a disciplinary matter.
- 6.9 Elected Members and employees will be given advice and support, where considered necessary, if they are the subject of any unfounded malicious allegation.
- 6.10 The Fraud investigations team is responsible for all investigations relating to benefit fraud, Council Tax fraud including Single Person Discount, Council Tax Reduction Scheme and exemptions. These investigations will be undertaken in accordance with the Council's Housing & Council Tax Benefit Anti-Fraud Policy, Council Tax Reduction, Discount & Exemption Anti-Fraud Policy and their associated Prosecution Policies

## **7 RESPONSES TO REPORTED CONCERNS AND SUSPICIONS**

- 7.1 Any person or organisation reporting concerns or suspicions of fraud or corruption activity may request to be kept informed of the progress of any investigation or its outcome. The Council reserves the right to not fulfil this request where doing so may be to the detriment of the effectiveness and confidentiality of the investigation process.
- 7.2 Where people or organisations have raised a concern or suspicion about fraud or corruption activity but are not satisfied with the response they received, they may pursue the matter further by referring the issue through one of the following channels:
- the Council's complaints procedure
  - An Elected Member
  - The Audit Commission *External Auditor Grant Thornton LLP*
  - Public Concern at Work
  - A relevant professional or regulatory body
  - A solicitor or the Police.

## **8 ACTION TO DETER FRAUD, BRIBERY & CORRUPTION**

- 8.1 All anti-fraud, bribery and corruption activities undertaken by the Council, including the update of this policy, will be publicised in order to make employees, Members, the general public and stakeholders aware of the Council's commitment to taking action on such activity, when it occurs.
- 8.2 The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action or prosecution.
- 8.3 The Council will take action to help ensure the maximum recoveries for the Council.

- 8.4 The Council's Media & Communications Team is responsible for optimising the opportunities available to publicise to the public any anti-fraud, bribery and corruption activity being undertaken within the Council. Once notified of such cases, the Media & Communications Team is also responsible for endeavouring to ensure that the results of any investigations undertaken, including prosecutions, are reported in the local press.

## **9 MEASURING THE EFFECTIVENESS OF THIS POLICY**

- 9.1 The Council has recognised the importance of measuring the effectiveness of its anti-fraud, bribery and corruption arrangements and that this cannot consist of one single measure. The Council will demonstrate the effectiveness of this Policy through a number of measures focusing on outcomes and will include assessments of:

- awareness levels
- number of suspicions and concerns reported per annum
- number of investigations undertaken
- outcomes of investigations undertaken
- level of losses identified
- sanctions applied
- financial losses recovered or, where appropriate, financial savings generated.

- 9.2 This information will be reported to the Audit Committee on an annual basis

## **10 REVIEW AND APPROVAL OF THIS POLICY**

- 10.1 The Anti-Fraud and Corruption Policy will be reviewed at least annually by the Audit Committee with any significant changes being approved by Council following consideration by the Overview & Scrutiny Committee.

## The Seven Principles of Public Life

### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

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# **HOUSING & COUNCIL TAX BENEFIT ANTI-FRAUD POLICY**

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**Tonbridge and Malling Borough Council**  
**Housing & Council Tax Benefit Anti-Fraud Policy**

**1. INTRODUCTION**

- 1.1 Tonbridge and Malling Borough Council is committed to the delivery of Housing & Council Tax Benefit to its citizens and considers benefit is for those who are most vulnerable in society. It is important to detect and prevent fraud and error in the first instance and as such the council seeks to check and verify all original documents and personal circumstances before making payments or amending existing payments of benefit to claimants.
- 1.2 The council is opposed to all forms of fraud and corruption. It recognises that fraud and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. The council has issued an Anti-Fraud and Corruption Strategy and a Whistleblowing Policy to encourage prevention, promote detection and support the investigation of allegations of fraud or corruption at a corporate level.
- 1.3 This Housing & Council Tax Benefit Anti-Fraud Policy is designed to reinforce the Anti-Fraud & Corruption Strategy specifically in relation to Housing and Council Tax Benefit Administration and is designed to: -
- stop fraudulent claims from entering our systems
  - find any fraudulent claims already in the system
  - stop payments from going to people who are not entitled to it
  - punish those people who commit fraud
  - recover fraudulent overpayments of benefit
  - deter people from trying to commit fraud
- 1.4 The Housing & Council Tax Benefit Anti-Fraud Policy and the Sanctions & Prosecutions policy will be reviewed at least annually by the Investigation Manager, with any material amendment subject to the approval of the Cabinet.

## 2. DEFINITION OF BENEFIT FRAUD

2.1 Benefit fraud is where a person, dishonestly, or not,

- a) Falsifies a statement or a document; or
- b) Is involved in a failure to notify a relevant change of circumstance; or
- c) Omits relevant information

for the purpose of obtaining or increasing entitlement to housing/council tax benefit for themselves or another.

## 3. CULTURE

3.1 The council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption and as such has established a dedicated Investigation Team.

3.2 The council's staff and members, at all levels, are an important element in its stance on fraud and corruption and should lead by example. They are encouraged to raise any concerns and can do this in the knowledge that these will be treated in confidence and properly investigated.

3.3 Instances of suspected/alleged Housing Benefit and/or Council Tax Benefit fraud may be referred for investigation to the Investigation Team. Investigation Officers are based in the Audit Fraud Team within the Finance Service and can be contacted on extension 6337/6101 or through the e-mail system. All staff conducting either investigations and or interviews should be aware of the council's procedures for dealing with unacceptable and aggressive behaviour, which is contained within the Statement of Health and Safety Policy found in the Staff Portfolio.

## 4. PREVENTION

### Staff

4.1 To reduce the risk of fraud and error it is vital that the qualifications and employment histories of potential recruits are comprehensively checked. Benefits staff should also sign a declaration covering any interests that may conflict with their work. For example, receiving HB and CTB, or acting as a landlord or agent.

4.2 All individuals within the Investigation Team are required to act with integrity and follow the **Code of Conduct for Investigation Staff (see Appendix A)**.

4.3 Employees must declare any circumstances where their personal interests (financial and non-financial) may conflict with those of the council e.g. processing a Housing or Council Tax Benefit application form for a relative or friend.

- 4.4 Procedures have been designed to ensure that the work of one member of staff is checked by a Senior Benefits Officer. These types of checks are important deterrents to fraud and error.
- 4.5 Benefits staff will receive Fraud Awareness training as part of their induction. Thereafter they will receive refresher training.
- 4.6 Appropriate staff both internally within the council and externally will receive benefits fraud awareness training.
- 4.7 All Investigation Officers will undertake training in order to ensure that they carry out their duties in accordance with recognised standards for Benefit Fraud Investigation as set out in the Local Authorities Benefit Fraud Manual. Guidance can also be obtained from the DWP Fraud Manual located within the secure IRRV website. In addition they will undertake any training required by the Department for Work and Pensions in order to use specific powers under the Social Security Administration Act and Social Security Fraud Act (Authorised Officer powers).

### **Systems**

- 4.8 It is a management responsibility to maintain the internal control system. This includes the responsibility for the prevention of fraud and other illegal acts. By undertaking an agreed plan of work, internal audit will evaluate the adequacy and effectiveness of these controls as a means of assisting management to discharge its responsibilities.
- 4.9 All Benefits recording systems must be designed in consultation with and to the satisfaction of the Director of Finance and Transformation. Access to data must be controlled by use of passwords with an audit trail kept of transactions
- 4.10 All staff with access to the confidential details of claimants will be responsible for ensuring the control of physical access to the data and will be responsible for compliance with the Data Protection Act and the Freedom of Information Act. This responsibility requires managers to ensure that the physical access to equipment is restricted, as far as practical, to authorized users only. All individuals must protect their passwords and not keep them written down or 'lend them'.
- 4.11 All manual Benefit Fraud records must be kept securely filed when not in use and access to these files must be restricted to designated Investigators only.
- 4.12 All valuables, including documentation, must be recorded and tracked through the council system until returned to the originator. Where these items are hand delivered a receipt will be given to the originator.
- 4.13 All telephone calls received in relation to Benefit Fraud will be recorded manually and a note of the content of the conversation will be kept on file.

## 5. DETECTION AND INVESTIGATION

- 5.1 Surveys by the Audit Commission have identified that Housing/Council Tax Benefit Fraud is one of the largest area of detected fraud in local government.
- 5.2 Whilst encouraging genuine claimants to apply for benefit the council has adopted a number of initiatives to detect and prevent fraudulent applications, such as:
- operation of a fraud 'hotline'; 01732 876337
  - participation in the Department for Work and Pension's monthly data-matching exercise;
  - using computer links to the Department for Works and Pensions to check entitlements and to receive benefit notifications;
  - undertaking land registry checks;
  - carrying out joint fraud investigations with other bodies such as the Counter Fraud Investigation Service, Border Agency, Kent Police, other Local Authorities and other investigation departments;
  - publicity of anti-fraud initiatives and the Fraud Hotline number including regular articles in 'Here & Now' and press releases to the press office.
- 5.3 All referrals passed to the team will be sifted and vetted for strength of evidence. All cases where the evidence is considered sufficient to investigate will be logged on to the Northgate Fraud Management System and a case file opened.
- 5.4 The council's Disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a council employee.
- 5.5 Members of staff within the Benefits Section should refer suspected cases of fraud to the Investigation Team by completing the Referral Form on Northgate. The Investigation Team will give feedback to staff regarding the quality of the Fraud Referral and the outcome of any resulting investigation.
- 5.6 ~~The Investigation Manager will circulate a quarterly report on the outcome of referrals. This report will include the source of the cases and details of the fraud type. This report will be given to the Service Manager — Revenues & Benefits and all benefit staff.~~
- 5.7 All claims where there is sufficient proof for the council to believe that benefit has been claimed fraudulently will be dealt with under the Sanctions and Prosecution Policy. The sanctions open to the council include a civil penalty, Caution, Administration Penalty or Prosecution.
- 5.8 The council will take action, including legal recovery, in order to recover all overpayments of Housing & Council Tax Benefit that result from fraudulent

activity or claimant failure to notify a change of circumstances.

**Tonbridge and Malling Borough Council**  
**Housing and Council Tax Benefit**  
**Sanction and Prosecution Policy**

**I. STATEMENT OF INTENT**

- Tonbridge and Malling Borough Council has a duty to administer claims for Housing and Council Tax Benefit and a responsibility to prevent and detect benefit fraud. Tonbridge and Malling Borough Council is committed to protecting public funds and will consider taking prosecution action against any person suspected of committing benefit fraud.
- Tonbridge and Malling Borough Council has decided that its Prosecution Policy should not be entirely related to the monetary value of the offence. This is because Tonbridge and Malling is an area where rents vary widely depending on the location and type of property in question. In these circumstances a purely monetary policy would not be appropriate. All cases will be looked at on their own merit and any mitigating circumstances taken into account.
- Cases deemed suitable for prosecution may be passed to the Department for Work and Pensions Solicitor's Office under the existing Local Authority Prosecution arrangements. These cases are generally prosecuted under the Social Security Administration Act 1992.
- Cases may also be dealt with in house; the Investigation Manager will present cases at plea and direction with the backing of private prosecution services to conduct cases where a not guilty plea has been entered. If a guilty plea has been entered the Investigation Manager will proceed and conclude the hearing.
- The initial recommendation on the appropriate action to be taken in each case lies with the Fraud Investigator. This will depend on the evidence they have gathered and the seriousness of the fraud. The final decision on whether a case should be referred for prosecution will be made by the Investigation Manager who will take into account the factors outlined in this policy.
- Cases that are progressed under the One Customer One Team (OCOT) agreement with the Department for Work and Pensions will be subject to this policy and consideration given to the Department for Work and Pensions sanction policy when considering offences committed against Tonbridge and Malling Borough Council.
- Opinion will be gained from a legal professional either in house or private to ensure a robust case is presented at court.

## **II. RECOVERY OF OVERPAYMENTS**

- Regardless of whether or not any Sanction action is taken, Tonbridge and Malling Borough Council will attempt to recover all overpayments. This action is taken by the Overpayments Officer who will pursue all available methods of recuperating the debt including taking civil action when necessary.

## **III. NO FURTHER ACTION**

- Tonbridge and Malling Borough Council may consider closing the case without any further action if:
  - To our knowledge the claimant has never previously offended
  - The claimant has not made any false declarations
  - There was no planning involved in the process
  - There was no other person involved in the fraud
  - The offence is minor
  - The period over which the fraud has been committed is very short
  - The overpayment is very low
- In cases where no further action is appropriate and an Interview Under Caution has taken place a letter will be issued stating that no further action will take place, however a strong reminder advising of the responsibility to notify changes and correct information will be included in the letter.

## **IV. EVIDENTIAL CRITERIA**

- Tonbridge and Malling Borough Council may consider sanction action if the case is serious enough to warrant it.
- In order for any Sanctions to be considered the case must meet the evidential criteria. In other words is there sufficient evidence for a realistic prospect of a conviction?
- In making this decision, the following factors will be considered;
  - How clear the evidence is
  - If there has been any failure in the investigation
  - If there has been any failure in benefit administration

## **V. PUBLIC INTEREST CRITERIA**

- If the evidential criteria are met then the council will consider whether or not Sanction action would be in the public interest. In making this decision, the following factors will be considered first:
  - Medical conditions

- Other social factors
  - Council's Vulnerability Policy
- If these still indicate that a sanction is appropriate then the other Public Interest Criteria as shown in The Code for Crown Prosecutors will be considered in order to decide the appropriate sanction

## **VI. FORMAL CAUTIONS**

- The Authority may consider issuing a Formal Caution if:
  - The claimant has been Interviewed Under Caution
  - To our knowledge the claimant has never previously offended
  - Or if the person has committed benefit fraud before the offence was minor and the current offence is also minor;
  - There was no planning involved in the process
  - There was no other person involved in the fraud
  - Criminal proceedings are not the first option
  - Penalty action is not appropriate
  - The offence is minor
  - The amount of overpayment is relatively low.
  - The person has fully admitted the offence during an IUC.
  - The persons subsequent attitude, e.g. whether they express genuine regret for what they have done.
- If the person refuses the Caution the case will usually be referred for prosecution.

## **VII. ADMINISTRATIVE PENALTIES**

- The Authority may consider issuing an Administrative Penalty if:
  - The claimant has been Interviewed Under Caution
  - To our knowledge the claimant has never previously offended
  - Or if the person has committed benefit fraud before the offence was minor and the current offence is also minor;
  - There was no planning involved in the process
  - There was no other person involved in the fraud
  - Criminal proceedings are not the first option
  - A Caution is not appropriate
  - The offence is minor
  - The person has not admitted the offence during an IUC.
  - For offences committed before the 8 May 2012 the administration penalty will be 30% of the total overpayment.
  - For offences committed wholly on or after 8 May 2012, the minimum penalty is £350.00. For overpayments totally over £700, the penalty is set at 50% of the recoverable overpayment, up to a maximum penalty of £2,000.

- If the person refuses the Administrative Penalty the case will usually be referred for prosecution.

## **VIII. CASES NOT SUITABLE FOR A CAUTION OR A PENALTY**

- Even if the above criteria for Cautions and Penalties was satisfied Tonbridge and Malling Borough Council may decide that a Formal Caution or Administrative Penalty is not appropriate if the person:
  - ❑ Has been prosecuted for a benefit offence in the last 5 years.
  - ❑ Has been cautioned two or more times in the past five years.
- This is because this would indicate that
  - ❑ Previous sanctions have not deterred them from re-offending
  - ❑ Their lack of contrition for the offences committed;
  - ❑ Their disregard for the legislation;
  - ❑ A deliberate and repeated intent to commit benefit fraud
  - ❑ Their apparent belief that these offences are not serious.
- Instead Tonbridge and Malling Borough Council may consider referring the case for prosecution.
- In cases where a Sanction is not appropriate and an offence has been identified then a formal warning letter may be issued and held on file for five years. The warning letter will be cited in further cases where appropriate.

## **IX. PROSECUTION**

- The final decision on whether to refer a case for prosecution lies with the Investigation Manager.
- Once the decision to prosecute has been made the case will be presented to the Council's Legal team for an opinion on the evidential and public interest test. If the evidential and public interest tests have been met the case will be authorised by the legal team and passed for prosecution. If the Legal team consider the evidential and public interest test has not been met the case will be referred back to the Investigation Team with a recommendation.
- In addition to the Evidential Criteria and Public Interest Criteria outlined above the following will also be taken into consideration
  - ❑ Whether the claim was false from inception
  - ❑ Whether there was planning in the process
  - ❑ Whether the suspect was a ring leader or an organizer of the offence
  - ❑ Any previous incidence of fraud
  - ❑ Whether there has been any abuse of position or privilege
  - ❑ The amount of the overpayment



- ❑ The duration of the alleged offence
- ❑ Whether there are grounds for believing that the offence is likely to be continued or repeated, based on the person's previous history.
- ❑ Whether the offence is widespread in the area where it was committed and so prosecution may act as a deterrent
- ❑ Any voluntary disclosure
- ❑ Has the person refused to accept a Formal Caution or Administrative Penalty

## CODE OF CONDUCT FOR FRAUD INVESTIGATION STAFF

### Code of Conduct & Good Practice for Investigation Staff

This code applies to all officers engaged in carrying out duties involving the investigation of Fraud.

The code should be read in conjunction with the legal requirements of the post and current staff rules.

The Chief Auditor will deal with a breach of The Code of Conduct and Good Practice.

Inefficiency is a breach of this Code, and falls short of the expected standard and may require remedial training.

### General Conduct

Officers of Tonbridge & Malling Borough Council will not:

- exceed their actual authority or hold themselves out as having any authority not provided by legislation.
- act in any way, benefit or gain, which exceeds the limits of their powers.
- misuse their official position for any benefit or gain for themselves or another.

### Legislation

- Officers must pursue all reasonable lines of enquiry even if it points away from a suspect's guilt
- Ensure that all material that is gathered during the investigation is recorded and retained and that all relevant material is revealed to the prosecutor in accordance with The Criminal Procedure and Investigations Act and the Codes of Practice
- Ensure that the Codes of Practice are observed in accordance with The Police and Criminal Evidence Act.
- Ensure that applicable provisions of The Regulation of Investigatory Powers Act and the Codes of Practice and guidance in relation to directed surveillance are adhered to.
- Observe all other applicable legislation and internal and external guidance

### Evidence (witness and suspects)

Officers to whom the Code applies must not under any circumstances:

- Conceal or fabricate evidence or knowingly allow any evidence to be concealed or fabricated.
- Discriminate or exercise any bias on the grounds of race sex, marital status, sexual orientation, or disability.

- Accept or offer any inducement, bribe or other advantage from or to any witness or suspect.
- Use any information gathered in the course of their duties for personal gain or coercion or otherwise misuse such information.
- Do or fail to do anything that may result in a miscarriage of justice.

### **Disclosure of Interests**

- Officers must declare any circumstances or interests which may affect their ability to conduct an investigation objectively.
- Any relationship to or with a suspect or witness or informant.
- Any personal interest in the outcome of an investigation or other civil or criminal Proceedings.
- Their dependency on alcohol or drugs other than those prescribed.
- Officers should disclose to their line manager if they are or have been subject to any: summons, charge, or arrest.

### **Information**

- Officers must treat all information gathered for evidential purposes during an investigation as confidential and, must not deliberately or negligently:
  - Disclose such information to an unauthorised third party.
  - Reveal the source of the information to an authorised third party.
- Personal Injury and Damage to Property
  - Officers, must exercise all reasonable care to prevent injury to the person, loss or damage to the public and private property, and must not:
    - Forcibly enter public or private property except to save life or prevent serious injury or on the invitation of the occupier or other responsible person or constable.
    - Deliberately or negligently destroy or damage any property.
    - Seize or retain any property without lawful authority.
    - Use threatening physical violence towards a colleague or member of the public.

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**COUNCIL TAX REDUCTION,  
DISCOUNT & EXEMPTION ANTI-  
FRAUD POLICY**

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**Tonbridge and Malling Borough Council**  
**Council Tax Reduction, Discount & Exemption Anti-Fraud Policy**

**1. INTRODUCTION**

- 1.1 Tonbridge and Malling Borough Council is committed to ensuring that the correct levels of council tax liability are collected from its residents and considers that council tax reduction is for those who are most vulnerable in society and that discounts and exemptions should only be applied to households that meet the necessary criteria. It is important to detect and prevent fraud and error in the first instance and as such the council seeks to check and verify all original documents and personal circumstances before awarding any reductions, discounts or exemptions, or amending existing reductions discounts or exemptions.
- 1.2 The council is opposed to all forms of fraud and corruption. It recognises that fraud and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. The council has issued an Anti-Fraud and Corruption Strategy and a Whistleblowing Policy to encourage prevention, promote detection and support the investigation of allegations of fraud or corruption at a corporate level.
- 1.3 This Council Tax Reduction, Discount & Exemption Anti-Fraud Policy is designed to reinforce the Anti-Fraud & Corruption Strategy specifically in relation to Council Tax Administration and is designed to: -
- stop fraudulent applications for reductions, discounts or exemptions from entering our systems
  - find any fraudulent reductions, discounts or exemptions already in the system
  - punish those people who commit fraud
  - recover council tax owed as the result of fraudulently obtained reductions, discounts or exemptions
  - deter people from trying to commit fraud
- 1.4 The Council Tax Reduction, Discount & Exemption Anti-Fraud Policy and the associated Sanctions & Prosecutions policy will be reviewed at least annually by the Investigation Manager, with any material amendment subject to the approval of the Cabinet.

## 2. DEFINITION OF COUNCIL TAX FRAUD

2.1 Council Tax fraud is where a person, dishonestly, or not,

- a) Falsifies a statement or a document; or
- b) Is involved in a failure to notify a relevant change of circumstance; or
- c) Omits relevant information

for the purpose of obtaining a reduction in council tax liability for themselves or another.

## 3. CULTURE

3.1 The council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption and as such has established a dedicated Investigation Team.

3.2 The council's staff and members, at all levels, are an important element in its stance on fraud and corruption and should lead by example. They are encouraged to raise any concerns and can do this in the knowledge that these will be treated in confidence and properly investigated.

3.3 Instances of suspected/alleged Council Tax fraud may be referred for investigation to the Investigation Team. Investigation Officers are based in the Audit Fraud Team within the Finance Service and can be contacted on extension 6337/6101 or through the e-mail system. All staff conducting either investigations and or interviews should be aware of the council's procedures for dealing with unacceptable and aggressive behaviour, which is contained within the Statement of Health and Safety Policy found in the staff intranet.

## 4. PREVENTION

### Staff

4.1 To reduce the risk of fraud and error it is vital that the qualifications and employment histories of potential recruits are comprehensively checked. Benefits staff should also sign an annual declaration covering any interests that may conflict with their work. For example, receiving HB and CTB, or acting as a landlord or agent.

4.2 All individuals within the Investigation Team are required to act with integrity and follow the **Code of Conduct for Investigation Staff (see Appendix A)**.

4.3 Employees must declare any circumstances where their personal interests (financial and non-financial) may conflict with those of the council e.g. processing a Council Tax Reduction application form for a relative or friend.

4.4 Procedures have been designed to ensure that the work of one member of staff is checked by a Senior Officer. These types of checks are important deterrents to fraud and error.



- 4.5 Council Tax staff will receive Fraud Awareness training as part of their induction. Thereafter they will receive annual refresher training.
- 4.6 Appropriate staff both internally within the council and externally will receive fraud awareness training.
- 4.7 All Investigation Officers will undertake training in order to ensure that they carry out their duties in accordance with recognised standards for Fraud Investigation. In addition they will undertake any training required by the Department for Work and Pensions in order to use specific powers under the Social Security Administration Act and Social Security Fraud Act (Authorised Officer powers) for investigations relating to council tax reduction.

### **Systems**

- 4.8 It is a management responsibility to maintain the internal control system. This includes the responsibility for the prevention of fraud and other illegal acts. By undertaking an agreed plan of work, internal audit will evaluate the adequacy and effectiveness of these controls as a means of assisting management to discharge its responsibilities.
- 4.9 All Council Tax recording systems must be designed in consultation with and to the satisfaction of the Director of Finance & Transformation. Access to data must be controlled by use of passwords with an audit trail kept of transactions.
- 4.10 All staff with access to the confidential details of claimants will be responsible for ensuring the control of physical access to the data and will be responsible for compliance with the Data Protection Act and the Freedom of Information Act. This responsibility requires managers to ensure that the physical access to equipment is restricted, as far as practical, to authorized users only. All individuals must protect their passwords and not keep them written down or 'lend them'.
- 4.11 All manual Council Tax records must be kept securely filed when not in use and access to these files must be restricted to designated officers only.
- 4.12 All valuables, including documentation, must be recorded and tracked through the council system until returned to the originator. Where these items are hand delivered a receipt will be given to the originator.
- 4.13 All telephone calls received in relation to Council Tax Fraud will be recorded manually and a note of the content of the conversation will be kept on file.

## **5. DETECTION AND INVESTIGATION**

- 5.1 Surveys by the Audit Commission have identified that Council Tax Fraud causes significant loss to local government.
- 5.2 Whilst encouraging genuine people to apply for reductions, discounts and exemptions, the council has adopted a number of initiatives to detect and prevent fraudulent applications, such as:

- operation of a fraud 'hotline'; 01732 876337
  - participation in the National Fraud Initiative data-matching exercise;
  - undertaking land registry checks;
  - carrying out joint fraud investigations with other bodies such as the Counter Fraud Investigation Service, Home Office, Kent Police, other Local Authorities and other investigation departments;
  - publicity of anti-fraud initiatives ,the Fraud Hotline number and press releases.
- 5.3 All referrals passed to the team will be sifted and vetted for strength of evidence. All cases where the evidence is considered sufficient to investigate will be logged and a case file opened.
- 5.4 The council's Disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a council employee.
- 5.5 Members of staff within the Council Tax Section should refer suspected cases of fraud to the Investigation Team. The Investigation Team will give feedback to staff regarding the quality of the Fraud Referral and the outcome of any resulting investigation.
- 5.6 The Investigation Manager will circulate a quarterly report on the outcome of referrals. This report will include the source of the cases and details of the fraud type. This report will be given to the Service Manager – Revenues & Benefits and all Council Tax staff.
- 5.7 All claims where there is sufficient proof for the council to believe that a reduction, discount or exemption has been claimed fraudulently will be dealt with under the associated Sanctions and Prosecution Policy. The sanctions open to the council include a Caution, an Administration Penalty (in respect of council tax reduction) or Prosecution.
- 5.8 The council will take action, including legal recovery, in order to recover all Council Tax liability that results from fraudulent activity or a person's failure to notify a change of circumstances, regardless of whether sanction action takes place, and may consider imposing a civil penalty of £70 for incorrect statements or negligently failing to report changes in circumstances.

**Tonbridge and Malling Borough Council**  
**Council Tax Reduction, Discount & Exemption**  
**Sanction and Prosecution Policy**

**I. STATEMENT OF INTENT**

- Tonbridge and Malling Borough Council has a duty to ensure that all applications for Council Tax reduction, discounts and exemptions are correctly awarded and a responsibility to prevent and detect fraud. Tonbridge and Malling Borough Council is committed to protecting public funds and will consider taking prosecution action against any person suspected of committing fraud in order to reduce their council tax liability.
- Tonbridge and Malling Borough Council has decided that its Prosecution Policy should not be entirely related to the monetary value of the offence. This is because Tonbridge and Malling is an area where liabilities vary widely depending on the location and type of property in question. In these circumstances a purely monetary policy would not be appropriate. All cases will be looked at on their own merit and any mitigating circumstances taken into account.
- The recommendation on whether a case is suitable for sanction action lies with the Investigations Manager. A sanction recommendation will be completed by the investigating officer and then reviewed by the investigations manager in accordance with the sanction policy to determine what course of action, if any, is appropriate. This review will take into account;
  - ❑ The evidential test criteria,
  - ❑ The Public interest test criteria,
  - ❑ Value and length of the offence,
  - ❑ Local prevalence,
  - ❑ Social and health factors, and
  - ❑ Any other mitigating factors
- Sanction cases will be approved by the Chief Internal Auditor. Prosecution recommendations will be reviewed by Legal Services and the Chief Financial Services Officer for approval. Cases deemed suitable for prosecution may be dealt with in-house by the Authority's legal team. These cases are generally prosecuted under the Fraud Act 2006 or the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013..
- Opinion will be gained from a legal professional either in house or private to ensure a robust case is presented at court.

## **II. EVIDENTIAL CRITERIA**

- Tonbridge and Malling Borough Council may consider sanction action if the case is serious enough to warrant it.
- In order for any Sanctions to be considered the case must meet the evidential criteria. In other words is there sufficient evidence for a realistic prospect of a conviction?
- In making this decision, the following factors will be considered;
  - ❑ How clear the evidence is
  - ❑ If there has been any failure in the investigation
  - ❑ If there has been any failure in benefit administration

## **III. PUBLIC INTEREST CRITERIA**

- If the evidential criteria are met then the council will consider whether or not Sanction action would be in the public interest. In making this decision, the following factors will be considered first:
  - ❑ Medical conditions
  - ❑ Other social factors
  - ❑ Financial implications compared with losses
  - ❑ Council's Vulnerability Policy
- If these still indicate that a sanction is appropriate then the other Public Interest Criteria as shown in The Code for Crown Prosecutors will be considered in order to decide the appropriate sanction

## **IV. NO SANCTION OR PROSECUTION**

- Tonbridge and Malling Borough Council may consider closing the case without any sanction or prosecution action if:
  - ❑ To our knowledge the person has never previously offended
  - ❑ The offence is minor
  - ❑ The period over which the fraud has been committed is very short
  - ❑ The value involved is very low
  - ❑ The case does not satisfy the Evidential and Public Interest Criteria
- In cases where no further action is appropriate and an Interview Under Caution has taken place a letter will be issued stating that no further action will take place, however a strong reminder advising of the responsibility to notify changes and provide correct information will be included in the letter.

## V. CIVIL PENALTIES FOR INCORRECT STATEMENTS

- Even if it is determined Tonbridge & Malling will not take any sanction or prosecution action in respect of offences committed, they may still consider issuing a civil penalty for making an incorrect statement or failing to notify a change of circumstances
- The Authority may consider imposing a penalty of £70 on a person where;
  - ❑ The Person makes an incorrect statement or representation, or negligently gives incorrect information or evidence in or in connection with an application or in connection with the award of a reduction under the council tax reduction scheme,
  - ❑ Fails to take reasonable steps to correct the error,
  - ❑ The error results in an award of a reduction council tax reduction which is greater than the amount to which the person was entitled,
  - ❑ The person has not been charged with an offence or cautioned, or been given an administration penalty, or
  - ❑ Without reasonable excuse, fails to give a prompt notification of a relevant change of circumstances to the authority,
  - ❑ The failure results in an award of a reduction council tax reduction which is greater than the amount to which the person was entitled,
  - ❑ The person has not been charged with an offence or cautioned, or been given an administration penalty.

## VI. SANCTIONS AS ALTERNATIVES TO PROSECUTION

- Where the authority has reviewed a case and is satisfied that an offence has been committed, mitigating factors may suggest that an alternative form of sanction should be considered in the first instance as a more suitable means of disposal.
- These alternative sanctions take the form of a caution or, in the case of Council Tax Reduction, an administrative penalty.
- **A Caution;**
  - ❑ Acts as a final written warning for the offence committed,
  - ❑ Is for council tax administration purposes only
  - ❑ Is not a criminal record and therefore, does not affect a persons employment prospects
  - ❑ Remains on record for a period of 5 years,
  - ❑ Would be cited at proceedings should any subsequent offences be committed within the 5 year period
- The Authority may consider issuing a Caution if:
  - ❑ To our knowledge the person has never previously offended, or
  - ❑ The person has committed council tax fraud or benefit fraud before but the offence was minor and the current offence is also minor,
  - ❑ There was no planning involved in the process,
  - ❑ There was no other person involved in the fraud,

- The offence is minor,
  - The value of the offence is relatively low,
  - The person has fully admitted the offence during an IUC,
  - The persons subsequent attitude, e.g. whether they express genuine regret for what they have done,
  - Criminal proceedings are not the first option
  
- **An Administrative Penalty;**
  - Is a financial penalty calculated as a percentage of the fraudulently obtained council tax reduction, which is set at;
    - 50% of the excess reduction, with a minimum of £100 and a maximum of £1,000,
  - Is for council tax administration purposes only,
  - Is not a criminal record and therefore, does not affect a persons employment prospects,
  - Remains on record for a period of 5 years,
  - Would be cited at proceedings should any subsequent offences be committed within the 5 year period
  
- The Authority may consider issuing an Administrative Penalty if:
  - To our knowledge the person has never previously offended, or
  - The person has committed council tax fraud or benefit fraud before but the offence was minor and the current offence is also minor,
  - There was no planning involved in the process,
  - There was no other person involved in the fraud,
  - A Caution is not appropriate as there has been no admission to the offence,
  - The offence is minor,
  - Criminal proceedings are not the first option
  
- If a person refuses to accept a caution or administrative penalty, the case will be referred for prosecution.
  
- Even if the above criteria for Cautions and Penalties was satisfied Tonbridge and Malling Borough Council may decide that a Caution or Administrative Penalty is not appropriate if the person:
  - Has been prosecuted for a council tax or benefit fraud offence in the last 5 years.
  - Has been cautioned two or more times in the past five years.
  
- This is because this would indicate that
  - Previous sanctions have not deterred them from re-offending,
  - Their lack of contrition for the offences committed,
  - Their disregard for the legislation,
  - A deliberate and repeated intent to commit fraud,
  - Their apparent belief that these offences are not serious.

- Instead Tonbridge and Malling Borough Council may consider referring the case for prosecution.

## **VII. PROSECUTION**

- The final decision on whether to refer a case for prosecution lies with the Chief Internal Auditor. This decision will then be reviewed by Legal Services and the Chief Financial Services Officer for approval.
- Once a decision to prosecute has been made, the case will be presented to the Council's Legal team, who will provide an opinion on the evidential and public interest test.
- If the evidential and public interest tests have been satisfied, the case will be authorised by the legal team and passed for prosecution. If the Legal team consider the evidential and public interest test has not been met the case will be referred back to the Investigation Team with a recommendation.
- In addition to the Evidential Criteria and Public Interest Criteria outlined above the following will also be taken into consideration;
  - ❑ Whether the application for reduction, a discount or exemption was false from inception, or
  - ❑ The change in circumstances was intentionally withheld,
  - ❑ Whether there was planning in the process,
  - ❑ Whether the suspect was a ring leader or an organizer of the offence,
  - ❑ Any previous incidence of fraud,
  - ❑ Whether there has been any abuse of position or privilege,
  - ❑ The amount of the excess reduction in liability,
  - ❑ The duration of the alleged offence,
  - ❑ Whether there are grounds for believing that the offence was likely to be continued or repeated, based on the person's previous history.
  - ❑ Whether the offence is widespread in the area where it was committed and so prosecution may act as a deterrent,
  - ❑ Whether the person has refused to accept a Caution or Administrative Penalty

## **VIII. COLLECTION OF COUNCIL TAX**

- Regardless of whether or not any Sanction action is taken, Tonbridge and Malling Borough Council will attempt to collect all Council Tax owed as the result of false applications for reductions, discounts and exemptions. This action is taken by the Revenues Team who will pursue all available methods of recuperating the debt including taking civil action when necessary.

## CODE OF CONDUCT FOR FRAUD INVESTIGATION STAFF

### Code of Conduct & Good Practice for Investigation Staff

This code applies to all officers engaged in carrying out duties involving the investigation of Fraud.

The code should be read in conjunction with the legal requirements of the post and current staff rules.

The Chief Auditor will deal with a breach of The Code of Conduct and Good Practice.

Inefficiency is a breach of this Code, and falls short of the expected standard and may require remedial training.

### General Conduct

Officers of Tonbridge & Malling Borough Council will not:

- exceed their actual authority or hold themselves out as having any authority not provided by legislation.
- act in any way, benefit or gain, which exceeds the limits of their powers.
- misuse their official position for any benefit or gain for themselves or another.

### Legislation

- Officers must pursue all reasonable lines of enquiry even if it points away from a suspect's guilt
- Ensure that all material that is gathered during the investigation is recorded and retained and that all relevant material is revealed to the prosecutor in accordance with The Criminal Procedure and Investigations Act and the Codes of Practice
- Ensure that the Codes of Practice are observed in accordance with The Police and Criminal Evidence Act.
- Ensure that applicable provisions of The Regulation of Investigatory Powers Act and the Codes of Practice and guidance in relation to directed surveillance are adhered to.
- Observe all other applicable legislation and internal and external guidance

### Evidence (witness and suspects)

Officers to whom the Code applies must not under any circumstances:

- Conceal or fabricate evidence or knowingly allow any evidence to be concealed or fabricated.
- Discriminate or exercise any bias on the grounds of race sex, marital status, sexual orientation, or disability.



- Accept or offer any inducement, bribe or other advantage from or to any witness or suspect.
- Use any information gathered in the course of their duties for personal gain or coercion or otherwise misuse such information.
- Do or fail to do anything that may result in a miscarriage of justice.

### **Disclosure of Interests**

- Officers must declare any circumstances or interests which may affect their ability to conduct an investigation objectively.
- Any relationship to or with a suspect or witness or informant.
- Any personal interest in the outcome of an investigation or other civil or criminal Proceedings.
- Their dependency on alcohol or drugs other than those prescribed.
- Officers should disclose to their line manager if they are or have been subject to any: summons, charge, or arrest.

### **Information**

- Officers must treat all information gathered for evidential purposes during an investigation as confidential and, must not deliberately or negligently:
  - Disclose such information to an unauthorised third party.
  - Reveal the source of the information to an authorised third party.
- Personal Injury and Damage to Property
  - Officers, must exercise all reasonable care to prevent injury to the person, loss or damage to the public and private property, and must not:
    - Forcibly enter public or private property except to save life or prevent serious injury or on the invitation of the occupier or other responsible person or constable.
    - Deliberately or negligently destroy or damage any property.
    - Seize or retain any property without lawful authority.
    - Use threatening physical violence towards a colleague or member of the public.

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of Finance & Transformation

#### Part 1- Public

#### Matters for Recommendation to Cabinet

#### 1 CAPITAL RENEWALS

1.1 The report summarises the outcome of an exercise undertaken following an Overview and Scrutiny Committee Review Group meeting in September 2014. The exercise sought to reduce budget provision for capital renewals by extending the estimated life attributed to vehicles, plant and equipment.

#### 1.2 Introduction

1.2.1 The detailed report submitted to the Overview and Scrutiny Review Group in September is replicated in full at [Appendix 1]. Key points drawn from the report include:

- Capital renewals (vehicles, plant and equipment used at our leisure facilities, car parks, recycling, CCTV, IT and other departmental equipment) are an integral part of the cost of service delivery.
- As an annually recurring expense, revenue provision (Council Tax) will need to be set aside each year to meet the cost of renewals.
- Budget provision for renewals in the 2014/15 Capital Plan averages £829,000 per annum.
- Service managers generally adopt an over cautious view, often based on manufacturer recommendations, when assessing how long a vehicle or item of plant and equipment will last. This gives rise to budget provision for replacement being set to high.
- Over the last 4 years budgets have been underspent on average by £376,000 (34%) each year.
- Over-budgeting has an adverse impact on the savings target predicted by our Medium Term Financial Strategy (MTFS).

#### 1.3 Scrutiny Exercise

- 1.3.1 Over the last four years two detailed reviews have been undertaken by service managers who have been encouraged to take a more optimistic view of how long an item will last. Each review had limited impact. To avoid the MTFs savings target being overstated budget adjustments were introduced on the summary page for each Service's capital renewals provisions. The 10% reduction introduced in 2011/12 was increased to 20% in 2012/13 and 2013/14. Given the extent of underspends against budget in recent years increasing the budget adjustment to 25% appears reasonable.
- 1.3.2 Rather than simply increase the summary page budget adjustment, the Scrutiny Review Group supported an alternative approach which sought to embed the budget reduction in the detailed renewals schedules. This was to be achieved by extending the estimated life of each asset by applying a formula (current estimated life plus 33% which equates to a reduction in annual provision for each item of 25%). The amended renewals schedules were then to be circulated to service managers to confirm acceptance of the change in life or moderate the impact where they felt it appropriate.
- 1.3.3 I am pleased to report that this exercise has now been completed and with the exception of the Leisure Trust's renewals schedules and IT, which required a separate exercise, all other schedules have been updated. Generally, services accepted the amended schedules as presented to them. The only significant departures related to the photocopiers / printers that are used throughout the Council where the current estimated life of six years has been retained. These machines have a five year maintenance contract associated with them and whilst extending that by one year is feasible it is thought that attempting to extend the maintenance agreement further would be prohibitively expensive. The Land Rover, our emergency / winter maintenance support vehicle, was also retained at its current ten year life. Some other assets, principally the two recycling vehicles and some children's play equipment and associated safety surfacing, adopted a life somewhere between current and current plus 33%.
- 1.3.4 The Leisure Trust schedules were reviewed and challenged prior to Trust status and are the subject of a legal agreement. The Trust is unwilling to accept any change to the detailed items within their schedules at this time. However, they did agree that, based on past experience, increasing the current summary page budget adjustment from 20% to 25% was appropriate.
- 1.3.5 IT schedules comprises a series of provisions for groups of equipment rather than an amount for the replacement of a specific piece of equipment. A separate exercise for IT has also been completed and this yielded a 20% reduction in budget provision.
- 1.3.6 The scrutiny exercise has eliminated the need for a separate budget adjustment (except for the Trust) and generated a reduction in budget provision for renewals of £32,000 per annum. In addition, the re-profiling of replacements into the future means that the draw on the capital reserve (the current source of funding for

renewals pending delivery of our revenue budget savings targets) is such that borrowing for new capital plan schemes can be deferred by one year to 2019/20. A new Capital Plan summary page which incorporates the results of the renewals exercise is provided at **[Appendix 2]**.

- 1.3.7 Members will also be aware from the Capital Plan Review report considered by the Finance, Innovation and Property Advisory Board in January that the general provisions for CCTV and recycling bank replacements have also been reviewed. The review gave rise to budget reductions totalling £40,000 per annum which have already been incorporated into the estimates.

## **1.4 Legal Implications**

- 1.4.1 None.

## **1.5 Financial and Value for Money Considerations**

- 1.5.1 The annual contribution from revenue to meet the cost of capital renewals can be reduced by a further £32,000 per annum, £40,000 per annum in respect of CCTV and recycling banks having already been reflected in the estimates. In addition to making a positive contribution towards the authority's savings target the reduction in budget provision in the early years of the Capital Plan is sufficient to enable the authority to defer borrowing by one year to 2019/20.

## **1.6 Risk Assessment**

- 1.6.1 Budget provision for renewals items are often rolled forward for use in a subsequent financial year. By extending the estimated life of an item it is accepted that an increasing number may fail earlier than predicted and thus require budget provision to be brought forward. The lack of budget provision in the year of disposal will not preclude service managers from replacing items as the need arises.

## **1.7 Equality Impact Assessment**

- 1.8 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.9 Recommendations**

- 1.9.1 Members are invited to recommend that Cabinet replace the existing capital renewals budget provisions with those summarised in Appendix 2.

Background papers:  
Nil

contact: Mike Withey

Sharon Shelton  
Director of Finance & Transformation

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**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**OVERVIEW AND SCRUTINY REVIEW GROUP**

**9 September 2014**

**Report of the Director of Finance and Transformation**

**1 REVIEW OF CAPITAL RENEWALS PROVISIONS**

**1.1 Background**

1.1.1 Budget provision for the replacement of vehicles, plant and equipment is identified in the Council's Capital Plan. These provisions are collectively referred to as capital renewals and in the seven year period covered by the 2014/15 Capital Plan, average £829,000 per annum. Annual revenue contributions to meet the cost of capital renewals have been temporarily suspended but are scheduled to be reintroduced in the near future. Going forward, changes in the level of provision for capital renewals will have an impact on the Council's revenue savings targets. In general, annual budget provisions for capital renewals are underspent.

**1.2 What are capital renewals**

1.2.1 Service delivery costs typically include expenditure on staffing and payments to suppliers. These costs are consumed during a financial year and therefore feature in the services' annual revenue budget. Most services also utilise vehicles, plant and equipment either directly (e.g. sports equipment at a leisure centre) or indirectly (personal computers and associated network infrastructure). Vehicles, plant and equipment has a useful life of more than one financial year so it is capitalised (appears as an asset on the Council's balance sheet) and budgeted for within the Capital Plan. In any one year capital renewals will include:

<b>Service / Facility:</b>	<b>Average each year £000's</b>	<b>%</b>	<b>Vehicles, plant and equipment including:</b>
IT	275	33	PCs, servers, network and some software.
Leisure Centres and Golf Course	270	33	All sports equipment, pool equipment, catering equipment, furniture and carpeting.
CCTV, Car Parking & Recycling	110	13	CCTV cameras and monitoring equipment; ticket machines; recycling vehicle, banks and boxes.
Parks & Open Spaces	102	12	Children's outdoor play equipment, benches and picnic tables, security fencing and signage.
Departmental Equipment	72	9	Telephone system, printing equipment, photocopiers but excluding most furniture.
	829	100	

### 1.3 Capital renewals funding

- 1.3.1 In 1991 the Council sold its stock of council houses. The sale proceeds enabled all borrowing to be repaid and generated a cash balance (circa £50m) that was set aside in a reserve to meet capital expenditure in the future. Whilst the Council will receive a limited amount of external support in the form of government grants and developer contributions, that reserve (known as the capital reserve) provides the main source of funding for existing schemes and any new schemes that are added to the Capital Plan. The capital reserve also funds capital renewals.
- 1.3.2 Historically the capital reserve has received an annual top-up from revenue as part of the Council's budget setting process. That top-up was intended to contribute sufficient new funds to meet the cost of replacing existing plant and equipment as it reached the end of its useful life as well as providing money for statutory services e.g. disabled facilities grants. Clearly, replacement of life expired assets such as IT and the equipment used in our leisure facilities and elsewhere is essential to enable the Council to continue to deliver services.
- 1.3.3 The Council's budget for 2003/04 included revenue provision of £500,000 to meet the cost of capital renewals. In subsequent years that revenue provision was scaled back to ease the pressure on the Council's revenue budget and "buy time" to enable revenue savings to be identified. In 2009/10 no revenue funding was provided for. The report to January 2009 meeting of the then Finance and Property Advisory Board justified the action as follows:

*"1.2.4 The 2008/09 original estimates made provision for a contribution of £450,000 which represents approximately one third of our long term capital renewals and other annually recurring expenditure. The current financial difficulties are unprecedented and caused by a variety of factors which are outside the Council's control. The capital reserve is of sufficient size that in the short term the annual top-up can be temporarily suspended but this is **predicated** on the following:*

- *that current approved expenditure be examined with a view to budget provision being deleted or scaled back where feasible by some £2.5m,*
- *the totality of new additions to the Capital Plan be limited to a predetermined annual figure of £600,000 (maximum), and*
- *the annual contributions to the capital reserve from revenue are reintroduced within a reasonable time frame and increased over time to a level sufficient to meet capital renewals and other annually recurring expenditure, currently £1.5m.*



1.2.5 *On the assumption that the values identified in paragraph 1.2.4 are accepted then the revenue reserve for capital schemes will continue to be available to support new investment, without recourse to borrowing, throughout the life of the current MTFs.*

1.2.6 *The new additions and annual revenue contribution figures will need to be reviewed on a regular basis and incorporated into the Council's Capital Strategy."*

1.3.4 The Capital Reserve balance has fallen to £7.5m at the start of this financial year (2014/15) and at the present rate of consumption will be exhausted in four years. Annual contributions to the capital reserve to meet the cost of capital renewals are reintroduce in our Medium Term Financial Strategy in 2018/19.

#### 1.4 How capital renewal provisions are determined

1.4.1 Budget provisions for capital renewals in the current and next four years of the Capital Plan are summarised in the table below.

2014-15 Capital Plan - Capital Renewals Provisions	2014/15 £000	2015/16 £000	2016/17 £000	2017/18 £000	2018/19 £000
Planning, Housing & Environmental Health Services	33	183	46	35	35
Street Scene & Leisure Services	403	400	385	591	475
Corporate Services	<u>350</u>	<u>468</u>	<u>332</u>	<u>347</u>	<u>275</u>
Total	786	1,051	763	973	785

Approximately 95% of these provisions are supported by detailed schedules of equipment. An extract from the Street Scene and Leisure schedule is provided at **[Annex 1]**. The remaining provision, approximately £50,000 per annum, is based on historic expenditure patterns and relates to the replacement of CCTV equipment and recycling boxes / banks.

1.4.2 In general, the detailed schedules incorporate a separate entry for each item of equipment and record the purchase price and date when last purchased. Service managers will provide an estimate of the useful life of the equipment which is used to predict when budget provision will be required for future replacements.

1.4.3 The schedules cover the same 10 year period used in the Council's Medium Term Financial Strategy (MTFS). To simplify the calculations involved a common price base is used throughout the schedules (mid-current financial year). Global provisions for inflation in future years are determined when the estimates are incorporated into the Capital Plan and MTFs.

- 1.4.4 As part of the budget setting process the schedules are updated each autumn. The update incorporates any equipment replaced in the preceding 12 months and any unspent provision relating to the previous financial year is brought forward. The schedules are also amended for any additions and deletions. Service managers are asked to review the updated schedules and confirm that the estimates of useful life are reasonable.
- 1.4.5 The schedules will evolve over time. Whilst equipment replacements are usually on a like for like basis technological advances / market trends and changes in service delivery methods mean that isn't always the case. New items will also arise from capital refurbishment / enhancements schemes.

## 1.5 Budget performance

- 1.5.1 A small proportion of equipment will be covered by four / five year maintenance agreements (e.g. leisure centre fitness equipment). Such equipment will be replaced as the maintenance agreement expires. The certainty over the replacement date ensures budget provision for replacement is allocated to the correct financial year. However, the majority of equipment will be replaced when a service manager considers it appropriate (the item has failed, is near to failure or deemed no longer safe). The accuracy of budget provisions for such equipment is largely dependent on the initial assessment of useful life. Those useful life assessments are generally pessimistic. Equipment invariably lasts longer than anticipated and as a consequence budgets are underspent.
- 1.5.2 An analysis of actual spend vs budget over the last four years is provided at **[Annex 2]** and summarised below.

Capital Renewals	2010/11		2011/12		2012/13		2013/14	
	£000	%	£000	%	£000	%	£000	%
Budget	1,486	100	910	100	1,205	100	864	100
Actual spend	1,016	68	559	61	955	79	430	50
Underspend	470	32	351	39	250	21	434	50

The average underspend over the four years is £376,000 or 34% of budget. As outlined in section 1.3 above, capital renewals are currently funded from the capital reserve. This underspending means the reserve balance is higher than it would have been had spending been in-line with budget, in other words, the Council is better off. In the future capital renewals will be met from revenue and therefore features in our revenue projections or MTFS. The MTFS is constructed using estimates (budget provision) based on current prices uplifted for the inflation in the future years. Inaccuracy in budget provision will inevitably impact on the level of savings predicted by the MTFS.

1.5.3 The significance of this issue was recognised by Management Team autumn 2010 and two actions taken. Firstly, service managers were tasked to undertake a detailed review of their renewals provisions during 2011 and requested to “*ensure that the replacement cost and the asset life in particular are reasonable. The schedules should also be amended for any items that no longer require replacement in the future or new additions arising from current or recently completed capital plan schemes* “. Secondly, Management Team introduced a savings target (adjustment) to moderate the level of budget provision for capital renewals. A target of 10% was applied to service summaries (i.e. globally rather than to each specific item of equipment). The target was applied in setting the revised estimates for 2011/12.

1.5.4 The review by service managers in 2011/12 had limited impact on the overall level of renewals provisions. The exercise was repeated in 2012/13 and again had limited impact. To avoid over budgeting for renewals the savings target (adjustment) was increased to 20% for the revised 2012/13 estimates. It is evident from the table at paragraph 1.5.2 that there is scope to refine the renewals estimates and or savings target still further.

## **1.6 Options for the future**

1.6.1 Four options have been identified and the advantages / disadvantages associated with each are as follows:

### **1. Do Nothing.**

Advantages: - No further consideration required.

Disadvantages: - Fails to address the issue of over budgeting.  
 - Revenue savings targets likely to be overstated.  
 - Perpetuates inaccuracy in the level and timing of individual renewals provisions.  
 - No incentive for service managers to improve budget accuracy in the future.

### **2. Invite service managers to undertake another review of asset life.**

Advantages: - Reduces over budgeting.  
 - Reduces likelihood of revenue savings targets being overstated.  
 - Engages service managers in the process.  
 - Greater accuracy over the level and timing of provision for each item of renewals

Disadvantages: - Previous reviews had limited impact on the level of over budgeting.

### **3. Increase the global savings target from say 20% to 25%.**

Advantages: - Reduces over budgeting.  
- Reduces likelihood of revenue savings targets being overstated.

Disadvantages: - Perpetuates inaccuracy in the level and timing of individual renewals provisions.  
- No incentive for service managers to improve budget accuracy in the future.

### **4. Increase the asset life for each item of vehicles, plant and equipment in the schedules by a predetermined amount e.g. 25% and subject the result to review and confirmation by service managers. The current global savings target of 20% will be eliminated at the same time.**

Advantages: - Reduces over budgeting.  
- Reduces likelihood of revenue savings targets being overstated.  
- Engages service managers in the process.  
- Greater accuracy over the level and timing of provision for each item of renewals.

Disadvantages: - Increased risk that some items of vehicles, plant and equipment may fail earlier than predicted by the schedules.

## **1.7 Conclusions and issues for discussion**

1.7.1 Only options 3 and 4 above are likely to have a significant impact on the level of over budgeting outlined at paragraph 1.5.2. Either option is expected to yield a reduction in capital renewals budget provisions of 5%. A 5% budget reduction equates to approximately £41,000 per annum and, if introduced, could contribute to one of the savings targets set out in the MTFs.

1.7.2 Under Option 4, the asset life for each piece of vehicles, plant and equipment is increased which increases the risk that an item may fail ahead of schedule. That risk exists at present and is addressed in a very practical way. If an item of equipment fails early and is critical to service delivery then service managers are invited to progress an immediate replacement. This approach will be perpetuated whichever option is adopted.

1.7.3 Approximately 1/3<sup>rd</sup> of the value of capital renewals is attributed to vehicles, plant and equipment owned by the Council but used on a daily basis by the Tonbridge and Malling Leisure Trust. The legal agreement with the Trust provides for an annual review of the capital renewals schedules. That review is due to commence in the near future and will be influenced by Member's consideration of this matter. Option 4 is not precluded by the agreement but in common with all other service

areas the amendment to asset lives will be subject to discussion and agreement with the relevant service manager. Asset lives will revert to current or some agreed alternative if a service manager believes current life plus 25% is inappropriate (e.g. adverse impact on income).

- 1.7.4 Achieving a 25% reduction in renewals provision is considered deliverable. A higher figure may be justified based on recent experience. However, there are a number of one-off factors that contribute to the underspend identified in paragraph 1.5.2. The level of budget provision and spend against budget will be subject to continuous review and further adjustment to budgets will be made in the future if appropriate.
- 1.7.5 A separate exercise will be undertaken for non-scheduled equipment (CCTV and recycling boxes / banks) which are covered by general provisions.

contact: Mike Withey

Sharon Shelton  
Director of Finance and Transformation

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STREET SCENE & LEISURE CAPITAL RENEWALS	Serial Number	Supplier	Code	Date of Purchase	Yr of Purchase	June RPI @ Purch	Purch Price	Estimated Replacem't Cost	Replacem't Price Uplifted (June 2013)	Replacem't Cost Per annum	Est'ed Life	Actual Life @ 1/4/13	Actual 2012/13	Estimate 2013/14	Estimate 2014/15	Estimate 2015/16	Estimate 2016/17	Estimate 2017/18	Estimate 2018/19	Estimate 2019/20	Estimate 2020/21	Estimate 2021/22	Estimate 2022/23	Estimate 2023/24	
													£	£	£	£	£	£	£	£	£	£	£	£	£
<b>Haysden Country Park</b>																									
<b>Play Equipment</b>																									
Outdoor Furniture & Sculptures		Broxap Ltd	P05KM - 0000 / 09904	12-May-10	10/11	224.1	2,346	2,346	2,610	261	10	3													
Aerial runway		Wicksteed Leisure Ltd	P05KG - BC05 / 09906	31-Mar-11	10/11	224.1	12,040	12,040	13,420	895	15	3												2,610	
Safety Surfacing		Wicksteed Leisure Ltd	P05KG - BC05 / 09906	31-Mar-11	10/11	224.1	2,000	2,000	2,230	446	5	3												2,230	
ZigZag Play Unit		Wicksteed Leisure Ltd	P05KG - BC05 / 09906	31-Mar-11	10/11	224.1	1,000	1,000	1,110	74	15	3						2,230							
Safety Surfacing		Wicksteed Leisure Ltd	P05KG - BC05 / 09906	31-Mar-11	10/11	224.1	1,000	1,000	1,110	222	5	3												1,110	
Special Storm Twister Multi-play unit		Wicksteed Leisure Ltd		11-Oct-02	02/03	176.2	11,857	11,857	16,800	1,120	15	11													
Safety Surfacing for above		Wicksteed Leisure Ltd		11-Oct-02	02/03	176.2	7,123	7,123	10,090	2,018	5	11		10,090					16,800					10,090	
Double Arch Swing with 2 cradle seats		Wicksteed Leisure Ltd		11-Oct-02	02/03	176.2	1,651	1,651	2,340	156	15	11													
Safety Surfacing for above		Wicksteed Leisure Ltd		11-Oct-02	02/03	176.2	1,369	1,369	1,940	388	5	11		1,940											
New World Caracus Slide		SMP (Playgrounds) Ltd		29-Sep-04	04/05	186.8	5,282	5,282	7,060	471	15	9													
Safety Surfacing for above		SMP (Playgrounds) Ltd		29-Sep-04	04/05	186.8	2,419	2,419	3,230	646	5	9		3,230											
Pre-cast concrete edging for safety surfacing		SMP (Playgrounds) Ltd		29-Sep-04	04/05	186.8	297	297	400	27	15	9													
Vortex Multi Swing		SMP (Playgrounds) Ltd		15-Mar-06	05/06	192.2	6,310	6,310	8,200	547	15	8													
Safety Surfacing		SMP (Playgrounds) Ltd		15-Mar-06	05/06	192.2	3,149	3,149	4,090	818	5	8		4,090											
<b>Seating</b>																									
1 No Kensington Seat 1800 Oak		Streetmaster (South Wales)	P05KG - BC05 / 09906	19-Dec-12	12/13	249.7	809	809	810	81	10	1	809												
2 No. Tilford Seats		Norbury Park Wood Products	P05KG - BC05 / 09906	26-Mar-10	09/10	213.4	1,220	1,220	1,430	204	7	4						1,430						810	
2 No. Steel Picnic Benches ZPT6		Taylormade Castings Ltd	P05KG - BC05 / 09906	13-Feb-13	12/13	249.7	2,957	2,957	2,960	296	10	1	2,957											2,960	
<b>Total Play Equipment</b>							62,830	62,830	79,830	8,669			3,766	19,350	0	3,340	1,430	19,140	19,350	7,460	14,150	0	3,770	20,780	
<b>Infrastructure</b>																									
Fencing		Earth Anchor		2002/03	02/03	176.2	2,280	2,280	3,230	294	11	11		3,230											
Litter Bins x 2				2002/03	02/03	176.2	770	770	1,090	109	10	11		1,090										1,090	
Information sign				2002/03	02/03	176.2	755	755	1,070	89	12	11			1,070										
Gate				2005/06	05/06	192.2	1,000	1,000	1,000	100	10	8				1,000									
<b>Total: Infrastructure</b>							3,805	4,805	6,390	592			0	4,320	1,070	1,000	0	0	0	0	0	0	0	0	1,090
<b>Other</b>																									
1 No Airblower		Willow Pumps Ltd	P05KGBC0509906	03-Oct-12	08/09	216.8		450	520	87	6	5												520	
2 No. Top3 (230v) pumps		Willow Pumps Ltd		27-Jul-05	12/13	249.7	793	793	790	158	5	1	793											790	
1 No. Piranha 12/2W submersible pump		Willow Pumps Ltd			05/06	192.2	1,251	1,251	1,630	163	10	8				1,630									
<b>Total: Other</b>							2,044	2,494	2,940	408			793	0	520	1,630	0	790	0	0	520	0	790	0	0
<b>Total: Haysden Country Park</b>							68,679	70,129	89,160	9,668			4,559	23,670	1,590	5,970	1,430	19,930	19,350	7,460	14,670	0	4,560	21,870	(1)
<b>Figures for 14/15 budget book (as above) £000</b>													5	24	2	6	1	20	19	7	15	0	5	22	77
<b>13/14 budget book £000</b>													3	23	2	6	1	0	53						88

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**Capital Renewals - Budget vs Actual.**

	Budget 11/12 £000	Actual 11/12 £000	%	Budget 12/13 £000	Actual 12/13 £000	%	Budget 13/14 £000	Actual 13/14 £000	%	Estimate supported by:
Planning, Housing & Environmental Health										
CCTV	36	0	0	192	109	57	106	5	5	Provision
Parking	0	0	0	0	0	0	7	0	0	Detailed estimate
Environmental Protection	7	3	43	8	0	0	7	0	0	Detailed schedule
Sub Total	43	3	7	200	109	55	120	5	4	
Street Scene & Leisure										
Recycling Initiatives	24	24	100	21	5	24	21	1	5	Provision
Angel Centre	102	73	72	147	169	115	41	30	73	Detailed schedule
Larkfield Leisure Centre	94	48	51	220	265	120	112	39	35	Detailed schedule
Tonbridge Swimming Pool	44	14	32	29	33	114	66	28	42	Detailed schedule
Sports Grounds & Open Spaces	92	38	41	102	47	46	86	66	77	Detailed schedule
PWGC Clubhouse	40	8	20	31	27	87	5	10	200	Detailed schedule
PWGC Grounds Maintenance	14	0	0	15	17	113	22	6	27	Detailed schedule
PWGC Course	0	0	0	6	3	50	9	11	122	Detailed schedule
Sub Total	410	205	50	571	566	99	362	191	53	
Corporate										
Departmental Admin	10	0	0	44	15	34	36	3	8	Detailed schedule
Print Unit	14	0	0	14	0	0	37	0	0	Detailed schedule
Photocopiers	86	96	112	0	0	0	1	4	400	Detailed schedule
Telephones	28	26	93	3	0	0	3	0	0	Detailed schedule
Snack Facilities	3	1	33	2	0	0	10	0	0	Detailed schedule
Tonbridge Christmas Lighting	11	12	109	0	0	0	0	0	0	Detailed schedule
Information Technology	305	216	71	371	265	71	295	227	77	High level schedule
Sub Total	457	351	77	434	280	65	382	234	61	
Total	910	559	61	1,205	955	79	864	430	50	

Budget = Estimate per renewals  
schedules less savings target of:

10% circa £101k

20% circa £301k

20% circa £216k

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## CAPITAL PLAN REVIEW 2014/15

## Capital Plan (List A) Summary - As presented to FIPAB 7 January 2015 adjusted for the results of the Overview and Scrutiny Review of capital renewals

	Expenditure To 31/03/14	2014/15 Estimate inc Prior Year Slippage	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate	2020/21 Estimate	Total Scheme Estimate
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Capital Plan Schemes</b>									
<b>Service</b>									
Planning, Housing & Environmental Health	635	603	505	965	265	265	265	265	3,768
Street Scene & Leisure	543	548	102	112	112	127	112	112	1,768
Corporate	71	64	30	90	30	30	30	30	375
Sub-total	1,249	1,215	637	1,167	407	422	407	407	5,911
<b>Capital Renewals - Updated for Srutiny Review savings</b>									
<b>Service</b>									
Planning, Housing & Environmental Health	n/a	20	10	165	38	11	26	46	316
Street Scene & Leisure	n/a	329	471	288	521	290	334	415	2,648
Corporate	n/a	462	287	271	365	337	266	288	2,276
Sub-total	n/a	811	768	724	924	638	626	749	5,240
<b>Grand Total</b>	1,249	2,026	1,405	1,891	1,331	1,060	1,033	1,156	11,151

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of Planning, Housing & Environmental Health

#### Part 1- Public

#### Matters for Recommendation to Cabinet

#### 1 REVIEW OF THE ACTIONS UNDERTAKEN TO RETURN EMPTY HOMES TO ACTIVE USE

##### Summary

To consider and endorse the recommendations arising from the Review Group established to assess the issue of Empty Homes in the Borough.

##### 1.1.1 The Review

1.1.2 A Scrutiny Review Group was formed to assess the scale of the number of empty homes in the Borough, the success of the interventions currently in place in tackling the issue and identify the scope to review and improve the current approaches.

1.1.3 The review group met on 10 September 2014, attached at **[Annex 1]**. The group considered why empty homes work is important, the reasons homes become empty, the benefits of bringing empty homes back into use, the Council's current approach to tackling empty homes and information on the numbers of empty homes there are in Tonbridge & Malling and the wider Kent area.

1.1.4 The group noted that the issue of empty homes is widely acknowledged nationally. The first ever National Empty Homes Strategy was published as part of the Government's wider Housing Strategy in 2011. The Government sees the occupation of empty homes as, "*a sustainable way of increasing the overall supply of housing*".

1.1.5 At a time when the demand and need for housing of all types continues to rise, the group recognised the importance of making the best use of existing stock. In this context bringing empty homes back into use is a valuable and important role for the Council to focus on in partnership with other agencies.

1.1.6 Long term empty homes restrict the supply of housing as well as having an adverse impact on the local community, especially those living next door to a long term empty property. Often empty homes are associated with problems if they become untidy, dilapidated or are not adequately secured against unauthorised entry. The Royal Institution of Chartered Surveyors estimates that homes

adjoining poorly maintained empty properties can be devalued by up to 18 per cent.

1.1.7 The group noted that empty homes work is a cross cutting issue and impacts on all of the Council's key corporate priorities:

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

1.1.8 The group endorsed the Council's decision to reconsider its position in respect of Council Tax discounts on empty homes and recommended Officers review existing empty homes work practices and protocols with the aim of streamlining processes wherever possible and taking a more proactive approach in tackling the issue.

1.1.9 A review of the existing work and protocols has been undertaken with a view to:

- Identifying one service with overall responsibility for leading and coordinating on the issue of empty homes;
- Improving information sharing across services;
- Identifying best practice in tackling empty homes and explore opportunities of working with Registered Providers and Private partners in bringing empty homes back into use;
- Introducing a more systematic way of prioritising empty homes;
- Earlier identification of empty properties to enable action to be taken before properties fall into the long term empty category; and
- Raise awareness of the empty homes issues in the Borough.

## **1.2 Lead Service**

- 1.2.1 In order to improve the efficiency and effectiveness of empty homes work it is considered necessary to identify one service to take overall responsibility for this area of work. This will allow a more streamlined approach to progressing cases and provides for one contact for empty property owners or customers who are enquiring about empty homes.
- 1.2.2 It is proposed that Housing will be the lead service as the Private Sector Housing team already enforces the majority of the legislation in relation to tackling empty homes and deals with complaints. Clearly though there are a number of services that have expertise on different areas of empty homes work and the Private Sector Housing team will need to work in partnership across the Council.
- 1.2.3 Under S215 of the Town & Country Planning Act 1990 notices can be served where the condition of the land and property is found to be significantly detrimental to the visual amenity of the neighbouring properties or area. As part of the new way of working the Private Sector Housing Team will take the lead on S215 issues where it relates to empty homes.

## **1.3 Information Sharing**

- 1.3.1 It is proposed to establish a corporate working group on empty homes within the Council. This will include all the services that have a role to play in empty homes work, for example, Planning Enforcement, Legal, Finance, Housing and Council Tax. This group will be led by the Private Sector Housing team and will meet at least quarterly and discuss specific cases which will facilitate co-ordinated action against long term empty property owners.
- 1.3.2 The role of the Empty Homes Working group in sharing information will be key in maintaining and improving the accuracy of empty homes data held by the different services within the Council. This sharing of information will assist in “cleansing” Council Tax data and could be used when considering any enforcement options for dealing with long term empty homes. For example Council Tax may be chasing a debt and unaware that Housing are trying to bring the empty property back into use. Improving the accuracy of the data would lend itself to a more joined up approach to recovering the outstanding debt through for example the enforced sale process.
- 1.3.3 The aforementioned is particularly relevant as the legal definition of an empty home for Council Tax purposes is different to that in Housing legislation.

## **1.4 Best Practice and Partnership Working**

- 1.4.1 It is widely recognised that when considering best practice on empty homes work the Kent “No-Use Empty” initiative is regularly cited nationally as an example of good partnership working and a proven delivery mechanism for bringing empty homes back into use. Tonbridge & Malling Borough Council has benefitted from

the scheme in the past and it will continue to form part of the Council's Empty Homes toolkit.

- 1.4.2 There are a number of other examples across the country of innovation in empty homes work. Some rely on access to Local Authorities own funding while others work with partners such as local Registered Providers to help purchase, renovate and manage empty properties. Officers are in advanced discussions with Circle Housing Russet to enter into a partnership agreement which would see Circle Housing Russet managing properties brought back into use on behalf of the owners.
- 1.4.3 Wherever possible we will utilise the properties being returned to use for homeless households, those threatened with homelessness or those on the housing register. This will help reduce the pressure on the housing waiting list; reduce the use of temporary accommodation and help secure suitable housing more quickly than otherwise would have been the case

## **1.5 Prioritisation**

- 1.5.1 Due to the resource intensive nature of empty homes work only a small number of problematic empty properties are actively pursued at any one time. Currently, any new empty property cases are added to a list and prioritised by the length of time they have been empty. The existing Empty Homes protocol is being reviewed and prioritisation of properties will be undertaken in a more systematic way by utilising a points system. Each property will be allocated a priority in accordance with the new system. The higher the number of points the greater the priority awarded. The empty property assessment criteria will be based on for example, the condition of the property including the gardens, whether it is attracting anti-social behaviour, impacting on the property condition of adjacent properties, the length of time the property has been empty and whether the owner has made any attempts to bring the property back into use.

## **1.6 Early Intervention**

- 1.6.1 It is recognised that it would be beneficial for earlier signposting to empty property initiatives for example the "No Use Empty" loan scheme. This early identification and provision of advice will provide owners with necessary tools to allow them to bring the property back into use earlier so that it doesn't fall into the long term empty category.
- 1.6.2 An earlier review of those empty properties with the current three month exemption period (two month period from April 2015) can be made to provide the advisory information. Clearly the number of empties will be higher and we need to develop a strategic approach as to which owners are contacted for a review.



## **1.7 Raising Awareness of Empty Homes**

- 1.7.1 It is proposed to make better use of the Council's website and social media to publicise empty homes work. This has already commenced with recent tweets and Facebook posts to advertise "Empty Homes Week".
- 1.7.2 Discussions are also being held between Finance and Housing to send out a joint communication on the issue when the Council Tax Bills for 2015/16 are issued.
- 1.7.3 Further work is ongoing to update the Council's website so that reporting and accessing information and advice is made easier.
- 1.7.4 Where the Council successfully brings an empty property back into use, it will publicise this accordingly.

## **1.8 Benefits of Reducing Council Tax Discounts**

- 1.8.1 Currently an exemption applies for properties empty less than 3 months after which the full council tax charge applies, except where a property qualifies for a statutory exemption category such as awaiting probate, or where the property has been given an exemption for structural works (12 months). The Council has decided that this exemption will be reduced to 2 months from April 2015. In addition a Council Tax premium of 150 per cent is being introduced from April 2015 for properties that have been empty for longer than 2 years and are substantially unfurnished.
- 1.8.2 These changes will incentivise owners to bring empty homes back into use as well as generating additional revenue to support the ongoing delivery of services.

## **1.9 Legal Implications**

- 1.9.1 The Council is not legally required to bring empty properties back into use but does have a duty to take action if there are deficiencies in the property contributing to category 1 hazards where the property is assessed using the Housing, Health and Safety Rating System under the Housing Act 2004.

## **1.10 Financial and Value for Money Considerations**

- 1.10.1 Bringing empty homes back into occupation can be a very resource intensive process particularly in terms of officer time and capital costs for works undertaken in default of the owner or compulsory purchasing the property.

## **1.11 Risk Assessment**

- 1.11.1 If the Council does not bring empty properties back into use it will be wasting a valuable housing resource, which will potentially damage the Council's reputation and reduce the opportunity to meet the key priority of "providing a continuing supply of homes".

## **1.12 Equality Impact Assessment**

1.12.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.13 Recommendations**

1.13.1 Following the review groups recommendation that officers review existing protocols in relation to Empty Homes work, Members are asked to agree the following recommendations:

- (a) That the Housing Service takes the corporate lead for Empty Homes
- (b) A corporate working group be established to tackle the issue of Empty Homes
- (c) Raising public awareness of Empty Homes through a variety of communication medium and simplifying the process of reporting Empty Homes.

Background papers:

contact: Linda Hibbs/Hazel  
Skinner

Overview and Scrutiny Review Group Report  
10 September 2014

Steve Humphrey  
Director of Planning, Housing and Environmental Health

**TONBRIDGE & MALLING BOROUGH COUNCIL****OVERVIEW AND SCRUTINY REVIEW GROUP****10 September 2014****Report of the Chief Executive****1 REVIEW OF THE ACTIONS UNDERTAKEN TO RETURN EMPTY HOMES TO ACTIVE USE****1.1 Background**

1.1.1 The aim of this review is to assess the scale of the number of empty homes in the Borough, the success of the interventions currently in place in tackling the problem and identify the scope to review and improve the current approaches. This report sets out an overview of the subject and current areas of activity and puts forward some options.

**1.2 Empty Homes**

1.2.1 The problem of empty homes is widely acknowledged nationally. The first ever National Empty Homes Strategy was published as part of the Government's wider Housing Strategy in 2011. The Government sees the occupation of empty homes as, "*a sustainable way of increasing the overall supply of housing*".

1.2.2 At a time when the demand and need for housing of all types continues to rise, it is important that the best use is made of the existing stock. In this context bringing empty homes back into use is a valuable and important role for the Council to focus on, in partnership with other agencies.

1.2.3 Long term empty homes restrict the supply of housing as well as having an adverse impact on the local community, especially those living next door to a long term empty property. Often empty homes are associated with problems if they become untidy, dilapidated or are not adequately secured against unauthorised entry. The Royal Institution of Chartered Surveyors estimates that homes adjoining poorly maintained empty properties can be devalued by up to 18 per cent.

1.2.4 Empty homes is a cross cutting issue and impacts on all of the Council's key corporate priorities:

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

1.2.5 The Council distinguishes between 'empty homes' and 'long-term empty homes'. Empty homes are those not currently occupied and these become long-term empty if they remain unoccupied for longer than 6 months. There are, however, other empty homes which have been empty for longer than 6 months which are exempt for Council Tax purposes and therefore not included within the definition of long term empty properties. This can be for a variety of reasons, for example, because they are uninhabitable, left empty by a deceased persons estate or person receiving care. Some of these may be less suitable for empty homes intervention.

### **1.3 Reasons for Empty Homes**

1.3.1 There are a number of reasons why homes become empty and the most common include:

- The property is difficult to sell or let, particularly if it is in a poor state of repair
- It is being renovated
- The owner does not have the finances/time/skills to manage and maintain the property
- The property has been repossessed
- Probate/inheritance issues
- The owner is being cared for elsewhere or is in hospital

1.3.2 It is important that the Council understands why individual properties become and/or remain empty so we can work with the owners in the most appropriate way. Empty homes can cause a variety of problems which tend to increase in severity the longer they remain empty. What starts off as minor disrepair and an eyesore can quickly deteriorate into serious disrepair, and an attraction for crime. Problems associated with empty homes include:

- A wasted housing resource
- An eyesore and detrimental to amenity of a neighbourhood
- Potential for fly tipping and rodent activity
- A reduction in house prices locally
- Lost revenue to the Council
- An attraction for vandals and graffiti
- An attraction for squatters
- Owners lose out on rental income or capital value
- Difficulty in obtaining buildings insurance
- Enhanced maintenance costs due to neglect

#### **1.4 Benefits of bringing Empty Homes back into Use**

1.4.1 Bringing empty homes back into use can positively impact and address social, economic and wider public health issues. The benefits of re-occupation are many, and can be broken down as follows:

For the owner:

- A rental income or realisation of capital through sale
- A maintained and occupied home will deter unauthorised access and anti social behaviour
- Burden of Council Tax liability passes to tenant or new owner
- Reduce the potential of the property falling into serious disrepair

For the community:

- Reduction in vandalism and crime
- The built environment will be improved helping to maintain safe, attractive and sustainable neighbourhoods.
- Increase in value of properties
- Increased choice of housing for rent and purchase
- Removing the negative impact of empty properties helps to boost the well-being of communities

For the Council:

- Increased availability of housing for local people both rented and for sale
- Reduction in the use of temporary accommodation and prevention of homelessness through increased housing supply
- Improved stock condition which assists in meeting Decent Homes Standard across all tenures
- Reduced drain on resources to deal with anti- social behaviour, fly tipping, nuisance and rodents

- Reduced demand on services such as the Fire and Rescue Service, the Police and Council Services means that resources can be used more effectively elsewhere
- Regeneration of streets and neighbourhoods
- Potential financial gain in terms of Council Tax revenue and New Homes Bonus

## 1.5 The Council's Approach to Tackling Empty Homes

- 1.5.1 Currently the main focus of the Council's empty homes work is private residential dwellings which have been un-occupied for a period of at least 6 months or more. Dwellings can include any form of residential property intended for habitation. This will include accommodation over commercial property, provided it is banded as a dwelling for Council Tax purposes.
- 1.5.2 The Council Tax database is one of our main sources of information when identifying empty homes. Other key sources of intelligence on homes becoming empty are reports from local residents, staff and ward Councillors.
- 1.5.3 First and foremost our approach is to work with owners and encourage them to return their empty properties into use. We will provide information and offer advice and support to enable them to make progress towards an outcome that is satisfactory to themselves, the Council and the community. Where available we will offer financial assistance directly from the Council and in some instances signpost owners to other schemes that may be running through our partner organisations such as Kent County Council's "No Use Empty Initiative" (NUE)
- 1.5.4 The Council aims to bring all empty homes back into use with the cooperation of the owners. However, where they are unwilling and the property is creating a specific problem within its locality, the use of enforcement powers will be considered.
- 1.5.5 In February 2012 the Council adopted an Empty Homes Protocol, which provided a reference document for all Council services who are involved in empty property work. The Empty Homes Protocol, included at **Annex 1**, identifies a re-active workflow (**Annex 1A**) approach when dealing with empty property enquiries and identifies an enforcement toolkit. This toolkit is used as a guide when considering the most appropriate enforcement action and team for dealing with the empty homes enquiry.
- 1.5.6 If a resident complains about an overgrown garden and unkempt empty property for example, the enquiry would be referred to the Planning Enforcement team, who would investigate the complaint. Any immediate issues are dealt with by the appropriate enforcement team and the Private Sector Housing team will provide advice and information to the empty home

owner to enable the property to be brought back into use. This may include signposting owners to the “NUE” initiative and advising of the financial assistance available under the Council’s Housing Assistance policy. A No Use Empty visit undertaken by an officer from the Private Sector Housing team is offered if appropriate following contact from an empty property owner.

- 1.5.7 The Private Sector Housing team determine if the empty property is to be added to a prioritised list of empty properties that are to go through the complete process to return the property to use. The most problematic empty properties on the list are tackled first, as often these have the most damaging impact on the local community.
- 1.5.8 It is important to note that tackling empty homes can be very resource intensive and costly. Tracing owners of homes can take time and once identified negotiations can often be difficult and time consuming, as can taking enforcement action. This combined with the level of staff resource that is currently allocated to addressing the issue results in only a few properties being focussed on at any one time.
- 1.5.9 Furthermore, while the 2012 Protocol was introduced with the aim of the Council taking a more corporate approach to tackling empty homes, there remains a need to be clear about the leadership and overall ownership of the process to ensure best coordination and efficiency.

## **1.6 Support for Homeowners**

- 1.6.1 The NUE loan scheme offers an interest free loan of up to a maximum of £25,000 on the empty property, which can be increased up to £50,000 if the property is to be converted into more than one unit of self-contained accommodation. This loan is available to bring the property up to the Decent Homes Standard and where the owner is renovating the property to let or sell. The loan is repayable on sale of the property or within 2 years of approval; or after 3 years if rented.
- 1.6.2 Members will recall that the financial aspects involved in this topic were covered by a previous review undertaken by Overview and Scrutiny Committee relating to Housing Assistance budgets. The Committee agreed a new set of priorities for this budget, including work to return empty homes into active use and recommended a revised capital funding programme to ensure this remained sustainable in the longer term. Through this assistance funding of up to £10,000 is available to bring a long term empty property up to a Decent Homes Standard where the owner is renovating the property to live in it themselves. The assistance is repayable when the property is sold in the future.

1.6.3 The NUE visit offers advice and information on

- The NUE loan
- Housing assistance
- Renovating the property
- Empty property VAT information
- Details of the auction process
- Referral for NUE discount offer
- Information on renting and the Local Housing Allowance rate for the area
- Referral to Housing Options for landlord advice and availability of the rent deposit schemes for prospective tenants.

1.6.4 Empty home owners are also referred to the Home Improvement Agency if they would like help organising and managing any works where appropriate.

## **1.7 Enforcement Powers**

1.7.1 There are a range of powers available to the Council for tackling empty homes depending on the issues that need addressing. These are detailed in **Annex 1B** and include:

- Empty Dwelling Management Orders (Housing Act 2004)
- Enforced Sale
- Compulsory Purchase Orders
- Ruinous and dilapidated Buildings (Building Act 1984)
- Town and Country Planning Act 1990
- Local Government (Miscellaneous Provisions) Act 1982



## 1.8 The Number of Empty Homes in Tonbridge & Malling

### 1.8.1 Table 1 – Total Number of Empty Homes in Kent

Local Authority Name	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Ashford	1,096	1,262	1,443	1,431	1,306	1,228	1,246	1,221	1,163	997
Cantebury	1,819	2,041	2,079	1,995	1,962	1,879	1,941	1,955	2,091	1,678
Dartford	1,083	970	1,007	1,041	1,136	1,152	993	1,086	1,033	814
Dover	1,696	1,749	1,881	1,853	2,001	2,070	2,014	2,087	1,873	1,490
Gravesham	1,181	1,091	1,231	1,026	829	1,048	998	892	862	682
Maidstone	1,344	1,454	1,516	1,524	1,647	1,511	1,554	1,583	1,401	1,239
Sevenoaks	1,154	1,354	1,274	1,352	1,371	1,373	1,364	1,409	1,304	1,258
Shepway	1,700	1,793	1,908	1,967	2,025	2,045	2,001	2,003	2,004	1,939
Swale	3,912	4,062	3,800	3,774	1,910	1,932	1,845	1,784	1,845	1,633
Thanet	2,956	2,496	2,733	3,188	3,482	3,628	3,340	3,377	3,065	2,452
<b>Tonbridge &amp; Malling</b>	<b>1,058</b>	<b>1,099</b>	<b>1,205</b>	<b>981</b>	<b>1,269</b>	<b>1,127</b>	<b>1,035</b>	<b>1,016</b>	<b>1,030</b>	<b>1,258</b>
Tunbridge Wells	1,053	1,190	1,429	1,284	1,258	1,314	1,142	1,208	1,341	1,200
<b>Kent</b>	<b>20,052</b>	<b>20,561</b>	<b>21,506</b>	<b>21,416</b>	<b>20,196</b>	<b>20,307</b>	<b>19,473</b>	<b>19,621</b>	<b>19,012</b>	<b>16,640</b>
Medway	3,312	3,435	3,549	3,632	3,588	3,561	3,587	3,710	3,478	3,375
Kent & Medway	23,364	23,996	25,055	25,048	23,784	23,868	23,060	23,331	22,490	20,015
England	710,935	723,509	744,931	763,319	783,119	770,496	737,147	719,352	704,357	635,127

Source: Council Tax Return

1.8.2 Table 1 illustrates that the number of empty homes has been increasing in the Borough since 2011, against a regional and national picture which has seen the number of empty homes fall.

### 1.8.3 Table 2 – Total Number of Long Term Empty Homes

Local Authority Name	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Ashford	416	559	498	567	617	533	484	504	449	307
Cantebury	577	735	678	635	722	642	679	640	733	489
Dartford	386	306	339	296	389	353	294	336	250	179
Dover	733	750	743	748	808	952	908	878	725	510
Gravesham	603	603	671	443	258	311	318	282	212	175
Maidstone	515	480	515	544	602	525	533	530	422	414
Sevenoaks	382	474	386	418	460	465	455	483	444	362
Shepway	635	675	678	71	806	740	771	767	766	766
Swale	805	889	688	671	742	712	639	619	617	491
Thanet	1,528	1,121	921	1,311	1,429	1,406	1,331	1,322	1,138	786
<b>Tonbridge &amp; Malling</b>	<b>255</b>	<b>325</b>	<b>309</b>	<b>269</b>	<b>317</b>	<b>308</b>	<b>252</b>	<b>247</b>	<b>246</b>	<b>272</b>
Tunbridge Wells	337	432	488	489	489	531	430	449	426	396
<b>Kent</b>	<b>7,172</b>	<b>7,349</b>	<b>6,914</b>	<b>7,112</b>	<b>7,639</b>	<b>7,478</b>	<b>7,094</b>	<b>7,057</b>	<b>6,428</b>	<b>5,147</b>
Medway	1,649	1,361	1,359	1,607	1,606	1,332	1,478	1,455	1,417	938
Kent & Medway	8,821	8,710	8,273	8,719	9,245	8,810	8,572	8,512	7,845	6,085
England	318,642	313,616	314,719	314,285	326,954	316,251	299,999	277,529	254,059	216,050

- 1.8.4 Table 2 highlights the number of long term empty homes (6 months plus), the majority of which are in the private sector. Although the numbers have not altered significantly in the last few years, it does illustrate an increase since 2012. Again this is in contrast to regional and national trends. A snapshot at 1 July 2014, indicated there were circa 1,250 empty properties in the Borough of which 377 had been empty for longer than 6 months.
- 1.8.5 It is difficult to pinpoint exact reasons for this. Explanations could include longer void periods for properties undergoing regeneration work such as Marvillion Court, the impact of the downturn in the property market on sales, the impact of the floods of late 2013 early 2014 and possibly because unlike some other authorities in Kent, Tonbridge and Malling does not currently charge a Council Tax premium on properties that have been empty for longer than 2 years. As a result there is less financial incentive for some owners to bring empty homes back into use.
- 1.8.6 In 2012 the Council resolved that the value of some discounts should be reduced but the value of others should not be changed in respect of properties unoccupied for longer than two years. The Council is currently considering its position with regards to Council Tax discounts. The Financial and Innovation Property Advisory Board agreed at its meeting of 23 July 2014 to reconsider its position and consult on the following proposals:
- a) Changing discounts on properties that are empty and unfurnished (reduce the current discount period from 3 to 2 months);
  - b) Changing discounts on properties that are uninhabitable, because they are undergoing major repair or structural alteration; (reduce discount level from 100 per cent to 50 per cent);
  - c) Charging a premium on properties that have been empty longer than two years (owners would effectively have a council tax liability of 150 per cent as opposed to the current 100 per cent charge).
- 1.8.7 Making such changes would mean that there are very limited financial benefits, in terms of Council Tax, to owners of properties in leaving the properties empty and in some cases owners would begin to be penalised for leaving properties empty long term thus hopefully discouraging the practice.

## 1.9 Achievements

### 1.9.1 Table 3 – Number of Empty Homes Bought back into use since 2009 by Intervention

Action	2009/10	2010/11	2011/12	2012/13	2013/14	Total
Empty Property advice	2	1			2	5
Empty Property referrals						0
Bond/Rent in Advance		1	1	2	1	5
Enforcement or NUE visit		1		5	4	10
Housing Assistance	6	1	6	1	1	15
Enforced Sale C/Tax	1		1	1		3
Enforced Sale Housing			1			1
No Use Empty Loan				2	1	3
Enforcement notice				1		1
RHP HCA funding					4	4
<b>Total</b>	<b>9</b>	<b>4</b>	<b>9</b>	<b>12</b>	<b>13</b>	<b>47</b>

1.9.2 Considering the resource intensive nature of empty homes work and the reactive approach we currently use to address the issue, the Council has successfully brought 47 empty properties back into use since 2009. This has been through a range of measures from support and financial assistance to taking enforcement action. Housing assistance has included financial assistance such as Warm Homes and Empty Homes loans and repayable grants

1.9.3 For the current financial year, 9 properties have been brought back into use with the majority through advice and assistance to owners. The Private Sector Housing Team is currently working on 5 properties that it is trying to bring back into use.

## 2 Review Options

2.1 The Review Group is invited to consider the following options:

- 2.2 Make no change to the current process. This would mean the issue of tackling empty homes would continue on a reactive basis. Although inroads are being made into reducing the number of empty homes in the Borough and notwithstanding the fact that tackling empty homes is a resource intensive issue, the current reactive method means that progress is not as quick as it could be. The number of service areas involved in this subject has resulted in a relatively fragmented process which can lead to a loss in momentum when trying to maintain engagement with reluctant property owners. It also impacts on the revenue the Council receives through Council Tax and the New Homes Bonus.
- 2.3 Review the existing protocol with a view to:
- Identifying one service with overall responsibility for leading and coordinating the issue of empty homes, with other services acting as internal consultants in the process and meetings convened on a regular basis
  - Identify best practice in tackling empty homes
  - Improved information sharing across services
  - Introduce a systematic way of prioritising empty homes
  - Earlier identification of empty properties to enable action to be taken before properties fall into the long term empty category
  - Explore opportunities of working with Registered Providers and Private partners in bringing forward private sector leasing schemes. For example, if interventions such as Empty Dwelling Management Orders are used arrangements are in place for these properties to be managed and let to homeless households and those threatened with homelessness. This would help reduce the pressure on the housing waiting list; reduce the use of temporary accommodation and help secure suitable housing more quickly than otherwise would have been the case
  - Financial benefits from bringing more properties back into use through Council Tax and the New Homes Bonus
  - Raise awareness of empty homes issues in the Borough
  - Maintain and improve the accuracy of empty homes data
- 2.4 The review group supports the decision that the Council reconsiders its position in respect of Council Tax discounts.
- 2.5 If members agree to proceed with option 2.3 above, a further report will be presented to this review group at a future date to be agreed.

Contact: Satnam Kaur

Management Team

## **Empty Homes Protocol**

### 1.0 Introduction

Empty homes may be identified from the following sources:

- Council Tax records;
- service requests; and
- local knowledge (from officers, Members etc).

Within this protocol an 'empty home' will mean a dwelling house that has been continuously un-occupied for a period of six months or more as verified by council tax records or local knowledge.

Empty homes are a wasted housing resource and can cause negative impacts on the neighbourhood, such as anti-social behaviour, adverse visual impact and possible lowering of the value of neighbouring homes.

One of the Council's key priorities is to "promote a continuing supply of homes in the borough, including affordable homes across all tenures, and work to prevent homelessness". Bringing empty homes back into use is an important element of this priority and also supports the following priorities:

"Achieve a cleaner, smarter, better maintained and more sustainable environment"; and "promote and provide opportunities to improve the health and well being of individuals and communities".

A corporate approach is essential if the Council is to be effective in bringing empty homes back into use and this is demonstrated in section 4.0.

### 2.0 New Homes Bonus

The Government funded 'New Homes Bonus' scheme started in April 2011 to incentivise local authorities to provide additional new homes and bring long term empty properties back into use. Under the scheme the Government match fund the additional council tax raised for each new property and the empty property returned to occupation tax valuation, over a six year period.

The grant is split between two tier authorities; 80 per cent to the Borough Council and 20 per cent to the County Council. It is not ring fenced and local authorities may determine how the bonus will be spent based on local circumstances.

The Bonus is calculated using data from the Council Tax Base return in October each year. The calculation is based on the total number of dwellings

on the valuation list minus the sum of the number demolished in the previous period October to September and the number of long term empty dwellings. The resulting net dwelling figure is compared year on year and the difference is used to calculate the bonus in April each year. The Bonus will be based on the national average council tax for the band of the properties that have come back into use or are new. It is therefore important that council tax records are kept up to date with regard to the classification of empty homes.

### 3.0 Kent No Use Empty initiative

The Council joined the 'Kent No Use Empty' initiative in January 2008 and works in partnership with Kent County Council (KCC) and other Kent district councils to reduce the number of empty properties by bringing them back into use. The initiative offers the following benefits:

- allows the Council to participate in the 'No Use Empty' publicity campaign highlighting the negative impact of empty properties in the borough and what can be done to bring them back into use;
- the Council receives specialist support on empty property projects and assistance with the effective delivery of our empty homes work;
- the Council can potentially access a partnership fund for works undertaken as part of enforcement action, compulsory purchase orders and direct purchase funding to fund a housing association or developer partner to purchase an empty property and carry out works to bring it up to the Decent Homes Standard. It is then retained within the housing association or sold and the funding repaid. The partnership fund utilises Kent County Council capital funding and is managed by Kent County Council on a first come first served basis; and
- allows owners of empty homes in the borough who wish to let or sell on their empty home to access a loan over a maximum 3 year period (maximum £25,000) to renovate their property. The empty home owner may apply to the Council for a grant to fund the interest on the loan, maximum of £5,000, which is subsequently recovered by the Council from KCC.

### 4.0 Corporate Approach to Empty Homes

#### 4.1 New empty homes identified from council tax records

The private sector housing (PSH) empty property database is updated quarterly using information provided by Council Tax from those empty homes identified on the council tax discount list. Biannually a standard letter is produced by the PSH team for 'new' long term empty dwellings giving empty homes advice regarding the potential housing resource, signposting owners to

the No Use Empty initiative and requesting the owner to advise why the property has been left empty. Appropriate advice on how the empty property can be brought back into use will be provided to owners where requested. The findings from the mail out are recorded on the empty property database.

If no response to the initial letter is received a follow up reminder letter is sent.

Where the owner advises the property is no longer empty, Council Tax is advised.

#### 4.2 Empty property service request

Where the Council receives a service request regarding an empty home, in the first instance it will be investigated by the private sector housing (PSH) team. A flowchart identifying how an empty property enquiry is processed is identified in Annex 1A.

The private sector housing team will look at the property history and check with Council Tax what information they have regarding the property and the person liable for council tax. The PSH officer will visit the property to check on the following:

- a. Is the property secure?
- b. Does the property appear to be in a dangerous condition?
- c. Is the condition of the garden and the property potentially detrimental to the visual amenity of the area?
- d. Is the property the subject of anti-social behaviour, for example rubbish being dumped or targeted by vandals?
- e. Is the property in poor structural repair, which is impacting on neighbouring properties or public health and safety?

The PSH officer will then refer any individual issues to the appropriate lead department as per the flow chart in Annex 1A and will write to the person liable for council tax to inform them of the issues found, offer advice and signpost to the 'Kent No Use Empty' initiative.

The lead departments will investigate the individual issues and may take enforcement action, where appropriate, as identified in the enforcement toolkit in Annex 1B.

The PSH officer will review the progress of the empty property regularly and liaise with other departments to co-ordinate working together to bring about the empty property being returned to occupation.

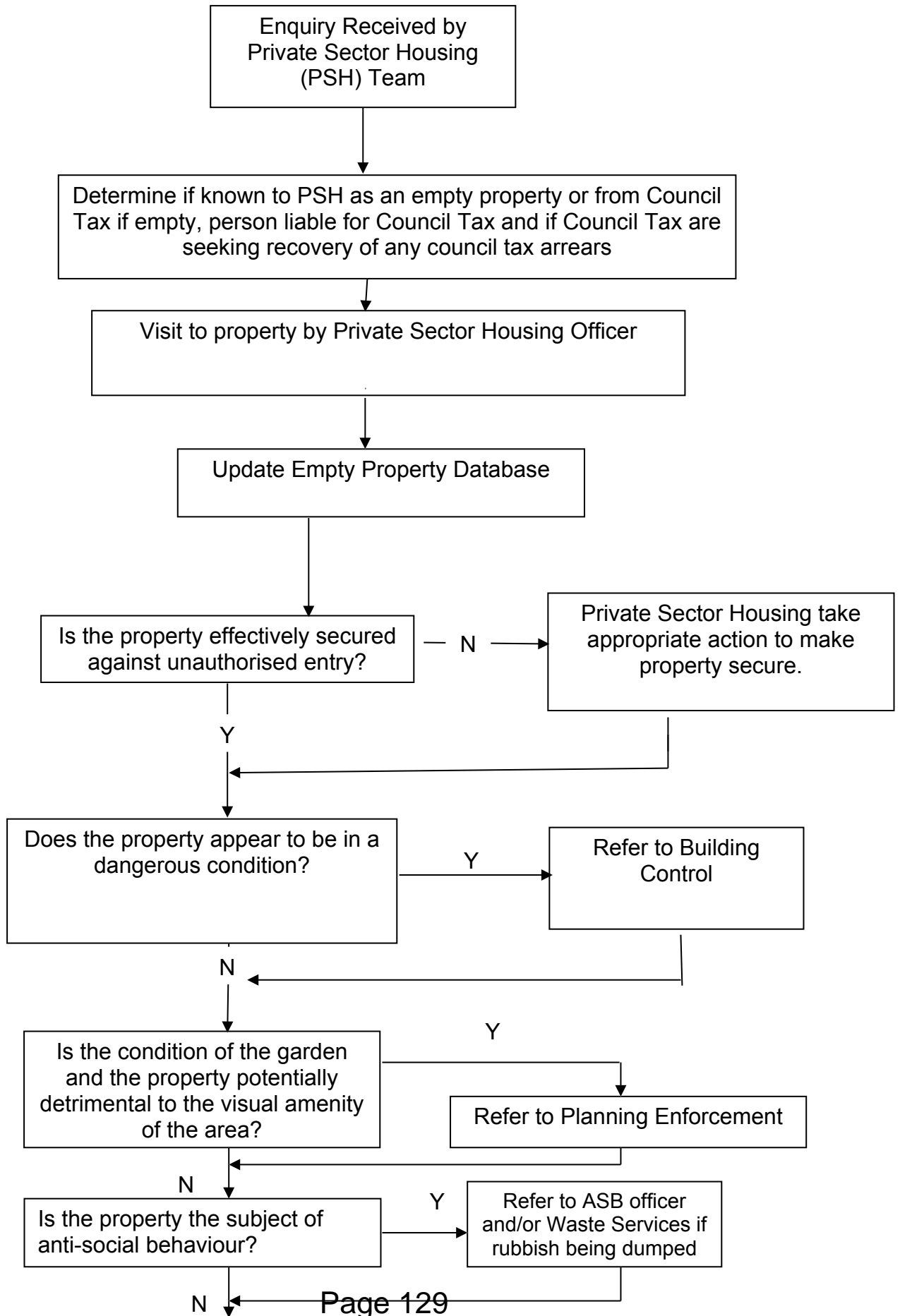
Unfortunately the actions taken to deal with the individual issues at the property may not result in the property becoming re-occupied. For those properties where the property continues to not be occupied and no effort is made by the owner to let or sell the property the PSH team in liaison with

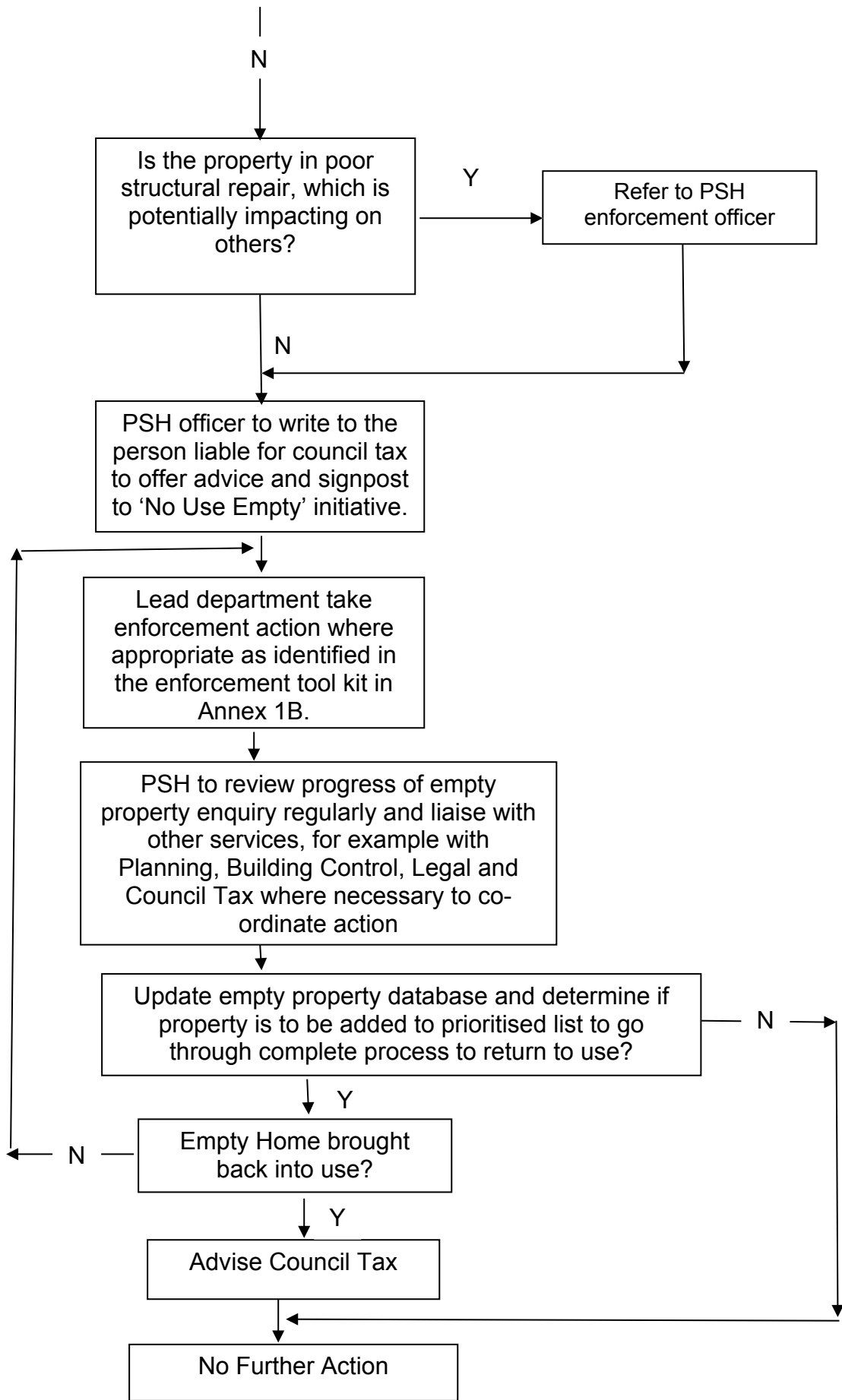
other lead departments will look at the previous history and the issues identified at the property to target those most problematic empty properties first and take them through the complete process of bringing them back into use. This complete process may include taking enforcement action to improve the condition of the property and recovering any debt through the enforced sale process; or compulsory purchasing the property or obtaining an empty dwelling management order to let the property. This complete process can be resource intensive and can take up to a year or longer. As a result only limited numbers of highest priority empty properties can be taken through this complete process at any one time.

When taking these empty properties through the complete process the welfare needs of the owners will need to be considered and particularly with regard to any likely equality implications. An equality impact assessment will be required for these individual cases.



**Processing of an Empty Property Enquiry**





**Annex 1C**

<b>Enforcement Toolkit</b>				
<b>Legislation</b>  <b>Housing Act 2004</b>  <b>Part 1 – Housing Conditions</b>	<b>Lead Service</b>	<b>Description of Enforcement Action</b>	<b>Pros</b>	<b>Cons</b>
	EHHS	Section 28 or 29 Hazard Awareness Notice	Raises owner’s awareness of deficiencies in the property contributing to hazards.	No requirement to undertake works.  Not registered as a local land charge.  May not bring the property back into occupation.
	EHHS	Section 11 or 12 Improvement Notice – an enforcement notice requiring the owner to undertake works to improve the condition of the property.	Improves the condition of the property.  If owner fails to undertake works, works may be undertaken in default (WID) by the Council.  Work in default costs can be charged as a land charge against the property, which takes priority over other charges. If there is a land charge on the property the Law of property Act 1925 allows the Council to recover the money they are owed using the Enforced Sales Procedure.  Council can seek Capital funding through the KCC funded ‘Kent Empty Property Initiative’ on first come, first served basis until 2013.	May not bring property back into occupation.  <b>Council funding required for works in default up front utilising capital expenditure.</b>
	EHHS	Section 20 or 21 Prohibition Order or	Prohibits use of building or part of the	Does not improve the condition of the

## Annex 1C

		Section 43 Emergency Prohibition Order	building by certain persons.	property or potentially allow it to be bought back into occupation. In fact, may legally prohibit the property being used.
	EHHS	Section 40 Emergency remedial action	<p>The Council may undertake works to reduce the imminent risk of harm to persons e.g. by the fixing of a tarpaulin over a leaking roof.</p> <p>Cost of works charged as a local land charge, which takes priority over other charges.</p>	<p><b>Works funded up front by the Council using capital expenditure.</b></p> <p>Council can seek capital funding through the KCC funded 'Kent Empty Property Initiative' on first come, first served basis until 2013.</p> <p>Only works to reduce the imminent risk are undertaken and may be a short term solution. The Emergency remedial action may be followed by service of an Improvement Notice to bring about long term improvements in the condition of the property.</p> <p>Does not necessarily bring property back into occupation.</p>
	EHHS	Section 46 Demolition Order or Section 47 Clearance where Category 1 type hazards have been identified at the property.	Removes potential eye sore property.	<p>Does not bring property back into use but actually removes a housing resource.</p> <p>High land/property value in the borough.</p> <p>Under Land Compensation Act, owner would be compensated for the loss of value of property.</p>
	EHHS	Section 133 an interim EDMO followed by a Section 136 final EDMO allows the Council to carry out renovation and	Improves the condition of the property and brings it back into use.	Only suitable for long term empty properties i.e. empty for 6 or more months.

**Part 4 – Empty Dwelling Management Orders (EDMOs)**

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maintenance work on the property and collect rent and other payment from the occupant to meet relevant expenses.

This is an extreme measure requiring significant resources due to the Council assuming full responsibility for managing a dwelling.

Property may be exempt under the Act from an EDMO, for example the owner is absent so they can be cared for elsewhere, the property is occupied occasionally by the homeowner or guests as a second home, the homeowner normally occupies the properties but is temporarily residing elsewhere.

Cannot use an EDMO until other voluntary options have been explored with the owner, to return the property to occupation.

**Expenses incurred by the Council may exceed the income if the property is in a poor condition.**

During the period of an interim EDMO, for up to a year, the Council is not able to let the property without permission of the owner. The Council usually pursues the EDMO option because the owner is reluctant to voluntarily let the property therefore unlikely to be able to let during the interim EDMO.

**The EDMO will require a management scheme and someone to manage it, which will incur costs and resources on setting up etc.**

## Annex 1C

				<p><b>Up front funding (capital expenditure) is required to renovate the property to a condition to be able to let.</b></p> <p>The Council needs to ensure the quality of the work and demonstrate value for money to the owner for any works undertaken.</p>
<p>Page 134</p>	<p>Planning</p>	<p>Where the condition of the land and property is found to be significantly detrimental to the visual amenity of the neighbouring properties or area – allows LA to deal with unsightly land or the external appearance of the property.</p>	<p>A notice can be served on the owner of land and buildings, and used to put pressure on the owner to improve the visual appearance.</p> <p>Opens dialogue with the owner as a first step to improving the condition of the whole property.</p> <p>If the notice is not complied with works in default (WID) can be undertaken by the Council. Alternatively prosecution maybe initiated.</p> <p>The Council may recover expenses in carrying out WID or place a charge on the property.</p>	<p>Does not allow charge on property to take priority i.e. mortgage company has the first call.</p> <p>Does not necessarily bring the property back into occupation.</p> <p>The external appearance may be improved but does not make it habitable necessarily.</p> <p>Has been most effective on derelict land rather than buildings but can be effective on buildings when allied to grant assistance or other motivation.</p> <p><b>Up front funding (capital expenditure) is required for WID.</b></p>
<p><b>Local Government (Miscellaneous Provisions) Act 1982 Section 29</b></p>	<p>EHHS</p>	<p>Where a property is empty and is not effectively secured against unauthorised entry, or it is likely to become a danger to public health.</p>	<p>The Council can undertake works to make the property secure and remove any danger to public health.</p> <p>The Council can recover costs.</p>	<p>Does not necessarily bring property back into occupation.</p> <p>Legislation does not allow for a land charge to be placed on the property to recover the debt.</p>
<p><b>Prevention of Damage by Pests Act</b></p>		<p>Where the property is infested by vermin</p>	<p>A Notice can require the owner to</p>	<p>Does not necessarily bring property back</p>

## Annex 1C

<p><b>1949 Section 4</b></p>	<p>EHHS</p>	<p>can be used to ensure land is kept free from rats and mice</p>	<p>treat the infestation, undertake structural works to prevent access by vermin to/from the property and tidy the land.</p> <p>Can open dialogue with the owner to improve the general condition of the property.</p> <p>The Council can undertake works in default if the owner fails to comply with the Notice.</p> <p>A land charge may be registered to allow recovery of debt, which takes priority over other charges.</p>	<p>into occupation.</p> <p><b>Up front funding, capital expenditure, required to undertake WID.</b></p> <p>Does not necessarily make the property habitable.</p>
<p><b>Environmental Protection Act 1990 Section 79-81</b></p>	<p>EHHS</p>	<p>Allows local authority to require abatement of statutory nuisances following a complaint e.g. accumulations of refuse at the property or dampness affecting neighbouring properties.</p>	<p>Abatement Notice served requiring owner to undertake works to abate the nuisance.</p> <p>WID may be undertaken if the notice is not complied with and a land charge placed on the property, which takes priority over other charges.</p> <p>Opens dialogue with the owner.</p>	<p>Does not necessarily bring the property back into occupation.</p> <p>The works required to abate the nuisance may not make the property habitable.</p>
<p><b>Building Act 1984 Section 77-79</b></p>	<p>Building Control</p>	<p>S77- enables local authority to deal with buildings that are dangerous requiring the owner to make safe or demolish.* S78- where buildings pose an immediate danger the local authority can carry out remedial works to remove the danger.* S79 -Where the condition of a building is dilapidated and detrimental to the</p>	<p>Can be used in the short term to improve the outside of property.</p> <p>Opens dialogue with the owner.</p> <p>Council may undertake WID for non compliance.</p> <p>WID costs recoverable and allows a</p>	<p>Does not necessarily bring property back into occupation.</p> <p>Only works to remove the danger or make safe are required therefore the property may still not be habitable.</p> <p><b>Up front funding (capital expenditure) required for WID.</b></p>

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		amenities of the neighbourhood the Council may serve notice. (* Failure to comply with magistrate's court order is a criminal offence.)	charge on property, which takes priority over other charges.	
<p style="text-align: center;">Page 136</p> <p><b>Enforced Sale section 103 Law of Property Act 1925</b></p> <p><b>Enforced Sale for other debt i.e. Council Tax</b></p>	Legal	Enables Council to force the sale of a property where a local land charge on it to recover a debt.	<p>Established and tested procedure.</p> <p>Debts recovered and take priority.</p> <p>Usually brings property back into use on sale.</p> <p>At no point in the process does the Council own the property therefore it is not liable for it.</p> <p>Quicker than Compulsory Purchase Order process.</p> <p>Property asset becomes a liability to owner.</p>	<p>Stops if debt paid.</p> <p>Can only be used for debts that are up to 12 years old.</p> <p>Not practical for small debts as they are likely to be repaid and the Council may appear to be acting heavy handed.</p>
	Council Tax + Legal	Enables Council to force the sale of a property where a charging order awarded by the County Court to the Council to recover a debt.	<p>Established and tested procedure.</p> <p>Usually brings property back into use on sale.</p> <p>Recovers debt.</p> <p>At no point in the process does the Council own the property therefore it is not liable for it.</p>	<p>Stops if debt paid.</p> <p>Not practical for small debts as they are likely to be repaid and the Council may appear to be acting heavy handed.</p>
<b>Planning(Listed Building and Conservation Areas) Act 1990 Section 54</b>	Planning	Enables local authorities to require owners to carry out works to prevent deterioration and restore listed buildings in conservation areas.	<p>Improves the condition of the property.</p> <p>If owner fails to undertake works,</p>	<p>Does not necessarily bring the property back into occupation.</p> <p>The works may not return the property to a</p>



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			<p>works may be undertaken in default by the Council.</p> <p>Work in default costs can be charged as a land charge against the property.</p> <p>Opens dialogue with the owner.</p> <p>Council can recover costs for works done.</p>	<p>habitable condition.</p>
<p><b>Compulsory Purchase - Housing Act 1985 Section 17</b></p> <p style="text-align: center;">Page 137</p>	<p>EHHS + Legal</p>	<p>Enables local authority to acquire under-used or ineffectively used property/land for residential purposes by compulsory purchase where the owner is not willing to sell by agreement, if there is a general housing need in the area.</p>	<p>Established and tested procedure.</p> <p>Recovers WID cost.</p> <p>Can be used to resolve a single property issue.</p> <p>Brings the property back into use.</p> <p>Can continue to negotiate with the owner.</p>	<p>Compulsory Purchase Order has to be made by the Secretary of State.</p> <p>The Council need to show clear intentions for the use of the property/land.</p> <p>The Council will need to demonstrate that it is a compelling case and in the public interest to compulsory purchase.</p> <p>Can only be used as a last resort and other methods of returning the property back into use must be shown to have been tried and failed.</p> <p>Must achieve a measurable/qualitative gain.</p> <p>Open to public enquiry.</p> <p><b>Can be costly if enquiry follows and may be relocation issues.</b></p> <p><b>Owners have to be compensated by the Council for the loss of their property, the open market value.</b></p>

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	Property & Estates			<p><b>Some Council costs may not be recoverable following sale of the property e.g. legal costs if it goes to appeal.</b></p> <p>The Council becomes the owner and has the responsibilities that come with this.</p>
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# Agenda Item 11

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

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# Agenda Item 12

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.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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# Agenda Item 13

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

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