



Public Document Pack

TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Interim Chief Executive
Adrian Stanfield LL.B (Hons)

Gibson Building
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Kings Hill, West Malling
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West Malling (01732) 844522

To: MEMBERS OF THE COUNCIL

NB Background reports to items referred from Cabinet and Committees have been omitted from printed agenda packs.

Dear Sir/Madam

I hereby summon you to attend a meeting of the Tonbridge and Malling Borough Council which will be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 20th February, 2024 at 7.30 pm.

Information on how to observe the meeting will be published on the Council's website.

The following business is proposed to be transacted:-

1. Guidance on the Conduct of Meetings 5 - 8

PART 1 - PUBLIC

2. Apologies for absence 9 - 10

3. Declarations of interest

To declare any interests in respect of recommended items

4. Minutes 11 - 30

To confirm as a correct record the Minutes of the Special and ordinary meetings of Council held on 24 October 2023 and the Extraordinary meeting of Council held on 12 December 2023.

5. Mayor's Announcements
6. Questions from the public pursuant to Council Procedure Rule No 5.6 31 - 32
7. Questions from Members pursuant to Council Procedure Rule No 5.5 33 - 34

8. Leader's Announcements 35 - 36

Matters for Decision

9. Setting the Budget 2024-25 37 - 142

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

In accordance with CPR 8.5 of the Constitution there will be a recorded vote for this item.

10. Setting the Council Tax 2024-25 143 - 154

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

In accordance with CPR 8.5 of the Constitution there will be a recorded vote for this item.

11. Local Council Tax Reduction Scheme 2024-25 155 - 286

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

12. Medium Term Financial Strategy and Savings Update 287 - 300

Recommendation CB 23/105 of Cabinet of 5 December 2023

13. Council Tax Premium Changes for Empty and Second Homes 301 - 308

Recommendation CB 23/106 of Cabinet of 5 December 2023

14. Sustainable Temporary Accommodation Options Report and Temporary Accommodation Provision Action Plan 309 - 358

Recommendation HP 23/39 (1) of the Housing and Planning Scrutiny Select Committee of 14 December 2023

15. Localism Act - Pay Policy 359 - 370

Recommendation GP 24/4 of the General Purposes Committee of 24 January 2024

16. Risk Management 371 - 434

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

17. Treasury Management Update and Treasury Management and Annual Investment Strategy for 2024/25 435 - 490

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

Matters for Information

18. Standards Hearing Panel - 8 December 2023 491 - 508

The report sets out the decision of the Standards Hearing Panel held on 8 December 2023

19. Minutes of Cabinet and Committees 509 - 510

To receive and note the Minutes of meetings of Cabinet and Committees as set out in the Minute Book (attached as a supplement).

20. Sealing of Documents

To authorise the Common Seal of the Council to be affixed to any Contract, Minute, Notice or other document requiring the same.

ADRIAN STANFIELD
Interim Chief Executive
Monday, 12 February 2024

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GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxiAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmhc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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Apologies for absence

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

MINUTES

Tuesday, 24th October, 2023

At the special meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 24th October, 2023

Present: His Worship the Mayor (Councillor J R S Lark), the Deputy Mayor (Councillor S M Hammond), Cllr L Athwal, Cllr K Barton, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr A Cope, Cllr S Crisp, Cllr R W Dalton, Cllr D A S Davis, Cllr D Harman, Cllr P M Hickmott, Cllr G B Hines, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr W J Mallard, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr R W G Oliver, Cllr W E Palmer, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr D Thornewell, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors P Boxall, Mrs T Dean and B A Parry

PART 1 - PUBLIC

C 23/72 ADMITTANCE OF HONORARY FREEMAN

Consideration was given to a Notice of Motion pursuant to Council Procedure Rule No. 5.18 submitted jointly by Councillors M Boughton, C Brown, M Coffin, R Dalton, D Davis, A Oakley and M Rhodes that the title of Honorary Freeman be conferred on Mrs Jill Anderson and Mr Nicolas Heslop in accordance with Section 249 of the Local Government Act 1972.

Members paid tribute to both nominees for exceptional public service, commitment, significant achievement and support over their terms of office.

It was proposed by Councillor Boughton and seconded by Councillor Coffin and

RESOLVED: That

- (1) in recognition of her eminent services to the Borough of Tonbridge and Malling, Mrs Jill Anderson be admitted as an

Honorary Freeman of the Borough pursuant to Section 249(5) of the Local Government Act 1972;

- (2) in recognition of his eminent services to the Borough of Tonbridge and Malling, Mr Nicolas Heslop be admitted as an Honorary Freeman of the Borough pursuant to Section 249(5) of the Local Government Act 1972; and
- (3) in pursuance of Section 249(9) of the Local Government Act 1972, expenditure be authorised to enable an address to be presented to each of the Honorary Freemen of the Borough referred to in (1) and (2) above.

C 23/73 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 7.12 pm
having started at 7.00pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

MINUTES

Tuesday, 24th October, 2023

At the special meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 24th October, 2023

Present: His Worship the Mayor (Councillor J R S Lark), the Deputy Mayor (Councillor S M Hammond), Cllr L Athwal, Cllr K Barton, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr A Cope, Cllr R W Dalton, Cllr D A S Davis, Cllr D Harman, Cllr P M Hickmott, Cllr G B Hines, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr W J Mallard, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr R W G Oliver, Cllr W E Palmer, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr D Thornevell, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors P Boxall, Mrs T Dean and B A Parry

PART 1 - PUBLIC

C 23/74 CONFERMENT OF THE TITLE OF HONORARY ALDERMAN

Consideration was given to a Notice of Motion pursuant to Council Procedure Rule No 5.18 and submitted jointly by Councillors M Boughton, C Brown, M Coffin, R Dalton, D Davis, A Oakley and M Rhodes that the title of Honorary Alderman be conferred upon V Branson, Mr M Davis, Mrs A Kemp, Mr Brian Luker, Mr H Rogers and J Sergison in accordance with Section 249 of the Local Government Act 1972.

Members paid tribute to the exceptional service, commitment, significant achievement and support of the nominees during their term of office.

It was proposed by Councillor Boughton, seconded by Councillor Coffin and

RESOLVED: That in accordance with Section 249 of the Local Government Act 1972, the title of Honorary Alderman be conferred upon the following former Councillors in recognition of their eminent services to the Borough Council:

- V Branson
- Mr M Davis
- Mrs A Kemp
- Mr Brian Luker
- Mr H Rogers
- J Sergison

C 23/75 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 7.21 pm
having stated at 7.15 pm

TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

MINUTES

Tuesday, 24th October, 2023

At the meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 24th October, 2023

Present: His Worship the Mayor (Councillor J R S Lark), the Deputy Mayor (Councillor S M Hammond), Cllr L Athwal, Cllr B Banks, Cllr K Barton, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr A Cope, Cllr R W Dalton, Cllr D A S Davis, Cllr D Harman, Cllr P M Hickmott, Cllr G B Hines, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr W J Mallard, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr R W G Oliver, Cllr W E Palmer, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr D Thornewell, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors P Boxall, Mrs T Dean and B A Parry

PART 1 - PUBLIC

C 23/76 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct. However, for reasons of transparency Cllr Clokey advised of a potential conflict of interest in agenda item 17 (Treasury Management Update) on the grounds of his employment with a treasury management company. As this was not considered a Disclosable Pecuniary or Other Significant Interest there was no requirement for Cllr Clokey to withdraw from the meeting.

C 23/77 MINUTES

RESOLVED: That the Minutes of the proceedings of the meeting of the Council held on 11 July 2023 be approved as a correct record and signed by the Mayor.

C 23/78 MAYOR'S ANNOUNCEMENTS

The Mayor advised of a number of engagements attended since the last meeting of Council and made particular reference to the following civic/charity events:

- Tonbridge Lions Musical Memories Event
- Tonbridge Lions Historic Car Tour
- Vintage Motor Cycle Club's International West Kent Run at The Friars
- 5th Anniversary of Feast
- The East Malling Centre's Community Development Grant Fund Site Visit
- Ightham Mote's Garden Party
- Friends of Mill Stream Sunflower Competition
- Tonbridge in Bloom Awards
- Music @ Malling Festival Launch
- Chairman of KCC's HMS Kent Ceremonial March of the Freedom of the County of Kent
- Dedication of Shrine Markers at Rochester Cathedral
- TAMS Seniors Information Day
- Communigrow Family Workshop
- Opening of the new Centenary Homes by HRH The Princess Royal

Upcoming civic events included the Tonbridge Armistice Day and Remembrance Sunday Services on 11 and 12 November 2023 respectively

In closing, the Mayor thanked the Deputy Mayor for attending a number of events on their behalf.

C 23/79 TM/23/00364/FL - 1A CROFT CLOSE, TONBRIDGE

Consideration was given to the report of the Director of Planning, Housing and Environmental Health in relation to permanent planning permission for a new bungalow to the rear of 15 Estridge Way (revision to TM/20/00862/FL). This was a retrospective application seeking to regularise works already undertaken.

The application had been adjourned for determination by the full Council in accordance with Council Procedure Rule No 15.25 following consideration by the Area 1 Planning Committee on 27 July 2023.

In order to facilitate the proper consideration of the application, the Council agreed to suspend its own procedure rules and resolved itself into a committee to which rules relating to a planning committee were applied.

In reaching its decision, the Council had regard to the reports considered by the Area 1 Planning Committee on 22 June and 27 July 2023, including the report of the Director of Central Services and Monitoring Officer which contained exempt information (LGA 1972 Sch 12A Paragraph 5 – Information in respect of which a claim to legal

professional privilege could be maintained in legal proceedings). Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Council when determining the application (speakers listed below).

Local Members reiterated concerns in respect of the materials used for the roof of the building and its distinctiveness was considered a harmful feature of the character and appearance of the street scene. Cllr King proposed that the application be refused on the grounds set out below, seconded by Cllr Hood and following a formal vote it was

RESOLVED: That planning permission be REFUSED for the following reason:

- (1) The metal clad roof would be contextually inappropriate, out of keeping with local materials and distinctiveness and represented an alien and discordant feature in contrast to the adjacent dwellings and harmful to the character and appearance of the street scene, in conflict with policies CP24 of the Tonbridge and Malling Core Strategy and SQ1 of the Managing Development and the Environment Development Plan Document and Paragraph 130 of the National Planning Policy Framework.

[Speakers: L Hamilton, N Coomber and D Parkinson – members of the public; and S King on behalf of the applicant]

**C 23/80 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL
PROCEDURE RULE NO 5.6**

No questions were received from members of the public pursuant to Council Procedure Rule No 5.6.

**C 23/81 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL
PROCEDURE RULE NO 5.5**

In accordance with Council Procedure Rule No. 5.5 a number of questions had been submitted by Members. Written responses had been provided by the relevant Cabinet Members and the questions and answers had been tabled and circulated in advance of the meeting as set out in the Annex attached to the Minutes.

**C 23/82 MOTION SUBMITTED UNDER COUNCIL PROCEDURE RULE NO
5.27**

Consideration was given to a Notice of Motion (23/04) pursuant to Council Procedure Rule No. 5.7 submitted by Councillor G Bridge and seconded by Councillor M Tatton on behalf of the Tonbridge and Malling Liberal Democrat Group in relation to Disability and Equalities as set out in the annex attached to the Minutes.

The Motion asked Council to:

- Recognise the difficulties some residents within and visitors to the Borough faced in accessing every-day services and facilities due to disability, additional need, and other disadvantage including financial inequality;
- Appoint a Councillor as a Disability & Equalities Champion to raise the profile and needs of those with disabilities, additional needs and inequalities within Tonbridge and Malling. The Disability & Equalities Champion to actively engage with disability and welfare groups and charities and interested individuals to ensure their voice of experience was heard and taken into account in decision making;
- If there was no existing mechanism, the Borough Council to develop a Register of disability and welfare groups and charities within the Borough and a system for consulting those groups on matters that affect them and those they represent;
- Demonstrate its commitment to further developing its understanding and approach to disability and equality needs within the Borough by inviting interested groups from the Register to give presentations and information sessions for Councillors, similar to the Tonbridge Dementia Friendly Tonbridge Community session, to support Cllrs to feel informed and equipped with respect to the challenges faced by those within our community who have disabilities, additional needs or who face inequality.

Members recognised the importance of supporting those with disabilities and experiencing inequality. However, concern was expressed about the introduction of a register that might prove too prescriptive and remove the Borough Councils flexibility around advocating for those groups not entered onto a formal register.

Councillor M Coffin proposed, seconded by Councillor M Boughton, an amendment to the Motion as follows (removal of bullet point 3 and amended bullet point 4):

- Recognise the difficulties some residents within and visitors to our Borough face in accessing every-day services and facilities due to disability, additional need, and other disadvantage including financial inequality;
- Appoint a Councillor as a Disability & Equalities Champion to raise the profile and needs of those with disabilities, additional needs and inequalities within Tonbridge and Malling. The Disability & Equalities Champion will actively engage with disability and welfare groups and charities and interested

individuals to ensure their voice of experience is heard and taken into account in decision making;

- Demonstrate its commitment to further developing its understanding and approach to disability and equality needs within the Borough by inviting interested groups through the Disability and Equalities Champion to give presentations and information sessions for Councillors, similar to the Tonbridge Dementia Friendly Tonbridge Community session, to support Cllrs to feel informed and equipped with respect to the challenges faced by those within our community who have disabilities, additional needs or who face inequality.

The aim of the proposed amendment was not to diminish the value of the original motion but to offer a practical solution that the Borough Council could deliver. The Disabilities and Equalities Champion would be encouraged to develop and create effective relationships with relevant groups.

Members signified consent to this amendment and it was

RESOLVED: That the Notice of Motion (as amended) proposed by Councillor M Coffin and seconded by Councillor M Boughton be approved.

C 23/83 LEADER'S ANNOUNCEMENTS

The Leader's announcements focused on the key themes of innovation, transformation and delivery as set out in the recently adopted Corporate Strategy. Good progress continued to be made on these areas as evidenced by the number of successful events and activities hosted in Tonbridge and Malling, including Farmers and Artisan Markets, Food and Drink Festivals and the upcoming Christmas event and trail at Tonbridge Castle.

Support for local businesses continued with a number of grants being offered. The Leader was pleased to announce that the next round of the Shopfront Improvement Scheme would commence in 2024 and the maximum amount of grant funding had increased to £5,000.

The recent opening of Bellingham Way in New Hythe had provided traffic relief along the A20 corridor by providing a direct link between Aylesford and Larkfield. This was greatly welcomed together with the positive investment introduced in the north of the Borough with the Panattoni development.

The Borough Council had also taken measures to address unauthorised traveller encampments by installing knee rail fencing at a number of sites. This demonstrated a willingness to react to issues raised by residents and/or communities.

Reference was made to the Borough Councils commitment to climate change and the recent initiative undertaken with the Woodland Trust to create new hedgerow boundaries at Leybourne Lakes Country Park.

Following proposals from the General Purposes Committee in respect of recruitment initiatives, a recent campaign in Planning Services had been successful and a number of vacancies had been filled. In future, consideration would be given to the introduction of a 'recruitment and retention' policy aimed to support, develop and recognise staff.

Finally, the Leader reminded Members of the challenging financial situation and advised that £500,000 of savings were required by the end of the financial year. Options for increasing and generating income as well as identifying savings would be considered and Groups were invited to offer their own ideas as part of the budget setting process. A collaborative approach to setting priorities for the Borough Council would continue to be adopted.

The message continued to be that Tonbridge and Malling was a great place to live, work and invest and that the Borough Council were there to support its residents and communities.

Full Leader's announcements were available on the Borough Council [YouTube channel](#)

MATTERS FOR DECISION

C 23/84 DISABLED FACILITIES GRANT FUNDING

The report of the Director of Planning, Housing and Environmental Health advised that within the Borough Council's Capital Plan for 2023/24 there was no spend allocated to discretionary Disabled Facilities Grants (DFGs) and approval was sought for a virement of £150,000 from the mandatory to the discretionary DFG.

There were 5 cases currently being processed by the Borough Council where works were above the mandatory threshold and the virement would be used to support these cases. Members were advised that the works being carried out fell under the mandatory element of DFG and had been assessed as being necessary and appropriate to meet the needs of the disabled occupant, which in all 5 cases were children. It was considered reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling.

Careful consideration was given to the legal, financial and value for money implications detailed in the report and it was noted that the £150,000 proposed funding for virement was already available in the existing mandatory DFG budget and new funding was not required. It was also noted that the mandatory DFG was funded from the Better Care Fund.

RESOLVED: That the virement of £150,000 from the mandatory DFG budget for the 2023/24 financial year to the discretionary DFG budget on the Capital Plan be approved.

C 23/85 CHANGES TO THE CONSTITUTION

Consideration was given to recommended changes to the Constitution in respect of Committee Procedure Rule 15.25 and the inclusion of the Executive/Scrutiny Protocol as an Annex.

The proposed change to Rule 15.25 (Part 4 of the Constitution) was intended to remove confusion around a 'minded-to' determination and required a vote to be taken if a Planning Committee was 'minded to determine an application in a way or on grounds which the Director does not consider can be substantiated'. Clarity had also been provided on when an application should stand adjourned to Council for determination and related to the 'risk of significant costs being awarded'. Members were advised that costs of £5,000+ would represent a significant cost. The changes were detailed in 1.1.4 of the report.

Following a meeting of Overview and Scrutiny Committee of 14 September 2023 it was recommended that the Executive/Scrutiny Protocol be published to the website as an Annex to the Constitution. This was supported by Cabinet on 3 October 2023. Council were invited to approve the inclusion of the Protocol as an Annex as detailed in 1.2.3.

RESOLVED: That the Monitoring Officer be authorised to amend the Constitution as set out in paragraphs 1.1.4 and 1.2.3 of the report.

C 23/86 REVIEW OF ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS

Consideration was given to the recommendations of the Joint Standards Committee of 12 July 2023 in respect of revisions to existing arrangements for dealing with Code of Conduct complaints. Due regard had been given to the legal implications, risk and equality impact assessments arising from the changes.

RESOLVED: That the revised arrangements for dealing with Code of Conduct complaints under the Localism Act 2011 (attached at Annex 1) be adopted.

C 23/87 LOCAL CODE OF CORPORATE GOVERNANCE

Consideration was given to the recommendations of the Audit Committee of 24 July 2023 in respect of the annual review of the Local Code of Corporate Governance. Proposed amendments to the Code were relatively minor with no significant activity having taken place since July 2022 that impacted upon corporate governance arrangements.

However, the Audit Committee had recommended that section 3.2 of the Code be reviewed to incorporate a reference to the Climate Change Action Plan for 2023/24.

RESOLVED: That the proposed amendments (set out at Annex 1) be approved and the Local Code of Corporate Governance be adopted; subject to further review of section 3.2 to reference the Climate Change Action Plan 2023/24.

C 23/88 COUNCIL TAX DISCOUNT

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of council tax discount applied to uninhabitable properties. Due regard had been given to both the financial and non-financial considerations, legal implications and risk and equality impact assessments should a change be made to the 100% discount currently offered by the Borough Council.

The position of neighbouring authorities in respect of this discount was also noted.

RESOLVED: That the percentage of the current period of 12 months 100% council tax discount for 'uninhabitable' properties be reduced to 0% with effect from 1 April 2024.

C 23/89 AUDITOR'S ANNUAL REPORT 2022/23

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of the Auditors Annual Report 2022/23. Due regard had been given to the recommendations of the Audit Committee of 25 September 2023.

The Chair of the Audit Committee recorded appreciation to Officers for their commitment and hard work which had ensured that the Borough Council was one of a few local authorities to 'close down' their accounts in a timely fashion.

RESOLVED: That

- (1) the Auditors Annual Report (attached at Annex 1) for 2022/23 be approved;
- (2) the key recommendations made in respect of 'performance management' and 'procurement' be noted and the management of comments endorsed;
- (3) the management of comments to the improvement recommendations be noted and endorsed; and

- (4) the Audit Committee receive a progress report on the key recommendations made in respect of 'performance management' and 'procurement' at a future meeting

C 23/90 TREASURY MANAGEMENT UPDATE

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of Treasury Management. Due regard had been given to the recommendations of the Audit Committees of 24 July and 25 September 2023 respectively.

RESOLVED: That

- (1) the action taken in respect of treasury management activity for the period April to July be endorsed;
- (2) the 2022/23 outturn position be noted;
- (3) the Audit Committee's appreciation of the work undertaken by officers in treasury management be noted; and
- (4) the existing parameters intended to limit the Borough Council's exposure to investment risks (as set out in Annex 5 of the report presented to the Audit Committee on 25 September 2023) be retained.

C 23/91 FEEDBACK FROM CONSULTATION ON THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2023-2028

Consideration was given to the recommendations of the Licensing and Appeals Committee of 27 September 2023 in respect of the consultation on the Hackney Carriage and Private Hire Policy 2023-28.

Due regard was given to the responses submitted, the legal implications and risk assessment. The requirement for the Borough Council to review and adopt a new Policy was also noted.

RESOLVED: That

- (1) the following proposed changes to the Hackney Carriage and Private Hire Policy, as set out in Annex 1, be approved:
 - payment by credit/debit card be accepted for all Hackney Carriage journeys;
 - the Disclosure and Barring Service (DBS) checks be outsourced to an external third party, where a driver does not hold an online account update service;

- the length of time for lost property to be kept be reduced from 12 months to 2 months;
 - for any Hackney Carriage driver failing to take a passenger on a journey, regardless of distance, or charging more than the fare shown on the metre when taking payment by credit/debit card, 9 penalty points and a two-week suspension be imposed on their TMBC driving licence, and subsequent offences be referred to the Licensing and Appeals Committee;
 - membership of the Chauffeurs Guild as mechanism to bypass the requirement to take the knowledge test be removed;
 - colour restriction for designated wheelchair accessible vehicles (WAV) be removed; and
 - a higher than 50 percent Manufacturer tint for back passenger windows be allowed for plate exempt vehicles undertaking Chauffeur work.
- (2) further investigation work by Officers in respect of the following areas, as identified in the proposed changes to the Hackney Carriage and Private Hire Policy, as set out in Annex 1, be undertaken and reported to a future meeting of the Committee:
- CCTV in all licensed vehicles (Hackney Carriage and Private Hire);
 - Colour restriction of a Hackney Carriage Vehicle; and
 - Drivers badge for school runs only with specially defined plate.
- (3) the revised Hackney Carriage and Private Hire Licensing Policy 2023 – 2028, attached at Annex 4, be approved with the above agreed changes detailed in Recommendation (1) incorporated.

C 23/92 APPOINTMENTS TO OUTSIDE BODIES - TONBRIDGE UNITED CHARITY

The Tonbridge United Charity had requested that former councillor Vivian Branson be formally endorsed as the Borough Council's outside body appointment to their organisation. This role had been held by former Councillor Branson until the local elections in May 2023 and was considered a much valued appointment by the Charity.

It was noted that there was no requirement for the appointment to be a member of the Borough Council and the Charity had emphasised the value of retaining a person with experience of their aims and role.

Members supported this appointment pending any outcomes of the ongoing scrutiny review into outside bodies.

RESOLVED: That Vivian Branson be appointed as the Borough Council representative to serve on Tonbridge United Charity for a further four year period up to October 2027.

MATTERS FOR INFORMATION

C 23/93 OVERVIEW AND SCRUTINY - ANNUAL REPORT

The report of the Chair of the Overview and Scrutiny Committee provided a summary of the work undertaken during the past year which was welcomed and noted by Members.

C 23/94 MINUTES OF CABINET AND COMMITTEES

The Minutes of meetings of the Cabinet and Committees for the period June – October 2023, as set out in the Minute Book (Volume 3) (attached as a supplement) were received and noted.

Any recommendations to the Council from Cabinet or Committees were resolved elsewhere on the agenda.

C 23/95 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 9.45 pm

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

MINUTES

Tuesday, 12th December, 2023

At the extraordinary meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 12th December, 2023

Present: His Worship the Mayor (Councillor J R S Lark), the Deputy Mayor (Councillor S M Hammond), Cllr L Athwal, Cllr B Banks, Cllr K Barton, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr S Crisp, Cllr R W Dalton, Cllr D A S Davis, Cllr D Harman, Cllr P M Hickmott, Cllr G B Hines, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr B A Parry, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors P Boxall, A Cope, Mrs T Dean, W J Mallard, R W G Oliver and D Thornewell.

PART 1 - PUBLIC

C 23/96 DECLARATIONS OF INTEREST

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

MATTERS FOR CONSIDERATION IN PRIVATE

C 23/97 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 DECISION****C 23/98 RETIREMENT OF THE CHIEF EXECUTIVE**

(Reasons: LGA 1972 – Sch 12A Paragraph 1 – Information relating to an individual)

The Mayor proposed suspension of Council Procedure Rules 6.4 and 6.5 related to content and length of speeches and when a Member could speak again respectively to enable Borough Councillors' appreciation to the retiring Chief Executive to be recorded. This proposal was supported by the Council.

The report of the Leader set out the proposed arrangements for the interim and permanent appointment to the vacancy created by the retirement of the Chief Executive for consideration by Members.

In response to concerns raised over the composition of the panel of Members appointed to recommend to Council the permanent appointment to the post of the Chief Executive, the Leader explained that there would be opportunities to engage wider group of Members at different stages through the appointment process.

All group leaders paid tribute to the Chief Executive and expressed their appreciations on behalf of the Council and their respective groups for the Chief Executive's nearly 40 years of outstanding service to the borough and the residents.

In closing, the Mayor wished the Chief Executive all the best in her retirement.

RESOLVED: That

- (1) Adrian Stanfield, Director of Central Services and Deputy Chief Executive, be appointed as Interim Chief Executive from 13 December 2023 to 14 May 2024/Annual meeting of Full Council;
- (2) Sharon Shelton, Director of Finance & Transformation, be appointed as Interim Deputy Chief Executive in addition to their substantive post from 13 December 2023 to 14 May 2024/Annual meeting of Full Council;
- (3) Joy Ukadike, Head of Legal & Democratic Services, be appointed as Interim Monitoring Officer in addition to their substantive post from 13 December 2023 to 14 May 2024/Annual meeting of Full Council;

- (4) Adrian Stanfield be appointed to the separate roles of Returning Officer and Electoral Registration Officer with effect from 13 December 2023; and
- (5) a panel of Members, composed of Councillors M Boughton, M Coffin and A Oakley, be appointed to recommend to Council the permanent appointment to the post of Chief Executive.

C 23/99 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 8.50 pm

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Agenda Item 6

Questions from the public pursuant to Council Procedure Rule No 5.6

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Agenda Item 7

Questions from Members pursuant to Council Procedure Rule No 5.5

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Leader's Announcements

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Agenda Item 9

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

In accordance with CPR 8.5 of the Constitution there will be a recorded vote for this item.

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

13 February 2024

Report of the Interim Chief Executive, Director of Finance and Transformation,
Leader of the Council and Cabinet Member for Finance and Housing

Part 1- Public

Matters for Recommendation to Council

1 SETTING THE BUDGET 2024/25

Further to the meeting of the Overview and Scrutiny Committee earlier in the cycle, this report updates Cabinet on issues relating to the Medium Term Financial Strategy. It also takes Members through the necessary procedures in order to set the Budget for 2024/25.

Members are asked to note that at the time of writing this report, the final settlement has not been received. All figures contained in the report are based on the provisional settlement.

Dashboard/ Key Points

- Provisional local government finance settlement 2024/25 better than expected: Overall funding INCREASE on 2023/24 is £416,000 (7.7%).
- Due to increased NNDR receipts, release of NNDR appeals provision and better than expected settlement TMBC has a balanced budget for 2024/25 and has been able to set aside funds in earmarked reserves for key priorities identified within the Corporate Strategy.
- Beyond 2024/25 there is no indication of future core funding, including any replacement (or not) for NHB making financial planning difficult. Future funding likely to be lower.
- Referendum principles mean that council tax can only rise by greater of 3% or £5. CPI for December 3.9%. Recommended 3% increase in TMBC element of council tax bill giving a council tax at Band D for 2024/25 of £238.16; a cash increase of £6.93 per annum.
- Funding Gap, representing new savings that need to be identified and delivered, now projected at £1.705m over the medium term. In addition, commitment of saving £200,000 (release of office accommodation) and £400,000 (cost of temporary accommodation).
- Four capital schemes to be added to Capital Plan in 2024/25.

1.1 Introduction and Foreword

- 1.1.1 At the Full Council meeting on 20 February, Members will determine both the Budget and the level of council tax for 2024/25. The detailed Estimates for 2024/25 prepared by your Officers in liaison with the Cabinet have been carefully considered by the Overview and Scrutiny Committee earlier in the cycle. Details are set out at paragraph 1.5 below.
- 1.1.2 Whilst the primary purpose of this report is for Cabinet to recommend the Budget and resultant level of council tax for 2024/25; as ever, **this one year cannot be viewed in isolation**. This budget sits within the context of our Medium Term Financial Strategy (MTFS) covering a ten-year period. Financial decisions made in respect of the year 2024/25 will have an impact across the MTFS and upon the required savings and transformation contributions the Council will need to achieve in order to 'balance its books' and we must not lose sight of the scale of this particular challenge. **Ultimately, Members working with senior officers have a duty to ensure the Council's long term financial position is sustainable, and that 'short term' decisions do not jeopardise that longer term sustainability.**
- 1.1.3 This time last year the projected funding gap was put at £1,700,000 with an initial tranche of savings in the sum of £500,000 to be delivered by April 2024. During the course of the current year, as will be noted from paragraph 1.11.3 later in this report, that target of £195,000 is on its way to being achieved.
- 1.1.4 The adverse global economic conditions, amongst other things, has inevitably added to the uncertainty in the scale of the funding gap over the past twelve months and, as advised in the report to Overview & Scrutiny Committee, the latest projected funding gap is £1,705,000. Members should also note that it is necessary to add to this figure the value of any initiatives already built into the MTFS, **but not yet delivered**. In this respect, the scaling back of office accommodation in the sum of £200,000 and a £400,000 reduction in Temporary Accommodation costs needs to be added in, giving a figure of **£2,305,000** to be found and delivered over the medium term. **The MTFS including the latest project funding gap is discussed in more detail later in this report.**
- 1.1.5 The Localism Act requires a local authority to seek the approval of their electorate via a local referendum if it proposes to raise council tax above the threshold set by the Secretary of State. For the year 2024/25 a referendum will be triggered where council tax is increased by **more than 3% or £5, whichever is higher**.
- 1.1.6 This time last year the MTFS assumed a council tax increase of 3%. For the purposes of preparing the budget papers and updating the MTFS an **increase of 3% in 2024/25** has been assumed followed by the higher of 2% or £5 each year thereafter.
- 1.1.7 Attached at **[Annex 1]** for Members' information is a copy of the Referendums Principles setting out the level of council tax increase for 2024/25 above which the

local authority would be required to seek approval of their electorate via a local referendum.

1.1.8 This report necessarily touches on a number of related areas (some of which are complex) that the Director of Finance and Transformation is required to draw to Members' attention in order to provide assurance and advice to aid decision making. The report is, therefore, broken down into sections dealing with the following areas:

- Corporate Strategy
- Local Government Finance Settlement
- Kent Business Rates Pool
- Revenue Estimates 2024/25
- Fees and Charges
- Capital Plan
- Treasury Management and Annual Investment Strategy
- Consultation with Non-Domestic (Business) Ratepayers
- Medium Term Financial Strategy Update
- Savings and Transformation Strategy
- Collection Fund Adjustments
- Special Expenses and Parish Council Precepts
- Section 25 Statement - Robustness of the Estimates / Adequacy of the Reserves
- The Chartered Institute of Public Finance and Accountancy Financial Management Code and Financial Resilience Index
- Calculation of Borough Council's Tax Requirement

1.1.9 Recommendations are made, where appropriate, within each section of the report and **highlighted in blue**. In addition, for completeness, all recommendations are summarised at Section 1.221.22 of the report.

1.2 Corporate Strategy

1.2.1 The Council adopted a new Corporate Strategy in 2023 setting out the values key to achieving the strategy of **innovation, transformation, and delivery**.

1.2.2 The Strategy sets out the four key priorities for the borough:

- 1) Efficient services for all our residents, maintaining an effective council;
- 2) Sustaining a borough which cares for the environment;
- 3) Improving housing options for local people whilst protecting our outdoor areas of importance;
- 4) Investing in our local economy.

1.2.3 In preparation of these Estimates, regard has been taken to the above priorities and in particular the Cabinet highlighted the need to address the following key issues which contribute to the above:

- Provision of cost-effective Temporary Accommodation;
- Regeneration of Tonbridge (including replacement of Angel Centre);
- Climate Change, including carbon neutral leisure centres;
- Transformation to improve efficiency and effectiveness; and
- Delivery of the Local Plan.

1.2.4 As presented to the Overview and Scrutiny Committee, the Estimates for 2024/25 incorporate additional earmarked reserve contributions in order to provide funds to support the above activities as relevant schemes are developed.

1.3 Local Government Finance Settlement

Settlement Funding Assessment (Core Funding)

1.3.1 On 19 December 2023, the Secretary of State for the Department for Levelling Up, Housing and Communities, Michael Gove MP, made a statement to Parliament on the provisional local government finance settlement for 2024/25. As Members are aware this provisional settlement is subject to consultation and the final settlement is normally confirmed in late January/early February each year after any representations have been considered.

1.3.2 At the time of writing and publishing this report, the final settlement has not been published, and the budget proposals that follow are therefore based on the provisional settlement.

1.3.3 Members may be aware that Michael Gove MP made a statement on 24 January 2024 regarding additional funding for local government which will form part of the final settlement. The additional funding is primarily directed to social care authorities, but there is also general reference in the Statement to increasing the thresholds with regard to the Funding Guarantee. At this stage we do not know

what additional allocation, if any, there will be for TMBC. The Statement from Michael Gove MP can be found through the following link:

<https://questions-statements.parliament.uk/written-statements/detail/2024-01-24/hcws206>

Members will note that the Statement from Michael Gove MP makes reference to each local authority being required to produce a productivity plan. Currently we have no more information on this requirement, but once this becomes clearer Members will be updated.

- 1.3.4 The Settlement Funding Assessment (SFA) is for one year only (2024/25) and the Fair Funding Review deferred to a future date. As explained in previous reports, it is not expected that TMBC will fare well under a review and therefore, for now, the delay can be seen as good news. However, the uncertainty over local government funding more generally is prolonged and makes financial planning very difficult.
- 1.3.5 Our provisional SFA for the year 2024/25 as shown in the table below is £2,655,451, an uplift of 5.2% compared to the sum received in 2023/24. However, it is important to stress that **funding in what is assumed the near future will be dependent** on the outcome of the yet to be concluded Fair Funding Review.

New Homes Bonus

- 1.3.6 No further legacy payments are due under the New Homes Bonus (NHB) scheme giving an allocation for the year 2024/25 only which in our case is £343,373, the reduction is as an effect of lower property completions during October 2022 and October 2023 and a higher level of unoccupied homes at the date of assessment. These unoccupied properties should come into use during the next period covering October 2023 to October 2024 reversing some effect of the losses in the current year if the NHB funding continues.
- 1.3.7 The future of NHB or a replacement remains the subject of discussion, but at the very least will not continue in its current form leaving one of two options. Firstly, the scheme is withdrawn and not replaced; or alternatively it is replaced, but where the funding stream and sum awarded is much reduced, the latter is included within the assumptions for the MTFS.

Under-indexing of the Business Rates Multiplier

- 1.3.8 The payment for the under-indexing of the business rates multiplier is £464,291.

Services Grant

- 1.3.9 This was introduced in 2022/23 albeit it was said as a one-off un-ringfenced grant allocation to support all services delivered by councils. Our provisional allocation for the year 2024/25 as shown in the table below is £14,648.

Funding Guarantee

- 1.3.10 The previous Lower Tier Services Grant and a proportion of the expired New Homes Bonus legacy payments have been repurposed to create a funding guarantee to ensure that all authorities will see an increase in their core spending power before any decision they make about council tax levels. The increase in core spending power as calculated by the government is 5.1%.
- 1.3.11 It has been assumed from what has been said that the funding guarantee applies to this Spending Review period, the years 2023/24 and 2024/25. Our provisional allocation for the year 2024/25 as shown in the table below is £2,335,834.

Total Grant Funding

- 1.3.12 Total grant funding for the year 2024/25 as shown in the table below is £5,813,597, a cash increase of £416,032 or 7.7% when compared to that received in 2023/24.

	2023/24 £	2024/25 £	Cash Increase/ (Decrease) £ %	
Local Share of Business Rates (baseline)	2,387,888	2,509,032	121,144	5.1
Revenue Support Grant	137,323	146,419	9,096	6.6
Settlement Funding Assessment	2,525,211	2,655,451	130,240	5.2
New Homes Bonus	610,499	343,373	(267,126)	(43.8)
Under-indexing of the Business Rates Multiplier	406,754	464,291	57,537	14.1
Services Grant	93,093	14,648	(78,445)	(84.3)
Funding Guarantee	1,762,008	2,335,834	573,826	32.6
Total Grant Funding	5,397,565	5,813,597	416,032	7.7

- 1.3.13 Of the twelve district councils in Kent, Tonbridge & Malling Borough Council receives the **lowest Settlement Funding Assessment** both in total and per head. A comparison of our Settlement Funding Assessment with those of other Kent district councils is provided at **[Annex 2]**.

1.4 Business Rates

- 1.4.1 It is expected that, in due course, alongside the Fair Funding Review, reform to the Business Rates Retention Scheme will be under consideration. Nothing has yet been announced affecting 2024/25.

- 1.4.2 Following the development of Panattoni Park on the former Aylesford Newsprint site the Council was re-admitted to the Kent Business Rates Pool from April 2023. This means that the Council is able to retain a higher proportion of receipts which exceed the Governments baseline, which for 2024/25 has been provisionally set at £2.509m.
- 1.4.3 For budgeting purposes business rates income is expected to exceed the business rates baseline in 2024/25. This is due to a combination of increased rates for Panattoni Park and some accounting adjustments for appeals. As a member of the Kent Business Rates Pool for business rates retention scheme purposes, we are estimating that the **increased** business rates income to be retained will be circa £3.65m **above** the Governments baseline, together with a growth fund element in the sum of circa £681,750 to be spent in liaison with Kent County Council. It should be noted that the accounting adjustment for appeals will not affect the ongoing income from Business Rates.

1.5 Revenue Estimates 2024/25

- 1.5.1 As mentioned in the Foreword, the draft Revenue Estimates for 2024/25 were presented to the Overview and Scrutiny Committee on 25 January. The role of the Committee is to assist both the Cabinet and the Council in the development of its budget within the context of the Medium Term Financial Strategy and the Council's priorities. Whilst a number of questions were posed by Members at the meeting, the Revenue Estimates as presented were endorsed.
- 1.5.2 Members of the Overview and Scrutiny Committee noted within the 2024/25 Estimate the following additional reserve contributions totalling £4.495m to support the Council's key priorities within the Corporate Strategy (1.2):
- 1) Creation of a new Temporary Accommodation reserve in the sum of £1.3m;
 - 2) Transfer of £1.85m to the Regeneration of Tonbridge reserve (including replacement of Angel Centre);
 - 3) Transfer of £0.5m to Climate change reserve;
 - 4) Transfer of £0.5m to Transformation reserve; and
 - 5) Transfer of £0.345m to Local Plan reserve.
- 1.5.3 Late adjustments made to the draft Revenue Estimates which were published for the meeting of the Overview and Scrutiny Committee are detailed in the table below.

	Revised Estimate 2023/24 £	Original Estimate 2024/25 £
Summary Total reported to Overview and Scrutiny Committee on 25 January 2024 prior to contributions to or from General Revenue Reserve	10,980,371	11,791,114
Adjustments to Business Rates income	(34,103)	(163,585)
Adjustments to Collection Fund Surpluses		(154,999)
Additional IT Storage Capacity	8,500	8,500
Staffing Establishment Changes following General Purposes Committee 24 th January 2024		97,950
Core establishment costs following consideration of pay award at General Purposes Committee 24 th January 2024 (Net additional cost)		70,000
Project Management support (Agile)		77,100
Changes to Earmarked Reserve Movement		
- Budget Stabilisation	(8,500)	(85,600)
- Transformation		31,000
Current Summary Total	10,946,268	11,671,480

1.5.4 Cabinet is accordingly **RECOMMENDED** to endorse the Revenue Estimates as presented to the Overview and Scrutiny Committee earlier in the cycle, together with the earmarked reserve contributions as set out at paragraph 1.5.2 above; and subsequent adjustments detailed in the table at paragraph 1.5.3 above and recommend to Council that they be adopted.

1.6 Fees and Charges

1.6.1 Proposals in respect of fees and charges for the year 2024/25 considered and approved by the Scrutiny Select Committees and the Licensing and Appeals Committee over recent months have been reflected in the Budget.

1.7 Capital Plan

1.7.1 The outcome of the Capital Plan Review process was considered by the Overview and Scrutiny Committee on 25 January.

1.7.2 Members are aware of the difficult financial landscape in previous years and therefore the ability of the Council to invest in capital schemes. It is, however, acknowledged that some capital projects can have a beneficial effect on the revenue position by either generating additional or new income, or alternatively producing cost savings in due course.

1.7.3 Members are reminded of the criteria established to guide the inclusion of new schemes to List C (holding list of schemes not yet fully worked up) and ultimately

the inclusion of schemes on List A (schemes assigned budget provision). The broad criteria are:

- to meet legislative requirements including health and safety and climate change obligations;
- funded from external resources; and
- reduce revenue expenditure and or generate income.

1.7.4 The subsequent recommendations where appropriate have regard to these criteria.

1.7.5 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. In addition, other earmarked reserves could be used to fund in full or in part appropriate capital plan schemes.

1.7.6 There is also an annual contribution to the revenue reserve for capital schemes to match the funding required for the replacement of existing assets (vehicles, plant and equipment) and recurring capital expenditure. The contribution in 2024/25 is £1,065,000.

1.7.7 There remains 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 capital allowance is currently set at £250,000. However, at its meeting on 5 December following receipt of a VAT 'windfall', Cabinet recommended to Full Council that a further £750,000 be added to the revenue reserve for capital schemes in 2023/24 for use in later years to allow additional approved schemes to proceed. It is proposed that the capital allowance will go back to its £250,000 in due course.

1.7.8 It should be noted, based on current projections, that from 2029/30 the Council may need to borrow to fund such expenditure. This does not however, preclude a decision to borrow in order to fund in full or in part a capital investment opportunity that meets the Council's strategic priorities and objectives, achieves value for money and delivers a financial return. Each such opportunity to be considered on a case by case basis as appropriate.

1.7.9 The Overview and Scrutiny Committee endorsed the recommendations as detailed in the papers, with one amendment relating to the evaluation of CP35 (Upper Castle Field) reflecting that this was 'subject to the decision of Council following the review of outcomes arising from the public consultation. The recommendations were:

- 1) Cabinet be asked to endorse the Capital Plan (List A) position at Annex 1 (O&S agenda) and summarised at **[Annex 3]**.

- 2) The schemes listed in **[Annex 4]** are added to List C or deleted from List C as detailed.
- 3) The schemes listed in **[Annex 5]** are selected for evaluation over the coming year. On this occasion, four schemes have been recommended both for Fast-Track evaluation.
- 4) The evaluated List C schemes are progressed in accordance with the recommendation shown in **[Annex 6]**.
- 5) Cabinet be asked to endorse the Capital Strategy at Annex 4 (O&S agenda) for adoption by Council and publication on the Council's website.

1.7.10 Details of the evaluated schemes are summarised below.

Capital / revenue consequences of evaluated schemes			
	Capital Cost £'000	Annual revenue / renewals cost £'000	Annex 3 Page
Street Scene, Leisure and Technical Services			
Food Waste Collections – Communal Properties	30	2	CP 41
Larkfield Leisure Centre – Wetside Changing Room Refurbishment	150	13	CP 33
Corporate Services			
Angel Centre - Replacement Boilers	150		CP 46
Larkfield Leisure Centre - Installation of Air Source Heat Pumps	175		CP 49
Total	505	15	

1.7.11 An updated summary of the Capital Plan incorporating the schemes listed in paragraph 1.7.10 is attached at **[Annex 7]**.

1.7.12 A funding statement based on **[Annex 7]** is attached at **[Annex 8]**. The main source of funding is the Revenue Reserve for Capital Schemes and the impact on the Revenue Reserve for Capital Schemes is illustrated in **[Annex 9]**.

1.7.13 Accordingly, it is **RECOMMENDED** that:

- 1) Cabinet endorse the existing Capital Plan (List A) position at Annex 1 (O&S agenda) and summarised at **[Annex 3]**.
- 2) Cabinet approves that the schemes listed in **[Annex 4]** are added to List C or deleted from List C as detailed.

- 3) Cabinet approves the selection of those schemes listed in [\[Annex 5\]](#) for evaluation over the coming year. On this occasion, four schemes have been recommended for Fast-Track evaluation.
- 4) Cabinet approves the transfer of schemes detailed in [\[Annex 6\]](#) to List A.
- 5) Cabinet approves the updated Capital Plan (List A) as summarised in [\[Annex 7\]](#).
- 6) Cabinet endorse the Capital Strategy as presented to the Overview and Scrutiny Committee on 25 January.

1.8 Treasury Management and Annual Investment Strategy

- 1.8.1 The Local Government Act 2003 and its subsidiary regulations set out the framework for the system of capital controls which applied from 1 April 2004 whereby local authorities must set their own borrowing limits with regard to affordability, prudence and sustainability. Underpinning this is a requirement to follow the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).
- 1.8.2 The Prudential Code requires that the CIPFA Treasury Management Code of Practice is adopted and that a number of prudential indicators are set.
- 1.8.3 Updates to both the Prudential Code and Treasury Management Code were published by the Chartered Institute of Public Finance and Accountancy (CIPFA) in December 2021 and uphold a key principle that borrowing primarily for return on investment is not permissible.
- 1.8.4 The requirements of both the Prudential Code and Treasury Management Code published by CIPFA have been taken into account and reflected as appropriate in the annual review and update of the Capital Strategy and the Treasury Management and Annual Investment Strategy 2024/25.
- 1.8.5 The approval of the Treasury Management and Annual Investment Strategy and determination of the prudential indicators has to be made by Full Council, as do amendments to either the Strategy or indicators during the year.
- 1.8.6 The Prudential Code under the auspices of the Local Government Act 2003 and subsidiary regulations requires that a number of treasury management prudential indicators are set.
 - 1) The capital financing requirement - the extent to which the authority needs to undertake external borrowing to support its capital programme.
 - 2) The operational boundary for external debt.
 - 3) The authorised limit for external debt.

- 4) The actual external debt.
- 5) The upper limit for fixed interest rate exposure.
- 6) The upper limit for variable rate exposure.
- 7) The upper limit for total principal sums invested for over 365 days.
- 8) The maturity structure for new fixed rate borrowing during 2024/25.

1.8.7 A summary of the indicators appears in the table below.

TREASURY MANAGEMENT INDICATORS	2022/23	2023/24	2024/25	2025/26	2026/27
	Actual	Estimate	Estimate	Estimate	Estimate
	£'000	£'000	£'000	£'000	£'000
Authorised Limit for external debt:					
borrowing	nil	7,000	7,000	7,000	7,000
other long term liabilities	nil	nil	nil	nil	nil
TOTAL	nil	7,000	7,000	7,000	7,000
Operational Boundary for external debt:-					
borrowing	nil	4,000	4,000	4,000	4,000
other long term liabilities	nil	nil	nil	nil	nil
TOTAL	nil	4,000	4,000	4,000	4,000
Actual external debt	nil	nil	nil	nil	nil
Upper limit for fixed interest rate exposure > 1 year at year end	nil	It is anticipated that exposure will range between 0% to 60%			
Upper limit for variable rate exposure < 1 year at year end	19,620 (35.5%)	It is anticipated that exposure will range between 40% to 100%			
Upper limit for total principal sums invested for over 365 days at year end	9,250 (16.7%)	60% of funds			

Maturity structure of fixed rate borrowing during 2023/24 – 2026/27	upper limit	lower limit
under 12 months	100 %	0 %
Over 12 months	0 %	0 %

A new Liability Benchmark indicator was introduced in 2023/24. Whilst consideration has been given to the Liability Benchmark, this Council is debt free and therefore there is no debt maturity profile to report. The forecast net investment requirement for the next three years (excluding the liquidity allowance) is: 2024/25 £32.1m, 2025/26 £25.9m and 2026/27 £19.9m.

- 1.8.8 The capital financing requirement measures the amount of external borrowing that the Council expects to have to undertake in support of its capital programme. A nil figure indicates that no borrowing is required. As this Council is debt free and does not expect to have to borrow to support its capital programme over the period covered, this indicator is nil.
- 1.8.9 The operational boundary is designed to cover all day to day borrowing requirements. As this Council is debt free, borrowing is only undertaken on a short-term basis to cover cash flow management.
- 1.8.10 The authorised limit is intended to provide a degree of headroom above the operational boundary to cover unexpected and unusual borrowing requirements.
- 1.8.11 The other prudential indicators we are required to set are shown in the table below.

Prudential Indicators

1.	Ratio of actual and estimated financing costs to the net revenue stream			(Interest payable with respect to borrowing less interest and investment income) ÷ (government grants plus call on local taxpayers) x 100%.				
2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
actual	estimated	estimated	estimated	estimated	estimated	estimated	estimated	
-23.95%	-14.60%	-10.26%	-10.17%	-7.53%	-5.65%	-5.00%	-5.06%	
2.	Actual and estimated capital expenditure			This indicator is based on the updated capital plan position. The figures are based on those shown in [Annex 8] .				
2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
actual	estimated	estimated	estimated	estimated	estimated	estimated	estimated	
£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	
2,623	5,073	10,208	2,140	1,819	1,971	2,329	2,352	

- 1.8.12 We, therefore, **RECOMMEND** that for the financial year 2024/25 the prudential indicators listed in paragraph 1.8.7 including the new liability benchmark indicator and 1.8.11 be recommended to Council for adoption.
- 1.8.13 A local authority has a statutory duty to “*determine for the current financial year an amount of minimum revenue provision that it considers to be prudent*” in relation to its capital expenditure. It would be impractical to charge the entirety of such expenditure to revenue in the year in which it was incurred and so such expenditure is spread over several years to try and match the years over which such assets benefit the local community through their useful life.
- 1.8.14 The spreading of these costs is through what is termed an *annual minimum revenue provision*. **As the Council is debt free and, at least in the short term, does not expect to borrow to support its capital programme the minimum revenue provision is nil.** Guidance issued by the Government also recommends

that a Minimum Revenue Provision Policy Statement be prepared. We propose to prepare such a Statement at a time when our capital expenditure plans cannot be met without recourse to borrowing. Based on current estimates and capital plan approvals, this is not anticipated to be before 2029/30.

1.8.15 Members are asked to **NOTE** that for the financial year 2024/25 our *annual minimum revenue provision* is nil subject to the comment at paragraph 1.8.8.

1.9 Consultation with Non-Domestic (Business) Ratepayers

1.9.1 Representatives of the Council's Non-Domestic Ratepayers have been consulted in respect of the draft revenue budget and capital plan. 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. The deadline given for responses was 26 January 2024. ***Cabinet is advised that no comments have been received.***

1.10 Medium Term Financial Strategy Update

1.10.1 To recap, the Council's 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 for the forthcoming year and over the strategy period. The aim of the MTFS is to give us a realistic and sustainable plan that reflects the Council's priorities.

1.10.2 The Strategy also sets out, based on current financial information, 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.

1.10.3 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 £3.0m** in the General Revenue Reserve by the end of the strategy period and **not to fall below £2.0m** at any time during the 10-year period.
- Seek to set future increases in council tax having regard to the **guidelines** issued by the Secretary of State.
- Continue to **identify efficiency savings** and **opportunities for new or additional income sources** and to **seek appropriate reductions in**

service costs in delivery of the Savings and Transformation Strategy approved by Members.

- Subject to there being sufficient resources within the capital reserve, set a **maximum 'annual capital allowance'** each year as part of the budget setting process for all new capital schemes (currently set at £250,000 from the Council's own resources) and give priority to those schemes that generate income or reduce costs.

1.10.4 Members working with senior officers have a duty to ensure the Council's long term financial position is sustainable, and that 'short term' decisions do not jeopardise that longer term sustainability.

1.10.5 The budget for 2024/25 is, naturally, the starting point for updating the MTFS. Referring to paragraph 1.5.3, Members will note that the Summary Total for the 2024/25 Estimates is £19,921,450 and is used in the budget projections in the Medium Term Financial Strategy at **[Annex 10a]**.

1.10.6 When updating the MTFS we need to take into account the following (not exclusive) factors:

Prevailing Global Economic Conditions

1.10.7 The impact of economic conditions on the Council's finances / financial assumptions in respect of inflation, interest rates, etc. and the scale of the impact over the medium term is uncertain and difficult to determine.

As a result of the current adverse economic conditions including the high cost of energy the Tonbridge and Malling Leisure Trust required financial support from the Council in 2023/24. That support was estimated to be in the region of £750,000. For financial planning purposes it has been assumed to be a reduced level of support being £410,000 will be required in 2024/25 to be funded from the Budget Stabilisation Reserve. Over the medium term it is expected that some element of support will be required as utility prices are unlikely to return to previous levels a small amount has been reflected into the MTFS.

Government Grant Funding (Settlement Funding Assessment + NHB + Other Grants)

1.10.8 **Funding in what is assumed the near future will be dependent** on the outcome of the yet to be concluded Fair Funding Review, and what is to happen to NHB and other grant income moving forward. Notwithstanding the continuing uncertainty and volatility surrounding local government finances with the increased risk of significant variations compared to projections, we still need to plan ahead as best we can.

1.10.9 In the latest iteration of the MTFS it is assumed government grant funding and increased business rates income to be retained will reduce from circa £9.49m in

2023/24 to £3.42m in 2027/28 before seeing a modest increase year on year thereafter. It should be noted that this year's Business Rate Income includes a one-off adjustment explained in paragraph 1.4.3. The overall change between 2024/25 and 2027/28 represents a cash decrease of £6.07m or 63.9%.

- 1.10.10 A hypothetical example of how the assumed overall government grant funding and increased business rates income of £3.42m in 2027/28 might be made up is business rates retention scheme (£2.82m) NHB/ replacement (£600,000).

Business Rates Retention Scheme

- 1.10.11 Reforms to the Business Rates Retention Scheme / Business Rates have assumed to take place in 2027/28, with what has been described as a Business Rates Reset. We believe that this will involve retaining a base level of Business Rates but increasing the threshold where business rates over this level can be retained.

- 1.10.12 For budgeting purposes business rates income is expected to exceed the business rates baseline in 2024/25. This is a result of two factors, one being the Panattoni Park and the increased Business Rates being generated, the second being a 'one-off' release of an unused appeals provision of £5m. As a member of the Kent Business Rates Pool for business rates retention scheme purposes, we are estimating that the increased business rates income to be retained will be circa £3,675,000, together with a growth fund element in the sum of circa £686,000 to be spent in liaison with Kent County Council. Of these sums £1,297,000 and £298,000 arises from the one-off release of funds.

Council Tax Referendum Principles

- 1.10.13 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.
- 1.10.14 For the year 2024/25, a referendum will be triggered where council tax is increased by **more than 3% or £5, whichever is higher**. This time last year the MTFS assumed a council tax increase of £5 representing a 2.2% increase in council tax.
- 1.10.15 For the purposes of preparing the budget papers and updating the MTFS an **increase of 3% 2024/25** has been assumed followed by the higher of 2% or £5 each year thereafter.

Pension Fund Deficit

- 1.10.16 The pension fund deficit is forecast to be recovered within the 10-year period of this MTFS and in all significant respects is **why the projected funding gap is in the region of £1.7m and not in excess of £3.0m**. It should be noted that this does not mean a pension fund deficit will not reappear - as it could. This will be

dependent on the future performance of the pension fund and in order to lessen the risk of that occurring we are looking to establish a 'buffer'. What this would mean in practice is working towards a position where the pension fund is overfunded so that there is an element of headroom to manage the risk.

Waste Services Contract

- 1.10.17 The Waste Services Contract has a 'break-point' in 2027 and it has been assumed for financial planning purposes that one or both parties would not wish to extend the contract beyond the break-point. If not extended beyond the initial 8 year contract period, the likelihood is that we could see increased costs over those the Council is presently paying. Allowance has been made in the MTFS for increased costs - but there is also an expectation that the first 'port of call' would be to revisit the specification with the aim of bringing the cost down.

Climate Change Agenda

- 1.10.18 Detailed Climate Change agenda related costs are not reflected in the MTFS. However, there is an earmarked reserve to fund until expended both a revenue budget and specific projects / initiatives in support of the Climate Change Strategy.

Funding Gap

- 1.10.19 As we know, the funding gap is not static and constantly changes in response to both internal and external factors.
- 1.10.20 It goes without saying that the Council's finances remain under severe pressure where at this stage in the budget process the latest projected funding gap (assuming the balance of Tranche 1 is achieved) stands at **£1,705,000**. Add to this those initiatives already built into the MTFS, **but not yet delivered**, the scaling back of office accommodation in the sum of £200,000 and reductions in the costs of Temporary Accommodation of £400,000 gives a figure of £2,305,000 to be found and delivered over the medium term.
- 1.10.21 The difficult and challenging financial outlook necessarily demands a **pressing and concerted** focus of attention. Accordingly, matters relating to the medium term finances have been recorded as RED on the Strategic Risk Register which is reported to the Audit Committee on a regular basis, in order to ensure that this is visible and highlighted as a priority for the Council.
- 1.10.22 **[Annex 10a]** sets out the picture for the MTFS.
- 1.10.23 Cabinet is **RECOMMENDED** to note and endorse the updated MTFS **[Annex 10a]**.

1.11 Savings and Transformation Strategy

1.11.1 Alongside the MTFS sits a Savings and Transformation Strategy (STS). The purpose of the Strategy is to provide structure, focus and direction in addressing the financial challenge faced by the Council. In so doing, it recognises that there is no one simple solution and as a result we will need to adopt a number of ways to deliver the required savings and transformation contributions within an agreed timescale.

1.11.2 A number of key themes have been identified, together with outline targets and timescales which will need to be revisited and aligned with the latest projected funding gap.

Savings and Transformation Contributions

1.11.3 The Council set a savings target of £500,000 to be delivered by April 2024 and to date ongoing savings / increased income in the order of £195,000 have been identified £75,000 of this is subject to member approval before the end of the current financial year (2023/24). The remaining £305,000 will be identified in the forthcoming financial year (2024/25) as recommended by Cabinet at its meeting in December 2023.

1.11.4 As in previous iterations of the MTFS the latest projected funding gap can be broken down into tranches. The proposed number, scale and timing of requisite future savings and transformation contributions is given below.

- 1) Tranche 1 - £305,000, as mentioned above, to be achieved by April 2025.
- 2) Tranche 2 - £700,000 to be achieved by April 2026.
- 3) Tranche 3 - £700,000 to be achieved by April 2028.

1.11.5 An updated copy of the STS, recommended by Management Team, including revised outline targets and timescales for each of the themes totalling £1,705,000 can be found at **[Annex 10b]**.

1.11.6 Breaking down the tranches in this way should, hopefully, allow time for the Fair Funding Review to be concluded and what is to happen to New Homes Bonus and other grant income to be decided in advance of Tranche 2 and, in turn, giving the opportunity to revisit the scale and timing of future tranches. **The focus of attention over the next 12 months must be to deliver the Tranche 1 savings target.**

1.11.7 Cabinet is **RECOMMENDED** to note and endorse the updated STS [Annex 10b] including the proposed scale and timing of each of the required savings and transformation contributions set out at paragraph 1.11.4.

1.11.8 Turning back to the specific budget year 2024/25. The budget for 2024/25 includes a contribution **to** the general revenue reserve of £1,064,824 and a Summary of the Revenue Estimates Booklet is attached at **[Annex 11]**.

1.12 Collection Fund Adjustments

1.12.1 As the billing authority for the area, this Council has responsibility for maintaining the 'collection fund' accounts into which council tax and business rates are paid.

1.12.2 Before we can finalise our calculations in respect of the tax requirements, we have to:

- Estimate the surplus / deficit on the collection fund for 2023/24 in respect of council tax and business rates and then share this between the major precepting authorities (including ourselves) in line with the respective legislative proportions.

1.12.3 These are known as collection fund adjustments:

- The collection fund for 2023/24 as shown in the table below along with the council's share.

	Total (Surplus) / Deficit £	TMBC's Share £	Details in Annex
Council Tax	(581,907)	(81,118)	[Annex 12a]
Business Rates	(4,595,216)	(1,838,086)	[Annex 12b]

1.13 Special Expenses and Parish Council Precepts

1.13.1 A Special Expenses Scheme **[Annex 13a]** was introduced on the 1 April 2017 and following consultation public conveniences added to the Scheme with effect from 1 April 2022.

1.13.2 Details of the Special Expenses for 2024/25 are set out at **[Annex 13b]**. The basic amount of council tax of £215.78 plus the special expenses Band D charge, where applicable, gives the total Borough Council Band D charge for that area.

1.13.3 When publishing the Borough Council's level of council tax at Band D for "official" purposes in accordance with the prescribed methodology from the Department for Levelling Up, Housing and Communities (DLUHC), we are required to aggregate all expenditure (as if special expenses did not exist) and calculate a **notional** Band D figure. (This is so that the DLUHC can see that the referendum principles have been adhered to).

1.13.4 The resultant published (notional) council tax at Band D **for 2024/25 is £238.16**, being 3.0% higher than the published Band D council tax for 2023/24. As

Members will note, no resident will actually pay this exact amount as the Borough Council's Band D – unless it is by coincidence.

1.13.5 Cabinet is requested to **ENDORSE** the special expenses calculated in accordance with the Special Expenses Scheme and set out at **[Annex 13b]**.

1.13.6 Details of Parish Council precepts notified to the Borough Council are given at **[Annex 14]** for information.

1.14 The Robustness of the Estimates and the Adequacy of the Reserves (Section 25 Statement)

1.14.1 The Council is required to have regard to the level of its balances and reserves before determining its council tax requirement. **[Annex 15]** sets out the projected general fund and general revenue reserve balances based on an increase of 3% to the notional council tax level.

1.14.2 Section 25 of the Local Government Act 2003 requires the Chief Financial Officer (in our case the Director of Finance and Transformation) to report to an authority, when making the statutory calculations required to determine its council tax, on the robustness of the estimates included in the budget and the adequacy of the reserves for which the budget provides.

1.14.3 What is required is the professional advice of the Director of Finance and Transformation on these two questions. This responsibility is discharged by way of a certified Statement.

1.14.4 The Director of Finance and Transformation advises that she is satisfied as to the robustness of the estimates and the adequacy of reserves on the understanding that the **required savings and transformation contributions based on latest projections in the sum of £1,705,000, together with the initiatives already built into the MTFS (i.e. the scaling back of office accommodation in the sum of £200,000 and reductions in the use of Temporary Accommodation of £400,000) are delivered in the timeframe assumed in the Medium Term Financial Strategy.**

1.14.5 The Statement referred to above is appended at **[Annex 16a]** which Members are recommended to read thoroughly in order to understand the assumptions and risks that are set out. Members will note that, overall, the Director of Finance and Transformation signifies that, in her professional opinion, **the estimates are robust and the level of reserves adequate.** Members are, however reminded, of the fact that the delivery of the Savings and Transformation Strategy is still categorised as RED on the Strategic Risk Register and it is essential that addressing the projected funding gap and associated savings targets are progressed as a priority.

1.14.6 A schedule of the reserves held by the Council at 1 April 2023 and proposed utilisation of those reserves to 31 March 2025 is provided at **[Annex 16b]**. In

addition a profile of the projected reserve balances is provided at **[Annex 16b(ii)]**. As this Council's Chief Finance Officer, the Director of Finance and Transformation has undertaken a review of the earmarked reserves held and is satisfied as to the position depicted and will revisit the position as part of the closedown process for 2023/24.

1.14.7 Members are **RECOMMENDED** to note and endorse the Statement **[Annex 16a]** provided by the Director of Finance and Transformation.

1.15 The Chartered Institute of Public Finance and Accountancy Financial Management Code and Financial Resilience Index

1.15.1 In October 2019, the Chartered Institute of Public Finance and Accountancy (CIPFA) published a Financial Management Code (FM Code) to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. The FM Code is based on a series of principles supported by specific standards and statements of practice considered necessary to provide the strong foundation to:

- financially manage the short, medium and long-term finances
- manage financial resilience to meet unforeseen demands on services
- financially manage unexpected shocks in their financial circumstances.

1.15.2 The Code requires that a local authority **demonstrate that its processes satisfy the principles of good financial management** for an authority of its size, responsibilities and circumstances and sought to rely on the local exercise of professional judgement backed by appropriate reporting. None of this should be of particular concern as we believe good financial management is in all significant respects already embedded at Tonbridge and Malling.

1.15.3 Compliance will typically, but not always, be demonstrated by documenting compliance by way of a self-assessment. The outcome of such an assessment using a RAG rating was reported to the 26 July 2021 Audit Committee where a green rating was assigned to all but two, rated amber, of the seventeen Financial Management Standards.

1.15.4 In addition, the CIPFA Financial Resilience Index aims to provide a tool with a group of indicators able to illustrate the trajectory of an authority's financial position and resilience within the context of each authority's own comparator tier and nearest neighbour group. CIPFA has designed the index to provide reassurance and prompt challenge where it may be needed.

1.15.5 A review of the Financial Resilience Index relating to data from financial year 2021/22 identified no particular concerns. A new release of the Financial Resilience Index relating to data for the financial year 2022/23 is expected imminently but at the time of writing has not been received. Once it is received it

will be published as a supplement to the agenda. A copy of the Index relating to 2021/22 is attached at **[Annex 16c]** for information.

- 1.15.6 A short paper from CIPFA entitled 'The importance of financial resilience' is also attached at **[Annex 16d]** for Members' information.

1.16 Calculation of Borough Council's Tax Requirement

- 1.16.1 The Council is required to calculate:

- Its aggregate expenditure which, for this purpose, includes our share of any Collection Fund deficit and the Parish Council precepts.
- Its aggregate income which, for this purpose, includes our share of any Collection Fund surplus and the Local Government Finance Settlement (see paragraph 1.3).
- The amount by which the aggregate expenditure exceeds the aggregate income is to be its council tax requirement for the year.

- 1.16.2 Assuming Cabinet's concurrence with the recommendations set out in paragraph 1.11.7, the calculation is set out at **[Annex 17]**. It should be noted that, for this purpose, the Borough Council's council tax requirement includes the Parish Council precepts.

- 1.16.3 Cabinet is therefore **RECOMMENDED** to note the Calculation of the Borough Council's council tax requirement at **[Annex 17]**.

1.17 Legal Implications

- 1.17.1 There are a number of legislative requirements to consider in setting the Budget which will be addressed as we move through the budget cycle.
- 1.17.2 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.
- 1.17.3 The Local Government Finance Act 2012 and regulations that followed introduced the current Business Rates Retention Scheme.

1.18 Financial and Value for Money Considerations

- 1.18.1 The uncertainty surrounding local government finances – the awaited outcome of the Fair Funding Review, what is to happen to NHB and other grant income, and business rates reforms makes financial planning that much more difficult.

1.18.2 The 2024/25 provisional local government finance settlement represents a holding position until the next Parliament, aiming at stability. But the ruling out of a business rates reset, or a Fair Funding Review and the continuing uncertainty surrounding NHB means that the big questions about the future of the funding system remain unaddressed where three key questions remain.

- Firstly, what will our business rates baseline and baseline funding level be and how will this compare to that reflected in the MTFS taking into account transfer of any new responsibilities?
- Secondly, what is the extent to which NHB will feature in future government grant funding and if replaced what level of funding would we receive in its place?
- Thirdly, over what time period will other grant income be 'in play' and how much might we expect to receive year on year in that period?

1.18.3 In addition, the impact of current economic conditions on Council finances / financial assumptions in respect of inflation, interest rates, etc. and the scale of the impact over the medium term is uncertain and difficult to determine.

1.19 Risk Assessment

1.19.1 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.

1.19.2 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. In addition, not identifying and implementing the requisite savings and transformation contributions will put at risk the integrity of the MTFS.

1.19.3 The pandemic had a significant adverse impact on the Council's finances and dependent on the extent and speed of the recovery further widen the funding gap.

1.19.4 The continuing uncertainty and volatility surrounding local government finances does not aid financial planning with the increased risk of significant variations compared to projections; and the consequent implications on the level of reserves held.

- 1.19.5 The projected figures for New Homes Bonus or its replacement are at risk of further revision downwards which would, in turn, increase the required savings and transformation contributions.
- 1.19.6 The Waste Services Contract if not extended beyond the initial 8 year contract period could see increased costs over current levels. As mentioned at paragraph 1.10.17, however, it is important to note that forward planning already assumes a 'scaled-back' specification.
- 1.19.7 The Inter Authority Agreement with KCC as part of the Waste Services Contract may not be extended beyond the initial 8 year contract period with potential significant adverse budget implications, albeit this is considered unlikely.
- 1.19.8 The proceeds from the sale of Gibson West may not fully cover the cost of the Gibson East Refurbishment and or the sale takes longer than anticipated placing the Revenue Reserve for Capital Schemes under pressure and recourse to borrowing earlier than expected with consequent financial implications.
- 1.19.9 It is expected that the pension fund deficit will be recovered within the 10-year period of this MTFS. However, depending upon the performance of the fund, a deficit could 'reappear' at any time. To mitigate the risk of this and the impact it would have on the MTFS, we are working towards a position where the pension fund is overfunded so that there is an element of headroom.
- 1.19.10 Members are reminded that there are factors not reflected in the MTFS, e.g. the cost of borrowing for new capital plan schemes when and if required.
- 1.19.11 Any increase in council tax above the relevant threshold, even by a fraction of a percentage point, would require a referendum to be held.

1.20 Equality Impact Assessment

- 1.20.1 Where there is a perceived impact on end users an equality impact assessment has been carried out and as further savings and transformation options emerge, further equality impact assessments will need to be carried out as appropriate.

1.21 Policy Considerations

- 1.21.1 Budgetary and policy framework is relevant to all areas of the Council's business.

1.22 Recommendations

- 1.22.1 Cabinet is **RECOMMENDED** to:

- 1) Endorse the Revenue Estimates as presented to the Overview and Scrutiny Committee earlier in the cycle, together with the earmarked reserve contributions as set out at paragraph 1.5.2 above; and subsequent adjustments detailed in the table at paragraph 1.5.3 above and recommend to Council that they be adopted.

- 2) Update the Capital Plan as set out in paragraph 1.7.13 and recommend that Council adopt the Capital Plan accordingly.
- 3) Endorse the Capital Strategy as presented to the Overview and Scrutiny Committee earlier in the cycle and recommend to Council it be adopted.
- 4) Endorse the prudential indicators listed in paragraphs 1.8.7 including the new liability benchmark indicator and 1.8.11, and recommend to Council that they be adopted.
- 5) Note that for the financial year 2024/54 our *annual minimum revenue provision* is nil subject to the comment at paragraph 1.8.8.
- 6) Note and endorse the updated MTFS **[Annex 10a]**.
- 7) Note and endorse the updated STS **[Annex 10b]** including the proposed scale and timing of each of the required savings and transformation contributions set out at paragraph 1.11.4.
- 8) Endorse the special expenses calculated in accordance with the Special Expenses Scheme and set out at **[Annex 13b]**.
- 9) Note and endorse the Statement **[Annex 16a]** provided by the Director of Finance and Transformation as to the Robustness of the Estimates and the Adequacy of the Reserves (Section 25 Statement).
- 10) Note the Calculation of the Borough Council's council tax requirement at **[Annex 17]**.

Background papers:

Nil

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The Referendums Relating to Council Tax Increases (Principles) (England) Report 2024/25

Legislative background

General

1. Under section 52ZB of the Local Government Finance Act 1992(a) (“the 1992 Act”) each billing authority and precepting authority must determine whether its relevant basic amount of council tax(b) for a financial year (“the year under consideration”) is excessive. In essence, the relevant basic amount of council tax for an authority is that authority’s average band D council tax but, in the case of a billing authority, excluding local precepts(c). If an authority’s relevant basic amount of council tax is excessive a referendum must be held in relation to that amount.
2. Under section 52ZC(d) of the 1992 Act the question of whether an authority’s relevant basic amount of council tax is excessive must be decided in accordance with a set of principles determined by the Secretary of State. A set of principles —
 - may contain one principle or two or more principles, and
 - must constitute or include a comparison between the authority’s relevant basic amount of council tax for the year under consideration and its relevant basic amount of council tax for the financial year immediately preceding the year under consideration(e).
3. In setting principles for the year under consideration the Secretary of State may determine categories of authority. If the Secretary of State does so the same principles must be determined for all authorities falling within the same category and if an authority does not fall within any of the categories its relevant basic amount of council tax is not capable of being excessive for the year under consideration(f).
4. If the Secretary of State does not determine categories of authority for the year under consideration, any principles determined for the year must be such that the same set is determined for all authorities(g).

(a) 1992 c.14. Section 52ZB was inserted into the 1992 Act by Schedule 5 to the Localism Act 2011 (c.20).
 (b) The term “relevant basic amount of council tax” is defined in section 52ZX of the 1992 Act (inserted as above and amended by section 41(1) and (9) to (13) of the Local Audit and Accountability Act 2014 (c.2) and modified by S.I. 2017/611).
 (c) A local precept may be issued to a billing authority by a local precepting authority (as defined in section 39(2) of the 1992 Act) or anticipated by a billing authority pursuant to the Billing Authorities (Anticipation of Precepts) Regulations 1992 S.I. 1992/3239, as amended by S.I. 1995/235 S.I. 2006/3395 and S.I. 2014/35.
 (d) Section 52ZC was inserted into the 1992 Act by Schedule 5 to the Localism Act 2011 and is modified by S.I. 2017/611.
 (e) Section 52ZC(2) and (3) of the 1992 Act.
 (f) Section 52ZC(4) of the 1992 Act.
 (g) Section 52ZC(5) of the 1992 Act.

5. The principles for a financial year must be set out in a report which must be laid before and approved by the House of Commons. If the report for a financial year is not approved on or before the date on which the local government finance report for the same year is approved by the House of Commons, no principles have effect for that year and accordingly no authority's relevant basic amount of council tax is capable of being excessive for that year^(a).

The Greater London Authority

6. The Greater London Authority ("the GLA") calculates two different basic amounts of council tax for a financial year —
 - (a) an amount which applies to the City of London and which does not include any amount in respect of the Mayor's Office for Policing and Crime, and
 - (b) an amount which applies to all parts of Greater London other than the City of London and which includes an amount in respect of the Mayor's Office for Policing and Crime^(b).
7. The GLA's relevant basic amount of council tax is defined by reference to these two amounts. In particular —
 - the relevant basic amount derived from the amount mentioned in paragraph 6(a) above is referred to in the 1992 Act as the GLA's unadjusted relevant basic amount of council tax, and
 - the relevant basic amount derived from the amount mentioned in paragraph 6(b) above is referred to in the 1992 Act as the GLA's adjusted relevant basic amount of council tax^(c).
8. A principle that applies to the GLA, and that constitutes or includes a comparison between the GLA's relevant basic amount of council tax for the year under consideration and the financial year immediately preceding that year, may only provide for —
 - a comparison between unadjusted relevant basic amounts of council tax,
 - a comparison between adjusted relevant basic amounts of council tax, or
 - both^(d).

^(a) See generally section 52ZD of the 1992 Act, inserted as above.

^(b) Sections 88(2) and 89(3) of the Greater London Authority Act 1999. Section 88(2) was substituted by section 77(1) and (3) of the Localism Act 2011 and section 89(4) (which is mentioned in section 89(3)) was substituted by section 77(1) and (7) of that Act. The Mayor's Office for Policing and Crime was established by section 3 of the Police Reform and Social Responsibility Act 2011.

^(c) Section 52ZX(4) of the 1992 Act.

^(d) Section 52ZC(6) of the 1992 Act.

An authority which has power to calculate its council tax under the Local Government (Structural Changes) (Finance) Regulations 2008

9. Where structural change occurs under the Local Government and Public Involvement in Health Act 2007, in order to equalise more equitably the council tax payable in the predecessor areas an authority is able to calculate its council tax under Part 4 (equalisation of council tax) of the Local Government (Structural Changes) (Finance) Regulations 2008 (“the 2008 regulations”)(a) for a transitional period.
10. If an authority has the power to calculate its council tax for a financial year under Part 4 of the 2008 Regulations, those Regulations modify the operation of the council tax referendums provisions in the 1992 Act in relation to that year. In particular, section 52ZC of the 1992 Act is modified to allow the authority to use different methods of comparison to determine whether its council tax increase is excessive in accordance with its preferred approach to equalisation. The modifications which apply also depend on how the financial year for which principles are being set relates to the date of the structural change(b).
11. In relation to the financial year 2024-25, North Yorkshire Council has the power to calculate its council tax under Part 4 of the 2008 Regulations. The modifications in Part 2 of Schedule 3 to the 2008 Regulations apply for 2024-25(c).

The Report

12. This Report is made by the Secretary of State for Levelling Up, Housing and Communities and laid before the House of Commons under section 52ZD(1) of the 1992 Act.
13. The Report applies to all billing authorities, major precepting authorities falling within section 39(1)(a), (aa) and (b) to (db) of the 1992 Act, the Greater Manchester Combined Authority(d) and the West Yorkshire Combined Authority(e). No principles are specified for local precepting authorities or other mayoral combined authorities.

(a) S.I. 2008/3022, as amended by S.I. 2012/20 and S.I. 2018/1296.

(b) See regulation 15A of, and Schedule 3 to, the 2008 Regulations, as amended by S.I. 2018/1296. Different modifications apply for the first, second to seventh, and eighth years following the date of the structural change.

(c) See paragraphs 9 to 16 of that Schedule, as amended by S.I. 2018/1296.

(d) The Greater Manchester Combined Authority was created by the Greater Manchester Combined Authority Order 2011, S.I. 2011/908.

(e) The West Yorkshire Combined Authority was created by the West Yorkshire Combined Authority Order 2014, S.I. 2014/864, which was amended by S.I. 2021/112.

Principles for the financial year beginning on 1st April 2024

14. The principles which apply for 2024-25 are set out in Annex A to this Report. If this Report is approved by resolution of the House of Commons the principles will have effect for that financial year.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

	<i>Name</i>
	Parliamentary Under Secretary of State
[Date] 2024	Department for Levelling Up, Housing and Communities

DRAFT

Principles for the financial year beginning on 1st April 2024

The set of principles determined by the Secretary of State under section 52ZC(1) of the Local Government Finance Act 1992 for the financial year beginning on 1st April 2024 is as follows:

Interpretation

1.—(1) In this set of principles—

“2023-24” means the financial year beginning on 1st April 2023;

“2024-25” means the financial year beginning on 1st April 2024;

“the 1992 Act” means the Local Government Finance Act 1992(a);

“the 2008 Regulations” means the Local Government (Structural Changes) (Finance) Regulations 2008(b);

“a fire and rescue authority” means an authority within the meaning of section 39(1)(d), (da) or (db) of the 1992 Act(c);

“the GLA” means the Greater London Authority;

“predecessor area” has the same meaning as in regulation 12(1) of the 2008 Regulations;

“a relevant local authority” means—

(a) an authority falling within section 1(4) of the Care Act 2014(d) (other than North Yorkshire Council, Slough Council or Thurrock Council); and

(b) the Council of the Isles of Scilly;

“a shire district council” means a district council for an area for which there is a county council;

(2) In this set of principles any reference to an authority is a reference to a billing authority, a major precepting authority falling within section 39(1)(a), (aa) and (b) to (db) of the 1992 Act, the Greater Manchester Combined Authority and the West Yorkshire Combined Authority.

(3) Terms used in this set of principles which are also used in the 1992 Act have the same meanings as in that Act.

(a) 1992 c.14.

(b) S.I. 2008/3022, as amended by S.I. 2012/20 and 2018/1296.

(c) Section 39(1) was amended by the Local Government (Wales) Act 1994 (c. 19), section 36(6); the Greater London Authority Act 1999 (c. 29), sections 82 and 423 and Part 1 of Schedule 34; the Local Government Act 2003 (c. 26), section 83(1); the Fire and Rescue Services Act 2004 (c. 21), section 53(1) and paragraph 81 of Schedule 1; the Civil Contingencies Act 2004 (c. 36), section 32(1) and paragraph 10(1) and (2) of Schedule 2; the Police Reform and Social Responsibility Act 2011 (c. 13), section 26(1) and (2); the Cities and Local Government Devolution Act 2016 (c. 1), section 5(1); the Policing and Crime Act 2017 (c. 3), section 6 and paragraph 71(1) and (2) of Schedule 1.

(d) 2014 c.23. The definition in section 1(4) of the Act covers (a) county councils in England; (b) district councils for an area in England for which there is no county council; (c) London borough councils, and (d) the Common Council of the City of London.

Categories of authority for 2024-25

2. For 2024-25, the Secretary of State determines that the following are categories of authority for the purposes of section 52ZC of the 1992 Act—

- (a) any relevant local authority^(a),
- (b) North Yorkshire Council,
- (c) any police and crime commissioner,
- (d) the Greater Manchester Combined Authority and the West Yorkshire Combined Authority^(b),
- (e) any shire district council (other than Woking Borough Council),
- (f) the GLA,
- (g) any fire and rescue authority,
- (h) Woking Borough Council, and
- (i) Slough Council and Thurrock Council.

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(a)

3. For 2024-25, the relevant basic amount of council tax of an authority which belongs to the category mentioned in paragraph 2(a) is excessive if the authority's relevant basic amount of council tax for 2024-25 is 5% (comprising 2% for expenditure on adult social care, and 3% for other expenditure), or more than 5%, greater than its relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for North Yorkshire Council

4.—(1) If North Yorkshire Council calculates its basic amount of council tax for 2024-25 under section 31B(1) of the 1992 Act, that authority's relevant basic amount of council tax for 2024-25 is excessive if the amount mentioned in section 52ZC(3A)(a)(c) of the 1992 Act is 5% (comprising 2% for expenditure on adult social care and 3% for other expenditure), or more than 5%, greater than the amount mentioned in section 52ZC(3A)(b) of that Act.

(2) If North Yorkshire Council calculates basic amounts of council tax for its predecessor areas for 2024-25 under Part 4 of the 2008 Regulations, the authority's relevant basic amount of council tax for that year is excessive if—

- (a) for any of North Yorkshire Council's predecessor areas, the amount mentioned in section 52ZC(3C)(a) of the 1992 Act is 5% (comprising 2% for expenditure on adult social care, and 3% for other expenditure), or more than 5%, greater than the amount mentioned in section 52ZC(3C)(b), and

^(a) The bodies that are within this category are set out, for information, in Annex B to this Report.

^(b) Where the mayor of a combined authority exercises PCC functions Chapter 4ZA of Part 1 of the Local Government Finance Act 1992 is modified by paragraphs 7 to 10 of the Schedule to the Combined Authorities (Finance) Order 2017, S.I. 2017/611. For the definition of "PCC functions" see section 107F(3) of the Local Democracy, Economic Development and Construction Act 2009 (c. 20).

^(c) For 2024-25, the modifications in paragraphs 9 to 16 of Schedule 3 to the 2008 Regulations (as amended by S.I. 2018/1296) apply to the 1992 Act in relation to North Yorkshire Council. See paragraph 9 of that Schedule for modifications to section 52ZC of the 1992 Act.

- (b) the amount mentioned in section 52ZC(3F)(a) of the 1992 Act is 5% (comprising 2% for expenditure on adult social care, and 3% for other expenditure), or more than 5%, greater than the amount mentioned in section 52ZC(3F)(b).

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(c)

5. For 2024-25, the relevant basic amount of council tax of an authority which belongs to the category mentioned in paragraph 2(c) is excessive if the authority's relevant basic amount of council tax for 2024-25 is more than £13 greater than its relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(d)

6. For 2024-25, the PCC component relevant basic amount of council tax of the Greater Manchester Combined Authority or of the West Yorkshire Combined Authority is excessive if the authority's PCC component relevant basic amount of council tax for 2024-25 is more than £13 greater than its PCC component relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(e)

7. For 2024-25, the relevant basic amount of council tax of an authority which belongs to the category mentioned in paragraph 2(e) is excessive if the authority's relevant basic amount of council tax for 2024-25 is—

- (a) 3%, or more than 3%, greater than its relevant basic amount of council tax for 2023-24, and
- (b) more than £5 greater than its relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for the GLA

8. For 2024-25, the GLA's relevant basic amount of council tax is excessive if—

- (a) the GLA's unadjusted relevant basic amount of council tax for 2024-25 is more than £24.26 greater than its unadjusted relevant basic amount of council tax for 2023-24, or
- (b) the GLA's adjusted relevant basic amount of council tax for 2024-25 is more than £37.26 greater than its adjusted relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(g)

9. For 2024-25, the relevant basic amount of council tax of an authority which belongs to the category mentioned in paragraph 2(g) is excessive if the

authority's relevant basic amount of council tax for 2024-25 is 3%, or more than 3%, greater than its relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for Woking Borough Council

10. For 2024-25, Woking Borough Council's relevant basic amount of council tax is excessive if the authority's relevant basic amount of council tax for 2024-25 is 10%, or more than 10%, greater than its relevant basic amount of council tax for 2023-24.

Principles for 2024-25 for authorities belonging to the category mentioned in paragraph 2(i)

11. For 2024-25, the relevant basic amount of council tax of an authority which belongs to the category mentioned in paragraph 2(i) is excessive if the authority's relevant basic amount of council tax for 2024-25 is 10% (comprising 2% for expenditure on adult social care, and 8% for other expenditure), or more than 10%, greater than its relevant basic amount of council tax for 2023-24.

Local authorities for the following areas fall within the definition of “relevant local authority” in the *Principles for the financial year beginning on 1st April 2024*

(INNER LONDON)

City of London

Camden

Greenwich

Hackney

Hammersmith & Fulham

Islington

Kensington & Chelsea

Lambeth

Lewisham

Southwark

Tower Hamlets

Wandsworth

Westminster

(OUTER LONDON)

Barking & Dagenham

Barnet

Bexley

Brent

Bromley

Croydon

Ealing

Enfield

Haringey

Harrow

Havering

Hillingdon

Hounslow

Kingston-upon-Thames

Merton

Newham

Redbridge

Richmond-upon-Thames

Sutton

Waltham Forest

(GREATER MANCHESTER)

Bolton

Bury
Manchester
Oldham
Rochdale

Salford
Stockport
Tameside
Trafford
Wigan

(MERSEYSIDE)

Knowsley
Liverpool
St Helens
Sefton
Wirral

(SOUTH YORKSHIRE)

Barnsley
Doncaster
Rotherham
Sheffield

(TYNE AND WEAR)

Gateshead
Newcastle-upon-Tyne
North Tyneside
South Tyneside
Sunderland

(WEST MIDLANDS)

Birmingham
Coventry
Dudley
Sandwell
Solihull

Walsall
Wolverhampton

(WEST YORKSHIRE)

Bradford
Calderdale
Kirklees
Leeds
Wakefield

(COUNTY COUNCILS)

Cambridgeshire

Derbyshire
Devon
East Sussex
Essex

Gloucestershire
Hampshire
Hertfordshire
Kent
Lancashire

Leicestershire
Lincolnshire
Norfolk
Nottinghamshire
Oxfordshire

Staffordshire
Suffolk
Surrey
Warwickshire
West Sussex

Worcestershire

(UNITARY AUTHORITIES)
Bath & North East Somerset
Bedford
Blackburn with Darwen
Blackpool
Bournemouth, Christchurch and Poole

Bracknell Forest
Brighton & Hove
Bristol
Buckinghamshire
Central Bedfordshire

Cheshire East
Cheshire West and Chester
Cornwall
Cumberland

Darlington
Derby

Dorset
Durham
East Riding of Yorkshire
Halton

Hartlepool

Herefordshire

Isle of Wight

Isles of Scilly

Kingston-upon-Hull

Leicester

Luton

Medway

Middlesbrough

Milton Keynes

North East Lincolnshire

North Northamptonshire

North Lincolnshire

North Somerset

Northumberland

Nottingham

Peterborough

Plymouth

Portsmouth

Reading

Redcar & Cleveland

Rutland

Shropshire

Somerset

South Gloucestershire

Southampton

Southend-on-Sea

Stockton-on-Tees

Stoke-on-Trent

Swindon

Telford & Wrekin

Torbay

Warrington

West Berkshire

West Northamptonshire

Westmorland and Furness

Wiltshire

Windsor & Maidenhead

Wokingham

York

Local Government Finance Settlement 2024/25 (Settlement Funding Assessment)

	2024/25				
	Revenue Support Grant £	Business Rates Baseline £	Settlement Funding Assessment £	Estimated Population mid-2021	Per Head £
Ashford	288,873	3,111,976	3,400,849	133,178	25.54
Canterbury	206,789	5,079,480	5,286,269	156,554	33.77
Dartford	145,387	2,976,175	3,121,562	116,777	26.73
Dover	254,192	4,031,549	4,285,740	116,595	36.76
Folkestone and Hythe	226,389	4,023,175	4,249,564	110,056	38.61
Gravesham	120,450	3,213,228	3,333,678	106,838	31.20
Maidstone	243,338	3,531,970	3,775,309	176,712	21.36
Sevenoaks	198,257	2,483,811	2,682,068	120,841	22.20
Swale	338,376	4,663,585	5,001,961	152,223	32.86
Thanet	381,744	5,453,512	5,835,256	140,678	41.48
Tonbridge and Malling	146,419	2,509,032	2,655,451	132,386	20.06
Tunbridge Wells	188,731	2,575,392	2,764,123	115,681	23.89

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<div> <div>Annex 3</div> <div>Capital Plan: List A Service Summary</div> </div>									
	Expenditure To 31/03/23	2023/24 Estimate inc Prior Year Slippage	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate	2028/29 Estimate	2029/30 Estimate	Scheme Total
<div> <div>Capital Plan Schemes</div> <div> <div>Planning, Housing & Environmental Health</div> <div>Street Scene, Leisure & Technical Services</div> <div>Corporate</div> </div> <div>Sub-total</div> <div>Capital Renewals</div> <div> <div>Planning, Housing & Environmental Health</div> <div>Street Scene, Leisure & Technical Services</div> <div>Corporate</div> </div> <div>Sub-total</div> </div>	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
	1,267	113	30	30	30	30	30	30	1,560
	552	451	1,411	275	159	159	174	159	3,340
	10	318	3,205	60	0	0	0	0	3,593
	1,829	882	4,646	365	189	189	204	189	8,493
	n/a	0	0	16	0	0	21	21	58
	n/a	929	1,926	312	432	581	782	762	5,724
	n/a	505	281	292	118	121	242	300	1,859
	n/a	1,434	2,207	620	550	702	1,045	1,083	7,641
Total	1,829	2,316	6,853	985	739	891	1,249	1,272	16,134

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Capital Plan Review 2023/24

Recommendations in respect of List C

	Annex 2 Page
Schemes to be added to List C	
Street Scene, Leisure and Technical Services	
Food Waste Collections – Communal Properties	CP 30
Larkfield Leisure Centre – Wetside Changing Room Refurbishment	CP 31
Lower Castle Fields Car Park – Bridge Works	CP 32
Haysden Country Park – Bridge Works	CP 33
Bailey Bridge East – Car Park Improvements	CP 34
Upper Castle Field – Car Park Extension	CP 35
Introduction of Automatic Number Plate Recognition (ANPR)	CP 36
Car Parking Amendments – On Street Parking	CP 37
Tonbridge School Athletics Facility – Replacement Athletics Track	CP 38
Corporate Services	
Angel Centre - Replacement Boilers	CP 39
Larkfield Leisure Centre - Installation of Air Source Heat Pumps	CP 40
Schemes to be deleted from List C	
Street Scene, Leisure and Technical Services	
Angel Centre Facility Refurbishment – Project is being considered as part of the broader Council's town centre assets.	
Tonbridge Farm Sportsground Provision of Toilets – Toilet provision is available from the onsite café.	

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Capital Plan Review 2023/24

Schemes selected for evaluation from List C

	Annex 2 Page
Street Scene, Leisure and Technical Services	
Food Waste Collections – Communal Properties (fast track)	CP 30
Larkfield Leisure Centre – Wetside Changing Room Refurbishment (fast track)	CP 31
Lower Castle Fields Car Park – Bridge Works	CP 32
Haysden Country Park – Bridge Works	CP 33
Bailey Bridge East – Car Park Improvements	CP 34
Upper Castle Field – Car Park Extension	CP 35
Introduction of Automatic Number Plate Recognition (ANPR)	CP 36
Car Parking Amendments – On Street Parking	CP 37
Tonbridge School Athletics Facility – Replacement Athletics Track	CP 38
Corporate Services	
Angel Centre - Replacement Boilers (fast track)	CP 39
Larkfield Leisure Centre - Installation of Air Source Heat Pumps (fast track)	CP 40

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Capital Plan Review 2023/24

Recommendations in respect of evaluated schemes

	Capital Cost	Estimated Annual Revenue/ Renewals Cost		Annex 3 Page
	£'000	£'000		
Street Scene, Leisure and Technical Services				
Food Waste Collections – Communal Properties	30	2	Transfer from List C to List B	CP 41
Larkfield Leisure Centre – Wetside Changing Room Refurbishment	150	13	Transfer from List C to List B	CP 33
Corporate Services				
Angel Centre - Replacement Boilers	150		Transfer from List C to List B	CP 46
Larkfield Leisure Centre - Installation of Air Source Heat Pumps	175		Transfer from List C to List B	CP 49
Total	505	15		

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<div> <div>Annex 7</div> <div>Capital Plan: List A Service Summary</div> </div>									
	Expenditure To 31/03/23	2023/24 Estimate inc Prior Year Slippage	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate	2028/29 Estimate	2029/30 Estimate	Scheme Total
<div> <div>Capital Plan Schemes</div> <div> <div>Planning, Housing & Environmental Health</div> <div>Street Scene, Leisure & Technical Services</div> <div>Corporate</div> </div> <div>Sub-total</div> <div>Capital Renewals</div> <div> <div>Planning, Housing & Environmental Health</div> <div>Street Scene, Leisure & Technical Services</div> <div>Corporate</div> </div> <div>Sub-total</div> </div>	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
	1,267	113	30	30	30	30	30	30	1,560
	552	451	1,841	350	159	159	174	159	3,845
	10	318	3,205	60	0	0	0	0	3,593
	1,829	882	5,076	440	189	189	204	189	8,998
	n/a	0	0	16	0	0	21	21	58
	n/a	929	1,926	312	432	581	782	762	5,724
	n/a	505	281	292	118	121	242	300	1,859
	n/a	1,434	2,207	620	550	702	1,045	1,083	7,641
Total	1,829	2,316	7,283	1,060	739	891	1,249	1,272	16,639

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Annex 8							
Capital Plan Review 2023/24: Funding the Draft Capital Plan							
	2023/24 Estimate £'000	2024/25 Estimate £'000	2025/26 Estimate £'000	2026/27 Estimate £'000	2027/28 Estimate £'000	2028/29 Estimate £'000	2029/30 Estimate £'000
Capital Plan Schemes							
Capital Renewals	1,434	2,207	620	550	702	1,045	1,083
Other Recurring Expenditure (net of grants)	180	180	189	189	189	189	189
One-Off Schemes (net of grants & contributions)	702	4,896	251			15	
Capital Plan Totals	2,316	7,283	1,060	739	891	1,249	1,272
Add back grants / contributions	2,757	2,925	1,080	1,080	1,080	1,080	1,080
Total to be funded	5,073	10,208	2,140	1,819	1,971	2,329	2,352
Funded from:							
Grants							
BCF (Disabled Facilities Grant)	2,193	1,040	1,040	1,040	1,040	1,040	1,040
Environment Agency TRSG Revetment	9						
Electric Vehicle Charging Points		80					
DEFRA Anti-idling Project	11						
UK Shared Prosperity Fund	114	360					
Rural England Prosperity Fund	112	335					
Home Upgrade Grant Scheme	270	270					
Sport England - Swimming Pool Capital Fund (Bid)		800					
Developer Contributions Attributed to							
Tonbridge Racecourse SG Rugby Pitch Drainage	8						
Capital and Other Receipts							
DFG Grant Repayments	10	10	10	10	10	10	10
Housing Assistance Grant Repayments	30	30	30	30	30	30	30
Capital Receipts							
Balance 1 April 2023	246						
Gibson West					658	1,070	1,272
Balance met from Revenue Reserve for Capital Schemes	2,070	7,283	1,060	739	233	179	0
Total funding	5,073	10,208	2,140	1,819	1,971	2,329	2,352

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Annex 9							
Capital Plan Review 2023/24: Revenue Reserve for Capital Schemes							
	2023/24 Estimate £'000	2024/25 Estimate £'000	2025/26 Estimate £'000	2026/27 Estimate £'000	2027/28 Estimate £'000	2028/29 Estimate £'000	2029/30 Estimate £'000
Balance at 1st April	7,882	8,407	2,439	2,464	2,709	3,476	4,314
Contribution from Revenue to meet Capital Renewals and other Annually Recurring Expenditure	1,325	1,065	1,085	984	1,000	1,016	1,033
Revenue contribution for new Capital Plan Schemes	1,000	250	250	250	250	250	250
Less assumed spend			(250)	(250)	(250)	(250)	(250)
Other Revenue & Earmarked Reserve Contributions							
Climate Change Reserve - LLC Photovoltaic Panels							
Business Rates Reserve - Shopfront Improvement Scheme	30						
Business Rates Reserve - West Kent Green Business Grants	15						
Climate Change Reserve - Carbon Descent Initiatives x 3	225						
Available for application	10,477	9,722	3,524	3,448	3,709	4,493	5,347
Amount applied to fund capital	(2,070)	(7,283)	(1,060)	(739)	(233)	(179)	0
Balance at 31st March	8,407	2,439	2,464	2,709	3,476	4,314	5,347

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Medium Term Financial Strategy

	Estimate	Projection								
	2024/25 £000	2025/26 £000	2026/27 £000	2027/28 £000	2028/29 £000	2029/30 £000	2030/31 £000	2031/32 £000	2032/33 £000	2033/34 £000
EXPENDITURE										
Employees	14,373	14,366	14,619	14,884	15,031	13,573	13,831	14,091	14,361	14,653
Transfer Payments	24,429	17,748	18,103	18,465	18,834	19,211	19,595	19,987	20,387	20,794
Other Expenditure	17,498	15,239	15,071	17,810	18,274	18,848	19,447	20,064	20,701	21,329
Capital Charges	3,033	3,124	3,186	3,250	3,315	3,382	3,449	3,518	3,588	3,660
Total Expenditure	59,333	50,477	50,979	54,409	55,454	55,014	56,322	57,660	59,037	60,436
INCOME										
Fees & Charges	(10,554)	(10,777)	(11,046)	(11,333)	(11,627)	(11,925)	(12,227)	(12,536)	(12,851)	(13,155)
Other Specific Grants & Miscellaneous	(26,252)	(18,205)	(18,567)	(18,937)	(19,313)	(19,698)	(20,089)	(20,489)	(20,898)	(21,313)
Investment Income	(2,478)	(1,710)	(1,302)	(987)	(897)	(934)	(940)	(950)	(961)	(968)
Total Income	(39,284)	(30,692)	(30,915)	(31,257)	(31,837)	(32,557)	(33,256)	(33,975)	(34,710)	(35,436)
Appropriations										
Capital Renewals	1,065	1,085	984	1,000	1,016	1,033	1,050	1,067	1,085	1,103
Provision for new Capital Schemes	250	250	250	250	250	0	0	0	0	0
Other Appropriations	1,715	(3,214)	(3,071)	(3,135)	(3,200)	(3,267)	(3,334)	(3,403)	(3,473)	(3,545)
SAVINGS & TRANSFORMATION TARGET	0	(305)	(311)	(317)	(324)	(330)	(337)	(343)	(350)	(357)
SAVINGS & TRANSFORMATION TARGET	0	0	(700)	(714)	(728)	(743)	(758)	(773)	(788)	(804)
SAVINGS & TRANSFORMATION TARGET	0	0	0	0	(700)	(714)	(728)	(743)	(758)	(773)
NET BUDGETED SPEND	23,079	17,601	17,216	20,236	19,931	18,436	18,959	19,490	20,043	20,624
FUNDING										
Revenue Reserves	(1,065)	784	(66)	2,762	1,962	(41)	(40)	(45)	(43)	(25)
Government Grant	9,489	3,611	3,656	3,422	3,468	3,515	3,564	3,613	3,664	3,714
Council Tax	12,736	13,206	13,626	14,052	14,501	14,962	15,435	15,922	16,422	16,935
Collection Fund Adjustment	1,919	0	0	0	0	0	0	0	0	0
Total Funding	23,079	17,601	17,216	20,236	19,931	18,436	18,959	19,490	20,043	20,624
Council Tax Level at Band D	£238.16	£243.16	£248.16	£253.16	£258.22	£263.38	£268.64	£274.01	£279.49	£285.07
Increase on Previous Year	3%	£5.00	£5.00	£5.00	2%	2%	2%	2%	2%	2%
RESERVES BALANCE CARRIED FORWARD	10,917	10,133	10,199	7,437	5,475	5,516	5,556	5,601	5,644	5,669

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Savings & Transformation Strategy 2024/25 – 2033/34

INTRODUCTION

By way of context, since 2010/11 the Council has seen its Settlement Funding Assessment (core funding) decrease by some 59% or £3.9m (from £6.6m in 2010/11 to £2.7m in 2024/25). The fall in core funding has been, in part, negated by the grant award under the New Homes Bonus (NHB) scheme and other grant income.

In 2024/25, the Council will receive a Funding Guarantee which means there is an in-year balanced budget without reliance on reserves. However, beyond 2024/25 a Fair Funding Review and Business Rates reset is likely to change the financial outlook.

We are fortunate that we do not have to make all the required savings and transformation contributions in one year and can spread the challenge into ‘tranches’ as set out within the Council’s Medium Term Financial Strategy (MTFS). Nevertheless, the Council have acknowledged that we need to balance customer expectations with the need to make these savings and transformation contributions and achieve as much as possible in the earlier years to provide the best long-term financial sustainability.

In the latest iteration of the MTFS it is assumed government grant funding and increased business rates income to be retained will reduce from circa £9.49m in 2024/25 to £3.42m in 2027/28 before seeing a modest increase year on year thereafter; where the latest projected funding gap between expenditure and income is **circa £1,705,000** (*subject to the balance of £75k of tranche1(a) savings being delivered by April 2024 as agreed by Cabinet December 2023*). **Plus** the initiative already built into the MTFS, the scaling back of office accommodation in the sum of £200,000 and reductions in the costs of Temporary Accommodation of £400,000.

OBJECTIVES

In developing this Strategy, the Council has set the following objectives:

1. To deliver sufficient savings and transformation contributions in order to bridge the funding gap identified in the MTFS, and to deliver as much as possible in the earlier years in order to minimise risk to the Council’s finances.
2. To direct resources in line with the principles of the Council’s Corporate Strategy.
3. To maintain the Council’s reputation of good front line service provision.
4. To adopt a ‘mixed’ approach to addressing the funding gap through a series of ‘themes’.

5. To be open to accept 'cultural' change/transformation in the ways we work and offer services to the public in order to release efficiencies and savings.
6. To engage, as appropriate, with stakeholders when determining how savings and transformation contributions will be achieved.

THE STRATEGY

It is recognised that there is no one simple solution to addressing the financial challenge faced. The Council will need to embrace transformation in a multitude of ways in order to deliver the savings and transformation contributions within an agreed timescale.

This Strategy sets out a measured structure and framework for delivering the necessary savings and transformation contributions through a series of 'themes'. Each theme has a deliverable target within a timeframe.

Whilst the framework includes some major areas where savings can be made without direct effect on services, by adopting this Strategy the Council has recognised that it may need to decide that some service areas should change/transform to accommodate saving requirements. That might mean doing things differently, with even greater efficiency – for example, with the help of new technology – and with increased income opportunities where circumstances allow this. It will in all likelihood also mean that services will simply need to be run with fewer resources, downsized or cease. All these approaches will require a shift in culture for the organisation so that we can be focused and flexible in the way in which we deliver services to our communities.

The Themes, Targets, and Timeframes for the Strategy are set out in the table below, and will be the subject of review at least annually.

Progress on identifying and implementing savings and transformational opportunities across the various themes will be regularly reported to and reviewed by Management Team and in-year update reports presented to Members as appropriate. The Council is committed to engagement with relevant stakeholders as proposals are brought forward.

Adrian Stanfield
Interim Chief Executive

Sharon Shelton
Director of Finance and Transformation

Matt Boughton
Leader of the Council

Kim Tanner
Cabinet Member for Finance and Housing

Savings & Transformation Strategy 2024/25 - 2033/34

Savings and Transformation Contributions in Previous Years of STS	Savings and Transformation Contributions Identified during 2023/24	Total Saving Achieved to Date	Theme	Indicative Years	Future Savings identified but not yet in budget	Target
£ 000's	£ 000's	£ 000's			£ 000's	£ 000's
844	68	912	Income Generation & Cost Recovery	2024 - 2028	75	500
621	27	648	In-Service Efficiencies	2024 - 2028		80
441	25	466	Service Change & Reduction	2024 - 2028		500
866	0	866	Contracts	2024 - 2028		50
270	0	270	Organisation Structure Change	2024 - 2028		250
433	0	433	Partnership Funding	2024 - 2028		25
313	0	313	Asset Management	2024 - 2028		300
3,788	120	3,908	TOTAL		75	1,705

Note: This Strategy will be updated on at least an annual basis to reflect challenges set out in the Medium Term Financial Strategy.

Savings & Transformation Strategy updated January 2024

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Cabinet 13 February 2024
General Fund Revenue Estimates 2024/25
SUMMARY

	2023/24 ESTIMATE		2024/25
	ORIGINAL	REVISED	ESTIMATE
	£	£	£
Corporate Services	4,187,150	3,759,650	4,093,000
Chief Executive	1,321,300	1,259,700	1,106,400
Director of Central Services	379,050	929,500	839,500
Director of Finance & Transformation	570,750	(473,050)	(265,700)
Director of Planning, Housing & Environmental Health	5,007,900	6,132,700	5,064,150
Director of Street Scene, Leisure & Technical Services	9,027,250	9,583,900	9,209,550
Sub Total	20,493,400	21,192,400	20,046,900
Capital Accounting Reversals			
Non-Current Asset Depreciation	(2,856,350)	(2,735,640)	(2,874,800)
Non-Current Asset Impairment	-	-	-
Contributions to / (from) Reserves			
Building Repairs Reserve			
Withdrawals to fund expenditure	(1,144,650)	(1,569,300)	(1,354,400)
Contribution to Reserve	750,000	750,000	750,000
Earmarked Reserves (see page S 2)			
Contributions from Reserves	(2,947,550)	(3,781,300)	(2,028,950)
Contributions to Reserves	2,495,150	3,821,650	7,383,900
Revenue Reserve for Capital Schemes			
Withdrawals to fund expenditure			
Non-Current Assets	(6,851,000)	(1,904,000)	(7,125,000)
Revenue Expenditure Funded from Capital	(206,000)	(166,000)	(158,000)
Other contributions to / (from) Reserve (net)	1,494,000	2,325,000	1,315,000
Capital Expenditure Charged to General Fund	6,851,000	1,904,000	7,125,000
Government Grants			
New Homes Bonus	(610,500)	(610,500)	(343,400)
Under-indexing Business Rates Multiplier	(406,750)	(600,000)	(464,300)
Services Grant	(89,400)	(93,100)	(14,650)
Funding Guarantee	(1,765,700)	(1,762,000)	(2,335,850)
Sports & Leisure VAT Refund including Interest	-	(2,042,500)	-
Contributions from KCC	-	(200,000)	-
Sub Total	15,205,650	14,528,710	19,921,450
Revenue Support Grant	(137,300)	(137,300)	(146,400)
National Non-Domestic Rates			
Share of National Non-Domestic Rates	(25,455,018)	(25,455,018)	(31,040,522)
Tariff	25,854,000	25,884,155	27,167,177
Levy	-	16,045	15,713
Business Rates Pool	141,404	391,195	914,964
Small Business Rate Relief Grant	(1,025,828)	(912,594)	(953,226)
Business Rates Relief Measures	(2,462,491)	(2,074,949)	(2,281,233)
Public Toilets Relief Grant	(5,576)	(9,606)	(7,239)
Collection Fund Adjustments			
Council Tax (Surplus) / Deficit	(85,040)	(85,040)	(81,118)
National Non-Domestic Rates (Surplus) / Deficit	(1,199,330)	(1,199,330)	(1,838,086)
Sub Total	10,830,471	10,946,268	11,671,480
Contribution to / (from) General Revenue Reserve	1,356,800	1,241,003	1,064,824
Balance to be met from Council Tax Payers	12,187,271	12,187,271	12,736,304

Cabinet 13 February 2024
General Fund Revenue Estimates 2024/25
EARMARKED RESERVES

	2023/24 ESTIMATE		2024/25
	ORIGINAL £	REVISED £	ESTIMATE £
Contributions from Earmarked Reserves			
Budget Stabilisation Reserve	(900,000)	(947,250)	(647,150)
Business Rates Retention Scheme Reserve	(267,650)	(260,750)	(160,350)
Climate Change Reserve	(301,150)	(304,650)	(82,400)
Domestic Abuse Act Reserve	(46,300)	(91,100)	(92,850)
Election Reserve	(157,850)	(57,700)	-
Homelessness Reserve	(780,300)	(1,073,300)	(570,000)
Housing & Welfare Reform Reserve	(10,000)	-	-
Peer Review Reserve	(22,450)	(24,050)	(21,300)
Planning Services Reserve	(449,350)	(821,100)	(339,400)
Regeneration of Tonbridge	-	(50,000)	-
Tonbridge & Malling Leisure Trust Reserve	-	(79,800)	(83,000)
Transformation Reserve	(12,500)	(71,600)	(32,500)
	(2,947,550)	(3,781,300)	(2,028,950)
Contributions to Earmarked Reserves			
Budget Stabilisation Reserve	1,200,000	1,200,000	1,300,000
Business Rates Retention Scheme Reserve	406,050	593,400	686,200
Regeneration of Tonbridge	-	150,000	1,850,000
Climate Change Reserve		618,000	500,000
Domestic Abuse Act Reserve	71,350	76,750	72,650
Election Expenses Reserve	35,000	35,000	35,000
Homelessness Reserve	702,750	1,062,850	2,015,050
Planning Services Reserve	80,000	80,000	425,000
Transformation Reserve	-	5,650	500,000
	2,495,150	3,821,650	7,383,900

Tonbridge and Malling Borough Council
Estimate of Collection Fund Surplus / (Deficit) 2023/24 - Council Tax

		Estimate	
		£	£
<u>Income</u>			
Surplus / (Deficit) Brought Forward			436,428
Income from Council Tax Payers (Net of Discounts, CTR and Exemptions)			115,366,680
Total Income for the Year			115,803,108
<u>Expenditure</u>			
Precepts and Demands for 2023/24			
Kent County Council		80,863,571	
Police & Crime Commissioner for Kent		12,815,534	
Kent & Medway Fire & Rescue Authority		4,601,259	
Parishes		3,731,383	
Tonbridge & Malling Borough Council		12,187,271	114,199,018
Provision for Council Tax Non-Collection			421,000
Payment of Estimated Surplus for 2022/23			
Kent County Council		425,584	
Police & Crime Commissioner for Kent		66,662	
Kent & Medway Fire & Rescue Authority		23,897	
Tonbridge & Malling Borough Council		85,040	601,183
Total Expenditure for the Year			115,221,201
Estimated Surplus / (Deficit) for 2023/24			581,907
<u>Allocation of Estimated Surplus / (Deficit) for 2023/24</u>			
	Precepts 2023/24		Surplus / (Deficit) 2023/24
	£	%	£
Kent County Council	80,863,571	70.81	412,048
Police & Crime Commissioner for Kent	12,815,534	11.22	65,290
Kent & Medway Fire & Rescue Authority	4,601,259	4.03	23,451
Tonbridge & Malling Borough Council	15,918,654	13.94	81,118
Total	114,199,018	100.00	581,907

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<u>Tonbridge and Malling Borough Council</u> <u>Estimate of Collection Fund Surplus / (Deficit) 2023/24 - Business Rates</u>		
	Estimate	
	£	£
<u>Income</u>		
Surplus / (Deficit) Brought Forward		3,309,522
Income from Business Rate Payers		63,390,690
Transitional Protection		6,143,376
Total Income for the Year		72,843,588
<u>Expenditure</u>		
Demands for 2023/24 based upon NNDR 1 2023/24		
Kent County Council	5,727,379	
Kent & Medway Fire & Rescue Authority	636,375	
Tonbridge & Malling Borough Council	25,455,018	
Central Government	31,818,772	63,637,544
Payment of Estimated Surplus for 2022/23		
Kent County Council	269,849	
Kent & Medway Fire & Rescue Authority	29,983	
Tonbridge & Malling Borough Council	1,199,330	
Central Government	1,499,163	2,998,325
Allowance for Losses - Bad Debts		700,000
Allowance for Losses - Appeals		752,631
Cost of Collection Allowance		159,872
Total Expenditure for the Year		68,248,372
Estimated Surplus / (Deficit) for 2023/24		4,595,216
<u>Allocation of Estimated Surplus / (Deficit) for 2022/23</u>		
	Allocation	Surplus / (Deficit) 2023/24
	%	£
Kent County Council	9	413,569
Kent & Medway Fire & Rescue Authority	1	45,952
Tonbridge & Malling Borough Council	40	1,838,086
Central Government	50	2,297,609
Total	100	4,595,216

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TONBRIDGE & MALLING BOROUGH COUNCIL
SPECIAL EXPENSES ('LOCAL CHARGE') SCHEME

1. Introduction

- 1.1 The Provisions relating to “special expenses” are contained in the Local Government Finance Act 1992 at sections 34 and 35. These sections allow different amounts of council tax to be calculated for different parts of the district, depending on what if any “special items” relate to those parts. The legal background is set out in the Appendix.
- 1.2 In resolving to implement a Special Expenses Scheme, the Council revokes the Financial Arrangements with Parish Councils Scheme which was effective from 1 April 1992 made under s136 Local Government Act 1972 with effect from the same date (1 April 2017).

2. Objectives of the Scheme

- 2.1 The borough consists of 27 parished areas, and one unparished area. Parish councils exercise certain functions in their respective areas, which the Borough Council must exercise directly in the unparished area. These are known as concurrent functions.
- 2.2 The Council has historically awarded grants under s136 Local Government Act 1972 to parish councils in order to contribute towards the cost of concurrent functions. Due to significant financial pressures, the Council finds that it is unable to continue providing this level of financial support and must make savings.
- 2.3 The Council has resolved to adopt a Scheme of Special Expenses in order to provide a fairer system in terms of financial equity for taxpayers across the borough.

3. Function to be included in Scheme

- 3.1 Cabinet, at its meeting on 28 July 2016, recommended that the following concurrent functions are included in the Scheme:
- Closed churchyards
 - Open spaces, parks and play areas maintained by TMBC in parished areas; excluding Leybourne Lakes Country Park (strategic site)
 - Open spaces, play areas, parks and sportsgrounds in Tonbridge; excluding Castle Grounds and Haysden Country Park (strategic sites)
 - Support given to ‘Local’ Events
 - Allotments

3.2 In addition, at its meeting on 12 October 2021, Cabinet recommended that the following concurrent function is included in the Scheme:

- Public conveniences in Tonbridge in non-strategic sites (i.e. those located on Castle Street, Priory Road and those sited within Racecourse Sportsground)

3.3 Full Council endorsed the update to the Scheme at its meeting on 26 October 2021.

4. Calculation of Special Expenses

4.1 TMBC will calculate an average council tax across the whole of its area under section 31B of the Local Government Finance Act 1992. Included in that will be the amounts payable to parish councils under their precepts, plus the amounts TMBC will spend on performing functions which are performed in parts of its area by parish councils.

4.2 Under section 34 of the Local Government Finance Act 1992, TMBC must then deduct the total of any special items. For each part of its area, TMBC must then add back amounts for any relevant special items for that part of its area. The amount added back is calculated by dividing the special item (i.e. the authority's estimated cost of performing the function in that part of its area) by the tax base for the part of the area in which the authority performs the function.

4.3 Treating expenses as special expenses does not affect the overall amount that TMBC needs to raise through council tax, and does not, therefore, affect the average amount of council tax across the whole of the borough. It simply means that, compared with what would happen if the expenses were not treated by TMBC as special expenses, the council tax is:

- relatively lower for areas where the parish council performs the concurrent function, as it includes the parish's costs but not TMBC's costs of performing the function elsewhere; and
- relatively higher for areas where TMBC performs the concurrent function, as all TMBC's costs of performing the concurrent function must be met by taxpayers in the area where TMBC performs it.

5. Implementation

5.1 This (original) Scheme became effective from 1 April 2017, following resolution of Full Council on 1 November 2016. The update to the Scheme, adding the function at paragraph 3.2, as approved by Full Council on 26 October 2021 became effective on 1 April 2022.

5.2 The list of concurrent functions included within the Scheme will be reviewed from time to time and the Scheme updated as necessary.

February 2024

TONBRIDGE & MALLING BOROUGH COUNCIL
SPECIAL EXPENSES ('LOCAL CHARGE') SCHEME
LEGAL BACKGROUND

Section 34 of the Local Government Finance Act 1992, as amended by the Localism Act 2011, requires that certain items, which are referred to as 'special items', and which relate to a part only of a billing authority's area, be removed from the calculation of the overall basic amount of tax and added to that for the area concerned.

Section 35(1) defines these items as:

- Any precept issued to or anticipated by the authority which is, or is believed to be, applicable to a part of its area and was taken into account by it in making the calculation (or last calculation) in relation to the year under Section 31A(2) above (i.e. the parish precepts, as included in the calculation of the budget requirement).
- Any expenses which are its (the Council's) special expenses and were taken into account by it in making that calculation.

Section 35(2)(d) defines further 'Special Expenses' as:

“any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses unless a resolution of the authority to the contrary effect is in force”

In order for expenses incurred in performing any function of a district council to be special expenses the function must be carried out by the district in only part of its area, and the same function must be carried out in another part of the district by one or more parish councils. The detailed identification of concurrent functions is therefore essential for using this special expenses provision.

One of the reasons behind the special expenses regime is to allow a more equitable division of council expenses for council taxpayer funded services so that those receiving the benefit of certain services in a particular area are those who pay for them through their precept and do not pay twice for similar services carried out in any areas where there is not a parish or town council so as to avoid “double taxation” for the relevant services.

The power to charge special expenses is discretionary and in order for it to apply there must be a resolution of the billing authority in force. As the resolution has to refer to the matters which will be special expenses for these purposes the resolution will need to identify which function related activities will be included within the calculation.

Special Expenses must be applied consistently throughout a billing authority's area. There is no discretion to make selective application to some parts of the borough only.

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Special Expenses 2024/25

Special Expenses for 2023/24 £	Local Area	Public Conveniences £	Closed Church-yards £	Open Spaces, Parks & Play Areas £	Sports Grounds £	Local Events £	Allotments £	Special Expenses for 2024/25 £	Tax Base	Amount Per Band D Property £	Per property Variation %
957,544	Tonbridge	123,100	13,500	227,233	606,700	91,127	6,950	1,068,610	13,910.14	76.82	11.3
2,255	Addington			2,331				2,331	433.81	5.37	2.7
10,746	Aylesford			10,969				10,969	4,547.81	2.41	0.0
1,289	Birling			1,333				1,333	200.65	6.64	3.7
1,936	Borough Green			1,989				1,989	1,724.50	1.15	1.8
0	Burham			0				0	469.77	0.00	0.0
693	Ditton			717				717	1,812.85	0.40	2.6
29,404	E. Malling & Larkfield			30,385				30,385	5,255.59	5.78	(0.2)
790	East Peckham			816				816	1,347.62	0.61	3.4
0	Hadlow			0				0	1,580.25	0.00	0.0
0	Hildenborough			0				0	2,313.52	0.00	0.0
0	Ightham			0				0	1,137.31	0.00	0.0
0	Kings Hill			0				0	4,623.08	0.00	0.0
36,279	Leybourne			37,504				37,504	1,935.76	19.37	1.8
39	Mereworth			40				40	453.62	0.09	0.0
0	Offham			0				0	403.64	0.00	0.0
1,607	Platt			1,661				1,661	905.45	1.83	2.8
0	Plaxtol			0				0	596.98	0.00	0.0
0	Ryarsh			0				0	377.16	0.00	0.0
0	Shipbourne			0				0	273.97	0.00	0.0
25,129	Snodland			25,977				25,977	3,959.82	6.56	3.0
0	Stansted			0				0	288.71	0.00	0.0
0	Trottiscliffe			0				0	283.92	0.00	0.0
2,505	Wateringbury			2,589				2,589	962.05	2.69	1.1
4,149	West Malling			480		4,216		4,696	1,283.58	3.66	8.0
0	West Peckham			0				0	182.20	0.00	0.0
5,755	Wouldham			5,910				5,910	1,227.62	4.81	(5.1)
1,183	Wrotham			1,223				1,223	986.55	1.24	2.5
1,081,303	Total	123,100	13,500	351,157	606,700	95,343	6,950	1,196,750	53,477.93		

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Parish Council Precepts 2024/25

Precept for 2023/24 £	Parish Council	Precept for 2024/25 £	Tax Base	Amount Per Band D Property £	Per Band D Variation %
23,000.00	Addington	25,000.00	433.81	57.63	8.1
289,856.45	Aylesford	305,983.48	4,547.81	67.28	3.5
11,658.00	Birling	11,625.00	200.65	57.94	0.2
237,958.00	Borough Green	247,476.00	1,724.50	143.51	3.4
27,917.49	Burham	29,313.36	469.77	62.40	5.8
273,737.00	Ditton	287,441.00	1,812.85	158.56	4.0
453,100.00	E. Malling & Larkfield	487,614.00	5,255.59	92.78	4.0
162,000.00	East Peckham	162,000.00	1,347.62	120.21	(1.1)
126,071.00	Hadlow	135,731.00	1,580.25	85.89	6.9
132,296.00	Hildenborough	136,265.00	2,313.52	58.90	1.0
129,516.00	Ightham	130,221.00	1,137.31	114.50	0.0
552,847.00	Kings Hill	525,205.00	4,623.08	113.60	(7.7)
221,533.00	Leybourne	183,147.00	1,935.76	94.61	(18.6)
39,000.00	Mereworth	40,950.00	453.62	90.27	4.3
25,440.65	Offham	27,137.00	403.64	67.23	7.5
82,000.00	Platt	82,000.00	905.45	90.56	(0.5)
52,985.00	Plaxtol	57,227.00	596.98	95.86	7.4
28,360.00	Ryarsh	29,343.00	377.16	77.80	2.5
14,140.00	Shipbourne	15,357.66	273.97	56.06	10.0
334,255.00	Snodland	344,811.00	3,959.82	87.08	2.8
17,780.00	Stansted	17,780.00	288.71	61.58	(0.3)
26,000.00	Trottiscliffe	30,000.00	283.92	105.66	16.4
125,214.00	Wateringbury	126,466.14	962.05	131.45	(1.0)
139,014.45	West Malling	149,353.81	1,283.58	116.36	2.3
6,650.00	West Peckham	6,983.00	182.20	38.33	4.6
71,828.85	Wouldham	69,855.70	1,227.62	56.90	(10.1)
127,225.00	Wrotham	138,337.00	986.55	140.22	7.5
3,731,382.89	Total	3,802,623.15	39,567.79		

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GENERAL FUND WORKING BALANCE

	£
Balance at 1.4.2023	1,250,000
	<hr/>
Balance at 31.3.2025	1,250,000
	<hr/>

GENERAL REVENUE RESERVE

	£	£
Balance 1.4.2023		8,611,306
Budgeted to be transferred to the Reserve	1,356,800	
Increase on Original Estimate	115,797	
	<hr/>	1,241,003
		<hr/>
Estimated Balance at 1.4.2024		9,852,309
Contribution to the Reserve 2024/25		1,200,274
		<hr/>
Estimated Balance at 31.3.2025		11,052,583

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'SECTION 25' STATEMENT
ON THE ROBUSTNESS OF THE ESTIMATES
AND THE ADEQUACY OF THE RESERVES

Introduction

This statement is given in respect of the 2024/25 Budget Setting Process for Tonbridge and Malling Borough Council. I acknowledge my responsibility for ensuring the robustness of the estimates and the adequacy of the reserves as part of this process. The budget has been prepared within the context of a Medium Term Financial Strategy (MTFS) spanning a ten-year period.

The draft Budget for 2024/25 shows a balanced position with a contribution to General Revenue Reserve being made. Details of how this has been achieved are set out in the detailed Budget report. However, beyond 2024/25 the position is projected to be very different as a result of both increasing costs and reduced external funding.

The MTFS sets out the high level financial objectives the Council wishes to fulfil over the agreed time span. This includes achieving a balanced revenue budget by the end of the strategy period and to retain a minimum of £3.0m in the General Revenue Reserve by the end of the strategy period and not to fall below £2.0m at any time during the 10-year period. The MTFS also sets out, based on current financial information, 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.

By way of context, since 2010/11 the Council has seen its Settlement Funding Assessment (core funding) decrease by some 59% or £3.9m (from £6.6m in 2010/11 to £2.7m in 2024/25).

The fall in core funding is, in part, negated by the grant award under the New Homes Bonus (NHB) scheme and other grant income. However, the future of NHB or a replacement remains the subject of discussion, but at the very least will not continue in its current form leaving one of two options. The scheme is withdrawn and not replaced or is replaced, but where the funding stream and sum awarded is much reduced (our working assumption). The future of other grant income more generally is also uncertain.

Dependent on the outcome of the yet to be concluded Fair Funding Review, what is to happen to NHB and other grant income moving forward, business rates reforms, the extent and speed of the recovery following the pandemic and the impact of the current adverse economic climate, there is a **risk** the funding gap could be more than is presently reflected in the MTFS.

In the latest iteration of the MTFS it is assumed government grant funding and increased business rates income to be retained will reduce from circa £9.49m in 2024/25 to £3.42m in 2027/28 before seeing a modest increase year on year thereafter; where the latest projected funding gap between expenditure and income is **circa £1,705,000**. **Plus** the initiative already built into the

MTFS, the scaling back of office accommodation in the sum of £200,000 and reductions in the costs of Temporary Accommodation of £400,000.

The difficult and challenging financial outlook demands a **pressing and concerted** focus of attention.

Alongside the MTFS sits a Savings and Transformation Strategy (STS). The purpose of the Strategy is to provide structure, focus and direction in addressing the financial challenge faced by the Council. In so doing, it recognises that there is no one simple solution and as a result we will need to adopt a number of ways to deliver the required savings and transformation contributions within an agreed timescale. The detailed itemised plan for delivery of the savings and transformation contributions is still 'work in progress' and therefore the delivery of the STS has been recorded as RED on the Strategic Risk Register in order to ensure that this is visible and highlighted as a priority for the Council.

Robustness of Estimates

The aim of the Medium Term Financial Strategy is to give us a realistic and sustainable plan that reflects the Council's priorities and takes us into the future. It is a Strategy that is adopted by Members of the Council alongside the Budget to provide a forward looking context for the consideration of the budget year ahead. It also provides the Council's Corporate Management Team with a tool for strategic financial planning and decision making.

Underneath the Strategy sits detailed estimates formulated in conjunction with Service Managers who carry responsibility of delivering their area of service within budget provision. The estimates take into account past outturn, current spending plans and likely future demand levels / pressures.

Factors taken into account for the 2024/25 Budget Setting Process and in developing the Strategy are:

Corporate Strategy	The Council's financial plans should be in support of its strategic priorities and objectives set out in overview in the Corporate Strategy. Additional earmarked reserve contributions totalling £4.495m to support the Council's key priorities within the Corporate Strategy has been made via the 2024/25 Budget.
Consultation with Non-Domestic Ratepayers	The Council consults representatives of its non-domestic ratepayers about its expenditure proposals who may make written representations if they deem it appropriate. No such representations have been received.
The level of funding from Central Government towards the costs of local services	Our Settlement Funding Assessment (SFA) for 2024/25 is £2,665,451. The Council also received a payment for the under-indexing of the business rates multiplier of £464,291, a Services Grant of £14,648 and a funding guarantee in the sum of £2,335,834. It has been

	assumed in our financial planning that the funding guarantee will not be repeated beyond 2024/25.
New Homes Bonus	Our New Homes Bonus (NHB) for 2024/25 is £343,373 as a result of lower property completions and higher unoccupied properties at the time of assessment. The future of NHB or a replacement remains the subject of discussion, but at the very least will not continue in its current form leaving one of two options. The scheme is withdrawn and not replaced or is replaced, but where the funding stream and sum awarded is much reduced (our working assumption).
Business Rates	For medium term financial planning purposes, it is assumed retained business rates income will be above the baseline funding level under the current Business Rates Retention Scheme arrangements. If our actual income is less than the baseline set the authority will have to meet a share of that shortfall. The Council is a member of the Kent Business Rates Pool.
Overall Grant Funding	For medium term financial planning purposes, it is assumed government grant funding whether that be baseline funding level, some element of growth performance, NHB or its replacement or other grant income will reduce to £3.42m in 2027/28 before seeing a modest increase year on year thereafter. This will need to be revisited following the outcome of the Fair Funding Review, what happens to NHB and other grant income.
Aftermath of Covid-19 Pandemic	It is assumed that the reductions in income and increased costs seen as a result of the pandemic in large part will return to pre Covid-19 levels in the short to medium term including the current high homeless caseload and consequent significant and escalating cost of temporary accommodation. The extent and speed of the recovery will need to be closely monitored and to take corrective action if this is proved not to be the case.
Council Tax Base	The Council Tax Base for 2024/25 is 53,477.93 band D equivalents with an expectation that this will increase by 5,700 over the strategy period, or around 630 on average per year.
Local Referendums to Veto Excessive Council Tax Increases	The Secretary of State will determine a limit for council tax increases which for 2024/25 has been set at 3% or £5, whichever is higher. 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. Due regard has been taken of the guidelines issued by the Secretary of State. The MTFS reflects an increase in council tax of 3% in 2024/25 followed by the higher of 2% or £5 each year thereafter.

The Prudential Code and its impact on Capital Planning	Tonbridge and Malling is a debt-free authority and projections based on the current capital plan suggest that recourse to borrowing to fund capital expenditure is unlikely before 2029/30. This does not however, preclude a decision to borrow in order to fund in full or in part a capital investment opportunity that meets the Council's strategic priorities and objectives, achieves value for money and delivers a financial return. Each such opportunity to be considered on a case by case basis as appropriate. A key objective of the Prudential Code is to ensure, within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable.
The Council's Capital Strategy and Capital Plan	Other than funding for the replacement of our assets which deliver services as well as recurring capital expenditure, there is now an annual capital allowance for all other capital expenditure. The annual capital allowance is currently set at £250,000. However, at its meeting on 5 December following receipt of a VAT 'windfall', Cabinet recommended to Full Council that a further £750,000 be added to the revenue reserve for capital schemes in 2023/24 for use in later years to allow additional approved schemes to proceed. It is proposed that the capital allowance will go back to its £250,000 in due course until 2028/29.
Treasury Management	A Treasury Management and Annual Investment Strategy is adopted by the Council each year as required by the Local Government Act 2003 as part of the budget setting process. The Strategy sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments. Updates to both the Prudential Code and Treasury Management Code were published by the Chartered Institute of Public Finance and Accountancy (CIPFA) in December 2021 and uphold a key principle that borrowing primarily for return on investment is not permissible. The requirements of the updated Codes of Practice have been taken into account and reflected as appropriate in the annual review and update of the Capital Strategy and in preparing the Treasury Management and Annual Investment Strategy for 2024/25.
Interest Rates	Interest returns on the Council's 'core funds' have been set at 5.0% in 2024/25, 3.8% in 2025/26 and fluctuating between 3.25% and 3.0% thereafter. In setting these rates due regard has been taken of the interest rate forecasts of the Council's independent Treasury Adviser, Link Asset Services. To put this into context, 0.25 of a percentage point would currently generate investment income on our 'core funds' of about £55,000.

	Conversely, a dip in investment returns would have a negative impact on the Council's budget. The Council has chosen to retain a minimum of £3m in its General Revenue Reserve in order to deal with, amongst other things, interest rate volatility.
Property Investment Funds and Multi Asset Diversified Income Funds	The Council has taken the decision to invest in one or more property investment funds and more recently multi asset diversified income funds with further potential investment of funds in the future. In order to guard against downward fluctuations in asset values a Property Investment / Multi Asset Diversified Income Fund Reserve was established.
Adequacy of Reserves	At the beginning of 2024/25, we anticipate that the General Revenue Reserve balance will be £9.852m. In addition ./The Adequacy of Reserves is discussed in more detail below.
Pay and Price Inflation	The estimates provide for pay inflation of 5% in 2024/25 and 3% in 2025/26 followed by 2% each year thereafter and general price inflation of 5% in 2024/25 and 3% in 2025/26 followed by 2% each year thereafter. Exceptions include energy and the waste services contract where different indices have been applied.
Fees and Charges	As has been the practice for a number of years now the objective has been to maximise income, subject to market conditions, opportunities and comparable charges elsewhere.
Emerging Growth Pressures and Priorities	The projections within the MTFS include all known and quantified priorities and growth pressures that we are aware of at the present time. New priorities and growth pressures will undoubtedly emerge over the period and in consequence, the Strategy will be updated at least annually.
Financial Management	The Council's financial information and reporting arrangements are sound and its end of year procedures in relation to budget under / overspends clear. Collection rates for council tax and NNDR remain good. Our external auditor (Grant Thornton UK LLP) following the 2023 audit concluded the Authority has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Two significant weaknesses in arrangements, covering Procurement and Key Performance Indicators were identified, and improvement plans are now in place and are being monitored.
Insurance Arrangements and Business Continuity	Risks identified via the preparation of Service / Section Risk Registers have wherever possible been reduced to an acceptable level. Any remaining risk has been transferred to an external insurance provider. In addition, specific arrangements are in place to ensure

	the continuity of business in the event of both major and minor disruptions to services. As insurance premiums are reactive to the external perception of the risks faced by local authorities and to market pressures, both risks and excess levels are kept under constant review. The Council recognises that not all risks are financial; and takes into account all risks when making decisions.
Corporate Governance and Risk Management	The Council has adopted a Local Code of Corporate Governance based upon the requirements of the CIPFA/SOLACE Corporate Governance framework. This incorporates Risk Management and the Council is committed to a Risk Management Strategy involving the preparation of Risk Registers at both strategic and operational levels.
Equality Impact Assessments	Where there are deemed to be equality issues as a result of adjustments to revenue budgets a separate equality impact assessment has or will be undertaken at the appropriate time. In addition, an equality impact assessment is undertaken and reported to Members prior to commencement of a new capital plan scheme.
Partnership Working	The Council is working in partnership with other councils with the aim of not only delivering savings through joint working, but also to improve resilience and performance.
Government Led Issues	The outcome of the Fair Funding Review; the sustainability of the NHB scheme and what will follow; business rates reforms; Welfare Reform and cessation of the administration of housing benefits for working age claimants; the ongoing impact of the localisation of council tax support; and the transfer of the Land Charges function to HM Land Registry will impact on the Council's finances in-year and over the medium to longer term. The increased volatility and uncertainty attached to a number of these issues is such that financial planning is becoming increasingly difficult with the increased risk of significant variances compared to projections. As a result we will need to closely monitor the impact of these issues on the Council's finances.
Savings and Transformation Contributions	Latest projections point to a 'funding gap' between expenditure and income of circa £1,705,000. Plus the initiative already built into the MTFS, the scaling back of office accommodation in the sum of £200,000 and reductions in the costs of Temporary Accommodation of £400,000. Beyond 2024/25, the difficult and challenging financial outlook demands a pressing and concerted focus of attention. Dependent on the outcome of the Fair Funding Review, the future of NHB and other grant income, business rates reforms, the extent and speed of the recovery following the pandemic and the impact of the current adverse

	<p>economic climate, there is a risk the funding gap could be more than is presently reflected in the MTFS.</p> <p>In the coming months, options to deliver a further tranche(s) of the required savings and transformation contributions will need to be considered, agreed and actioned under the framework set out in the STS.</p> <p>In addition, the Management Team will continue to seek efficiency savings in the delivery of existing services.</p>
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These assumptions and changing circumstances will require the Strategy to be reviewed and updated at least annually.

Three key questions remain to be answered:

- Firstly, what will our business rates baseline and baseline funding level be and how will this compare to that reflected in the MTFS taking into account transfer of any new responsibilities?
- Secondly, what is the extent to which NHB will feature in future government grant funding and if replaced what level of funding would we receive in its place?
- Thirdly, over what time period will other grant income be 'in play' and how much might we expect to receive year on year in that period?

A further key question is, will the reductions in income and increased costs seen as a result of the pandemic return in large part to pre Covid-19 levels to the extent and in the timescale assumed?

The answers to these questions are fundamental for the ongoing financial planning for this Council.

Particular reference has been made to the current adverse economic climate most notably inflation and temporary accommodation costs for homelessness purposes.

For planning purposes it has been assumed that the current higher levels of inflation will over the next few years return to levels as prescribed by the Bank of England. If high levels of inflation persist beyond the period assumed this will have implications for the ongoing robustness of the estimates and the MTFS.

In terms of homelessness, the MTFS assumes that the recent significant increases in costs will be brought under control over the medium term, but if this can be addressed in an accelerated timescale this will relieve some of the pressure that is inevitably resting on the reserves.

Adequacy of Reserves

The minimum prudent level of reserves that the Council should maintain is a matter of judgement. It is the Council's safety net for unseen or other circumstances. The minimum level cannot be judged merely against the current risks facing the Council as these can and will change over time. The objective is to retain a minimum of £3.0m in the General Revenue Reserve by the end of the strategy period and not to fall below £2.0m at any time during the 10-year period; and given below are areas of operational and financial risk (not exhaustive) considered in determining the appropriate minimum level:-

- Global Pandemic
- Interest Rate volatility
- Income volatility
- Change to Government Grant including New Homes Bonus
- Identified savings not being delivered in the required timescales
- Localisation of council tax support
- Business rates retention scheme and associated volatility of income
- Local Plan / Planning Inquiries
- Partnership Working
- Climate Change
- Emergencies
- Economic and world recession
- Poor performance on Superannuation Fund
- Bankruptcy / liquidation of a major service partner
- Closure of a major trading area, e.g. leisure centre for uninsured works
- Cyber/data loss
- Problems with computer systems causing shortfall or halt in collection performance
- Government Legislation
- Ability to take advantage of opportunities
- Uninsured risks
- Recruitment and retention of staff and associated capacity issues

Clearly, the minimum General Revenue Reserve balance needs to and will be kept under regular review. The General Revenue Reserve balance at 31 March 2034, the end of the 10-year MTFS, is estimated to be £6.480m based on an increase in council tax of 3% for 2024/25 with the Council working to a balanced budget.

The Budget Stabilisation Reserve was introduced in February 2020 to assist in the management of risk, assist in meeting future savings and transformation contributions and/or fund in full or in part an appropriate commercial investment opportunity. During the pandemic and the subsequent economic crisis this reserve has assisted in dealing with financial volatility.

In addition, a number of Earmarked Reserves exist to cover items that will require short-term expenditure in the near future, or have been set aside to deliver Key Priorities.

The Revenue Reserve for Capital Schemes is established to finance future capital expenditure. A funding statement illustrates that recourse to borrowing to fund capital expenditure is unlikely before 2029/30 other than by exception on a case by case basis. The Revenue Reserve for Capital Schemes balance at 31 March 2029 is estimated to be £5.0m.

A schedule of the reserves held as at 1 April 2023 and proposed utilisation of those reserves to 31 March 2025 is provided in Annex 16b.

Balances held generate interest receipts which support, underpin and contribute towards meeting the objectives of the Strategy.

The Chartered Institute of Public Finance and Accountancy Financial Management Code and Financial Resilience Index

In October 2019 the Chartered Institute of Public Finance and Accountancy (CIPFA) published a Financial Management Code (FM Code) to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. The FM code is based on a series of principles supported by specific standards and statements of practice considered necessary to provide the strong foundation to:

- financially manage the short, medium and long-term finances
- manage financial resilience to meet unforeseen demands on services
- financially manage unexpected shocks in their financial circumstances.

The Code requires that a local authority demonstrate that its processes satisfy the principles of good financial management for an authority of its size, responsibilities and circumstances and sought to rely on the local exercise of professional judgement backed by appropriate reporting.

Compliance will typically, but not always, be demonstrated by documenting compliance by way of a self-assessment. The outcome of such an assessment using a RAG rating was reported to the 26 July 2021 Audit Committee where a green rating was assigned to all but two, rated amber, of the seventeen Financial Management Standards.

In addition, the CIPFA Financial Resilience Index aims to provide a tool with a group of indicators able to illustrate the trajectory of an authority's financial position and resilience within the context of each authority's own comparator

tier and nearest neighbour group. CIPFA has designed the index to provide reassurance and prompt challenge where it may be needed.

A review of the Financial Resilience Index relating to data from financial year 2021/22 identified no particular concerns. A new release of the Financial Resilience Index relating to data for the financial year 2022/23 is expected imminently but at the time of writing has not been received. Once it is received it will be published as a supplement to the agenda.

Opinion

I am of the opinion that the approach taken in developing the 2024/245 budget meets the requirements contained in the Local Government Act 2003 to ensure the robustness of the estimates and the adequacy of the reserves.

Signed: Sharon Shelton

Date: 13 February 2024

Director of Finance and Transformation, BSc (Hons) FCPFA

RESERVES ESTIMATE 2024/25

Description	Balance as at 1 April 2023 £	Estimated Contribution		Estimated Balance as at 31 March 2024 £	Estimated Contribution		Estimated Balance as at 31 March 2025 £
		From £	To £		From £	To £	
General Revenue Reserve	8,611,306		1,241,003	9,852,309		1,064,824	10,917,133
Revenue Reserve for Capital Schemes	7,881,628	(2,070,000)	2,325,000	8,136,628	(6,853,000)	1,315,000	2,598,628
Building Repairs Reserve	1,299,415	(1,569,300)	750,000	480,115	(1,354,400)	750,000	(124,285)
Property & Multi Asset Fund Reserve	3,250,000			3,250,000			3,250,000
Earmarked Reserves							
Democratic Representation	8,200			8,200			8,200
Special Projects	235,849	(115,150)	76,750	197,449	(114,150)	72,650	155,949
Planning Services	1,116,495	(821,100)	80,000	375,395	(339,400)	425,000	460,995
Homelessness Reduction	684,527	(1,073,300)	1,062,850	674,077	(570,000)	2,015,050	2,119,127
Election	161,429	(57,700)	35,000	138,729		35,000	173,729
Asset Review	43,816			43,816			43,816
Training	88,950			88,950			88,950
Invest to Save	141,391			141,391			141,391
Housing & Welfare Reform	34,591			34,591			34,591
Tonbridge and Malling Leisure Trust	449,000	(79,800)		369,200	(83,000)		286,200
Housing Assistance	360,000			360,000			360,000
Business Rates Retention Scheme	533,136	(260,750)	593,400	865,786	(160,350)	686,200	1,391,636
Public Health	22,683			22,683			22,683
Regeneration of Tonbridge	0	(50,000)	150,000	100,000		1,850,000	1,950,000
Transformation	434,305	(71,600)	5,650	368,355	(32,500)	500,000	835,855
Climate Change	601,096	(304,650)	618,000	914,446	(82,000)	500,000	1,332,446
Budget Stabilisation	2,131,090	(947,250)	1,200,000	2,383,840	(647,150)	1,300,000	3,036,690
	7,046,558	(3,781,300)	3,821,650	7,086,908	(2,028,550)	7,383,900	12,442,258
Total	28,088,908	(7,420,600)	8,137,653	28,805,961	(10,235,950)	10,513,724	29,083,735

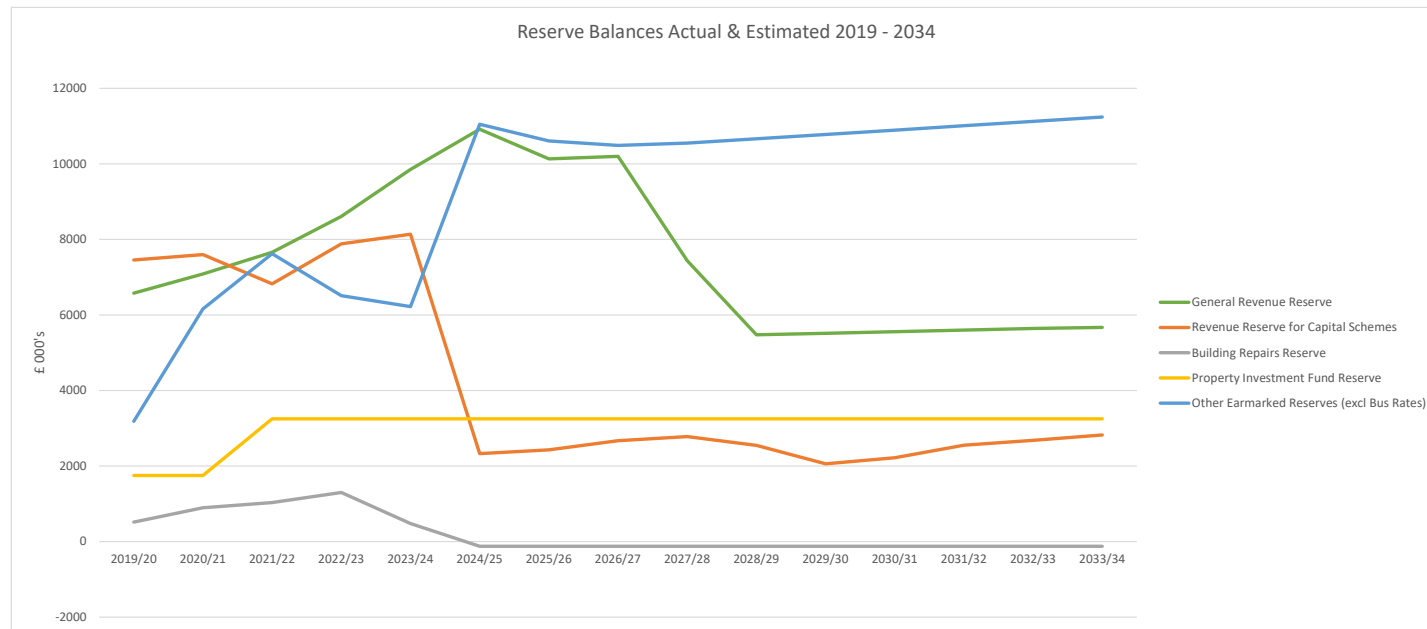
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Reserve Balances Actual & Estimated 2019 - 2034

	2019/20 £ 000's	2020/21 £ 000's	2021/22 £ 000's	2022/23 £ 000's	2023/24 £ 000's	2024/25 £ 000's	2025/26 £ 000's	2026/27 £ 000's	2027/28 £ 000's	2028/29 £ 000's	2029/30 £ 000's	2030/31 £ 000's	2031/32 £ 000's	2032/33 £ 000's	2033/34 £ 000's
	Actual				Estimated										
General Revenue Reserve	6,576	7,085	7,661	8,611	9,852	10,917	10,134	10,199	7,437	5,475	5,515	5,556	5,601	5,644	5,669
Earmarked reserves															
Revenue Reserve for Capital Schemes	7,456	7,599	6,825	7,882	8,137	2,327	2,427	2,672	2,781	2,548	2,059	2,218	2,552	2,679	2,823
Building Repairs Reserve	516	894	1,031	1,300	480	(124)	(124)	(124)	(124)	(124)	(124)	(124)	(124)	(124)	(124)
Property Investment Fund Reserve	1,750	1,750	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,250
Other Earmarked Reserves (excl Bus Rates)	3,183	6,161	7,620	6,513	6,221	11,050	10,609	10,486	10,549	10,664	10,779	10,894	11,009	11,124	11,240
	19,481	23,489	26,387	27,556	27,940	27,420	26,296	26,483	23,893	21,813	21,479	21,794	22,288	22,573	22,858

Other reserves include

Local Plan	835	249	334	99	4	43	124	204	284	364	444	524
Tonbridge Town Centre	0	100	1,950	1,950	1,950	1,950	1,950	1,950	1,950	1,950	1,950	1,950
Climate Change	601	914	1,332	1,332	1,332	1,332	1,332	1,332	1,332	1,332	1,332	1,332
Homelessness Accomodation	0	0	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300
Transformation	434	368	836	827	827	827	827	827	827	827	827	827
	1,870	1,631	5,752	5,508	5,413	5,452	5,533	5,613	5,693	5,773	5,853	5,933

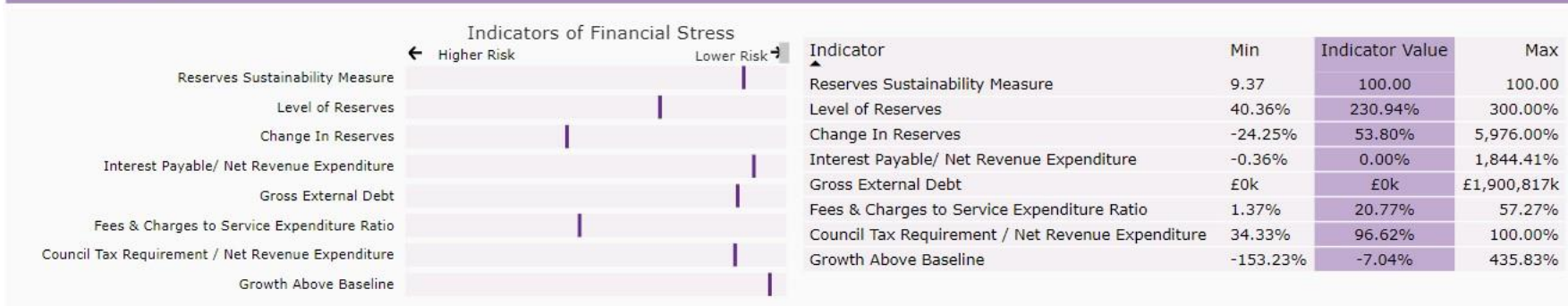


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CIPFA Financial Resilience Index

Tier: Lower ▼ Authority: Tonbridge and Malling ▼ Comparator Group: Non Metropolitan Dis... ▼ Year: 2021-22 ▼

Results Breakdown

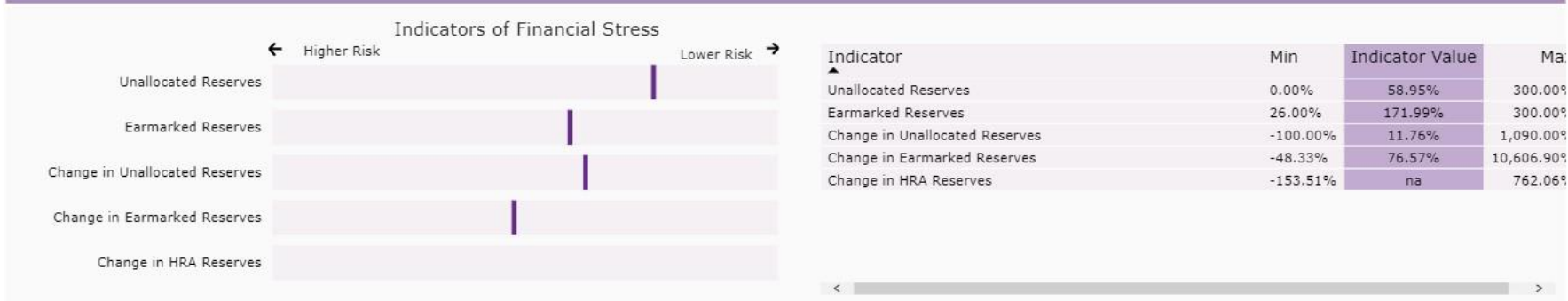


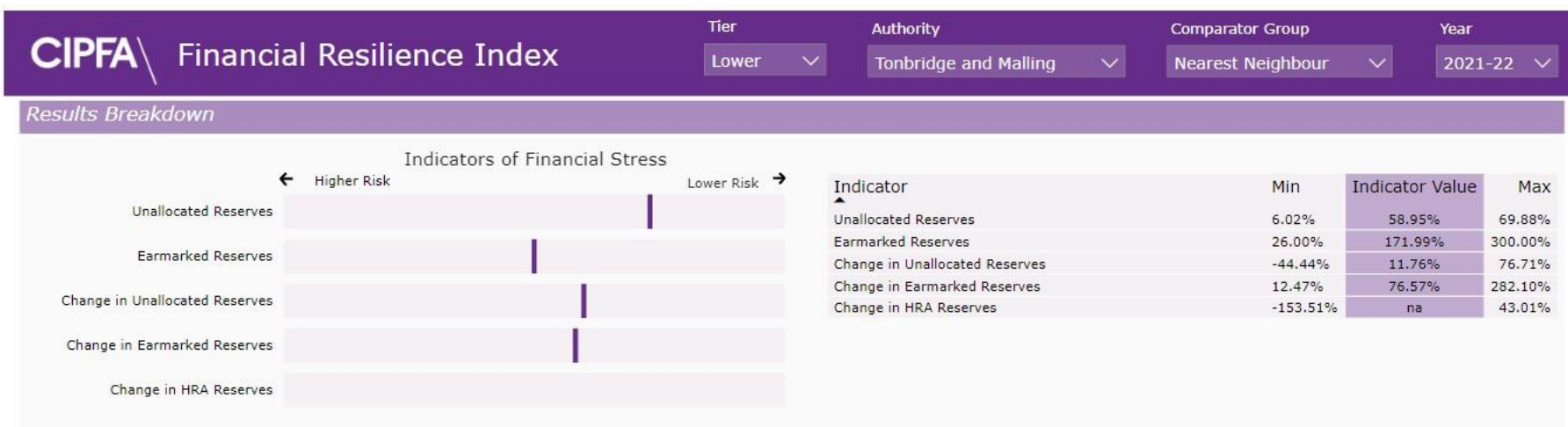
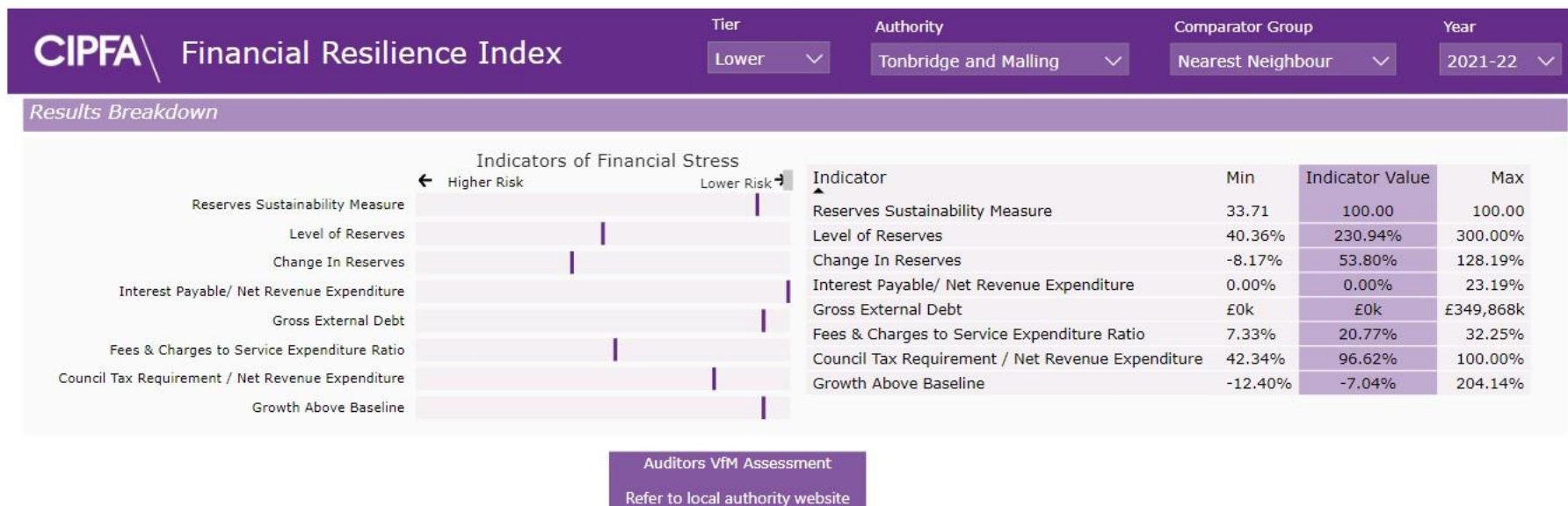
Auditors VFM Assessment
Refer to local authority website

CIPFA Financial Resilience Index

Tier: Lower ▼ Authority: Tonbridge and Malling ▼ Comparator Group: Non Metropolitan Dis... ▼ Year: 2021-22 ▼

Results Breakdown





Local context: support notes for the Financial Resilience Index

CIPFA has always emphasised the need for a local narrative to accompany the figures in the [Resilience index](#). The table below shows our rationale for the indicators and is intended to support explanation and understanding of the index.

We are aware that due to COVID-19, additional questions may be raised about the timeliness and relevance of the data. We have sought to address these questions alongside the indicators.

The timing of the index follows the release of DLUHC statistics (i.e Revenue Outturn 2020/2021) is based on publicly available data. We are aware that the pandemic has fundamentally altered the local authority funding landscape in 2020-2021, and any interpretation of the data should be viewed through this lens.

In this context, we would emphasise that the Resilience Index reflects a local government financial landscape in the middle of a global pandemic. This is particularly true of reserves where the picture for 2020-2021 has been distorted by the timing of significant COVID-19 payments received late in the financial year.

Indicator	Detail	Impact	Additional supportive note
Reserves sustainability measure	How long an authority's reserves will last if they continue drawing them down at the same rate	The longer an authority's reserves will last, the less risk	<ul style="list-style-type: none"> Without reserves, councils have no ability to weather financial storms. It is the responsibility of the S151 officer to utilise good financial management and decide what is an appropriate level of reserves. Reserves may have been increased as a result of COVID payments.

Level of reserves	Earmarked + unallocated	Lower levels of reserves imply higher risk	<ul style="list-style-type: none"> It is the responsibility of the S151 officer to utilise good financial management and decide what is an appropriate level of reserves. Good financial management can be achieved with relatively low reserves, while high reserves do not always indicate good financial management. COVID payments paid at the end of March 2021 will have an impact on this indicator if the local authority recorded them as reserves such as section 31 payments for business rate relief.
Change in reserves	Percentage change in reserves over the past three years	Negative changes imply higher risk	<ul style="list-style-type: none"> This indicator shows the degree of change in reserve levels as an average over the last three years. An increasing use of reserves over this period indicates a higher risk to financial sustainability. The indicator should be viewed with the MTFP, total reserves, planned use of reserves, and the level of reserves which the authority determines to be an appropriate minimum. We would not suggest inter-authority comparison, as each will have differing reserves policy, reserves levels and planned use.

			<ul style="list-style-type: none"> This figure will be impacted by the increase in reserves as a result of the COVID payment.
Gross external debt	Level of gross external debt	The higher the gross debt level, the higher the risk	<ul style="list-style-type: none"> The Prudential Code is clear that local authorities should borrow within their means. Minimum revenue provision ensures that there is suitable debt cover. Substantial debt must be monitored, and effective risk management must be evident.
Social care ratio	Amount of expenditure on demand-led services – this determines the level of flexibility in the budget	<p>More flexibility, less risk</p> <p>The higher the ratio, the higher the risk</p>	<ul style="list-style-type: none"> Relevant for those with responsibility for social care, therefore not relevant for districts. There are areas of demand where councils have limited control. Demand for social care is increasing. Social care is a statutory obligation, therefore it is difficult to reduce this spend. Demographic growth will show a trend towards increased expenditure. Post-COVID, there is expected to be a rise in demand for social care for both adults and children
Fees and charges	Total fees and charges as a proportion of service expenditure	The higher the ratio the lower the risk (income)	<ul style="list-style-type: none"> You have greater control over your own ability to put charges up or down, giving more control over budget.

		A greater amount of fees/charges will make councils more resilient as they have more control over budgets	<ul style="list-style-type: none"> Local authorities have the ability to raise income through certain fees and charges. Fees and charges across different sources may reduce risk. CIPFA is aware of the alternative argument that councils with low fees and charges have greater scope to generate more income, but this approach was supported by the working group. CIPFA is aware that during the pandemic this has not proven to be true as grants have underpinned income losses but over the longer term we continue to support the principles of this indicator.
Council tax	Council tax requirement/net revenue expenditure	Higher the ratio the lower the risk (income)	<ul style="list-style-type: none"> Council Tax is a stable form of income. Collection rates and hardship schemes have resulted in minimal impact across the board. Awareness of the pressures from COVID and the requirement for Government support.
Business rates	Percentage growth in business rates above the baseline	The higher the ratio the higher the risk	<ul style="list-style-type: none"> Local authorities have been able to maintain their growth in business rates. There is an issue that in a reset, those with greater income above the baseline will face a greater negative impact. This makes them more vulnerable.

			<ul style="list-style-type: none"> Business rates changes have been delayed along with the fair funding review but the risk continues to exist.
Children's social care	Ofsted judgement on overall services	The lower the rating, the higher the risk	<ul style="list-style-type: none"> Possible correlation between the ruling and large requirement to invest spend. Many authorities with adverse children's social care judgements have increased spending to improve services. The pandemic has resulted in a significant reduction in inspections and therefore the last available report has been used
Auditors VFM assessment	Auditors VFM assessment	Lower assessment, the higher the risk	<ul style="list-style-type: none"> The single judgement for Audit has been replaced with a narrative and these are no longer collected at a central point. As there is no single governance judgement this indicator provides a proxy to support the understanding of resilience. Where not know readers are signposted to the council website for the latest information. Where the record reads N/A this indicates that the information was not available at the time.

All calculations are based on the latest available annual data unless otherwise stated.

Reserves measures exclude public health and schools reserves. These reserves are ring-fenced and cannot be used to support expenditure in other areas.

CIPFA will continue to discuss opportunities for improving the RO form data collection.

If there are any inaccuracies in the auditors VFM assessment, please contact our data team on resilienceindex@cipfa.org with evidence and we will update our records.

The importance of financial resilience

This briefing accompanies the CIPFA Financial Resilience Index. It looks at what is meant by financial resilience and explores the main indicators of poor financial resilience. At CIPFA, we are very proud of the work we have done with organisations to support them in improving their resilience, and we continue to develop our approach and understanding. We recognise that developing resilience is not an easy or quick journey. It requires organisations to ask themselves difficult questions, challenge pre-existing decisions and develop new solutions.

If you would like to talk to one of the team about how we can help you with your approach, please email customerservices@cipfa.org.

How can the Resilience Index help an organisation?

The Resilience Index is used as part of our reviews and support for organisations in assessing their financial position. It provides an indicator of areas to review when compared to other organisations, or indeed local policy.

We also see that organisations want to work with us to develop use of the indicator as part of their overall performance management arrangements. This means developing an approach to financial management that helps with scenario planning and decisions.

Adding value to discussions:

- The Resilience Index brings together publicly available information in one place to give a rounded picture of an authority's financial standing and its resilience to financial shocks, supporting openness and transparency.
- Used alongside the principles in CIPFA's **Financial Management Code**, it encourages discussion and greater understanding around financial decision making.
- The Resilience Index helps section 151 officers fulfil their fiduciary duty to local citizens and taxpayers, as they are uniquely accountable to the public they serve, not just the local authority they work for.
- The Resilience Index can support the section 151 officer in making their 'section 25' statements to council on the robustness of the annual budget regarding the estimates in the medium-term financial strategy, and the adequacy of reserves and balances.

What do we mean by financial resilience?

In simple terms, this is the ability, from a financial perspective, to respond to changes in delivery or demand without placing the organisation at risk of financial failure. This means having the agility and flexibility to forecast and manage both expenditure and income to meet requirements as they change while delivering a balanced budget.

What are the key indicators of poor financial resilience?

In recent years, CIPFA has worked with a number of organisations with varying degrees of financial stability and financial sustainability. This work has identified the following key indicators of poor financial resilience, which in turn present a risk to the viability of an organisation. It is worthwhile considering each of these from your own organisation's perspective:

When assessing an organisation's financial resilience, we will always consider these areas as a key line of enquiry. It is important to consider each of these over a range of years, which will give a good indication of the impact on corporate financial management and financial governance and therefore financial resilience.

What are the pillars that support the development of strong financial resilience?

Outlined below are the key things an organisation must have in place to support organisational financial resilience. When assessing an organisation, we often find that some of these are in place (and in some cases all), but they are often not sufficiently mature, lacking in effectiveness, discrete and therefore treated in isolation.



Reserves

A rapid decline in reserves – using reserves to avoid cuts or for short-term benefit will only provide temporary relief.



Savings

A failure to plan and deliver savings in service provision and not living within resources: objectives and planned delivery are missing from savings plans, eg, plans state 'still to be found' or include optimism bias in timing and scale of savings.



Unplanned overspending

The tendency for unplanned overspends – carrying forward undelivered savings into the following year only creates the need for greater cuts in subsequent years.



Financial planning

Shortening of medium-term financial planning – a failure to plan ahead could indicate a lack of strategic thinking and an unwillingness to confront tough decisions.

Strong governance

The processes in place to support decisions that have a financial impact now or in the future must be robust and rigorous from both an officer and member perspective. In reality, this means ensuring that decisions have a sound evidence base, concise and understandable information is presented, time is allowed for adequate scrutiny, and advice or guidance is sought from subject matter experts and put into practice. Strong governance through oversight is also crucial post making a decision to ensure effective performance management from a corporate, service and detailed operational perspective.

A robust medium-term financial plan (MTFP)

A key element of financial sustainability is the development, monitoring and delivery of the medium-term financial plan. This should be a live and constantly reviewed plan. The plan should have a three-to-five-year horizon. It is acknowledged that there are always uncertainties, but following a rigorous process to develop and manage the plan, it will help to mitigate this risk and present tested alternative scenarios.

The MTFP will support delivery of the organisation's corporate strategy, helping to develop priorities and supporting resource allocation decisions within the financial environment presented in the MTFP.

Integrated and aligned strategies and plans

Financial resilience and sustainability are reliant on a series of plans and strategies developed and delivered by the organisation. We often see that poor-performing organisations do not have these integrated, and they lack recognition of the impact of actions or decisions on one or more of these strategies.

The key strategies that need to be integrated include (but are not limited to) the corporate plan, the MTFP, the savings plan, service delivery plans, reserves strategy, the commercial strategy, capital and the investment strategy. A decision on one of these will have an impact on the others.

The delivery, oversight and challenge around each of these individually and collectively will support improved knowledge and decision making to consequently place the organisation in a better position to respond and adapt to changes in demand and external factors.

Effective performance monitoring and reporting

The ability to respond and adapt to financial challenges should be underpinned by effective monitoring and reporting against the annual budget, capital programme and the savings targets, while in turn recognising any impact on the MTFP.

It is important to recognise risks to delivery of the planned budget as early as possible. This requires not only robust reporting and review but a culture of being open about performance and delivery from a financial and service outcome perspective. The earlier these messages are delivered, the greater chance there is of mitigating or responding.

High-performing organisations will ensure that the culture encourages challenge, that the data and information is appropriate in detail and presentation, and that a programme of review, whether by officers or members, is frequent and timely.

Unfortunately, what we do see is that risks around delivering the budget materialise late in the financial year. This may be as a consequence of poor planning, optimistic budgets and savings plans, combined with a reluctance to recognise and report early enough to put mitigating measures in place.

Effective ownership and accountability

The CIPFA **Financial Management Code** published in the autumn of 2019 re-enforces that ownership and accountability for an organisation's financial performance is collective. It is the responsibility of officers and members to deliver a balanced budget.

Many of the reviews we undertake highlight, as part of the improvement journey, the need to ensure the concept of ownership, whether at a corporate level or budget holder level for expenditure and income, is effective. We often see that if it has a £ sign, it is seen as a finance issue or problem. Developing a culture of ownership and accountability (in the right place) will support the development of an approach to financial resilience that has an impact.

More information

If you would like to find out more about our work on financial resilience, please visit www.cipfa.org or contact customerservices@cipfa.org and we will be happy to provide additional support.

About the Resilience Index

CIPFA's Financial Resilience Index is a comparative analytical tool that supports good financial management and provides a high-level common understanding within a council of their financial position based on a range of measures associated with financial risk.

The indicators take publicly available data and compare similar authorities across a range of factors. There is no single overall indicator of financial risk, so the Index instead highlights areas where additional scrutiny should take place to provide additional assurance. This additional scrutiny should be accompanied by a narrative to place the indicator into a local context.

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Tonbridge & Malling Borough Council**Calculation of Council Tax Requirement for the year 2024/25 including sums required to meet Special Expenses and Parish Council Precepts**

That the following amounts be now calculated by the Council for the year 2024/25 in accordance with Section 31A of the Local Government Finance Act 1992:-

	£
(a) Aggregate of the amounts which the Council estimates for the items set out in Section 31A (2) N.B. Includes Special Expenses and Parish Council Precepts	106,257,251
(b) Aggregate of the amounts which the Council estimates for the items set out in Section 31A (3) N.B. Includes Local Government Finance Settlement	89,718,324
(c) Calculation under Section 31A (4), being the amount by which the aggregate at (a) above exceeds the aggregate at (b) above	----- 16,538,927 -----

Memorandum:-

	£
Borough Council	11,539,554
Special Expenses	1,196,750
Parish Council Precepts	3,802,623
Total	----- 16,538,927 -----

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Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

In accordance with CPR 8.5 of the Constitution there will be a recorded vote for this item.

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

13 February 2024

**Report of the Interim Chief Executive, Director of Finance and Transformation,
Leader of the Council and Cabinet Member for Finance and Housing**

Part 1- Public

Matters for Recommendation to Council

1 SETTING THE COUNCIL TAX 2024/25

This report takes Cabinet through the process of setting the level of Council Tax for the financial year 2024/25 and seeks Cabinet's recommendations.

1.1 Introduction

1.1.1 The legislative framework for the setting of Council Tax is Chapter III of the Local Government Finance Act 1992. Section 30 requires that for each financial year and for each category of dwelling in its area, a billing authority shall set an amount of Council Tax.

1.1.2 The amount set will be the aggregate of the amount set by the billing authority under Sections 31A and 36 of the Act and the amounts set by major precepting authorities under Sections 42A, 42B and 45 to 47 of the Act.

1.2 Council Tax Base for 2024/25

1.2.1 The Council is required to set its tax base for the forthcoming financial year, and notify it to the major precepting authorities, during the period 1 December to 31 January.

1.2.2 Attached at **[Annex 1]** is the council tax base for the financial year 2024/25 which has been determined by the Director of Finance and Transformation in accordance with her delegated authority (published under decision notice DFT 23-030, 06/12/2023). This shows that there are 53,477.93 Band D equivalent properties within the Borough compared to 52,706.29 in the year 2023/24 (an increase of 1.5%).

1.2.3 All precepting authorities have been notified of the tax base for 2024/25.

1.3 Amounts of Council Tax to be set by the Billing Authority

- 1.3.1 The process is that, having determined the billing authority's tax requirement, this sum is initially divided by the tax base to determine the overall level of tax, inclusive of special expenses and parish precepts.
- 1.3.2 The resultant figure represents an average charge within the Borough for both Borough and Parish Council requirements. As part of the statutory process, this average is recorded on the Council's council tax resolution, which we refer to later. As Cabinet is aware, however, the average charge does not apply to any of the areas within the Borough other than by coincidence. In order to calculate the levels of tax for each of the areas within the Borough, it is necessary to determine the basic level of Council Tax that will apply to the whole of the Borough, and then calculate the additional charges relating to particular areas. This process determines the tax for Band D properties in each of those areas.
- 1.3.3 The tax for the full range of Band A to H properties is then established by using the ratios for each of the Bands as they relate to Band D. The relevant statutory ratios are as follows:

Table 1 - Band Ratio Relative to Band D

Band	Ratio to Band D
A	6/9
B	7/9
C	8/9
D	9/9
E	11/9
F	13/9
G	15/9
H	18/9

- 1.3.4 Cabinet is advised that, subject to the Draft Budget being recommended as per the earlier agenda item, TMBC's published share of the 2024/25 council tax at Band D will be **£238.16**. This represents a cash increase of £6.93 per annum compared to 2023/24, or 3%.
- 1.3.5 The level of tax set by the major precepting authorities, Kent County Council, The Police & Crime Commissioner for Kent and the Kent & Medway Fire & Rescue Authority, is then added to establish the overall tax for each band in each part of the area.

1.4 Kent County Council / The Police & Crime Commissioner for Kent / Kent & Medway Fire & Rescue Authority Precepts

- 1.4.1 Kent County Council's Cabinet met on 25 January, at which a recommendation concerning its precept was made. The County Council's full Council meeting to confirm the precept is to be held on 19 February.
- 1.4.2 The Police & Crime Commissioner for Kent's precept and level of Council Tax is due to be considered at a meeting on 6 February and we await confirmation of the outcome.
- 1.4.3 The Kent & Medway Fire & Rescue Authority's precept and level of Council Tax is due to be agreed on the morning of 20 February.

1.5 Draft Resolution

- 1.5.1 Attached at **[Annex 2]** is a draft resolution which seeks to identify for Cabinet the processes which have to be undertaken to arrive at the levels of Council Tax applicable to each part of the Borough. The parts in bold type seek to explain each calculation.
- 1.5.2 The resolution itself, incorporating the Borough Council's budget and Parish Council precept information and council tax levels for all major precepting authorities, **will be presented to the meeting of the Council on 20 February 2024.**

1.6 Legal Implications

- 1.6.1 There are a number of legislative requirements to consider in setting the Budget which will be addressed as we move through the budget cycle.
- 1.6.2 The Localism Act introduced a requirement for council tax referendums to be held if an authority increases its relevant basic amount of council tax in excess of principles determined by the Secretary of State and approved by the House of Commons.

1.7 Financial and Value for Money Considerations

- 1.7.1 As set out above.

1.8 Risk Assessment

- 1.8.1 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 guidance on assumptions obtained where appropriate.

- 1.8.2 Under the provisions of the Localism Act, any increase in the relevant basic amount of council tax above the principles, however small, will require a referendum to be held which is a risk in itself.

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 Cabinet is asked to:

- 1) **NOTE** the draft resolution which will be completed and presented to Full Council at its meeting on 20 February 2024; and
- 2) **RECOMMEND** that Full Council approve a 3% or £6.93 per annum increase in the Borough Council's element of the council tax for 2024/25, representing a notional 'average' charge at Band D of £238.16.

Background papers:

Nil

contact: Sharon Shelton
Paul Worden

Adrian Stanfield
Interim Chief Executive

Sharon Shelton
Director of Finance and Transformation

Matt Boughton
Leader of the Council

Kim Tanner
Cabinet Member for Finance and Housing

COUNCIL TAX - TAX BASE FOR 2024/25

Parish	Tax Base
	Band D Equivalents
ADDINGTON	433.81
AYLESFORD	4,547.81
BIRLING	200.65
BOROUGH GREEN	1,724.50
BURHAM	469.77
DITTON	1,812.85
EAST MALLING & LARKFIELD	5,255.59
EAST PECKHAM	1,347.62
HADLOW	1,580.25
HILDENBOROUGH	2,313.52
IGHTHAM	1,137.31
KINGS HILL	4,623.08
LEYBOURNE	1,935.76
MEREWORTH	453.62
OFFHAM	403.64
PLATT	905.45
PLAXTOL	596.98
RYARSH	377.16
SHIPBOURNE	273.97
SNODLAND	3,959.82
STANSTED	288.71
TROTTISCLIFFE	283.92
WATERINGBURY	962.05
WEST MALLING	1,283.58
WEST PECKHAM	182.20
WOULDHAM	1,227.62
WROTHAM	986.55
TONBRIDGE	13,910.14
TOTAL	53,477.93

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COUNCIL TAX**DRAFT RESOLUTION**

Blank version of the Council Tax Resolution (except for Band D equivalents). Explanatory text is provided in Bold Italics.

1. It be noted that on 20th February 2024 the Council calculated
 - (a) the Council Tax Base 2024/25 for the whole Council area as 53,477.93 [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the "Act")] and,
 - (b) for dwellings in those parts of its area to which one or more special items (Special expenses and or a Parish precept) relates as follows:

Tonbridge	13,910.14
Addington	433.81
Aylesford	4,547.81
Birling	200.65
Borough Green	1,724.50
Burham	469.77
Ditton	1,812.85
East Malling & Larkfield	5,255.59
East Peckham	1,347.62
Hadlow	1,580.25
Hildenborough	2,313.52
Ightham	1,137.31
Kings Hill	4,623.08
Leybourne	1,935.76
Mereworth	453.62
Offham	403.64
Platt	905.45
Plaxtol	596.98
Ryarsh	377.16
Shipbourne	273.97
Snodland	3,959.82
Stansted	288.71
Trottiscliffe	283.92
Wateringbury	962.05
West Malling	1,283.58
West Peckham	182.20
Wouldham	1,227.62
Wrotham	986.55

2. £ X,XXX,XXX being the Council Tax requirement for the Council's own purposes for 2024/25 (excluding Parish precepts).

Explanatory Notes

1(a) This figure represents the council tax base expressed in Band D equivalents for the whole Tonbridge and Malling area.

1(b) These figures represent the tax base expressed in Band D equivalents for Tonbridge and each Parish.

The tax base for the whole borough, Tonbridge and for each area (Parish) as determined by the Council's Chief Financial Officer.

2 This figure represents the amount of council tax required to support the Council's revenue budget for the year.

3. That the following amounts be calculated for the year 2024/25 in accordance with Sections 31 to 36 of the Act:

- (a) £ XX,XXX,XXX being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.
- (b) £ XX,XXX,XXX being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
- (c) £ XX,XXX,XXX being the amount by which the aggregate at 3(a) above exceeds the aggregate at 3(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B of the Act).
- (d) £ XXX.XX being the amount at 3(c) above (Item R), all divided by Item T (1(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year including Parish precepts.
- (e) £ X,XXX,XXX being the aggregate amount of all special items (Special expenses and Parish precepts) referred to in Section 34(1) of the Act.
- (f) £ XXX.XX being the amount at 3(d) above less the result given by dividing the amount at 3(e) above by Item T (1(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no special items relate (this is the Council Tax for General Expenses to which Special expenses and Parish precepts are added as applicable).

(g) Part of the Council's area	Band D £
Tonbridge	XXX.XX
Addington	XXX.XX
Aylesford	XXX.XX
Birling	XXX.XX
Borough Green	XXX.XX
Burham	XXX.XX
Ditton	XXX.XX
East Malling & Larkfield	XXX.XX
East Peckham	XXX.XX
Hadlow	XXX.XX
Hildenborough	XXX.XX
Ightham	XXX.XX
Kings Hill	XXX.XX
Leybourne	XXX.XX
Mereworth	XXX.XX
Offham	XXX.XX
Platt	XXX.XX
Plaxtol	XXX.XX
Ryarsh	XXX.XX
Shipbourne	XXX.XX
Snodland	XXX.XX
Stansted	XXX.XX
Trottiscliffe	XXX.XX
Wateringbury	XXX.XX
West Malling	XXX.XX
West Peckham	XXX.XX
Wouldham	XXX.XX
Wrotham	XXX.XX

being the amounts given by adding to the amount at 3(f) above the amounts of the special item or items relating to dwellings in those parts of the Council's area mentioned above divided in each case by the amount at 1(b) above, calculated by the Council, in accordance with Section 34(3) of the Act, as the basic amounts of its council tax for the year for dwellings in those parts of its area to which one or more special items (Special expenses and Parish precepts) relate.

Explanatory Notes

- 3(a) *The Council's gross expenditure including special expenses, parish precepts and any deficit on the Collection Funds brought forward.*
- 3(b) *The Council's gross income including the amount of NNDR and Revenue Support Grant the Council will receive, plus any surplus on the Collection Funds brought forward.*
- 3(c) *The council tax requirement including special expenses and parish precepts.*
- 3(d) *The council tax requirement including special expenses and parish precepts divided by the tax base from 1(a) to give the basic amount of Council Tax. (N.B. This is an average inclusive of special expenses and parish precepts for each part of the borough).*
- 3(e) *The total amount of all parish precepts and special expenses.*
- 3(f) *The amount of Council Tax excluding parish precepts and special expenses that applies to each part of the borough.*
- 3(g) *The amounts of Council Tax which are set for each part of the borough to meet both borough and parish requirements including special expenses.*

(h)

Valuation Bands

<u>Part of the Council's area</u>	A £	B £	C £	D £	E £	F £	G £	H £
Tonbridge	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Addington	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Aylesford	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Birling	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Borough Green	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Burham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Ditton	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
East Malling & Larkfield	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
East Peckham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Hadlow	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Hildenborough	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Ightham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Kings Hill	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Leybourne	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Mereworth	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Offham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Platt	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Plaxtol	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Ryarsh	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Shipbourne	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Snodland	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Stansted	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Trottscliffe	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Wateringbury	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
West Malling	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
West Peckham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Wouldham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Wrotham	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX

being the amounts given by multiplying the amounts at 3(g) above by the number which, in the proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in valuation band D, calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands.

Explanatory Notes

3(h) The amounts of Council Tax set for each part of the borough, to meet both borough and parish requirements including special expenses.

4. That it be noted that for the year 2024/25 The Police & Crime Commissioner for Kent, the Kent & Medway Fire & Rescue Authority and the Kent County Council have stated the following amounts in precepts issued to the Council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of dwellings shown below:

<u>Precepting Authority</u>	<u>Valuation Bands</u>							
	A £	B £	C £	D £	E £	F £	G £	H £
The Police & Crime Commissioner for Kent	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Kent & Medway Fire & Rescue Authority	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX
Kent County Council	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX	XXX.XX

5. That, having calculated the aggregate in each case of the amounts at 3(h) and 4. above, the Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the following amounts as the amounts of council tax for the year 2024/25, for each of the categories of dwellings shown below:

<u>Part of the Council's area</u>	<u>Valuation Bands</u>							
	A £	B £	C £	D £	E £	F £	G £	H £
Tonbridge	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Addington	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Aylesford	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Birling	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Borough Green	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Burham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Ditton	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
East Malling & Larkfield	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
East Peckham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Hadlow	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Hildenborough	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Ightham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Kings Hill	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Leybourne	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Mereworth	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Offham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Platt	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Plaxtol	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Ryarsh	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Shipbourne	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Snodland	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Stansted	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Trottscliffe	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Watlingbury	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
West Malling	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
West Peckham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Wouldham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX
Wrotham	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX	X,XXX.XX

Explanatory Notes

- 4 ***The Council Tax set by The Police & Crime Commissioner for Kent, Fire Authority and KCC for each band.***
- 5 ***The total Council Tax the Borough Council sets for each band in each part of the borough, inclusive of the KCC, KMFRA, The Police & Crime Commissioner for Kent, borough and parish requirement.***

Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

13 February 2024

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 LOCAL COUNCIL TAX REDUCTION SCHEME 2024/25

A report providing the proposed Tonbridge & Malling Borough Council Working Age Local Council Tax Reduction Scheme 2024/25, requesting Cabinet Members to approve and recommend the updated Scheme to Full Council.

1.1 Background

- 1.1.1 Each year Members should approve a Local Council Tax Reduction Scheme at Full Council prior to the beginning of the financial year the Scheme is to be effective. Schemes are in two parts for working age and pension age households.
- 1.1.2 Government sets a prescribed Scheme for pension age households, which through default becomes the annual Scheme. Government prescribes maximum help up to 100% of council tax liability, a minimum requirement of a pension age scheme.

1.2 2024/25 Working Age Scheme

- 1.2.1 For the 2024/25 working age Scheme, changes have been made to bring it in line with statutory prescribed requirements from Government national benefit rates. The Scheme has also been uplifted in line with new rates of National Living Wage (NLW) where the NLW is used as a factor in calculating income discount bands. The draft Scheme is attached at **Annex 1** and the income bands can be found at p103 of the Scheme.
- 1.2.2 From April 2024 the National Living Wage rises from £10.42 per hour to £11.44. This rise, around 9.8% was based on recommendation of the Low Pay Commission to Government. Were we to increase our local council tax reduction scheme income bands by a lower percentage or not at all this would effectively penalise those households earning NLW rates of pay. It would be a counter intuitive approach, when Government has introduced measures aimed at easing the impact of rising costs of living for households with low incomes.

1.3 Government funded Council Tax Support Scheme

- 1.3.1 Members may recall that Government announced a council tax support fund for the current 2023/24 financial year to mitigate increases in council tax for low income households. Each household receiving local council tax reduction has been granted a further £25, or less if the bill is lower after the application of council tax reduction.
- 1.3.2 The Scheme ends on 31 March 2024 and at the time of writing this report there is no indication of a renewed Scheme for 2024/25.

1.4 Legal Implications

- 1.4.1 A Scheme must be considered and agreed by 11th March prior to the financial year of operation.

1.5 Financial and Value for Money Considerations

- 1.5.1 Financial effectiveness and cost of the Scheme will be monitored during the coming year..

1.6 Risk Assessment

- 1.6.1 The draft 2024/25 Scheme sets out how the Council will operate its discretionary powers to reduce risk of legal challenge and provide greater equality in the application of the Scheme.

1.7 Policy Considerations

- 1.7.1 The Scheme will continue to operate in line with existing associated policies.

1.8 Equality Impact Assessment

- 1.8.1 Changes made in line with Government uprating of national rates.

1.9 Recommendation

- 1.9.1 Cabinet is requested to **RECOMMEND** the draft Local Council Tax Reduction Scheme for 2024/25 to Full Council.

Background papers:

Nil

contact: Sharon Shelton
Andrew Rosevear

Sharon Shelton
Director of Finance & Transformation

Tonbridge & Malling Borough Council
Council Tax Reduction Scheme for Working Age Applicants
S13A and Schedule 1a of the Local Government Finance Act 1992

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DRAFT

1.0 Introduction to the Council Tax Reduction Scheme

1.1 The following has been adopted by the Council and details the Council Tax Reduction scheme for the period from 1st April 2024.

1.2 This document details how the scheme will operate for **working age applicants** and in accordance with Section 13A of the Local Government Finance Act 1992 specifies the classes of person who are to be entitled to a reduction under the scheme and is effective from 1st April 2024 for a period of one financial year.

1.3 The scheme in respect of pension age applicants is defined by Central Government within the following:

- Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, as amended to date;
- Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012, as amended to date;
- Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
- Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
- Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013, as amended to date;
- Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012).

The scheme for pension age applicants is defined by Central Government's scheme as defined under the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 as amended.

1.4 There are three main classes under the prescribed pension age scheme, for each of which there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction, such as a person subject to immigration control with limited leave to remain. The definition of a pension credit age person is a person who;

- a. has attained the qualifying age for state pension credit; and
- b. is not, or, if he has a partner, his partner is not;
 - i. a person on income support, on an income-based Jobseeker's Allowance or on an income-related Employment and Support Allowance; or
 - ii. a person with an award of Universal Credit

The three prescribed classes are as follows;

Class A: pensioners whose income is less than the applicable amount.

On any day Class A consists of any person who is a pensioner:

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- d. whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with paragraph 9 and Schedule 2 of the Local Government Finance Act 1992;
- e. not have capital savings above £16,000; and
- f. who has made an application for a reduction under the authority's scheme.

Class B: pensioners whose income is greater than the applicable amount.

On any day class B consists of any person who is a pensioner:

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day; in respect of whom a maximum Council Tax Reduction amount can be calculated;
- c. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- d. whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 9 and Schedule 2 to the Local Government Finance Act 1992;
- e. in respect of whom amount A exceeds amount B where;
 - (i) amount A is the maximum Council Tax Reduction in respect of the day in the applicant's case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- g. not have capital savings above £16,000; and
- h. who has made an application for a reduction under the authority's scheme.

Class C: alternative maximum Council Tax Reduction

On any day class C consists of any person who is a pensioner:

- a. who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- b. who, subject to paragraph 5 of Schedule 1 of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, is not absent from the dwelling throughout the day;
- c. in respect of whom a maximum Council Tax Reduction amount can be calculated;
- d. who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act and excluded from the authority's scheme;
- e. who has made an application for a reduction under the authority's scheme; and
- f. in relation to whom the condition below is met.

The condition referred to in sub-paragraph f. is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum Council Tax Reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.

The above applies to any other resident of the dwelling who:

- a. is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- b. is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- c. is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—

- (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; or
 - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- d. is not a person who, jointly with the applicant, falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- e. is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

Disregard of certain incomes

- 1.5** For those who have reached the qualifying age for state pension credit, the Council has resolved to enhance the government scheme (as defined by the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 to disregard in full the following:
- a. a war disablement pension;
 - b. a war widow's pension or war widower's pension;
 - c. a pension payable to a person as a widow, widower or surviving civil partner under any power of His Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - d. a guaranteed income payment;
 - e. a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - f. a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - g. pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

The provisions outlined above, enhance the Central Government's scheme.

THE SCHEME FOR WORKING AGE APPLICANTS – THE COUNCIL'S LOCAL SCHEME

- 1.6** The adopted scheme for working age applicants is an income banded / grid scheme means test, which compares income against a range of discounts available. Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;
- a. has not attained the qualifying age for state pension credit; or
 - b. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based Jobseeker's Allowance, on an income-related Employment and Support allowance or on Universal Credit.
- 1.7** The Council has resolved that there will be **one** class of persons who will receive a reduction in line with adopted scheme. The scheme has qualifying criteria. In all cases individuals must not be of a prescribed class exempted from reduction as specified within section 7 of this scheme.

Class D

To obtain reduction the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit; or
- b. he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is a person on income support, on income-based jobseeker's allowance or

an income-related employment and support allowance; or a person with an award of universal credit.

- c. be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- d. is not deemed to be absent from the dwelling;
- e. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- f. be somebody in respect of whom a maximum Council Tax Reduction amount can be calculated;
- g. not have capital savings above £16,000;
- h. not have income above the levels specified within the scheme;
- i. be a person in respect of whom a day in which s/he is liable to pay council tax in respect of which the person's *income* is within a range of incomes specified within Schedule 1; and
- j. has made a valid application for reduction.

Council Tax Reduction Scheme

This scheme relates to the financial year beginning with 1 April 2024 and should be cited as Tonbridge & Malling Borough Council – Council Tax Reduction Scheme.

Sections 2- 8
Definitions and interpretation

2.0 Interpretation – an explanation of the terms used within this scheme

2.1 In this scheme–

‘the Act’ means the Social Security Contributions and Benefits Act 1992;

‘the Administration Act’ means the Social Security Administration Act 1992;

‘the 1973 Act’ means the Employment and Training Act 1973;

‘the 1992 Act’ means the Local Government Finance Act 1992;

‘the 2000 Act’ means the Electronic Communications Act 2000;

‘Abbeyfield Home’ means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

‘adoption leave’ means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;

‘an AFIP’ means an armed forces independence payment payable in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004

‘applicant’ means a person who the authority designates as able to claim Council Tax Reduction – for the purposes of this scheme all references are in the masculine gender but apply equally to male and female;

‘application’ means an application for a reduction under this scheme:

‘appropriate DWP office’ means an office of the Department for Work and Pensions dealing with state pension credit or office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance;

‘assessment period’ means such period as is prescribed in sections 19 to 21 over which income falls to be calculated;

‘attendance allowance’ means–

(a) an attendance allowance under Part 3 of the Act;

(b) an increase of disablement pension under section 104 or 105 of the Act;

(c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to the Act;

(d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act;

(e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or

(f) any payment based on need for attendance which is paid as part of a war disablement pension;

‘the authority’ means a billing authority in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

‘Back to Work scheme(s)’ means any scheme defined within the Jobseekers (Back to Work Schemes) Act 2013 or Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

‘basic rate’, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).

‘the benefit Acts’ means the Act (SSBA) and the Jobseekers Act 1995 and the Welfare Reform Act 2007;

‘board and lodging accommodation’ means accommodation provided to a family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises;

‘care home’ has the meaning given by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 or a residential care home within the meaning of Article 10 of that Order;

‘the Caxton Foundation’ means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering

from hepatitis C and other persons eligible for payment in accordance with its provisions;

‘child’ means a person under the age of 16;

‘child benefit’ has the meaning given by section 141 of the SSCBA as amended by The Child Benefit (General), Child Tax Credit (Amendment) Regulations 2014 and The Child Benefit (General) (Amendment) Regulations 2015;

‘the Children Order’ means the Children (Northern Ireland) Order 1995;

‘child tax credit’ means a child tax credit under section 8 of the Tax Credits Act 2002;

‘claim’ means a claim for Council Tax Reduction;

‘close relative’ means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;

‘concessionary payment’ means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act are charged;

‘the Consequential Provisions Regulations’ means the Housing Benefit (Consequential Provisions) Regulations 2006;

‘contributory employment and support allowance’ means an allowance under Part 1 of the Welfare Reform Act 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;

‘council tax benefit’ means council tax benefit under Part 7 of the SSCBA;

‘council tax reduction scheme’ has the same meaning as **‘Council Tax Reduction or reduction’**

‘Council Tax Reduction’ means council tax reduction as defined by S13a Local Government Finance Act 1992 (as amended);

‘couple’ means;

- (a) a man and a woman who are married to each other and are members of the same household;
- (b) a man and a woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes. The above includes the Marriage (Same Sex Couples) Act 2013 and The Marriage (Same Sex Couples) Act 2013 (Commencement No. 3) Order 2014;

‘date of claim’ means the date on which the application or claim is made, or treated as made, for the purposes of this scheme

‘designated authority’ means any of the following;

the local authority; or a person providing services to, or authorised to exercise any function of, any such authority;

‘designated office’ means the office designated by the authority for the receipt of claims for Council Tax Reduction;

- (a) by notice upon or with a form approved by it for the purpose of claiming Council Tax Reduction; or
- (b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application; or
- (c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

‘disability living allowance’ means a disability living allowance under section 71 of the Act;

‘dwelling’ has the same meaning in section 3 or 72 of the 1992 Act;

‘earnings’ has the meaning prescribed in section 22 or, as the case may be, 24;

‘the Eileen Trust’ means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

‘electronic communication’ has the same meaning as in section 15(1) of the Electronic Communications Act 2000;

‘employed earner’ is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

‘Employment and Support Allowance Regulations’ means the Employment and Support Allowance Regulations 2008 and the Employment and Support Regulations 2013 as appropriate;

‘Employment and Support Allowance (Existing Awards) Regulations’ means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) Regulations 2010;

‘the Employment, Skills and Enterprise Scheme’ means a scheme under section 17A (schemes for assisting persons to obtain employment; ‘work for your benefit’ schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist applicants to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search). This also includes schemes covered by The Jobseekers Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 as amended by the Jobseekers (Back to Work Schemes) Act 2013 – see **‘Back to Work Schemes’**;

‘enactment’ includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

‘extended reduction’ means a payment of Council Tax Reduction payable pursuant to section 59;

‘family’ has the meaning assigned to it by section 137(1) of the Act and Section 9 of this scheme;

‘the Fund’ means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

‘a guaranteed income payment’ means a payment made under article 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;

‘he, him, his’ also refers to the feminine within this scheme

‘housing benefit’ means housing benefit under Part 7 of the Act; ‘the Housing Benefit Regulations’ means the Housing Benefit Regulations 2006;

‘Immigration and Asylum Act’ means the Immigration and Asylum Act 1999;

‘an income-based jobseeker’s allowance’ and **‘a joint-claim jobseeker’s allowance’** have the meanings given by section 1(4) of the Jobseekers Act 1995;

‘income-related employment and support allowance’ means an income-related allowance under Part 1 of the Welfare Reform Act 2007;

‘Income Support Regulations’ means the Income Support (General) Regulations 1987(a);

‘independent hospital’–

(a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;

(b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978;

‘the Independent Living Fund (2006)’ means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

‘invalid carriage or other vehicle’ means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

‘Jobseekers Act’ means the Jobseekers Act 1995; **‘Jobseeker’s Allowance Regulations’** means the Jobseeker’s Allowance Regulations 1996 and Jobseeker’s Allowance Regulations 2013 as appropriate;

‘limited capability for work’ has the meaning given in section 1(4) of the Welfare Reform Act;

‘limited capability for work-related activity’ has the meaning given in section 2(5) of the

Welfare Reform Act 2007;

‘the London Bombing Relief Charitable Fund’ means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

‘lone parent’ means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

‘the Macfarlane (Special Payments) Trust’ means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

‘the Macfarlane (Special Payments) (No.2) Trust’ means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

‘the Macfarlane Trust’ means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

‘main phase employment and support allowance’ means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007 except in Part 1 of Schedule 1;

‘the Mandatory Work Activity Scheme’ means a scheme within section 17A (schemes for assisting persons to obtain employment; ‘work for your benefit’ schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting applicants to improve their prospect of obtaining employment;

‘maternity leave’ means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996;

‘member of a couple’ means a member of a married or unmarried couple;

‘MFET Limited’ means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;

‘mover’ means an applicant who changes the dwelling in which the applicant is resident and in respect of which the applicant liable to pay council tax from a dwelling in the area of the appropriate authority to a dwelling in the area of the second authority;

‘net earnings’ means such earnings as are calculated in accordance with section 23;

‘net profit’ means such profit as is calculated in accordance with section 25;

‘the New Deal options’ means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

‘non-dependant’ has the meaning prescribed in section 3;

‘occasional assistance’ means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of:

- (a) meeting, or helping to meet an immediate short-term need;
 - (i) arising out of an exceptional event or exceptional circumstances, or
 - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and—
 - (i) ‘local authority’ has the meaning given by section 270(1) of the Local Government Act 1972; and
 - (ii) ‘qualifying individuals’ means individuals who have been, or without the assistance might otherwise be:
 - (aa) in prison, hospital, an establishment providing residential care or other institution, or

(bb) homeless or otherwise living an unsettled way of life; and 'local authority' means a local authority in England within the meaning of the Local Government Act 1972;

'occupational pension' means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

'occupational pension scheme' has the same meaning as in section 1 of the Pension Schemes Act 1993

'ordinary clothing or footwear' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

'partner' in relation to a person, means

(a) where that person is a member of a couple, the other member of that couple;

(b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or

(c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

'paternity leave' means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

'payment' includes part of a payment;

'pensionable age' has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 as amended by the Public Services Pension Act 2013 and Pensions Act 2014;

'pension fund holder' means with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

'pensioner' a person who has attained the age at which pension credit can be claimed;

'person affected' shall be construed as a person to whom the authority decides is affected by any decision made by the council;

"person from abroad" means, subject to the following provisions of this regulation, a person who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland

'person on income support' means a person in receipt of income support;

'personal independence payment' has the meaning given by Part 4 of the Welfare Reform Act 2012 and the Social Security (Personal Independence Payments) 2013;

'person treated as not being in Great Britain' has the meaning given by section 7;

'personal pension scheme' means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993 as amended by the Public Service Pension Act 2013;

(b) an annuity contractor trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) or that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 of the Finance Act 2004;

(c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

'policy of life insurance' means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

'polygamous marriage' means a marriage to which section 133(1) of the Act refers namely;

(a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and

(b) either party to the marriage has for the time being any spouse additional to the other party.

'public authority' includes any person certain of whose functions are functions of a public nature;

'qualifying age for state pension credit' means (in accordance with section 1(2)(b) and (6) of

the State Pension Credit Act 2002)–

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

‘qualifying contributory benefit’ means;

(a) severe disablement allowance;

(b) incapacity benefit;

(c) contributory employment and support allowance;

‘qualifying course’ means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker’s Allowance Regulations 1996

‘qualifying income-related benefit’ means

(a) income support;

(b) income-based jobseeker’s allowance;

(c) income-related employment and support allowance;

‘qualifying person’ means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

‘reduction week’ means a period of seven consecutive days beginning with a Monday and ending with a Sunday;

‘relative’ means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

‘relevant authority’ means an authority administering Council Tax Reduction;

‘relevant week’ In relation to any particular day, means the week within which the day in question falls;

‘remunerative work’ has the meaning prescribed in section 6;

‘rent’ means ‘eligible rent’ to which regulation 12 of the Housing Benefit Regulations refers less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions) of those Regulations;

‘resident’ has the meaning it has in Part 1 or 2 of the 1992 Act;

‘Scottish basic rate’ means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

‘Scottish taxpayer’ has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998

‘second authority’ means the authority to which a mover is liable to make payments for the new dwelling;

‘self-employed earner’ is to be construed in accordance with section 2(1)(b) of the Act;

‘self-employment route’ means assistance in pursuing self-employed earner’s employment whilst participating in–

(a) an employment zone programme;

(b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc.);

(c) the Employment, Skills and Enterprise Scheme;

(d) a scheme prescribed in regulation 3 of the Jobseeker’s Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013;

(e) Back to Work scheme.

‘Service User’ references in this scheme to an applicant participating as a service user are to

(a) a person who is being consulted by or on behalf of–

(i) the Secretary of State in relation to any of the Secretary of State’s functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or

(b) the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph.”.

‘service user group’ means a group of individuals that is consulted by or on behalf of;

(a) a Health Board, Special Health Board or the Agency in consequence of a function under

- section 2B of the National Health Service (Scotland) Act 1978,
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
 - (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995,
 - (d) a public authority in consequence of a function relating to disability under section 149 of the Equality Act 2010;
 - (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
 - (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
 - (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
 - (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
 - (i) the Care Quality Commission in consequence of a function under section 4 or 5 of the Health and Social Care Act 2008,
 - (j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008, or
 - (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

Severely disabled person is a person which meets the condition in s70(2) Social Security Contributions & Benefits Act 1992'

'single applicant' means an applicant who neither has a partner nor is a lone parent;

'the Skipton Fund' means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions.

'special account' means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker's Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;

'sports award' means an award made by one of the Sports Councils named in section 23(2) of the National Lottery Act 1993 out of sums allocated to it for distribution under that section;

'the SSCBA' means the Social Security Contributions and Benefits Act 1992

'State Pension Credit Act' means the State Pension Credit Act 2002;

'student' has the meaning prescribed in section 43;

'subsistence allowance' means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

'the Tax Credits Act' means the Tax Credits Act 2002;

'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next;

'training allowance' means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People's Learning Agency for England, the Chief Executive of Skills Funding or Welsh Ministers;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, the department or approved by the department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers.

It does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act or is training as a teacher;

‘the Trusts’ means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

‘Universal Credit’ means any payment of Universal Credit payable under the Welfare Reform Act 2012, the Universal Credit Regulations 2013, The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013, Universal Credit (Miscellaneous Amendments) Regulations 2013 and the Universal Credit (Transitional Provisions) Regulations 2014;

‘Up-rating Act’ means the Welfare Benefit Up-rating Act 2013, the Welfare Benefits Up-rating Order 2014 and the Welfare Benefits Up-rating Order 2015;

‘voluntary organisation’ means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

‘war disablement pension’ means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

‘war pension’ means a war disablement pension, a war widow’s pension or a war widower’s pension;

‘war widow’s pension’ means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

‘war widower’s pension’ means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

‘water charges’ means;

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991,

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002, in so far as such charges are in respect of the dwelling which a person occupies as his home;

‘week’ means a period of seven days beginning with a Monday;

‘Working Tax Credit Regulations’ means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 as amended¹; and

‘young person’ has the meaning prescribed in section 9(1) and in section 142 of the SSCBA.

2.2 In this scheme, references to an applicant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations 2006.

2.3 In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.

2.4 For the purpose of this scheme, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day;

(a) in respect of which he satisfies the conditions for entitlement to an income- based jobseeker’s allowance but where the allowance is not paid in accordance with regulation 27A of the Jobseeker’s Allowance Regulations or section 19 or 20A or regulations made under section 17A of the Jobseekers Act (circumstances in which a jobseeker’s allowance is not payable); or

(b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income- based jobseeker’s allowance is payable to him or would be payable to him but for regulation 27A of the

¹ The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013; The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2015

- Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of that Act;
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;
 - (d) in respect of which an income-based jobseeker's allowance or a joint-claim jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- 2.5** For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day;
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act disqualification; or
 - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- 2.6** For the purposes of this scheme, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- 2.7** In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).
- 3.0 Definition of non-dependant**
- 3.1** In this scheme, 'non-dependant' means any person, except someone to whom paragraph 3.2 applies, who normally resides with an applicant or with whom an applicant normally resides.
- 3.2** This paragraph applies to;
- (a) any member of the applicant's family;
 - (b) if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
 - (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of section 11(membership of the same household);
 - (d) subject to paragraph 3.3, any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
 - (e) subject to paragraph 3.3, any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
 - (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.
- 3.3** Excepting persons to whom paragraph 3.2 a) to c) and f) refer, a person to whom any of the following sub-paragraphs applies shall be a non-dependant–
- (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either;
 - i. that person is a close relative of his or her partner; or
 - ii. the tenancy or other agreement between them is other than on a commercial basis;
 - (b) a person whose liability to make payments in respect of the dwelling appears to the

authority to have been created to take advantage of the Council Tax Reduction scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;

- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the authority is satisfied that the change giving rise to the new liability was not made to take advantage of the support scheme.

4.0 Requirement to provide a National Insurance Number²

4.1 No person shall be entitled to support unless the criteria below in 4.2 is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming support.

4.2 This subsection is satisfied in relation to a person if–

- (a) the claim for support is accompanied by;
 - i. a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
 - ii. information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
- (b) the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated and the application for reduction is accompanied by evidence of the application and information to enable it to be allocated.

4.3 Paragraph 4.2 shall not apply–

- (a) in the case of a child or young person in respect of whom Council Tax Reduction is claimed;
- (b) to a person who;
 - i. is a person in respect of whom a claim for Council Tax Reduction is made;
 - ii. is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act; and
 - iii. has not previously been allocated a national insurance number.

5.0 Persons who have attained the qualifying age for state pension credit

5.1 This scheme applies to a person if:

- (i) he has not attained the qualifying age for state pension credit; or
- (ii) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is;
 - (a) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
 - (b) a person with an award of universal credit.

6.0 Remunerative work

6.1 Subject to the following provisions of this section, a person shall be treated for the purposes of this scheme as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

6.2 Subject to paragraph 6.3, in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked

² Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

over;

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to that date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately,

6.3 Where, for the purposes of paragraph 6.2 a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

6.4 Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.

6.6 A person on Income Support, an income-based Jobseeker's Allowance or an income-related Employment and Support Allowance for more than 3 days shall be treated as not being in remunerative work in that week.

6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.

6.8 A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which;
(a) a sports award has been made, or is to be made, to him; and
(b) no other payment is made or is expected to be made to him.

7.0 Persons treated as not being in Great Britain and Persons Subject to Immigration Control

Persons treated as not being in Great Britain

7.1 Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.

7.2 Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

7.3 A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

7.4 For the purposes of paragraph (3), a right to reside does not include a right, which exists by virtue of, or in accordance with—
(a) regulation 13 of the EEA Regulations;
(aa) regulation 14 of the EEA Regulations, but only in a case where the right exists under that regulation because the person is—

- (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
- (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (5) of that regulation of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).

7.4 A For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

- (a) (Removed by the Council Tax Reductions Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2021
- (b) Appendix EU to the immigration rules made under section 3(2) of that Act;
- (c) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act; or
- (d) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.

7.5 A person falls within this paragraph if the person is—

- (za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of—
 - (i) the Afghan Relocations and Assistance Policy; or
 - (ii) the previous scheme for locally employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);
- (zb) a person in Great Britain not coming within sub-paragraph (za) or (e) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021;
- (zc) a person in Great Britain who was residing in Ukraine immediately before 1st January 2022, left Ukraine in connection with the Russian invasion which took place on 24th February 2022 and—
 - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in sub-paragraph (a);
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
- (ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;
- (cb) a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020;
- (cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971
- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th

July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

- (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971
- (f) a person who has humanitarian protection granted under those rules;
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
- (h) in receipt of income support or on an income-related employment and support allowance; or
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4);

7.6 A person falls within this paragraph if the person is a Crown servant or member of His Majesty's forces posted overseas.

7.7 A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of His Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

7.8 In this regulation—
"claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;
"Crown servant" means a person holding an office or employment under the Crown;
"EEA Regulations" means the Immigration (European Economic Area) Regulations 2006; The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014; and
"His Majesty's forces" has the same meaning as in the Armed Forces Act 2006.

Persons subject to immigration control

7.9 Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.

7.10 A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (done in Paris on 11th December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18th October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph 7.9

7.11 "Person subject to immigration control" has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

7A.0 Transitional provision

7A.1 The above does not apply to a person who, on 31st March 2015

- (a) is liable to pay council tax at a reduced rate by virtue of a Council Tax Reduction under an authority's scheme established under section 13A (2) of the Act; and
- (b) is entitled to an income-based jobseeker's allowance, until the first of the events in paragraph 7A.2 occurs.

7A.2 The events are—

- (a) the person makes a new application for a reduction under an authority's scheme established under section 13A (2) of the Act; or
- (b) the person ceases to be entitled to an income-based jobseeker's allowance.

7A.3 In this section “the Act” means the Local Government Finance Act 1992.

8.0 Temporary Absence (period of absence)

8.1 Where a person is absent from the dwelling throughout any day then no support shall be payable

8.2 A person shall not, in relation to any day, which falls within a period of temporary absence from that dwelling, be a prescribed person under paragraph 8.1.

8.3 In paragraph 8.2, a ‘period of temporary absence’ means—

- (a) a period of absence within Great Britain not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation in Great Britain where and for so long as;
 - i. the person resides in that accommodation;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
 - iii. that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as;

- i. the person intends to return to the dwelling;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let; and
 - iii. that period is unlikely to exceed 13 weeks; and

- (c) a period of absence within Great Britain not exceeding 52 weeks, beginning with the first whole day of absence, where and for so long as

- i. the person intends to return to the dwelling;
 - ii. the part of the dwelling in which he usually resided is not let or sub-let;
 - iii. the person is a person to whom paragraph 8.4 applies; and
 - iv. the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

8.3 A A person who is temporarily absent from a dwelling he occupies as his home and is absent outside Great Britain shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 4 weeks.

8.3 B A person who is temporarily absent from a dwelling he occupies as his home and is absent outside of Great Britain as a member of the armed forces away on operations, a mariner or a continental shelf worker shall be treated as occupying that dwelling as his home whilst he is temporarily absent, for a period not exceeding 26 weeks beginning with the first day of that absence from Great Britain, provided that—

- (a) the person intends to return to occupy the dwelling as his home;
- (b) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let; and
- (c) the period of absence is unlikely to exceed 26 weeks.

8.3 C This paragraph applies where—

- (a) a person is temporarily absent from Great Britain;
- (b) the temporary absence from Great Britain is in connection with the death of the—
 - (i) person's partner or a child or young person for whom he or his partner is responsible;
 - (ii) person's close relative;
 - (iii) close relative of the person's partner; or
 - (iv) close relative of a child or young person for whom the person or their partner is responsible;
- (c) the person intends to return to occupy the dwelling as his home; and
- (d) the part of the dwelling normally occupied by the person has not been let or, as the case may be, sub-let.

8.3D person to whom paragraph (8.3C) applies shall be treated as occupying a dwelling he is absent from as his home whilst he is temporarily absent for a period not exceeding 4 weeks beginning with the first day of that absence from Great Britain.

8.3E The period of absence in paragraph (8.3D) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks

8.4 This paragraph applies to a person who is;

- (a) detained in custody on remand pending trial or required, as a condition of bail, to reside;
 - i. in a dwelling, other than the dwelling referred to in paragraph 8.1, or
 - ii. in premises approved under section 13 of the Offender Management Act 2007, or, detained in custody pending sentence upon conviction;
- (b) resident in a hospital or similar institution as a patient;
- (c) undergoing, or his partner or his dependent child is undergoing, in Great Britain or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) following, in Great Britain or elsewhere, a training course;
- (e) undertaking medically approved care of a person residing in Great Britain or elsewhere;
- (f) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care of medical treatment;
- (g) in Great Britain, receiving medically approved care provided in accommodation other than residential accommodation;
- (h) a student;
- (i) receiving care provided in residential accommodation other than a person to whom paragraph 8.3a) applies; or
- (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.

8.5 This paragraph applies to a person who is:

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986; and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989

8.6 Where paragraph 8.5 applies to a person, then, for any day when he is on temporary release—

- (a) if such temporary release was immediately preceded by a period of temporary absence

- under paragraph 8.3 b) or c), he shall be treated, for the purposes of paragraph 8.1, as if he continues to be absent from the dwelling, despite any return to the dwelling;
- (b) for the purposes of paragraph 8.4 a), he shall be treated as if he remains in detention;
- (c) If he does not fall within sub-paragraph a), he is not considered to be a person who is liable to pay Council Tax in respect of a dwelling of which he is resident.

8.7 In this section;

- ‘medically approved’ means certified by a medical practitioner;
- ‘continental shelf worker’ means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998
- ‘designated area’ means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where:

- a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
 - b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage
- ‘patient’ means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution; ‘residential accommodation’ means accommodation which is provided;
 - (a) in a care home;
 - (b) in an independent hospital;
 - (c) in an Abbeyfield Home; or
 - (d) in an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- ‘prescribed area’ means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998
- ‘training course’ means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

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Sections 9 - 11
The family for Council Tax Reduction purposes

9.0 Membership of a family

9.1 Within the support scheme adopted by the Council 'family' means;

- (a) a married or unmarried couple;
- (b) married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person;
- (c) two people of the same sex who are civil partners of each other and are members of the same household (with or without children);
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners (with or without children),
- (e) and for the purposes of sub-paragraph (d) two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;
- (f) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

For the purposes of the scheme a child is further defined as a 'child or young person'

A 'child' means a person under the age of 16 and a 'Young Person' is someone aged 16 or over but under 20 and who satisfies other conditions. These conditions are:

- they are aged 16, have left 'relevant education' or training, and 31 August following the sixteenth birthday has not yet been passed;
- they are aged 16 or 17, have left education or training, are registered for work, education or training, are not in remunerative work and are still within their 'extension period';
- they are on a course of full-time non-advanced education, or are doing 'approved training', and they began that education or training before reaching the age of 19;
- they have finished a course of full-time non-advanced education, but are enrolled on another such course (other than one provided as a result of their employment);
- they have left 'relevant education' or 'approved training' but have not yet passed their 'terminal date'.

9.2 Paragraph 9.1 the definition of child or young person shall not apply to a person who is;

- (a) on income support;
- (b) an income-based Jobseeker's Allowance or an income-related Employment and Support allowance; or has an award of Universal Credit; or
- (c) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

9.3 The definition also includes a child or young person in respect of whom there is an entitlement to child benefit but only for the period that Child Benefit is payable

10.0 Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person.

10.1 Subject to the following paragraphs a person shall be treated as responsible for a child or young person who is normally living with him and this includes a child or young person to whom paragraph 9.3 applies

10.2 Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph 9.1 as normally living with;

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person;
 - i. where only one claim for child benefit has been made in respect of him, the person who made that claim; or

- ii. in any other case the person who has the primary responsibility for him.

10.3 For the purposes of this scheme a child or young person shall be the responsibility of only one person and any person other than the one treated as responsible for the child or young person under this section shall be treated as not so responsible.

10.4 In accordance with Schedule 1 of this scheme, the number of dependants determined to be within the household shall be limited to two.

11.0 Circumstances in which a child or young person is to be treated as being or not being a member of the household

11.1 Subject to paragraphs 11.2 and 11.3, the applicant and any partner and, where the applicant or his partner is treated as responsible by virtue of section 10 (circumstances in which a person is to be treated as responsible or not responsible for a child or young person) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

11.2 A child or young person shall not be treated as a member of the applicant's household where he is;

- (a) placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

11.3 Subject to paragraph 11.4, paragraph 11.1 shall not apply to a child or young person who is not living with the applicant and he—

- (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
- (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009; or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).

11.4 The authority shall treat a child or young person to whom paragraph 11.3 a) applies as being a member of the applicant's household where;

- a. that child or young person lives with the applicant for part or all of that reduction week; and
- b. the authority considers that it is responsible to do so taking into account the nature and frequency of that child's or young person's visits.

11.5 In this paragraph 'relevant enactment' means the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957, the Matrimonial Proceedings (Children) Act 1958, the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969, the Children and Young Persons Act 1969, the Matrimonial Causes Act 1973, the Children Act 1975, the Domestic Proceedings and Magistrates' Courts Act 1978, the Adoption and Children (Scotland) Act 1978, the Family Law Act 1986, the Children Act 1989, the Children (Scotland) Act 1995 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Sections 12 – 30 & Schedules 2 & 3
Definition and the treatment of income for Council Tax Reduction purposes

12.0 Calculation of income and capital of members of applicant's family and of a polygamous marriage

- 12.1** The income and capital of:
- (a) an applicant; and
 - (b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part.

- 12.2** The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.

- 12.3** Where an applicant or the partner of an applicant is married polygamously to two or more members of his household:
- (a) the applicant must be treated as possessing capital and income belonging to each such member; and
 - (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

13.0 Calculation of income and capital: persons who have an award of universal credit

- 13.1** In determining the income of an applicant
- (a) who has, or
 - (b) who (jointly with his partner) has,
- an award of universal credit the authority may subject to the following provisions of this paragraph use the calculation or estimate of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.
- 13.2** The authority may adjust the amount referred to in sub-paragraph (1) to take account of
- (a) income consisting of the award of universal credit, determined in accordance with subparagraph (3) and a sum determined as an amount for housing costs;
 - (b) any sum to be disregarded under paragraphs of Schedule 2 to this scheme (sums to be disregarded in the calculation of earnings);
 - (c) any sum to be disregarded under Schedule 3 to this scheme (sums to be disregarded in the calculation of income other than earnings);
 - (d) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable)
- 13.3** The amount for the award of universal credit is to be determined by multiplying the amount of the award by 12 and dividing the product by 52.
- 13.4** Sections 14 (income and capital of non-dependant to be treated as applicant's) apply (so far as relevant) for the purpose of determining any adjustments, which fall to be made to the figure for income under sub-paragraph (2)
- 13.5** In determining the capital of an applicant;
- (a) who has, or
 - (b) who (jointly with his partner) has,
- an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining that award

14.0 Circumstances in which capital and income of non-dependant is to be treated as applicant's

14.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the Council Tax Reduction scheme and the non-dependant has more capital and income than the applicant, that authority shall, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing capital and income belonging to that non-dependant, and, in such a case, shall disregard any capital and income which the applicant does possess.

14.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under paragraph 14.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to the 'applicant' shall, except where the context otherwise requires, be construed for the purposes of this scheme as if it were a reference to that non-dependant.

15.0 Calculation of income on a weekly basis

15.1 For the purposes of this scheme and in line with regulation 34 of the Housing Benefit Regulations 2006 (disregard to changes in tax, contributions etc.), the income of an applicant shall be calculated on a weekly basis by estimating the amount which is likely to be his average weekly income in accordance with this Section and in line with Sections 2, 3, 4 and 5 of Part 6 of the Housing Benefit Regulations 2006.

15.2 The conditions of this paragraph are that;

- a. the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant childcare charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case;
- b. that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit; and
- c. by then deducting any relevant child care charges to which section 18 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in paragraph 18.2 are met, from those earnings plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in his case.

15.3 The maximum deduction to which paragraph 15.1 c) above refers shall be;

- a. where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week.
- b. where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300.00 per week.

The amounts stated in this paragraph shall be amended in accordance with the Housing Benefit Regulations 2006 (as amended).

16.0 Average weekly earnings of employed earners

16.1 Where an applicant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
 - i. 5 weeks, if he is paid weekly; or
 - ii. 2 months, if he is paid monthly; or
- (b) whether or not sub-paragraph 16.1a i) or ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated

as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

16.2 Where the applicant has been in his employment for less than the period specified in paragraph 16.1 a)(i) or (ii)

- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;
- (b) in any other case, the authority shall require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the authority may require and the applicant's average weekly earnings shall be estimated by reference to that estimate.

16.3 Where the amount of an applicant's earnings changes during an award the authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

16.4 For the purposes of this section the applicant's earnings shall be calculated in accordance with sections 22 and 23

17.0 Average weekly earnings of self-employed earners

17.1 Where an applicant's income consists of earnings from employment as a self-employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period shall not in any case exceed a year.

17A.0 Average weekly income other than earnings

17A.1 An applicant's income which does not consist of earnings shall be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

18.0 Treatment of child care charges

18.1 This section applies where an applicant is incurring relevant child-care charges and;

- a. is a lone parent and is engaged in remunerative work;
- b. is a member of a couple both of whom are engaged in remunerative work; or
- c. is a member of a couple where one member is engaged in remunerative work and the other;
 - i. is incapacitated;
 - ii. is an in-patient in hospital; or
 - iii. is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

18.2 For the purposes of paragraph 18.1 and subject to paragraph 18.4, a person to whom paragraph 18.3 applies shall be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- a. is paid statutory sick pay;
- b. is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Act;
- c. is paid an employment and support allowance;
- d. is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support Regulations 1987; or
- e. is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

- 18.3 This paragraph applies to a person who was engaged in remunerative work immediately before
- a. the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
 - b. the first day of the period in respect of which earnings are credited, as the case may be.
- 18.4 In a case to which paragraph 18.2 d) or e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- 18.5 Relevant child care charges are those charges for care to which paragraphs 18.6 and 18.7 apply, and shall be calculated on a weekly basis in accordance with paragraph 18.10.
- 18.6 The charges are paid by the applicant for care, which is provided
- a. in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
 - b. in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- 18.7 The charges are paid for care, which is provided by one, or more of the care providers listed in paragraph 18.8 and are not paid—
- a. in respect of the child's compulsory education;
 - b. by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (circumstances in which a person is treated as responsible or not responsible for another); or
 - c. in respect of care provided by a relative of the child wholly or mainly in the child's home.
- 18.8 The care to which paragraph 18.7 refers may be provided;
- a. out of school hours, by a school on school premises or by a local authority;
 - i. for children who are not disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
 - ii. for children who are disabled in respect of the period beginning on their eight birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
 - b. by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
 - c. by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
 - d. by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) order 2010; or
 - e. by;
 - i. persons registered under section 59(1) of the Public Services Reform Scotland Act 2010; or
 - ii. local authorities registered under section 8(1) of that Act, where the care provided is child minding or daycare within the meaning of that Act; or
 - f. by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 or
 - g. by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
 - h. by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in

- circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- i. by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
 - j. by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of 'childcare' for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
 - k. by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
 - l. by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or
 - m. by a person who is not a relative of the child wholly or mainly in the child's home.
- 18.9 In paragraphs 18.6 and 18.8 a), 'the first Monday in September' means the Monday which first occurs in the month of September in any year.
- 18.10 Relevant child care charges shall be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- 18.11 For the purposes of paragraph 18.1 c) the other member of a couple is incapacitated where
- a. the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work
 - b. the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulation made under section 171E of the Act;
 - c. the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008 or Employment and Support Regulations 2013;
 - d. the applicant (within the meaning of this scheme) is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
 - e. the applicant (within the meaning of this scheme) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 or Employment and Support Regulations 2013 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
 - f. there is payable in respect of him one or more of the following pensions or allowances—
 - i. long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
 - ii. attendance allowance under section 64 of the Act;
 - iii. severe disablement allowance under section 68 of the Act;
 - iv. disability living allowance under section 71 of the Act;

- v. personal independence payment under the Welfare Reform Act 2012;
 - vi. an AFIP;
 - vii. increase of disablement pension under section 104 of the Act;
 - viii. a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (vii) above;
 - ix. main phase employment and support allowance;
- g. a pension or allowance to which head (ii), (iv), (vi) or (viii) of sub-paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this section shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of social security (Hospital In-Patients) Regulations 2005.
- h. an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- i. paragraphs (f) or (g) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- j. he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- 18.12 For the purposes of paragraph 18.11 once paragraph 18.11d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- 18.12 AFor the purposes of paragraph 18.11, once paragraph 18.11e) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- 18.13 For the purposes of paragraphs 18.6 and 18.8 a), a person is disabled if he is a person—
- a. in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
 - b. who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
 - c. who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
- 18.14 For the purposes of paragraph 18.1 a person on maternity leave, paternity leave or adoption leave shall be treated as if she is engaged in remunerative work for the period specified in paragraph 18.15 ('the relevant period') provided that—
- a. in the week before the period of maternity leave, paternity leave, shared parental leave or adoption leave began the person was in remunerative work or adoption leave began they were in remunerative work;
 - b. the applicant is incurring relevant child care charges within the meaning of paragraph 18.5; and

- c. They are entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.
- 18.15 For the purposes of paragraph 18.14 the relevant period shall begin on the day on which the person's maternity, paternity leave or adoption leave commences and shall end on—
 - a. the date that leave ends;
 - b. if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
 - c. if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credits ends.

whichever shall occur first.
- 18.16 In paragraphs 18.14 and 18.15
 - a. **'qualifying support'** means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations 1987; and
 - b. **'child care element'** of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element) 2002.
- 18.17 In this section 'applicant' does not include an applicant;
 - a. who has, or
 - b. who (jointly with his partner) has, an award of universal credit
- 19.0 Calculation of average weekly income from tax credits**
- 19.1** This section applies where an applicant receives a tax credit.
- 19.2** Where this section applies, the period over which a tax credit is to be taken into account shall be the period set out in paragraph 19.3
- 19.3** Where the instalment in respect of which payment of a tax credit is made is;
 - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
 - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
 - (c) a two-weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
 - (d) a four-weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.
- 19.4** For the purposes of this section 'tax credit' means child tax credit or working tax credit.
- 20.0 Calculation of weekly income**
- 20.1** For the purposes of the average weekly earnings of employed earners and average weekly income other than earnings and calculation of average weekly income from tax credits, where the period in respect of which a payment is made;
 - (a) does not exceed a week, the weekly amount shall be the amount of that payment;
 - (b) exceeds a week, the weekly amount shall be determined—
 - i. in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - ii. in any other case, by dividing the amount of the payment by the number equal to

the number of days in the period to which it relates and multiplying the product by 7.

20.2 For the purpose of the average weekly earnings of self-employed earners and the weekly amount of earnings of an applicant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

21.0 Disregard of changes in tax, contributions etc.

21.1 In calculating the applicant's income the appropriate authority may disregard any legislative change

- (a) in the basic or other rates of income tax;
- (b) in the amount of any personal tax relief;
- (c) in the rates of national insurance contributions payable under the Act or in the lower earnings limit or upper earnings limit for Class 1 contributions under the Act, the lower or upper limits applicable to Class 4 contributions under the Act or the amount specified in section 11(4) of the Act (small profits threshold in relation to Class 2 contributions);
- (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the Act
- (e) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

22.0 Earnings of employed earners

22.1 Subject to paragraph 22.2, 'earnings' means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and his place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
- (i) any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
- (j) any statutory sick pay, statutory maternity pay, statutory paternity pay, shared parental pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- (k) any remuneration paid by or on behalf of an employer to the applicant who for the time

being is on maternity leave, paternity leave, shared parental pay or adoption leave or is absent from work because he is ill;

- (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 as amended³.

22.2 Earnings shall not include—

- (a) subject to paragraph 22.3, any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of employment;
- (c) any occupational pension
- (d) any payment in respect of expenses arising out of the applicant's participation in a service user group or an applicant participating as a service user

22.3 Paragraph 22.2 (a) shall not apply in respect of any non-cash voucher referred to in paragraph 22.1 (l)

23.0 Calculation of net earnings of employed earners

23.1 For the purposes of section 16 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph 23.2, be his net earnings.

23.2 There shall be disregarded from an applicant's net earnings, any sum, where applicable, specified in Schedule 2.

23.3 For the purposes of paragraph 23.1 net earnings shall, except where paragraph 23.6 applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less;

- (a) any amount deducted from those earnings by way of
 - i) income tax;
 - ii) primary Class 1 contributions under the Act;
- (b) any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) the amount calculated in accordance with paragraph 23.5 in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted for those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

23.4 In this section 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.

23.5 The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying contribution shall be determined—

- a. where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- b. in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

³ Social Security (Contributions)(Amendment) Regulations 2013, Social Security (Contributions)(Amendment No.2) Regulations 2013 and Social Security (Contributions)(Amendment No.2) Regulations 2013

23.6 Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph 2) of the section 16 (average weekly earnings of employment earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less–

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- (c) any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

24.0 Earnings of self-employed earners

24.1 Subject to paragraph 24.2, 'earnings', in the case of employment as a self-employed earner, means the gross income of the employment plus any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

24.2 'Earnings' shall not include any payment to which Schedule 3 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.

24.3 This paragraph applies to–

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trademark; or
- (b) any payment in respect of any–
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book of work concerned.

24.4 Where the applicant's earnings consist of any items to which paragraph 24.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by

- (a) the amount of the reduction under this scheme which would be payable had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 2 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

25.0 Calculation of net profit of self-employed earners

25.1 For the purposes of section 17 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be

- (a) in the case of a self-employed earner who is engaged in employment on his own account,

- the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less–
 - i. an amount in respect of income tax and of national insurance contributions payable under the Act calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
 - ii. the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

25.2 There shall be disregarded from an applicant's net profit, any sum, where applicable, specified in Schedule 2.

25.3 For the purposes of paragraph 25.1 a) the net profit of the employment must, except where paragraph 25.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less

- (a) subject to paragraphs 25.5 to 25.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of;
 - (i) income tax, and
 - (ii) national insurance contributions payable under the Act, calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
- (c) the amount calculated in accordance with paragraph (25.11) in respect of any qualifying premium.

25.4 For the purposes of paragraph 25.1b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs 25.5 to 25.8, any expenses wholly and exclusively incurred in that period for the purposes of the employment.

25.5 Subject to paragraph 25.6 no deduction shall be made under paragraph 25.3 a) or 25.4, in respect of–

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment, and
- (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

25.6 A deduction shall be made under paragraph 25.3 a) or 25.4 in respect of the repayment of capital on any loan used for–

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

25.7 The authority shall refuse to make deductions in respect of any expenses under paragraph 25.3 a. or 25.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

25.8 For the avoidance of doubt–

- (a) deductions shall not be made under paragraph 25.4 in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of–
 - i. the excess of any value added tax paid over value added tax received in the

- assessment period;
- ii. any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
- iii. any payment of interest on a loan taken out for the purposes of the employment

25.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of

- (a) income tax; and
- (b) national insurance contributions payable under the Act, calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
- (c) the amount calculated in accordance with paragraph 25.1 in respect of any qualifying contribution.

25.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

25.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and divided the product by 365;
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

25.12 In this section, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

26.0 Deduction of tax and contributions of self-employed earners

26.1 The amount to be deducted in respect of income tax under section 25.1b) i), 25.3 b) i) or 25.9 a) i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988(personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.

26.2 The amount to be deducted in respect of national insurance contributions shall be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.

- 26.3** In this section 'chargeable income' means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph 25.3(a) or, as the case may be, 25.4 of section 25;
 - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

27.0 Minimum Income Floor

27.1 Where no start up period (as defined within 27.2) applies to the applicant or partner, the income used by the Council in the calculation of their award will be the gross amount declared by the applicant or a substituted amount whichever is the higher. This substituted amount shall not be less than 35 hours multiplied by the national living wage (or national minimum wage as appropriate) From that, the Council will deduct only an estimate for tax, national insurance and any amount of a pension contribution (where a pension contribution is being made).

27.2 The Council shall determine an appropriate start up period for the employment activity being conducted by the applicant or partner. This will normally be one year from the date of commencement of the employment activity. During this period, no Minimum Income Floor shall be applied. The start-up period ends where the person is no longer in gainful self-employment.

27.3 Where an applicant or partner holds a position in a company that is analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case be subject to the substituted amount where appropriate.

27.4 No start-up period may be applied in relation to an applicant where a start-up period has previously been applied, whether in relation to a current or previous award of a Council Tax Reduction.

27.5 In order to establish whether to award a start up period, the applicant must satisfy the Council that the employment is

- Genuine and effective. The Council must be satisfied that the employment activity is being conducted; and
- Being conducted with the intention of increasing the income received to the level that would be conducive with that form of employment.

27.6 For the purposes of determining whether an applicant is in gainful self-employment or meets the conditions for a start up-period, the Council will require the applicant to provide such evidence or information that it reasonably requires to make that decision, the Council may also require the self employed person to attend an interview for the purpose of establishing whether the employment is gainful or whether the conditions for a start up period are met.

28.0 Calculation of income other than earnings

28.1 For the purposes of calculating the average weekly income other than earnings, the income of an applicant which does not consist of earnings to be taken into account shall be his gross income and any capital treated as income.

28.2 There is to be disregarded from the calculation of an applicant's gross income under paragraph 28.1, any sum, where applicable, specified in Schedule 3.

28.3 Where the payment of any benefit under the benefit Acts is subject to any deduction by way

of recovery the amount to be taken into account under paragraph 28.1 shall be the gross amount payable.

28.4 Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008 or 2013 as appropriate, the amount of that benefit to be taken into account is the amount as if it had not been reduced.

28.5 Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph 19.1 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

28.6 In paragraph 28.5 'tax year' means a period beginning with 6th April in one year and ending with 5th April in the next.

28.7 Paragraph 28.8 and 28.9 apply where a relevant payment has been made to a person in an academic year; and that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

28.8 Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 28.1 in respect of a person to whom paragraph 28.7 applies, shall be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

Where

A =

the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course.

B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to Council Tax Reduction immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

D = the number of reduction weeks in the assessment period.

28.9 Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph 28.1 in respect of a person to whom paragraph (30.8) applies, shall be calculated by applying the formula in paragraph 28.8 but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it.

28.10 In this section— 'academic year' and 'student loan' shall have the same meanings as for the purposes of sections 41 to 43, 'assessment period' means—

(a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—

- i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
- ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of these dates is earlier

‘quarter’ in relation to an assessment period means a period in that year beginning on;

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;

‘relevant payment’ means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 44.7 or both.

28.11 For the avoidance of doubt there shall be included as income to be taken into account under paragraph 28.1

- a. any payment to which payments not earnings applies; or
- b. in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

29.0 Capital treated as income

29.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with sections 31 to 40 of this scheme exceeds £16,000, be treated as income.

29.2 Any payment received under an annuity shall be treated as income.

29.3 Any earnings to the extent that they are not a payment of income shall be treated as income.

29.4 Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 Act shall be treated as income

29.5 Where an agreement or court order provides that payments shall be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital), shall be treated as income.

30.0 Notional income

30.1 An applicant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement of support or increasing the amount of that support.

30.2 Except in the case of–

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
- (d) any sum to which paragraph 47(2)(a) of Schedule 4 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a);
- (e) any sum to which paragraph 48(a) of Schedule 4 refers;

- (f) rehabilitation allowance made under section 2 of the 1973 Act;
- (g) child tax credit; or
- (h) working tax credit,
- (i) any income which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.

30.3 Any payment of income, made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under or by a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

30.4 Paragraph 30.3 shall not apply in respect of a payment of income made—

- (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
- (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
- (c) pursuant to section 2 of the 1973 Act in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A (7) of those Regulations or;
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme
- (e) in respect of a previous participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

30.5 Where an applicant is in receipt of any benefit (other than Council Tax Reduction) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April

in any year but not more than 14 days thereafter, the authority shall treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority shall select to apply in its area, to the date on which the altered rate is to take effect.

30.6 Subject to paragraph 30.7, where—

- (a) applicant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area, the authority shall treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

30.7 Paragraph 30.6 shall not apply—

- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
- (b) in a case where the service is performed in connection with—
 - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or
 - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme ; or
- (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

30.8 In paragraph 30.7 (c) 'work placement' means practical work experience which is not undertaken in expectation of payment.

30.9 Where an applicant is treated as possessing any income, the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual income which he does possess.

30.10 Where an applicant is treated as possessing any earnings, the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less;

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate or in the case of a Scottish taxpayer, the Scottish basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rate basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- (c) any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

30.11 the foregoing paragraphs shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a

service user group or an applicant participating as a service user

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Sections 31 – 40 & Schedule 4
Definition and the treatment of capital for Council Tax Reduction purposes

31.0 Capital limit

- 31.1** For the purposes of this scheme, the prescribed amount is £16,000 and no reduction shall be granted when the applicant has an amount greater than this level.

32.0 Calculation of capital

- 32.1** For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (32.2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 34 (income treated as capital).
- 32.2** There shall be disregarded from the calculation of an applicant's capital under paragraph (32.1), any capital, where applicable, specified in Schedule 4.

33.0 Disregard of capital of child and young person

- 33.1** The capital of a child or young person who is a member of the applicant's family shall not be treated as capital of the applicant.

34.0 Income treated as capital

- 34.1** Any bounty derived from employment and paid at intervals of at least one year shall be treated as capital.
- 34.2** Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.
- 34.3** Any holiday pay which is not earnings shall be treated as capital.
- 34.4** Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 4, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- 34.5** In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.
- 34.6** Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, shall be treated as capital.
- 34.7** There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- 34.8** Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.
- 34.9** Any arrears of working tax credit or child tax credit shall be treated as capital.

35.0 Calculation of capital in the United Kingdom

- 35.1** Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less—
- (a) where there would be expenses attributable to the sale, 10 per cent.; and
 - (b) the amount of any encumbrance secured on it;

36.0 Calculation of capital outside the United Kingdom

36.1 Capital which an applicant possesses in a country outside the United Kingdom shall be calculated

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

37.0 Notional capital

37.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to Council Tax Reduction or increasing the amount of that support except to the extent that that capital is reduced in accordance with section 38 (diminishing notional capital rule).

37.2 Except in the case of

- (a) a discretionary trust; or
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 4; or
 - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
 - (e) any sum to which paragraph 47(2)(a) of Schedule 4 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
 - (f) any sum to which paragraph 48(a) of Schedule 4 refers; or
 - (g) child tax credit; or
 - (h) working tax credit,
- any capital which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

37.3 Any payment of capital, other than a payment of capital specified in paragraph (37.4), made

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

37.4 Paragraph 37.3 shall not apply in respect of a payment of capital made

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation

- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme;
- (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

37.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case

- (a) the value of his holding in that company shall, notwithstanding section 32 (calculation of capital) be disregarded; and
- (b) he shall, subject to paragraph 37.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

37.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 37.5 shall be disregarded.

37.7 Where an applicant is treated as possessing capital under any of paragraphs 37.1 to 37.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.

38.0 Diminishing notional capital rule

38.1 Where an applicant is treated as possessing capital under section 37.1 (notional capital), the amount which he is treated as possessing;

- (a) in the case of a week that is subsequent to
 - (i) the relevant week in respect of which the conditions set out in paragraph 38.2 are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 38.3;
- (b) in the case of a week in respect of which paragraph 38.1(a) does not apply but where
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in paragraph 38.4 is satisfied, shall be reduced by the amount determined under paragraph 38.4.

38.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the conditions that

- (a) he is in receipt of Council Tax Reduction; and
- (b) but for paragraph 37.1, he would have received an additional amount of Council Tax Reduction in that week.

38.3 In a case to which paragraph 38.2 applies, the amount of the reduction for the purposes of paragraph 38.1(a) shall be equal to the aggregate of

- (a) the additional amount to which sub-paragraph 38.2 (b) refers;
- (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 38.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
- (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 38.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital) and
- (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of reduction week to which paragraph 38.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

38.4 Subject to paragraph 38.5, for the purposes of paragraph 38.1(b) the condition is that the applicant would have been entitled to Council Tax Reduction in the relevant week but for paragraph 37.1, and in such a case the amount of the reduction shall be equal to the aggregate of

- (a) the amount of Council Tax Reduction to which the applicant would have been entitled in the relevant week but for paragraph 37.1; and for the purposes of this sub-paragraph is the amount is in respect of a part-week, that amount shall be determined by dividing the amount of Council Tax Reduction to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
- (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,
 and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;
- (c) if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub- paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part- week and multiplying the quotient so obtained by 7
- (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the reduction week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph,

if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and

- (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.

38.5 The amount determined under paragraph 38.4 shall be re-determined under that paragraph if the applicant makes a further claim for Council Tax Reduction and the conditions in paragraph **38.6** are satisfied, and in such a case—

- a. sub-paragraphs (a) to (d) of paragraph 38.4 shall apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week'; and
- b. subject to paragraph 38.7, the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

38.6 The conditions are that

- (a) a further claim is made 26 or more weeks after
 - (i) the date on which the applicant made a claim for Council Tax Reduction in respect of which he was first treated as possessing the capital in question under paragraph 39.1;
 - (ii) in a case where there has been at least one re-determination in accordance with paragraph 38.5, the date on which he last made a claim for Council Tax Reduction which resulted in the weekly amount being re-determined, or
 - (iii) the date on which he last ceased to be entitled to Council Tax Reduction, whichever last occurred; and
- (b) the applicant would have been entitled to Council Tax Reduction but for paragraph 37.1.

38.7 The amount as re-determined pursuant to paragraph 38.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

38.8 For the purposes of this section

- (a) 'part-week'
 - (i) in paragraph 38.4(a) means a period of less than a week for which Council Tax Reduction is allowed;
 - (ii) in paragraph 38.4(b) means a period of less than a week for which housing benefit is payable;
 - (iii) in paragraph 38.4 (c) (d) and (e) means—
 - aa. a period of less than a week which is the whole period for which income support or an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
 - bb. any other period of less than a week for which it is payable;
- (b) 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 37.1
 - (i) was first taken into account for the purpose of determining his entitlement to Council Tax Reduction; or
 - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to Council Tax Reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, Council Tax Reduction;and where more than one reduction week is identified by reference to heads (i) and (ii)

of this sub-paragraph the later or latest such reduction week or, as the case may be, the later or latest such part-week;

- (c) 'relevant subsequent week' means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

39.0 Capital jointly held

- 39.1** Except where an applicant possesses capital which is disregarded under paragraph 37(5) (notional capital) where an applicant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share.

40.0 Tariff Income from Capital

- 40.1** Where the applicant's capital calculated in accordance with this scheme exceeds £6,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 of in excess of £6,000 but not exceeding £16,000
- 40.2** Notwithstanding paragraph 40.1 where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.
- 40.3** For the purposes of paragraph 40.1, capital includes any income treated as capital.

Sections 41 - 56
Definition and the treatment of students for Council Tax Reduction purposes

41.0 Student related definitions

41.1 In this scheme the following definitions apply;

‘academic year’ means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;

‘access funds’ means;

- (a) grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under section 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or
- e Financial Contingency Funds made available by the Welsh Ministers;

‘college of further education’ means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

‘contribution’ means;

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following person to contribute towards the holder’s expenses;
 - (i) the holder of the allowance or bursary;
 - (ii) the holder’s parents;
 - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder’s spouse or civil partner;

‘course of study’ means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

‘covenant income’ means the gross income payable to a full-time student under a Deed of Covenant by his parent;

‘education authority’ means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

‘full-time course of study’ means a full time course of study which;

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;;

- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
 - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
 - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

'full-time student' means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

'grant' (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary but does not include a payment from access funds or any payment to which Schedule 3 or Schedule 4 applies;

'grant income' means

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

'higher education' means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

'last day of the course' means;

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

'period of study' means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, the year's start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
 - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

'periods of experience' means periods of work experience which form part of a sandwich course;

'qualifying course' means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations;

‘modular course’ means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

‘sandwich course’ has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans), (Scotland), Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

‘standard maintenance grant’ means–

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (‘the 2003 Regulations’) for such a student;
- (b) except where paragraph (c) applies, in the case of a student residing at his parent’s home, the amount specified in paragraph 3 thereof;
- (c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as ‘standard maintenance allowance’ for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

‘student’ means a person, other than a person in receipt of a training allowance, who is attending or undertaking–

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

‘student’ loan’ means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and shall include, in Scotland, a young student’s bursary paid under regulation 4(1)(c) of the Student’s Allowances (Scotland) Regulations 2007

41.2 For the purposes of the definition of ‘full-time student’, a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course

- (a) in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending;
 - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
 - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

41.3 For the purposes of sub-paragraph (a) of paragraph 41.2, the period referred to in that sub-paragraph shall include;

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

42.0 Treatment of students

42.1 The following sections relate to students who claim Council Tax Reduction

43.0 Students who are excluded from entitlement to Council Tax Reduction

43.1 Students (except those specified in paragraph 43.3) are not able to claim Council Tax Reduction under Classes D of the Council's reduction scheme.

43.2 To be eligible for support, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full time student or a persons from abroad within the meaning of section 7 of this scheme (persons from aboard).

43.3 Paragraph 43.2 shall not apply to a student

(a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) **but for the implementation of this scheme**, whose applicable amount would, but for this section, include the disability premium or severe disability premium;

(d) **but for the implementation of this scheme**, whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;

(f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.

(g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;

(i) who is;

i) aged under 21 and whose course of study is not a course of higher education

ii) aged 21 and attained that age during a course of study which is not a course of higher education – this condition needs adding

iii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person)

(j) in respect of whom

i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

(iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

Paragraph 43.3(i)(ii) only applies to a claimant until the end of the course during which the claimant attained the age of 21

43.4 For the purposes of paragraph 43.3, once paragraph 43.3(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

43.5 In paragraph 43.3(h) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

43.6 A full-time student to whom sub-paragraph (i) of paragraph 43.3 applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

43.7 Paragraph 43.2 shall not apply to a full-time student for the period specified in paragraph 43.8 if;

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 43.8.

43.8 The period specified for the purposes of paragraph 43.7 is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before;

- (a) the day on which he resumes attending or undertaking the course; or
 - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,
- which shall first occur.

44.0 Calculation of grant income

44.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs **44.2** and **44.3**, be the whole of his grant income.

44.2 There shall be excluded from a student's grant income any payment;

- (a) intended to meet tuition fees or examination fees;
- (b) in respect of the student's disability;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (e) on account of any other person but only if that person is residing outside of the United

Kingdom and , **but for the implementation of this scheme**, there is no applicable amount in respect of him;

- (f) intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of his attendance on the course;
- (h) intended for the childcare costs of a child dependant.
- (i) of higher education bursary for care leavers made under Part III of the Children Act 1989.

44.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;

(a) the sum of £303 per academic year in respect of travel costs; and

(b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

44.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

44.5 Subject to paragraphs 44.6 and 44.7, a student's grant income shall be apportioned;

(a) subject to paragraph 44.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;

(b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

44.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.

44.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 44.6 nor section 48 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

44.8 In the case if a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

45.0 Calculation of covenant income where a contribution is assessed

45.1 Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph 45.3, the amount of the contribution.

45.2 The weekly amount of the student's covenant shall be determined–

- (a) by dividing the amount of income which falls to be taken into account under paragraph 45.1 by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding from the resulting amount, £5.

45.3 For the purposes of paragraph 45.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under paragraph 44.2(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

46.0 Covenant income where no grant income or no contribution is assessed

46.1 Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows;

- (a) any sums intended for any expenditure specified in paragraph 44.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 44.2(f) and 44.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.

46.2 Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (d) of paragraph 46.1, except that;

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 44.2 (a) to (e); and
- (b) the amount to be disregarded under paragraph 46.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 44.2(f) and (g) and 44.3.

47.0 Student Covenant Income and Grant income – non disregard

47.1 No part of a student's covenant income or grant income shall be disregarded Schedule 3 to this scheme

48.0 Other amounts to be disregarded

48.1 For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with section 49, any amounts intended for any expenditure specified in paragraph 44.2 (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraphs 44.2 or 44.3, 45.3, 46.1(a) or (c) or calculation of grant income, covenant income and treatment of student loans on like expenditure.

49.0 Treatment of student loans

49.1 A student loan shall be treated as income.

50.0 Calculating loan Income weekly

50.1 In calculating the weekly amount of the loan to be taken into account as income

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with;
 - (i) except in a case where (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
 - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the reduction week, the last day of which coincides with, or immediately precedes with last day of the course,
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year and ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this sub-paragraph, 'quarter' shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;
- (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with;
 - (i) except in a case where (ii) applies, the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year;
 - (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincide with, or immediately follows, the earlier of 1st September or the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (d) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of;
 - (i) the first day of the first reduction week in September; or
 - (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June,

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

50.2 A student shall be treated as possessing a student loan in respect of an academic year where;

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

50.3 Where a student is treated as possessing a student loan, the amount of the student loan to be taken into account as income shall be, subject to paragraph 50.4

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to
 - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
 - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if;
 - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
 - (ii) no deduction in that loan was made by virtue of the application of a means test.

50.4 There shall be deducted from the amount of income taken into account

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

51.0 Treatment of fee loans

51.1 loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

52.0 Treatment of payments from access funds

52.1 This paragraph applies to payments from access funds that are not payments to which paragraph 55.2 or 55.3 (income treated as capital) applies.

52.2 A payment from access funds, other than a payment to which paragraph 52.3 applies, shall be disregarded as income.

52.3 Subject to paragraph 52.4 of this section and paragraph 35 of Schedule 4,

- a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family and
- b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, shall be disregarded as income to the extent of £20 per week.

52.4 Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student,

that payment shall be disregarded as income.

53.0 Disregard of contribution

53.1 Where the applicant or his partner is a student and for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

54.0 Further disregard of student's income

- 54.1** Where any part of a student's income has already been taken into account for the purpose of assessing his entitlement to a grant or student loan, the amount taken into account shall be disregarded in assessing that student's income.

55.0 Income treated as capital

- 55.1** Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.

- 55.2** Any amount paid from access funds as a single lump sum shall be treated as capital.

- 55.3** An amount paid from access fund as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.

56.0 Disregard of changes occurring during summer vacation

- 56.1** In calculating a student's income the authority shall disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

Sections 57 – 59
The calculation and amount of Council Tax Reduction

57.0 Maximum Council Tax Reduction

57.1 Subject to paragraphs 57.2 to 57.4, the amount of a person's maximum Council Tax Reduction in respect of a day for which he is liable to pay council tax, shall be 100 per cent, of the amount A divided by B where;

- (a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act;
- (b) B is the number of days in that financial year,

In this paragraph "relevant financial year" means, in relation to any particular day, financial year within which the day in question falls.

57.2 In calculating a person's maximum Council Tax Reduction any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act, shall be taken into account.

57.3 Subject to paragraph 57.4, where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons but excepting any person so residing with the applicant who is a student to whom paragraph 43.2 (students who are excluded from entitlement to Council Tax Reduction) applies, in determining the maximum Council Tax Reduction in his case in accordance with paragraph 57.1, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

57.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, paragraph 57.3 shall not apply in his case.

58.0 Non-dependant deductions

58.1 A standard deduction of £10 x 1/7 shall be applied for non dependant for each day that the non dependant resides in the premises.

58.2 Where the non dependant is a member of a couple, only one deduction shall be made.

58.3 Where in respect of a day—

- a. a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- b. other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 or 77 or 77A of the 1992 Act (liability of spouses and civil partners); and
- c. the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.

58.4 No deduction shall be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—

- a. blind or treated as blind by virtue of paragraph 9 of Schedule 1 (additional condition for the disability premium); or
- b. receiving in respect of himself:
 - attendance allowance, or would be receiving that allowance but for:
 - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or
 - ii. an abatement as a result of hospitalisation; or
 - the care component of the disability living allowance, or would be receiving that component but for:
 - i. a suspension of benefit in accordance with regulations under section 113(2) of The Act; or

- ii. an abatement as a result of hospitalisation; or
- c. the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
- d. an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution;

58.5 No deduction shall be made in respect of a non-dependant if:

- a. although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- b. he is in receipt of a training allowance paid in connection with a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- c. he is a full time student within the meaning of section 41.0 (Students); or
- d. he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
- e. 'patient' has the meaning given within this scheme, and
- f. where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods;
- g. he is not residing with the claimant because he is a member of the armed forces away on operations

58.6 No deduction shall be made in respect of a non-dependant;

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance;
- (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers;
- (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.";
- a. For the purposes of sub-paragraph (c), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013.

59.0 Extended reductions: movers into the authority's area

59.1 Where;

- (a) an application is made to the authority for a reduction under its scheme, and
- (b) the applicant or the partner of the applicant, is in receipt of an extended reduction from;
 - (i) another billing authority in England; or
 - (ii) a billing authority in Wales,
 the current authority must reduce any reduction to which the applicant is entitled under its Council Tax Reduction scheme by the amount of that extended reduction.

60.0 Extended reductions

60.1 An applicant who is entitled to council tax reduction (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction where;

- (a) the applicant or the applicant's partner was entitled to a qualifying income- related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner–
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or

- (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more; and
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

60.2 For the purpose of paragraph 60.1(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

60.3 For the purpose of this section, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they shall be treated as being entitled to and in receipt of jobseeker's allowance.

60.4 An applicant must be treated as entitled to council tax reduction by virtue of the general conditions of entitlement where—

- (a) the applicant ceased to be entitled to council tax reduction because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in paragraph 60.1(b).

60.5 This section shall not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support Regulations (remunerative work: housing costs) applied to that applicant.

60A.0 Duration of extended reduction period

60A.1 Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

60A.2 For the purpose of paragraph (60A.1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

60A.3 The extended reduction period ends;

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

60B.0 Amount of extended reduction

60B.1 For any week during the extended reduction period the amount of the extended reduction payable to an applicant shall be the higher of—

- (a) the amount of council tax reduction to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;

- (b) the amount of council tax reduction to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 60 (extended reductions) did not apply to the applicant; or
- (c) the amount of council tax reduction to which the applicant's partner would be entitled under the general conditions of entitlement, if section 60 did not apply to the applicant.

60B.2 Paragraph 60B1 does not apply in the case of a mover.

60B.3 Where an applicant is in receipt of an extended reduction under this section and the applicant's partner makes a claim for council tax reduction, no amount of council tax reduction shall be payable by the appropriate authority during the extended reduction period.

60C Extended reductions – movers

60C.1 This section applies;

- (a) to a mover; and
- (b) from the Monday following the day of the move.

60C.2 The amount of the extended reduction payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax reduction which was payable to the mover for the last reduction week before the mover, or themover's partner, ceased to be entitled to a qualifying income-related benefit.

60C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction may take the form of a payment from the appropriate authority to;

- (a) the second authority; or
- (b) the mover directly.

60C.4 Where–

- (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
- (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority, the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended reduction period.

60D.0 Relationship between extended reduction and entitlement to council tax reduction under the general conditions of entitlement

60D.1 Where an applicant's council tax reduction award would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 60.1(b), that award will not cease until the end of the extended reduction period.

60D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction payable in accordance with paragraph 60B.1(a) or 60C.2 (amount of extended reduction – movers).

61.0 Extended reductions (qualifying contributory benefits)

61.1 An applicant who is entitled to council tax reduction (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where;

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner;
 - (i) commenced employment as an employed or self-employed earner;

- (ii) increased their earnings from such employment; or
- (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

61.2 An applicant must be treated as entitled to council tax reduction by virtue of the general conditions of entitlement where;

- (a) the applicant ceased to be entitled to council tax reduction because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in paragraph 61.1(b).

61A.0 Duration of extended reduction period (qualifying contributory benefits)

61A.1 Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

61A.2 For the purpose of paragraph 61A.1, an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

61A.3 The extended reduction period ends;

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction (qualifying contributory benefits) is payable has no liability for council tax, if that occurs first.

61B.0 Amount of extended reduction (qualifying contributory benefits)

61B.1 For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant shall be the higher of;

- (a) the amount of council tax reduction to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of council tax reduction to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if section 61 (extended reductions (qualifying contributory benefits)) did not apply to the applicant; or
- (c) the amount of council tax reduction to which the applicant's partner would be entitled under the general conditions of entitlement, if section 61 did not apply to the applicant.

61B.2 Paragraph 61B.1 does not apply in the case of a mover.

61B.3 Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this section and the applicant's partner makes a claim for council tax reduction, no amount of council tax reduction shall be payable by the appropriate authority during the extended reduction period.

61C.0 Extended reductions (qualifying contributory benefits) – movers

61C.1 This section applies;

- (a) to a mover; and
- (b) from the Monday following the day of the move.

61C.2 The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this section applies until the end of the extended reduction period shall be the amount of council tax reduction which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

61C.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the appropriate authority to–

- (a) the second authority; or
- (b) the mover directly.

61C.4 Where

- (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit; and
- (b) the mover, or the mover's partner, is in receipt of an extended reduction (qualifying contributory benefits) from the appropriate authority, the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction (qualifying contributory benefits) until the end of the extended reduction period.

61D.0 Relationship between extended reduction (qualifying contributory benefits) and entitlement to council tax reduction under the general conditions of entitlement

61D.1 Where an applicant's council tax reduction award would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 61.1 (b), that award will not cease until the end of the extended reduction period.

61D.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 61B.1(a) or 61C.2 (amount of extended reduction– movers).

Sections 62 – 63
Dates on which entitlement and changes of circumstances are to take effect

62.0 Date on which entitlement is to begin

62.1 Subject to paragraph 62.2, any person to whom or in respect of whom a claim for Council Tax Reduction is made and who is otherwise entitled to that support shall be so entitled from the day the application is made or deemed to have been made.

62.2 Where a person is otherwise entitled to Council Tax Reduction and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his claim is made or is treated as made, he shall be so entitled from that day.

63.0 Date on which change of circumstances is to take effect

63.1 A change of circumstances which affects entitlement to, or the amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the day on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.

63.2 Subject to paragraph (3), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

63.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.

63.4 Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

63.5 Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

63.6 If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.

63.7 Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

63.8 Without prejudice to paragraph (7), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

Sections 64– 72
Claiming and the treatment of claims for Council Tax Reduction purposes

64.0 Making an application⁴

64.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.

64.2 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and;

- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

64.3 Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.

64.4 Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).

64.5 Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4);

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
- (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

64.6 Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

64.7 The authority must;

- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a) of the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012;
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

65.0 Procedure by which a person may apply for a reduction under the authority's scheme⁵

65.1. Paragraphs 2 to 7 apply to an application made under the authority's scheme.

65.2. An application may be made;

- (a) in writing,
- (b) by means of an electronic communication in accordance with sections 88 -96 of this scheme, or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone or
- (d) By means of an electronic notification to the Local Authority from the Department for Work and Pensions, generated when a claim to Universal Credit is made.

- 65.3
- (1) An application which is made in writing must be made to the designated office on a properly completed form.
 - (2) The form must be provided free of charge by the authority for the purpose.

- 65.4
- (1) Where an application made in writing is defective because—
 - (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
 - (b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

(2) An application made on a form provided by the authority is properly completed if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

- 65.5.
- (1) If an application made by electronic communication is defective the authority must provide the person making the application with an opportunity to correct the defect.
 - (2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

65.6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.

- 65.7
- (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.
 - (2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.

65.8 Notwithstanding other paragraphs within this section, the authority will determine the method by which claims are to be made as well as where claims should be sent or delivered.

⁵ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

66.0 Backdating

66.1 Where an applicant requests a reduction for a period prior to the effective date of claim, the authority may, consider the claim to be made from an earlier period subject to an overall limit of 1 month. The applicant must prove that there was continuous good cause for failing to make an application

66.2 Where good cause is proven, the date of the application shall be the latest of;

- (a) the first day from which the applicant had continuous good cause;
- (b) the day 1 months before the date the application was made;
- (c) the day 1 months before the date when the applicant requested that the application should include a past period

67.0 Date on which an application is made

67.1 Subject to sub-paragraph (7), the date on which an application is made is;

(a) in a case where;

- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
- (ii) the application is made within one calendar month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(b) in a case where;

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application is received at the designated office within one calendar month of the date of the change,

the date on which the change takes place;

(c) in a case where;

- (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under the authority's scheme, and
 - (ii) the applicant makes an application for a reduction under that scheme within one calendar month of the date of the death or the separation,
- the date of the death or separation;

(d) except where paragraph (a), (b) or (c) is satisfied, in a case where a properly completed application is received within one calendar month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;

(e) in any other case, the date on which an application is received at the designated office.

67.2 For the purposes only of sub-paragraph (1)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under;

(a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or

(b) in the case of income-related employment and support allowance, paragraph 2 of

Schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.

- 67.3** Where there is a defect in an application by telephone;
- (a) is corrected within one calendar month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
 - (b) is not corrected within one calendar month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- 67.4** The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- 67.5** The conditions are that—
- (a) where the authority receives the properly completed application or the information requested to complete it or the evidence within one calendar month of the request, or such longer period as the authority may consider reasonable; or
 - (b) where an application is not on approved form or further information requested by authority applies;
 - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one calendar month of it having been sent to him; or, as the case may be;
 - (ii) the applicant supplies whatever information or evidence was requested within one calendar month of the request; or,
 - in either case, within such longer period as the authority may consider reasonable; or
 - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one calendar month of the request or within such longer period as the authority considers reasonable.
- 67.6** Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- 67.7** Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under the authority's scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;
- (a) in the case of an application made by;
 - (i) a pensioner, or
 - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit,the seventeenth reduction week following the date on which the application is made, or
 - (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made,
- the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

68.0 Submission of evidence electronically

68.1 The authority may accept such evidence, documents and certificates to support the claim electronically where it feels that this would be acceptable given the nature of the claim

69.0 Use of telephone provided evidence

69.1 The authority may accept such evidence to support the claim by telephone where it feels that this would be acceptable given the nature of the claim

70.0 Information and evidence⁶

70.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority's scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

70.2 This sub-paragraph is satisfied in relation to a person if—

- (a) the application is accompanied by;
 - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
 - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
- (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by;
 - (i) evidence of the application for a national insurance number to be so allocated; and
 - (ii) the information or evidence enabling it to be so allocated.

70.3 Sub-paragraph (2) does not apply;

- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
- (b) to a person who;
 - (i) is a person treated as not being in Great Britain for the purposes of this scheme;
 - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
 - (iii) has not previously been allocated a national insurance number.

70.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one calendar month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

70.5 Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

70.6 Where the authority makes a request under sub-paragraph (4), it must;

- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 of Schedule 8 the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 (duty to notify change of circumstances) to

⁶ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

notify the authority of any change of circumstances; and
(b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.

70.7 This sub-paragraph applies to any of the following payments;
(a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the London Emergencies Trust, the We Love Manchester Emergency Fund, or the London Bombings Relief Charitable Fund;
(b) a payment which is disregarded under Schedule 4, other than a payment under the Independent Living Fund (2006).

70.8 Where an applicant or a person to whom a reduction under the authority's scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information;
(a) the name and address of the pension fund holder;
(b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

71.0 Amendment and withdrawal of application⁷

71.1 A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

71.2 Where the application was made by telephone the amendment may also be made by telephone.

71.3 Any application amended is to be treated as if it had been amended in the first instance.

71.4 A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

71.5 Where the application was made by telephone, the withdrawal may also be made by telephone.

71.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.

71.7 Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

72.0 Duty to notify changes of circumstances⁸

72.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;
(a) between the making of an application and a decision being made on it, or
(b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.

72.2 The applicant (or any person acting on his behalf) must notify any change of circumstances

⁷ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

⁸ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;

(a) in writing; or

(b) by telephone—

(i) where the authority has published a telephone number for that purpose unless the authority determines that in any particular case or class of case notification may not be given by telephone; or

(ii) in any case or class of case where the authority determines that notice may be given by telephone; or

(c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

- 72.3** The duty imposed on a person by sub-paragraph (1) does not extend to notifying
- (a) changes in the amount of council tax payable to the authority;
 - (b) changes in the age of the applicant or that of any member of his family;
 - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- 72.4** For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- 72.5** Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.

Sections 73- 80
Decisions, decision notices and awards of Council Tax Reduction

73.0 Decisions by the authority⁹

73.1 An authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and Part 1 of Schedule 7 of the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 being satisfied, or as soon as reasonably practicable thereafter.

74.0 Notification of decision¹⁰

74.1 The authority must notify in writing any person affected by a decision made by it under its scheme;

(a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;

(b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

74.2 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement;

(a) informing the person affected of the duty imposed by paragraph 9 of Schedule 8 the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012 (duty to notify change of circumstances) to notify the authority of any change of circumstances;

(b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and

(c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

74.3 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

74.4 In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the procedure for making an appeal.

74.5 A person affected to whom the authority sends or delivers a notification of decision may, within one calendar month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.

74.6 The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

74.7 For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).

74.8 This sub-paragraph applies to—

(a) the applicant;

(b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act;

(i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or

⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹⁰ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

- (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- (c) a person appointed by the authority to act for a person unable to act.

75.0 Time and manner of granting Council Tax Reduction¹¹

75.1 Where a person is entitled to a reduction under this authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or
- (b) where;
 - (i) such a reduction is not possible; or
 - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or
 - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be inappropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

75.2 The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).

75.3 In a case to which paragraph (1)(b) refers;

- (a) if the amount of the council tax for which he remains liable in respect of the chargeable year, after any reduction to which sub-paragraph (1)(a) refers has been made, is insufficient to enable his entitlement to a reduction under the authority's scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction;
 - (i) must be paid to that person if he so requires; or
 - (ii) in any other case must (as the authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;
- (b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the reduction under the authority's scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter
- (c) in any other case, the reduction under the authority's scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.

75.4 For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

76.0 Persons to whom reduction is to be paid ¹²

76.1 Subject to payment on death and paragraph (2), any payment of the amount of a reduction must be made to that person.

¹¹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹² Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

76.2 Where a person other than a person who is entitled to a reduction under this authority's scheme made the application for the reduction and that first person is a person acting pursuant to an appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

77.0 Shortfall in reduction¹³

77.1 Where, on the revision of a decision allowing a reduction under the authority's scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either;

- (a) make good any shortfall in reduction which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority as it has effect for the chargeable financial year until that shortfall is made good; or
- (b) where this is not possible or the person concerned so requests, pay the amount of any shortfall in reduction due to that person within 14 days of the revision of the decision being made or if that is not reasonably practicable, as soon as possible afterwards.

78.0 Payment on the death of the person entitled¹⁴

78.1 Where the person entitled to any reduction under this scheme has died and it is not possible to award the reduction which is due in the form of a reduction of the council tax for which he was liable, the authority must make payment of the amount of the reduction to his executor or administrator in accordance with regulation 58(4) of the Council Tax (Administration and Enforcement) Regulations 1992.

79.0 Offsetting

79.1 Where a person has been allowed or paid a sum of Council Tax Reduction under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

80.0 Payment where there is joint and several liability¹⁵

80.1 Where;

- (a) a person is entitled to a reduction under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
 - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
 - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(7) refers would be inappropriate,
- it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.

80.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.

80.3 Where a person other than a person who is entitled to a reduction under the authority's scheme made the application and that first person is a person acting pursuant to an

¹³ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹⁴ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹⁵ Inserted by Schedule 8 of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012

appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

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Sections 81 – 84
Collection, holding and forwarding of information for Council Tax Reduction purposes

81.0 Use of information from and to the Department of Work and Pensions (DWP) and His Majesty's Revenues and Customs (HMRC)

81.1 The authority will use information provided by the DWP and HMRC for the purposes of Council Tax Reduction, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012 and the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013

81.2 Where required by the relevant department and where required by law, the authority will share information obtained for Council Tax Reduction with the DWP or HMRC as appropriate and in accordance with Data Protections requirements¹⁶.

82.0 Collection of information

82.1 The authority may receive and obtain information and evidence relating to claims for Council Tax Reduction, the council may receive or obtain the information or evidence from–

- (a) persons making claims for Council Tax Reduction;
- (b) other persons in connection with such claims;
- (c) other local authorities; or
- (d) central government departments including the DWP and HMRC

82.2 The authority may verify relevant information supplied to, or obtained.

83.0 Recording and holding information

83.1 The authority may

- (a) may make a record of such information; and
- (b) may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering Council Tax Reduction.

84.0 Forwarding of information

84.1 The authority may forward it to the person or authority for the time being administering claims to or awards of Council Tax Reduction to which the relevant information relates, being

- (i) a local authority;
- (ii) a person providing services to a local authority; or
- (iii) a person authorised to exercise any function of a local authority relating to Council Tax Reduction.

¹⁶ Data Retention and Investigatory Powers Act 2014, Data Retention Regulations 2014 and The Regulation of Investigatory Powers (Acquisition and Disclosure of Communications Data: Code of Practice) Order 2015

Sections 85 – 87
Revisions, Written Statements, Termination of Council Tax Reduction

85.0 Persons affected by Decisions

85.1 A person is to be treated as a person affected by a relevant decision of the authority where that person is;

- (a) an applicant;
- (b) in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
 - (i) a Deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit or support on his behalf,
 - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
 - (iii) an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise;
- (c) a person appointed by the authority under this scheme;

86.0 Revisions of Decisions

86.1 Subject to the provisions in this scheme, a relevant decision ('the original decision') may be revised or further revised by the authority, which made the decision where the person affected makes an application for a revision within;

- (i) one calendar month of the date of notification of the original decision; or
- (ii) such extended time as the authority may allow.

86.2 The authority may revise or further revise that original decision at any time. Where further information is required from the person affected, the authority shall request such information and evidence as it feels is reasonable. Such information must be supplied within;

- i) one calendar month of the date of notification of the additional information; or
- (ii) such extended time as the authority may allow

87.0 Terminations

87.1 The authority may terminate support in whole or in part the Council Tax Reduction where it appears to the authority that an issue arises whether;

- (a) the conditions for entitlement to Council Tax Reduction are or were fulfilled; or
- (b) a decision as to an award of such a support should be revised or superseded.

87.2 The authority may terminate, in whole or in part the Council Tax Reduction where it appears to the authority that an issue arises whether;

- (a) the conditions for entitlement to Council Tax Reduction are or were fulfilled; or
- (b) a decision as to an award of such a support should be revised or superseded.

Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for Council Tax

Section 88
Appeals against the authority's decisions

88.0 Procedure by which a person may make an appeal against certain decisions of the authority¹⁷

- 88.1** A person who is aggrieved by a decision of the authority, which affects;
- (a) the person's entitlement to a reduction under its scheme, or
 - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.
- 88.2** The authority must
- (a) consider the matter to which the notice relates;
 - (b) notify the aggrieved person in writing;
 - (i) that the grievance is not well founded, giving reasons for that belief; or
 - (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- 88.3** Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act¹⁸.

¹⁷ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

¹⁸ As amended by the Tribunal Procedure (Amendment No 3) Rules 2014, The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2015 and The Tribunal Procedure (Amendment) Rules 2015

Section 89
Procedure for applying for a discretionary reduction

89.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act¹⁹ and Discretionary Relief Scheme.

- 89.1** Where an application to the authority is made under the Discretionary Relief Scheme, it shall be determined in accordance with the policy of the authority for that year and may be made;
- (a) in writing,
 - (b) by means of an electronic communication in accordance this scheme or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 89.2** Where;
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
 - (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).
- 89.3** An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made;
- (a) in writing,
 - (b) by means of an electronic communication in accordance with this scheme or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- 89.4** Where the authority has determined any additional entitlement under the Discretionary Relief Scheme it shall be treated as an amount under section 13A(1)(a) of the 1992 Act.

¹⁹ Inserted by Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012

Section 90 – 98²⁰
Electronic Communication

²⁰ Inserted by Council Tax Reductions Schemes (Prescribed Requirements) (England) Regulations 2012

90.0 Interpretation

90.1 In this Part;
“**information**” includes an application, a certificate, notice or other evidence; and
“**official computer system**” means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.

91.0 Conditions for the use of electronic communication

91.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme including any or all information received via DWP or HMRC.

91.2 A person other than the authority may use an electronic communication in connection with the matters referred to in paragraph (1) if the conditions specified in paragraphs (3) to (6) are satisfied.

91.3 The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

91.4 The second condition is that the person uses an approved method of;

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any application or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the authority any information.

91.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.

91.6 The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.

91.7 Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.

92.0 Approval

92.1 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this section.

93.0 Use of intermediaries

93.1 The authority may use intermediaries in connection with;

- (a) the delivery of any information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

94.0 Effect of delivering information by means of electronic communication

94.1 Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority’s scheme on the day the conditions imposed;

- (a) by this section; and
- (b) by or under an enactment,

are satisfied.

94.2 The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

94.3 Information may not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

95.0 Proof of identity of sender or recipient of information

95.1 If it is necessary to prove, for the purpose of any legal proceedings, the identity of—
(a) the sender of any information delivered by means of an electronic communication to an official computer system; or
(b) the recipient of any such information delivered by means of an electronic communication from an official computer system,
the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

96.0 Proof of delivery of information

96.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;
(a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
(b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

96.2 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

96.3 If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

97.0 Proof of content of information

97.1 If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content is presumed to be that recorded on an official computer system.

98.0 Data Protection and consent

98.1 Any application for reduction and associated evidence shall be subject to existing Data Protection rules and requirements.

Section 99
Counter Fraud and Compliance

99.0 Counter Fraud and compliance

- 99.1** In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to;
- (a) Prevent and detect fraudulent claims and actions in respect of Council Tax Reduction;
 - (b) Carry out investigations fairly, professionally and in accordance with the law; and
 - (c) Ensure that sanctions are applied in appropriate cases
- 99.2** The authority believes that it is important to minimise the opportunity for fraud and;
- (a) will implement rigorous procedures for the verification of claims for Council Tax Reduction;
 - (b) will employ sufficient Officers to fulfil the authority's commitment to combat fraud;
 - (c) will actively tackle fraud where it occurs in accordance with this scheme;
 - (d) will co-operate with the Department for Work and Pensions (DWP), His Majesty's Revenues and Customs and take part in joint working including prosecutions; and
 - (e) will in all cases seek to recover all outstanding council tax.
- 99.3** The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within paragraph 97.1 and 97.2 can be carried out successfully. In particular the authority shall undertake actions provided by the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

Schedule 1
Calculation of the amount of Council Tax Reduction in accordance with the Discount Scheme

- 1 The authority's Council Tax Reduction scheme from 2024/25 shall be calculated on the basis of the following Banded Discount Scheme:

Bands	Band 1	Band 2	Band 3	Band 4	Band 5
	80% Discount	65% Discount	50% Discount	35% Discount	20% Discount
Single	£0.00 - £114.40	£114.41 – £171.60	£171.61 – £228.80	£228.81 – £286.00	£286.01 – £343.20
Couple	£0.00 - £154.40	£154.41 – £211.60	£211.61 – £268.80	£268.81 – £326.00	£326.01 – £383.20
Lone Parent with 1 child	£0.00 – £169.40	£169.41 – £226.60	£226.61 – £283.80	£283.81 – £341.00	£341.01 – £398.20
Couple with 1 child	£0.00 – £209.40	£209.41 – £266.60	£266.61 – £323.80	£323.81 – £381.00	£381.01 – £438.20
Lone parent with 2+ children	£0.00 – £224.40	£224.41 – £281.60	£281.61 – £338.80	£338.81 – £396.00	£396.01 – £453.20
Couple with 2+ children	£0.00 – £264.40	£264.41 – £321.60	£321.61 – £378.80	£378.81 – £436.00	£436.01 – £493.20

- 2 The amount of discount to be granted is to be based on the following factors:
- The maximum Council Tax Reduction as defined within this scheme;
 - The Council Tax family as defined within this scheme
 - The income of the applicant as defined within this scheme;
 - The capital of the applicant as defined within this scheme.
- 3 For the sake of clarity all incomes shown within the table above are weekly in accordance with the scheme requirements and definitions.
- 4 Discount bands vary depending on both weekly income and the household (family as defined within this scheme). For the sake of clarity, it should be noted that in any application for reduction is limited to a maximum of two dependant children or young persons.
- 5 Any applicant whose capital is greater than £16,000 shall not be entitled to any Council Tax Reductions whatsoever.
- 6 The authority **may** increase the level of incomes within the grid specified in paragraph 1 on an annual basis by the appropriate level of National Living Wage used as a multiple to calculate the bands.
- 7 Where an applicant or partner is in receipt of a 'passporting benefit' namely Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance, discount will be awarded at Band 1 level.

Schedule 2
Sums to be disregarded in the calculation of earnings

1. There shall be £25 per week disregarded from an applicant's net earnings as follows:
2. Only one disregard shall be applied to each claim.

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Schedule 3
Sums to be disregarded in the calculation of income other than earnings

1. Any amount paid by way of tax on income, which is to be taken into account under section 28 (calculation of income other than earnings).
2. Any payment made to the applicant and in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme, but only for 52 weeks beginning with the date of receipt of the payment.
4. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
 - (a) engaged by a charitable or voluntary organisation, or
 - (b) volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 30.0 (notional income).
5. Any payment in respect of expenses arising out of the applicant's participation in a service user group or where the applicant is participating as a service user.
6. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
7. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance the whole of his income.
8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
9. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.
10. Any disability living allowance, personal independence payment or AFIP.
11. Carers Allowance
12. Any Windrush compensation payment
13. Any concessionary payment made to compensate for the non-payment of;
 - (a) any payment specified in paragraph 7 or 10;
 - (b) income support;
 - (c) an income-based jobseeker's allowance.
 - (d) an income-related employment and support allowance.
14. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
15. Any attendance allowance.

16. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
17. (1) Any payment—
- (a) by way of an education maintenance allowance made pursuant to;
 - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992
 - (b) corresponding to such an education maintenance allowance, made pursuant to;
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
 - (iii) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,
- in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).
18. Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.
19. (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment;
- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
 - (b) of an allowance referred to in section 2(3) of the 1973 Act or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.
- (2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
20. (1) Subject to sub-paragraph (2), any of the following payments;
- (a) a charitable payment;
 - (b) a voluntary payment;
 - (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
 - (d) a payment under an annuity purchased;

- (i) pursuant to any agreement or court order to make payments to the applicant; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
 - (e) a payment (not falling within sub-paragraphs (a) to (d) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.
- (2) Sub-paragraph (1) shall not apply to a payment, which is made or due to be made by–
- (a) a former partner of the applicant, or a former partner of any member of the applicant’s family; or
 - (b) the parent of a child or young person where that child or young person is a member of the applicant’s family.
- 21.** 100% of any of the following, namely
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
 - (b) a war widow’s pension or war widower’s pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of His Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
- 22.** Subject to paragraph 35, £15 of any;
- (a) widowed mother’s allowance paid pursuant to section 37 of the Act;
 - (b) widowed parent’s allowance paid pursuant to section 39A of the Act.
- 23.** (1) Any income derived from capital to which the applicant is or is treated under section 39 (capital jointly held) as beneficially entitled but, subject to sub- paragraph (2), not income derived from capital disregarded under Schedule 4.
- (2) Income derived from capital disregarded under Schedule 4 but only to the extent of–
- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
 - (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.
- (3) The definition of ‘water charges’ in paragraph 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words ‘in so far as such charges are in respect of the dwelling which a person occupies as his home’.
- 24.** Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating–
- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998, that student’s award;
 - (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student’s bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that

Act of 1980, any payment to that student under that section; or

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

- 25.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either;
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
 - (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,
- and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount shall be equal to—
- (a) the weekly amount of the payments; or
 - (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),
- whichever is less.
- 26.** Any payment made to the applicant by a child or young person or a non- dependant.
- 27.** Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—
- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
 - (b) where the aggregate of any such payments is £20 or more per week, £20.
- 28.** (1) Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent. of such payments;
 - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent. of the excess over £20.00.
- (2) In this paragraph, 'board and lodging accommodation' means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.
- 29.** (1) Any income in kind, except where regulation 30(11)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to 'income in kind' does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

- 30.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 31.** (1) Any payment made to the applicant in respect of a person who is a member of his family—
 (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978(b) (schemes for payments of allowances to adopters); or in accordance with an Adoption Allowance Scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (Adoption Allowances Schemes) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
 (b) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
 (c) in accordance with regulations made pursuant to section 14F of the Children Act 1989(c) (special guardianship support services);
 (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 32.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made
 (a) by a local authority under—
 (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
 (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).
- 33.** Any payment made to the applicant or his partner for a person ('the person concerned'), who is not normally a member of the applicant's household but is temporarily in his care, by—
 (a) a health authority;
 (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 (c) a voluntary organisation;
 (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
 (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006
- 34.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 35.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(e) or section 29 of the Children

(Scotland) Act 1995(local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.

- (2) Sub-paragraph (1) applies only where A;
- (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.

36. (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
 - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
 - (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph(1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
37. Any payment of income which, by virtue of section 34 (income treated as capital) is to be treated as capital.
38. Any social fund payment made pursuant to Part 8 of the Act (the Social Fund) or any local welfare fund provision
39. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
40. The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 15.2 (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 45.2(b) and paragraph 46.1(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 49(2) (treatment of student loans), paragraph 49(3) (treatment of payments from access funds) and paragraphs 17 shall in no case exceed £20 per week.
41. (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of;

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either;
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where;

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

- 42. Any housing benefit or council tax benefit.
- 43. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 44. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

45. Any payment in consequence of a reduction of council tax under section 13 or section 80 of the 1992 Act (reduction of liability for council tax).
46. (1) Any payment or repayment made—
 (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).
 (2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment or repayment, mentioned in sub-paragraph (1).
47. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).
48. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.
49. (1) Where, **but for the implementation of this scheme**, an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.
 (2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments such be aggregated and treated as if they were a single payment.
 (3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).
50. (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.
 (2) In paragraph (1)
 'child maintenance' means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under;
 (a) the Child Support Act 1991;
 (b) the Child Support (Northern Ireland) Order 1991;
 (c) a court order;
 (d) a consent order;
 (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;
 'liable relative' means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.
51. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
52. Any guardian's allowance.

- 53.** (1) If the applicant is in receipt of any benefit under Parts 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- (2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.
- 54.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
- 55.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(a) (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 56** (1) Any payment which is
- (a) made under any of the Dispensing Instruments to a widow, widower or
 - (b) surviving civil partner of a person;
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973; and equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.
- (2) In this paragraph 'the Dispensing Instruments' means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
- 57.** Any Council Tax Reduction or council tax benefit to which the applicant is entitled.
- 58.** Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).
- 59.** (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—
- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
 - (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity, in respect of which such assistance is or was received.
- (2) Sub-paragraph (1) shall apply only in respect of payments, which are paid to that person from the special account
- 60.** (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
- (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- (3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

61. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
62. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
63. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 as amended by the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013.
64. (1) Any payment made by a local authority or by the Welsh Ministers to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
(2) For the purposes of sub-paragraph (1) 'local authority' includes, in England, a county council.
65. Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017
66. Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)
67. Any payments made by the London Emergencies Trust" means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017 or the We Love Manchester Emergency Fund" means the registered charity of that name (number 1173260) established on 30th May 2017
68. Any payment of child benefit.
69. Any payments disregarded for Housing Benefits under the Social Security (*Emergency Funds*) Amendment) Regulations 2017
70. where the applicant (or any partner or dependant) is in receipt of carer's allowance, personal independence payment, or disability living allowance, an amount of £40 per week
71. Any amount of Carer's Allowance.
72. Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:
(a) an applicant's entitlement to a reduction under the scheme; or
(b) the amount of any reduction to which the applicant is entitled.
"The Energy Rebate Scheme 2022" means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022
73. **Provision for all applicants: Homes for Ukraine scheme**
(1) Any payment made in connection with the Homes for Ukraine scheme is to be disregarded in determining—
(a) an applicant's entitlement to a reduction under the scheme; or
(b) the amount of any reduction to which the applicant is entitled.
(2) In this regulation—
"the Homes for Ukraine scheme" means the Homes for Ukraine sponsorship scheme which was announced in Parliament by the Secretary of State for Levelling Up, Housing and Communities on 14th March 2022

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Schedule 4
Capital to be disregarded

1. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
2. Any premises acquired for occupation by the applicant, which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
4. Any premises occupied in whole or in part—
 - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
6. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
8. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
 (2) The assets of any business owned in whole or in part by the applicant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business;

for a period of 26 weeks from the date on which the claim for Council Tax Reduction is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.
- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.
- (4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

9. (1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of;
- (a) any payment specified in Schedule 4;
 - (b) an income-related benefit under Part 7 of the Act;
 - (c) an income-based jobseeker's allowance;
 - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
 - (e) working tax credit and child tax credit
 - (f) an income-related employment and support allowance

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of Council Tax Reduction, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), 'the award of Council Tax Reduction' means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant;
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum or was that person's partner at the date of his death.

10. Any sum

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home, which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

11. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

12. Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to Council Tax Reduction or to increase the amount of that support.

- 13.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 14.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 14A.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.

(2) But sub-paragraph (1)
 - (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
 - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
- 15.** The value of the right to receive any income under a life interest or from a life rent.
- 16.** The value of the right to receive any income, which is disregarded under Schedule 4.
- 17.** The surrender value of any policy of life insurance.
- 18.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 19.** Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
- 19A.** (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ('A') which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A;
 - (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
- 20.** Any social fund payment made pursuant to Part 8 of the Act.
- 21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

22. Any capital which, by virtue of sections 34 or 49 (capital treated as income, treatment of student loans) is to be treated as income.
23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
24. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the Charitable Fund.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of–
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of–
- (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where–
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (b) the payment is made either;
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or any of the Trusts to which sub-paragraph (1) refers, where
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was

- or had been a member of his family; and
- (b) the payment is made either;
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,
 but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose support payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited the Skipton Fund , the Caxton Foundation, and the London Bombings Relief Charitable Fund.

25. (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph 'dwelling' includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.
26. Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.
27. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
28. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
29. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
30. Any Windrush Compensation Payment
31. The value of the right to receive an occupational or personal pension.
32. The value of any funds held under a personal pension scheme
33. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
34. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

35. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
36. Any payment made to the applicant in respect of any travel or other expenses incurred or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme or Back to Work Scheme but only for 52 weeks beginning with the date of receipt of the payment but only for 52 weeks beginning with the date of receipt of payment.
37. Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
38. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
 - (a) to purchase premises intended for occupation as his home; or
 - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.
39. Any arrears of supplementary pension which is disregarded under Schedule 3 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
40. (1) Any payment or repayment made—
 - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),but only for a period of 52 weeks from the date of receipt of the payment or repayment.
(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers, which is analogous to a payment, or repayment mentioned in subparagraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.
41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
42. Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
43. Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

44. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
45. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.
46. (1) Subject to sub-paragraph (2), where an applicant satisfies the conditions in section 131(3) and (6) of the Act (entitlement to alternative maximum Council Tax Reduction), the whole of his capital.
(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Act the applicant also satisfies the conditions in section 131(4) and (5) of the Act (entitlement to the maximum Council Tax Reduction), sub-paragraph (1) shall not have effect.
47. (1) Any sum of capital to which sub-paragraph (2) applies and
(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 (as amended by the Civil Procedure (Amendment No. 7) Rule 2013) or by the Court of Protection;
(b) which can only be disposed of by order or direction of any such court; or
(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
(2) This sub-paragraph applies to a sum of capital which is derived from;
(a) an award of damages for a personal injury to that person; or
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
48. Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from
(a) award of damages for a personal injury to that person; or
(b) compensation for the death of one or both parents where the person concerned is under the age of 18.
49. Any payment to the applicant as holder of the Victoria Cross or George Cross.
50. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
51. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.
52. (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) 'food' does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

- 53.** (1) Any payment;
- (a) by way of an education maintenance allowance made pursuant to–
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
 - (b) corresponding to such an education maintenance allowance, made pursuant to;
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act ;
- or in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to;
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).
- 54.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.
- 55.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.
- 56.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of–
- (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner,
- by the Japanese during the Second World War, £10,000.
- 57.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
 - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and

- ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending–
- (i) two years after that date; or
- (ii) on the day before the day on which that person–
- (aa) ceases receiving full-time education; or
- (bb) attains the age of 20,
- whichever is the latest.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is–
- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death, but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.
- (4) Where a payment as referred to in sub-paragraph (3) is made to–
- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending–
- (i) two years after that date; or
- (ii) on the day before the day on which that person
- (aa) ceases receiving full-time education; or
- (bb) attains the age of 20,
- whichever is the latest.
- (5) In this paragraph, a reference to a person–
- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,
- at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.
- (6) In this paragraph– 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld- Jakob disease;
- 'relevant trust' means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
- 'trust payment' means a payment under a relevant trust.

- 58.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner

- (a) was a slave labourer or a forced labourer;
 - (b) had suffered property loss or had suffered personal injury; or
 - (c) was a parent of a child who had died,
- during the Second World War.

58 (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service, which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) 'local authority' includes in England a county council.

59. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

60. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

61. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

62. Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)

63. Any payments made by the London Emergencies Trust" means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017 or the We Love Manchester Emergency Fund" means the registered charity of that name (number 1173260) established on 30th May 2017

64. Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017.

65. Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:
 (a) an applicant's entitlement to a reduction under the scheme; or
 (b) the amount of any reduction to which the applicant is entitled.
 "The Energy Rebate Scheme 2022" means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022

66. Provision for all applicants: Homes for Ukraine scheme

(1) Any payment made in connection with the Homes for Ukraine scheme is to be disregarded in determining—

- (c) an applicant's entitlement to a reduction under the scheme; or
- (d) the amount of any reduction to which the applicant is entitled.

(2) In this regulation—

"the Homes for Ukraine scheme" means the Homes for Ukraine sponsorship scheme which was announced in Parliament by the Secretary of State for Levelling Up, Housing and Communities on 14th March 2022

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MEDIUM TERM FINANCIAL STRATEGY AND SAVINGS UPDATE

Item CB 23/105 referred from (Extraordinary) Cabinet of 5 December 2023

The report provided an update on the Medium Term Financial Strategy (MTFS) and set out the savings identified that would assist in meeting 'tranche 1' of the latest savings targets. Proposals for the allocation of the one-off windfall sum, highlighted in the 'Financial Planning and Control 2023/24' report to Cabinet in October were also set out.

As the budget cycle for 2024/25 was in progress, the financial issues impacting on the MTFS were highlighted and included uncertainty around the level of inflation, the local government financial settlement, the Fair Funding Review and the future of New Homes Bonus as well as many other factors. Whilst uncertainty regarding future settlements and economic factors did not help with financial planning, it was possible that the Borough Council could benefit from a later Fair Funding Review and Business Rates reset. Current calculations, based on best information to date and savings identified and incorporated into Estimates (as detailed in 1.5.1), the funding gap was now in the region of £1.78m.

Particular reference was made to the savings target and it was reported that it was unlikely that Tranche 1 would be fully met by the time the Budget was set in February 2024. Given the change in administration and make-up of the Borough Council since the local elections in May 2023, it was proposed by Councillor Tanner and seconded by the Leader that the Tranche 1 target be divided into 2 parts, with the Tranche 1a target being set at £195k and Tranche 1b at £305k. This was supported by Cabinet on the grounds that provided that the full tranche was met by the time the budget was set for 2025/26 there would be a limited effect on the overall MTFS. It was felt appropriate that the Finance, Regeneration and Property Scrutiny Select Committee give consideration to potential savings for Tranche 2 onwards and how these could be implemented.

To ensure the continued financial sustainability of the Borough Council, urgent and concerted effort was necessary in identifying significant savings targets for tranches 2 onwards.

Finally, reference was made to the 'one-off' windfall of almost £2m received from HMRC in respect of the treatment of sports and leisure activities. A number of proposals for the use of this 'windfall' were detailed in 1.6.3.

RECOMMENDED*: That

- (1) the latest forecast of the Medium Term Financial Strategy and the funding gap, now estimated to be £1.78m after incorporating £120k of savings into Draft Estimates, for 2024/25 (as detailed in 1.5.1) be noted;
- (2) the progress with the Savings and Transformation contributions for Tranche 1, as set out in 1.5.1 be noted;
- (3) the Tranche 1 savings target be divided into two parts, with a target saving of £195k in Tranche 1a and £305k in Tranche 1b;
- (4) the Finance, Regeneration and Property Scrutiny Select Committee give consideration to potential savings for Tranche 2 onwards and how these could be implemented; and
- (5) the proposals set out in 1.6.3 in respect of the windfall sum be commended to Council for approval.

***Recommended to Council**

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

05 December 2023

Report of the Management Team

Part 1- Public

Matters for Recommendation to Council

1 MEDIUM TERM FINANCIAL STRATEGY AND SAVINGS UPDATE

A report updating on the Medium Term Financial Strategy (MTFS) having regard to the latest financial issues. The report sets out the savings that have been identified and will assist in meeting 'tranche 1' of the latest savings target. Cabinet are urged to give consideration as to how future tranches can be met.

In addition, as we approach the 2024/25 Budget cycle the report sets out proposals for the allocation of the one-off windfall sum highlighted in the 'Financial Planning and Control 2023/24' report to Cabinet in October.

Dashboard/ Key Points

- Budget position categorised as RED on the Strategic Risk Register
- Funding Gap, representing new savings that need to be identified and most importantly delivered, projected at £1.7m when budget was set in February 2023. Interim review now suggests that after allowing for savings incorporated into the 24/25 base budget this is now circa £1.78m.
- Savings target "tranche 1" of £500k was expected to be in place by April 2024. Progress is being, but due to timings on the consultation required for some income increases, the full target is unlikely to be met for budget setting in February 2024. More significant work for the remaining savings to be achieved is needed.
- Economic climate continues to be challenging with higher than target inflation, coupled with higher bank rate set by Bank of England.
- Uncertainty regarding local government finance settlement, Fair Funding Review, Negative RSG, New Homes Bonus cessation and Business Rates baseline reset making it difficult to assess the true position.
- Proposals made for the deployment of the one-off (almost) £2m windfall sum for incorporation into the 2024/25 Budget cycle.

1.1 Introduction

1.1.1 This report has three purposes:

- 1) it provides another update to the MTFS as the budget cycle for 2024/25 gets underway;
- 2) it reports on the savings that have either been secured thus far, or which are in the process of consultation, which might contribute to “tranche 1” of the savings target;
- 3) sets out options to utilise the windfall VAT sum of (almost) £2m which was highlighted in the October ‘Financial Planning and Control 2023/24’ report to Cabinet.

1.2 The Medium Term Financial Strategy

1.2.1 Cabinet is reminded that the 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.

1.2.2 The Strategy also sets out, based on current financial information, 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 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 £3.0m** in the General Revenue Reserve by the end of the strategy period and **not to fall below £2.0m** at any time during the 10-year period.
- Seek to set future increases in council tax having regard to the **guidelines** issued by the Secretary of State.
- Continue to **identify efficiency savings** and **opportunities for new or additional income sources** and to **seek appropriate reductions in service costs** in delivery of the Savings and Transformation Strategy (STS) approved by Members.
- Subject to there being sufficient resources within the capital reserve, set a **maximum ‘annual capital allowance’** each year as part of the budget setting process for all new capital schemes (currently set at £250,000 from

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

- 1.2.4 The MTFS is supported by the Savings and Transformation Strategy (STS). The purpose of the STS is to formulate an overarching plan as to how the "funding gap" identified within the MTFS can be addressed.

1.3 Economic Situation

- 1.3.1 The Audit Committee, under the regular Treasury Management report, receives detailed information about the economic background, and it is not the intention to repeat this here.
- 1.3.2 However, it is worth noting that at the time of writing this report, CPI inflation for the year to end of October was 4.6%. The Bank of England raised interest rates to 5.25% in August, where they remain, the highest since 2007.

1.4 Impact on Tonbridge & Malling Borough Council's MTFS

- 1.4.1 The Council's financial plans are significantly affected by the turmoil in the economic and financial markets. Whilst this will certainly not be the last update of the MTFS before the budget is set for 2024/25, it is nevertheless important that Members are updated with the "***direction of travel***" so that plans can be formulated and implemented wherever necessary.
- 1.4.2 The problem is, of course, that there is uncertainty about many things. These include:
- Speed and rate at which inflation returns to levels more akin to the targets set by the Bank of England
 - Local government finance settlement
 - Fair Funding Review and future of New Homes Bonus
 - Timing of Business Rates Retention "reset"
 - Confirmation as to the permitted increase in council tax (without undertaking a referendum) for 2024/25
- 1.4.3 Of course, these issues are not unique to Tonbridge and Malling. Members will have seen many examples in the press about a number of local authorities issuing S114 notices (to advise that a council cannot find a way to finance its budget). TMBC is not in this position presently but the uncertainty regarding future settlements and economic factors is making it extremely difficult to plan ahead.
- 1.4.4 With a General Election due to take place sometime during 2024, we are now assuming that the finance settlement for 2024/25 will be another single year settlement; and that the implementation of a Fair Funding Review will not take

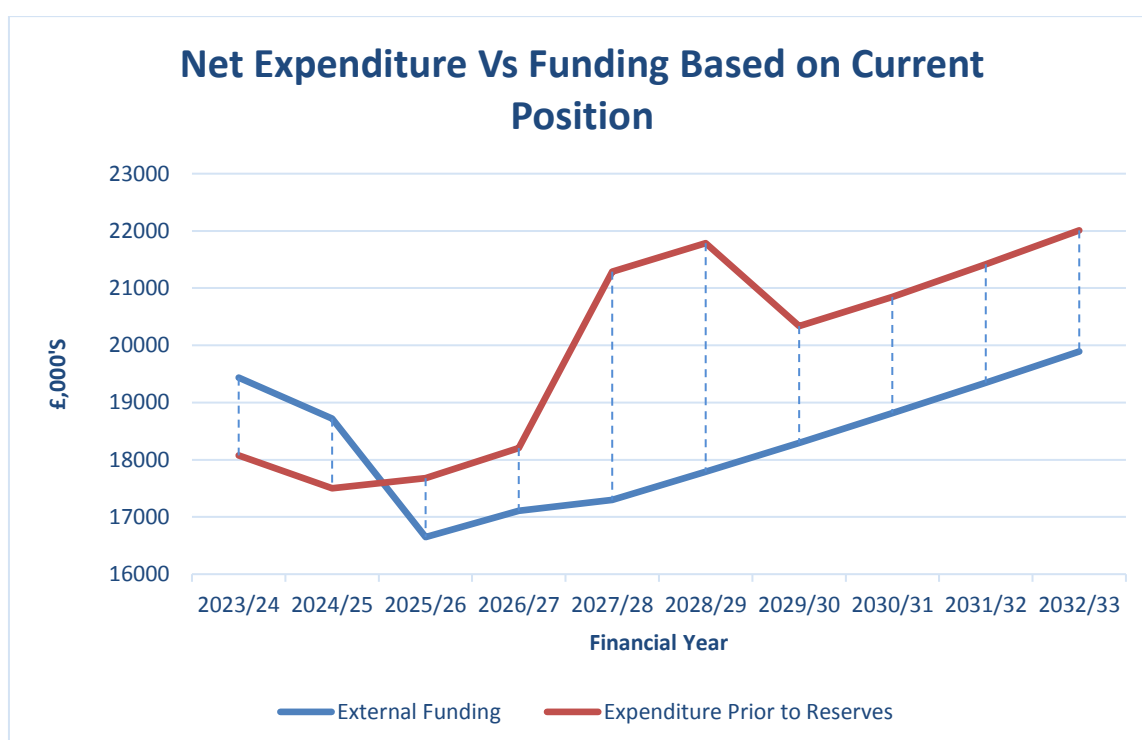
place until 2025/26 at the earliest, and a Business Rates reset not until 2027/28. Whilst uncertainty does not help with financial planning, in many respects the later this happens the better it is likely to be for TMBC given that we do not expect to fair well under the Fair Funding Review. In addition, a future reset of Business Rates will consolidate any growth we have achieved into the baseline making it harder to retain additional income.

- 1.4.5 As Members are aware, there are pockets within the organisation where resources are extremely stretched. The Council's External Auditors, Grant Thornton, have also made key recommendations in respect of procurement and performance management - areas where the Council has no dedicated resources.
- 1.4.6 As part of the Estimates process, Management Team collate a list of areas where there is pressure for growth and which are not factored into the current iterations of the MTFS. For example:
- Safeguarding – no dedicated resource
 - Climate Change – officer on a fixed term contract only
 - Economic Regeneration - officer on a fixed term contract only
 - Procurement - no dedicated resource
 - Performance Management – no dedicated resource
 - Transformation – no dedicated resource
 - No provision made in MTFS to service debt charges through borrowing for Capital Projects
- 1.4.7 It is important to note that **NO PROVISION** is made in the interim update of the MTFS that follows for any of the above.
- 1.4.8 Provision **HAS** been made for the following growth pressures, although the absolute impact of each will not be known for some time. These include Grounds Maintenance, Waste Contract, Homelessness and ongoing inflationary pressure for the next few years.
- 1.4.9 Members will be aware that, partially offsetting some of these pressures, are changes to Planning Fees (set by government but subject to performance criteria) and an increase in investment income.
- 1.4.10 As mentioned in the Director of Finance & Transformation's report to Cabinet in October, business rates from the Panattoni Park development are proving to be higher than the original (prudent) estimates. The effect of this is to generate additional income over and above estimated levels until such time as the government implements a business rates Reset – which we anticipate to be

effective from 2027/28. At this stage, we would expect income to significantly reduce.

- 1.4.11 Taking on board all of the above, a further update of the MTFS has been prepared which Members need to view as '**work in progress**' and clearly is sensitive to movement in any of the factors listed.
- 1.4.12 A graphic illustration of how the Council's financial outlook might be WITHOUT any savings intervention is set out in Graph 1 below. As Members will note there is an unacceptable and unsustainable gap between the net revenue expenditure and the 'external' funding.

Graph 1



Note: External funding includes council tax, business rates and government grant

- 1.4.13 As there becomes more certainty about some of the factors above, the MTFS will be updated again but **for NOW** our calculations suggest that (based on best information to date and savings identified and incorporated into Estimates via tables A and B at paragraph 1.5.1 below) **the funding gap is now circa £1.78m**. In other words, it is similar to the position noted at the Budget meeting in February. That said, it is important to stress that none of the growth pressures set out in paragraph 1.4.6 have been included in this interim update and therefore if progress is made on any of these areas, the MTFS will naturally need to change.
- 1.4.14 Members and senior officers have a duty to provide for the long term financial sustainability of the Council. It is imperative that we prepare plans to deliver any

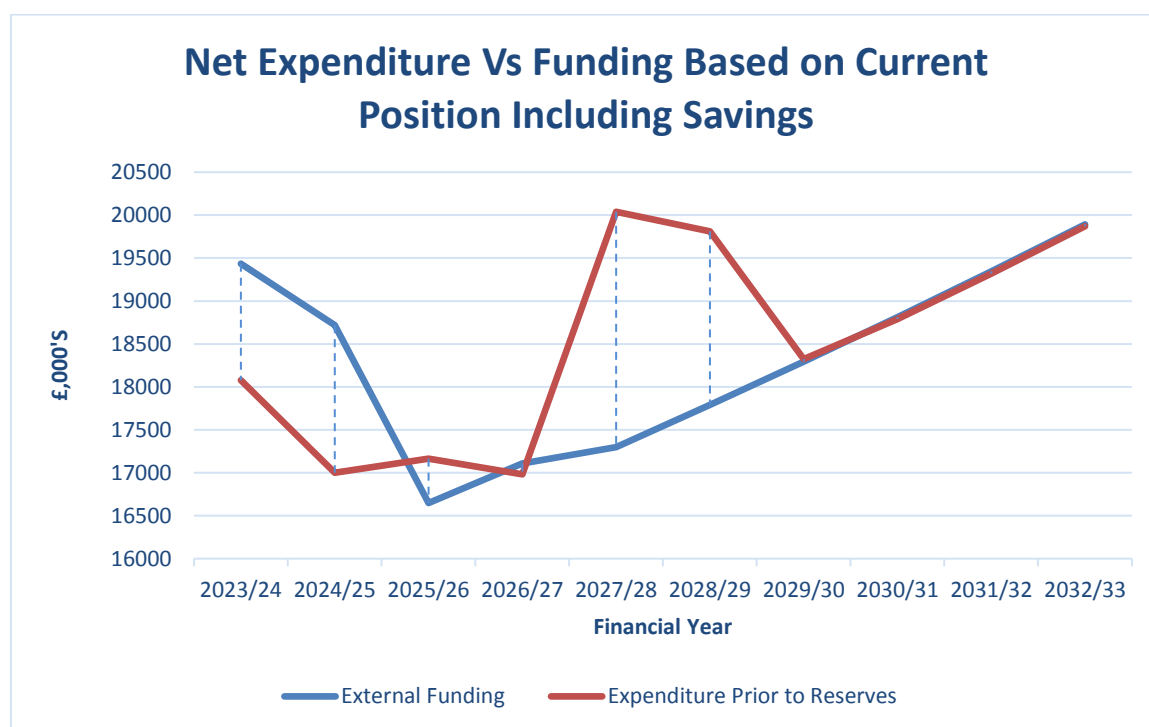
scenario that the Council might face. Dividing the funding gap into tranches as we have done for many years allows us to “flex” the approach as new information comes forward. Assuming a gap of £1.78m:

- Tranche 1 – *balance of £380,000 – by April 2024
- Tranche 2 – £700,000 – by April 2026
- Tranche 3 – £700,000 – by April 2028

Note * Progress towards achievement is set out in the following paragraph.

1.4.15 If these savings were to be delivered in these timescales and net expenditure adjusted accordingly, the graph above can be re-presented as Graph 2 as follows:

Graph 2



Note: External funding includes council tax, business rates and government grant

1.4.16 As Members will note from the above, by 2029/30 (based on current information and assumptions and the delivery of savings in accordance with the programme) net revenue expenditure and external funding would theoretically align providing a balanced budget and financial sustainability (all other things being equal) towards the end of the MTFS period.

1.4.17 **Of course, inevitably things will change and plans will need to be adapted but this is the general direction of travel we need to follow.**

1.5 Savings/Additional income Identified

1.5.1 Progress is being made with identifying and implementing savings/additional income towards the Tranche 1 target which was set at £500k during the Budget setting in February 2023. Potential savings are broken down into 3 categories:

- 1) Part A – potential savings/additional income have already been presented to Members and are ready to be consolidated into Estimates;
- 2) Part B – potential savings/additional income that are in the process of being presented to Members and, subject to agreement, some of which have been consolidated into draft Estimates
- 3) Part C – potential savings/additional income (over and above that already factored into MTFS) that is in the process of being presented to Members but, due to timing of reports and approvals, cannot be included in draft Estimates.

Part A	£000	Incorporated in 2024/25 Draft Est
Members' Allowances (<i>following Full Council decision in June 2023</i>)	25	Yes
Microsoft Azure costs (<i>following cessation of Uniform system</i>)	12	Yes
Staff mileage and miscellaneous costs	15	Yes
Uninhabitable Council Tax Discount (<i>following Council Decision, pending the 21 day public notice period</i>)	12	Yes
TOTAL	64	

Part B	£000 circa	Incorporated in 2024/25 Draft Est
Empty Homes Premium Changes (April 2024) (<i>Subject to agreement at full Council February 2024</i>)	60	No
Litter Enforcement Contract (<i>subject to tender</i>)	15	No
Fees and Charges (<i>report to Communities and Environment Scrutiny Select Committee 6 November</i>) - value above provision in MTFS	9	Yes
Fees and Charges (<i>report to Finance Regeneration and Property Scrutiny Select Committee 14 November</i>) – value above provision in MTFS	47	Yes
Fees and Charges (<i>report to Licensing and Appeals Committee 29 November</i>) – value above provision in MTFS	0	Yes
Fees and Charges (<i>report to Housing and Planning Scrutiny Select Committee 12 December</i>) – value above provision in MTFS	0	Yes
TOTAL circa	131	

Part C	£000 Up to	Incorporated in 2024/25 Draft Est
Premium for Second Homes (April 2025) <i>(Subject to agreement at full Council February 2024)</i>	53	No
Car Parking Charges – Evenings/Weekends <i>(subject to public consultation and consideration by JTB/Cabinet in March 2024 as appropriate)</i>	338	No
Car Parking Charges – increases above MTFS provision <i>(subject to public consultation and consideration by JTB/Cabinet in March 2024 as appropriate)</i>	198	No
Car Parking Charges – New Charges <i>(subject to public consultation and consideration by JTB/Cabinet in March 2024)</i>	138	No
TOTAL up to	727	

- 1.5.2 As Members will see from the tables above, around £120k has been incorporated into the draft 2024/25 Estimates, with potentially a further £75k in train subject to Member decision. This does, therefore, leave a gap of circa £305k against the original Tranche 1 target of £500k.
- 1.5.3 The Part C car parking, proposals will not have been agreed (or otherwise) before the Budget is set in February and any new charges (whatever they are) will not come into effect until at least Summer 2024. At this stage it is difficult to predict how this might develop but Members will note that there is the **potential** to realise up to £674k after allowing for refunds, maintenance and enforcement costs.
- 1.5.4 Similarly the implementation of the Second Homes Premium cannot take place until April 2025 at the earliest (subject to Member agreement).
- 1.5.5 As Members will see, it is unlikely that the Tranche 1 will be fully met by the time the Budget is set in February 2024. Given the change in administration and make-up of the Council since the local elections in May, Management Team recognise that this is now, in reality, a tall ask. Cabinet therefore may wish to consider splitting the Tranche 1 target into 2 parts (Tranche 1a and Tranche 1b) , pushing an element back into 2024/25. Provided that the full tranche is met by the time the budget is set for 2025/26 (i.e. in February 2025) this only has a minor effect on the MTFS. Cabinet are reminded that, so far, £120k has been identified and incorporated into Draft Estimates for 2024/25.
- Tranche 1a - by 1 April 2024
 - Tranche 1b – by February 2025.

Cabinet's **INSTRUCTIONS** are **REQUESTED**.

- 1.5.6 Of course, this is only addressing the first tranche of a much bigger funding gap as outlined in section 1.4. **In terms of tranches 2 onwards, urgent and concerted effort will need to be made by both Members and officers in identifying how these significant sums can be found.** This undoubtedly will be a combination of “big ticket items”, service rationalisation, cessation of services with least priority, and the continued search for efficiencies. **Only this will ensure the continued financial sustainability of the Council.**

1.6 Windfall VAT sum

- 1.6.1 As advised in the report to Cabinet in October, the Council has received a ‘one-off’ windfall of almost £2m in connection with a claim made to HMRC in respect of the treatment of sports and leisure activities.
- 1.6.2 For the avoidance of doubt it does not resolve the funding gap or savings target, but could allow some capital projects or one off schemes to go ahead which otherwise wouldn’t be the case. By default, since its receipt the windfall sum is presently being held in the General Revenue Reserve.
- 1.6.3 Following informal discussion with Cabinet, to assist in the forthcoming Estimates cycle it is proposed that:
- 1) A sum of £500,000 is transferred to the Climate Change Reserve in order to provide match funding for bids to the decarbonisation fund and/or the Swimming Pool Support Fund;
 - 2) A sum of £750,000 is transferred to the Revenue Reserve for Capital Schemes to assist with the funding of capital plan schemes; and accordingly the annual capital allowance is increased to £1m in 2023/24 from its usual £250,000 to allow additional approved schemes to proceed;
 - 3) An earmarked reserve is set up with £150,000 to facilitate Regeneration work in Tonbridge;
 - 4) The draft Estimates for 2024/25 include a Community Grants Scheme with a one-off sum of £87,000 being earmarked for both the grants and the administrative support; and
 - 5) A one-off sum of £50,000 is included in the draft 2023/24 Revised Revenue Estimates for staff recognition with any details to be agreed by the General Purposes Committee.
- 1.6.4 The balance of the windfall, £430,000, will be held within the General Revenue Reserve.
- 1.6.5 Members should note that the above proposals do not constitute spending decisions – any decisions will be made through the Budget process.

1.7 Legal Implications

- 1.7.1 Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs.
- 1.7.2 Section 114 of the Local Government Finance Act 1988 requires a council's chief finance officer to issue a s114 Notice reporting to all elected members an actual or impending seriously unbalanced budget.

1.8 Financial and Value for Money Considerations

- 1.8.1 The Council maintains a prudent level of reserves to provide a safety net for unforeseen or other circumstances. The Section 25 'Robustness of Estimates and Adequacy of Reserves' statement that the Council's Chief Financial Officer (i.e. Director of Finance & Transformation) is required to produce under the local Government Finance Act 2003 to support Members in considering the Budget Setting report, lists examples of why the Council needs to retain a minimum level of reserves. Examples include Emergencies; Economic and world recession; Interest Rate volatility; Income volatility; and Government Legislation.
- 1.8.2 The Council has resolved to hold a minimum level of general revenue reserve of £3 million in order to provide for a host of potential financial and operational risks. At the start of 2023/24, the general revenue reserve balance was circa £8.6m and together with the budget stabilisation reserve giving some headroom to deal with issues arising without more immediate 'draconian' measures.
- 1.8.3 Significant savings are required by April 2028 in order to preserve the integrity of our financial plans. These are **extremely** challenging times, and it has never been more important than to now focus firmly on the delivery of the necessary savings.

1.9 Risk Assessment

- 1.9.1 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. In addition, not identifying and implementing the requisite savings and transformation contributions will put at risk the integrity of the MTFS.
- 1.9.2 Through prudent husbandry of resources, Council has reserves, including a Budget Stabilisation reserve, to help to smooth the path in the delivery of savings. However, reserves are finite and it is imperative that actions are taken at the earliest opportunity in order to preserve the longer term financial sustainability of the Council.

1.9.3 Much debate has been made of the potential and (perhaps necessity in some cases) for local authorities to issue s114 notices (under the s114 (3) of the Local Government Finance Act 1988). For Members' information this says that the Chief Finance Officer of a relevant authority shall make a report under this section if it appears to him/her that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources available to it to meet that expenditure. As Cabinet will have gathered, due to careful and prudent husbandry of resources in the past, TMBC is not in this position. **However, it is imperative that we carefully monitor and contain expenditure and continuously update our forecasts to ensure that we remain on track.** This will of course include reflecting in our forecasting the outcome of the Fair Funding Review and Business Rates Reforms which is as yet an unknown quantity.

1.9.4 The financial position is recorded as RED on the Strategic Risk Register, and Cabinet's attention is drawn to this.

1.10 Equality Impact Assessment

1.10.1 Where there is a perceived impact on end users an equality impact assessment has been carried out and as further savings and transformation options emerge, further equality impact assessments will need to be carried out as appropriate.

1.11 Policy Considerations

1.11.1 Budgetary and policy framework is relevant to all areas of the Council's business.

1.12 Recommendations

1.12.1 Cabinet is **REQUESTED** to:

- 1) **Note** the latest forecast of the Medium-Term Financial Strategy and the funding gap which is now estimated to be £1.78m after incorporating £120k of savings into Draft Estimates for 2024/25 (see paragraph 1.4.11).
- 2) **Note** the progress with the savings/transformation contributions for Tranche 1 as set out in paragraph 1.5.2
- 3) **Consider** whether Tranche 1 savings target should be split into two parts (1a and 1b) as set out in paragraph 1.5.5
- 4) **Consider** how a programme for investigating and identifying the necessary savings for tranches 2 onwards can be implemented and actioned as soon as possible.
- 5) **Recommend** to Full Council the proposals set in out paragraph 1.6.3 following the receipt of the windfall sum.

Background papers:

Nil

Sharon Shelton
Director of Finance & Transformation

contact: Sharon Shelton
Paul Worden

Julie Beilby
Chief Executive

For Management Team

COUNCIL TAX PREMIUM CHANGES FOR EMPTY AND SECOND HOMES

Item CB 23/106 referred from (Extraordinary) Cabinet of 5 December 2023

Following the recent Royal Assent of the Levelling Up and Regeneration Bill, consideration was given to proposals to introduce a Council Tax premium for second homes from 2025/26 onwards and to amend Council Tax empty home premiums from 2024/25 onwards.

The previous recommendation of Cabinet to Council (CB 23/3) in respect of these proposals had been deferred pending enactment of the Bill. Whilst the criteria for both empty homes and second homes premium charges remained unchanged the effective date for implementation of the latter had changed due to the delay in the Bill being enacted.

Due regard was given to the financial and value for money considerations, the legal implications and the summary of perceived risks set out in the report. In addition, it was recognised that these premiums could strengthen the incentive of owners of empty properties to bring them back into use and might encourage the sale or even private rental of properties in support of the Borough Council's priorities in respect of housing options.

RECOMMENDED*: That

- (1) the amendments to Council Tax empty home premiums from 2024/25 financial year onwards, as set out in 1.3.1 be adopted; and
- (2) a Council Tax premium to second homes from 2025/26 financial year onwards, as set out 1.4.3, be introduced.

***Recommended to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

05 December 2023

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 COUNCIL TAX PREMIUM CHANGES FOR EMPTY HOMES AND SECOND HOMES

This report provides an update to a previous Cabinet recommendation (Cabinet meeting on 10 January 2023) to change Council Tax premium charges, subject to the enactment of the Levelling up and Regeneration Bill.

This Bill has now received Royal Assent and Cabinet is now requested to recommend to Full Council in February 2024 that a Council Tax premium for second homes from the 2025/26 financial year onwards is introduced; and that the amendments to Council Tax empty home premiums from the 2024/25 financial year onwards are adopted.

1.1 Introduction

1.1.1 Proposed changes to council tax premium charges were initially considered by Cabinet on 10 January 2023.

1.1.2 At that time, the Levelling-up and Regeneration Bill was still awaiting Royal Assent; therefore, Members agreed to recommend to Full Council for the new premium charges to be introduced from the 2024/25 financial year onwards subject to the bill being enacted and guidance being published by Central Government.

1.1.3 Shortly before the Full Council meeting, it became clear that the Bill would not receive Royal Assent. As a result, advice was given to defer the decision until the Bill was enacted to avoid any potential challenges.

1.1.4 I can advise Members that the Bill has now become law, with the Levelling-up and Regeneration Act 2023 coming into effect from 26 October 2023.

1.1.5 The criteria for both the Empty Homes and Second Homes premium charges remain unchanged; however, due to the delay in the Bill being enacted, the effective date for implementation of the Second Homes premium charge has changed.

1.2 Background

- 1.2.1 On 19 February 2019, Council resolved to adopt a 100% Council Tax premium from the 2019/20 financial year onwards for properties that have been empty for 2 years or longer.
- 1.2.2 On 18 February 2020, Council resolved to adopt, from the 2020/21 financial year onwards, a 200% Council Tax premium for properties that have been empty for at least 5 years; and from the 2021/22 financial year onwards, a 300% Council Tax premium for properties that have been empty for at least 10 years.
- 1.2.3 Latest figures show that there are currently 96 properties attracting a 100% premium, 74 properties attracting a 200% premium and 14 properties attracting a 300% premium. There are currently 260 properties that have been empty for at least one year that do not currently pay a premium charge.
- 1.2.4 The amendment to the Long Term empty dwellings (England) legislation gives Councils discretion to apply a premium of up to 100% of the Council Tax charge on those properties that have been empty for more than one year. **This provision was introduced by Central Government as a tool to assist local authorities in the drive to bring empty properties back into use.**
- 1.2.5 New legislation relating to 'dwellings occupied periodically (England)' i.e. properties that are classed as 'second homes' provides councils with the discretion to apply a premium of no more than 100% to qualifying properties.

The conditions of this criteria are:

- a) There is no resident of the dwelling, and
- b) The dwelling is substantially furnished.

- 1.2.6 Latest figures show that there are currently 230 properties classified as second homes.

1.3 Empty Homes Amendment

- 1.3.1 Amendments will allow councils to introduce the premium for empty homes a year earlier than existing agreements.

Introduction date	Existing premiums	Premiums that can be applied
1 April 2024	100% premium for properties empty 2 years +	100% premium for properties empty 1 year +

- 1.3.2 Regulations allow a billing authority to vary or revoke a determination in respect of an empty home premium for a financial year, but only before the beginning of the year.
- 1.3.3 The amendment can, therefore, have an impact for the financial year beginning on or after 1 April 2024 and it does not matter if the start date of the property being empty is before this comes into force.
- 1.3.4 **It is expected that by reducing the time a property is empty, the premium will allow local authorities to strengthen the incentive for owners of empty homes to bring them back into use.**
- 1.3.5 No public consultation is required to introduce this change.
- 1.3.6 Liable parties will be able to appeal via standard Council Tax appeal routes if they disagree with the applying of a premium on an account based upon facts of an individual case, for example, they state that the property is not empty. The principle of a premium will not be open to appeal.
- 1.3.7 Taxpayers affected by the reduced empty period will be notified prior to the new charge coming into force so they can decide to sell or let the property before they are impacted by the change.

1.4 Second Homes Amendment

- 1.4.1 Under existing legislation, properties classed as second homes have a full charge (100%) and there are no discounts or premiums in place.
- 1.4.2 By introducing a premium on these properties, it is expected that properties that are not in constant use may be encouraged to be brought back into use for local residents. It would also remove potential loopholes regarding empty homes where an owner could furnish a property to remove it from the list as being classed as an empty home to avoid the premiums that this can attract.
- 1.4.3 There is no minimum timeframe on this premium, but legislation states a billing authority's first determination under this section must be made at least one year before the beginning of the financial year to which it relates. Therefore, if the premium is agreed by 31 March 2024, any property classed as a second home would attract the premium with effect from 1 April 2025.
- 1.4.4 Taxpayers affected by the additional premium will be notified prior to the 1 April 2025 so they can decide what to do with their property before they are impacted by the change.
- 1.4.5 It is recognised that some taxpayers may request their properties to be treated as Non-Domestic due to letting legislation to avoid a premium (e.g. holiday lets). This will be monitored by the Council and cases investigated as appropriate.

1.5 Summary

- 1.5.1 One of the Council's four priorities set out in the Corporate Strategy (2023-2027) is to 'Improve housing options for local people whilst protecting our outdoor areas of importance'.
- 1.5.2 The Council's Housing Strategy (2022-2027) set out priorities which include bringing empty homes back into use.
- 1.5.3 Adopting these changes would enable further premiums of council tax to be levied which might encourage the sale or even private rental of properties.
- 1.5.4 Members should note, however, that the full extent of the additional income might not be realised should the empty properties be successfully brought back into use.
- 1.5.5 If Cabinet are supportive of these recommendations, then policies will be drawn up and presented to Full Council in February 2024 alongside these recommendations.

1.6 Legal Implications

- 1.6.1 A Full Council resolution is required to introduce the amendments detailing exemptions and agreements of introduction dates and premium amounts.
- 1.6.2 In respect of the Empty Home amendment, this just needs a decision before the financial year to which the decision relates as set out in S11B(5) of the Local Government Finance Act 1992.
- 1.6.3 As mentioned in the report, the amended premium charge can therefore be implemented from 1 April 2024.
- 1.6.4 In respect of the Second Homes amendment, the premium charge for second homes can only be implemented with at least one year's notice as set out in S11C(3) of the Local Government Finance Act 1992. This means a final decision must be passed by 31 March 2024 to be able to introduce any changes from 1 April 2025.

1.7 Financial and Value for Money Considerations

- 1.7.1 The table below illustrates the estimated financial impact the additional properties that would be impacted if both amendments were introduced; it is too early to provide details on second homes for April 2025 at this current time and these figures are for illustration purposes. Please note these figures are based on the TMBC element of the 2023/24 Council Tax rate.

Projection of premium changes based on latest figures

	Properties	CTax Base value	100% premium charge value	Additional charge value
Empty Homes (for 2024/25)	260	£60,000	£60,000	£60,000
Second Homes (for 2025/26)	230	£53,000	£53,000	£53,000

1.7.2 Indicative rates above are based on 100% collection. The Council is aware that not all cases will yield 100% collection in year. In year collection at the end of October 2023 is currently 65.2%, equal to the amount collected in 2022/23. The end of year target for overall collection of Council Tax in 2023/24 is 98.5%.

1.8 Risk Assessment

1.8.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
1) Additional income to TMBC is not fully realised due to the impact of the current economic climate on collection rates.	High	Medium	Collection to be closely monitored.
2) Adverse reaction from owners of empty properties having their council tax doubled during a cost of living crisis	Medium	High	Consider implementing the change from April 2025 to give owners more notice of the amendment

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 Policy Considerations

- 1.10.1 Communications. Publication of the decision must be made with 21 days of the decision as stated in the report.

- 1.10.2 Community

1.11 Recommendations

- 1.11.1 Cabinet is **REQUESTED** to :

- 1) recommend to Full Council to adopt the amendments to Council Tax empty home premiums from the 2024/25 financial year onwards as demonstrated in paragraph 1.3.1; and
- 2) recommend to Full Council to introduce a Council Tax premium to second homes from the 2025/26 financial year onwards as demonstrated in paragraph 1.4.3.

Background papers:

[Levelling-up and Regeneration Act 2023](#) (Points 79-80)
[\(legislation.gov.uk\)](#)

contact: Glen Pritchard
 Sharon Shelton

Sharon Shelton
 Director of Finance and Transformation

SUSTAINABLE TEMPORARY ACCOMMODATION OPTIONS REPORT AND TEMPORARY ACCOMMODATION PROVISION ACTION PLAN

Item HP 23/39 referred from Housing and Planning Scrutiny Select Committee of 14 December 2023

The report of the Director of Planning, Housing and Environmental Health introduced a consultant report by Altair, who were commissioned to research and report on sustainable Temporary Accommodation (TA) delivery options for the Borough Council, as part of the Local Government Association Housing Advisers Programme, to deliver 40 sustainable temporary accommodation units. A copy of the report was provided at Annex 1.

As informed by the options report, a Temporary Accommodation Portfolio Action Plan had been developed to work towards securing sustainable TA provision and a copy was attached at Annex 2.

Members had an in-depth discussion with regard to the various options as recommended in the consultant report, with particular reference made to modular construction of new homes, private sector leasing, partnership working with registered providers, social lettings agency and re-purposing existing stock. It was explained that the research focused on meeting the core and ongoing needs of the Borough Council in providing sustainable TA.

The in borough location had been acknowledged as one of the primary goals the Council was seeking to achieve in respect of sustainable TA provision, however, this needed to be balanced with considerations across a range of priorities, including suitability and feasibility of potential sites.

Furthermore, it was noted that potential sites, once identified and assessed to be suitable for delivery, would be presented to full Council in due course for consideration by Members.

RECOMMENDED*: That

- (1) **the Options Appraisal Report on Sustainable Temporary Accommodation Delivery by Altair, attached at Annex 1, be noted and endorsed by Council;** and
- (2) the Temporary Accommodation Portfolio Action Plan, attached at Annex 2, be approved and adopted.

***Recommended to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

14 December 2023

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

**1 SUSTAINABLE TEMPORARY ACCOMMODATION OPTIONS REPORT AND
TEMPORARY ACCOMMODATION PROVISION ACTION PLAN**

TMBC used funding from the Local Government Association Housing Advisers Programme (HAP) to commission research options to deliver 40 sustainable temporary accommodation units. Consultants at Altair were commissioned to research and report on sustainable TA delivery options and the final report is presented to members for information (Annex 1).

The options report has informed the development of a Temporary Accommodation Portfolio Action Plan (Annex 2) to work towards securing sustainable TA provision for consideration and recommendation to Cabinet to approve for adoption.

1.1 Background

- 1.1.1 The action plan from consultancy advice on Temporary Accommodation (TA) in early 2022 included an action on TA procurement approach as the cost of placing households in TA remains high, primarily due to the ongoing use of nightly paid accommodation for the majority of provision. The consultancy work advised a 'natural level' of TA need to be 80-100 placements.
- 1.1.2 At the time of the TA consultancy report in January 2022 the peak number of households in TA was 164 and in November 2022 had reduced to 97. There are 118 households in TA currently (November 2023) with nightly rates at an average of £50.26 in 2023/4, a 5.2% increase from the average nightly cost of placements in 2022/23.
- 1.1.3 With actions implemented on managing the numbers of households in temporary accommodation our focus is now on managing the cost of TA provision through reducing the cost of each placement to reduce revenue spend.
- 1.1.4 The Housing Portfolio Approach OSG formed in May 2023 with the purpose to carry out work to ensure TMBC makes best use of its assets to support its statutory housing functions and alleviate housing pressures in the borough. The

group aims to oversee a reduction in the net cost of temporary accommodation provision.

- 1.1.5 Altair were commissioned to research and report on sustainable TA delivery options and the final report is presented to Members for information (**Annex 1**). The aim of the project was to research and investigate options for sustainable temporary accommodation provision, specifically developing an initial assessment of options and recommendations for direct delivery, such as commissioning delivery of units on council land using Modern Methods of Construction (MMC), long lease options and property acquisition to secure approximately 40 units of temporary accommodation in borough. The 40 units could be achieved through a combination of options.
- 1.1.6 The Temporary Accommodation Portfolio Action Plan (**Annex 2**) sets out range of actions over the next five years aiming to improve TA provision and reduce revenue expenditure on TA.

1.2 The Council's existing TA portfolio and costs

1.2.1 The Council's TA portfolio currently consists of;

- 6 self-contained units in Tonbridge
- 8 HMO units and 2 houses in Tonbridge
- 7 self-contained studio units at in Maidstone, utilised for 1 bed need households with more complex needs
- 9 Clarion properties (this number fluctuates and can be up to 20 depending on conversion to permanent tenancies, move on options and suitability/availability of new properties)
- Remainder of households placed in nightly paid TA.

1.2.2 Current expenditure of TA provision, primarily through nightly paid provision is summarised in the table below, with spend for last financial year 2022-23 being £1,628,290 with a net cost of £748.14 to the Council:

	Actual			Estimates		Projection		
	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2026/28
	£	£	£	£	£	£	£	£
Gross Expenditure	1,840,256	2,174,298	1,628,290	1,550,000	1,400,000	1,442,000	1,470,800	1,500,200
Gross Income	(1,013,596)	(1,217,576)	(880,144)	(823,050)	(743,400)	(765,700)	(781,000)	(796,600)
Saving Target							(300,000)	(400,000)
Net Costs	826,660	956,722	748,146	726,950	656,600	676,300	389,800	303,600

- 1.2.3 The approach to management of existing provision along with occupancy charges and subsidy for temporary accommodation is an important consideration to ensure rental income is maximised towards meeting the costs of provision to the Council. The housing team are currently developing the approach to management of TA including procurement of a repairs and maintenance contract. It is expected that this will be place for the new financial year. A review of the TA charging policy is also planned and will be carried out jointly between housing and financial services.

1.3 Sustainable Temporary Accommodation Delivery Options – Altair report

- 1.3.1 This options research project gives the Council insight into delivery options available to meet the need for sustainable temporary accommodation provision and associated costs and benefits.
- 1.3.2 To be sustainable the Council is seeking to achieve the following:
- In Borough location – sustainable in management and control terms, and for households occupying the provision to sustain and maintain their social, family and employment commitments and responsibilities.
 - Enabling more direct management and influence over provision by the Council, with good quality design and ease of access and management of occupancy.
 - Energy efficient and low carbon
 - Construction methods, with MMC to be explored, and utilisation of unused sites/brownfield sites
 - Energy efficiency for occupation with low carbon emissions – use of energy efficiency heating and hot water options.
- 1.3.3 The report sets out the following recommendations to secure sustainable TA in the borough:
- Modular Construction of new homes – explore the option to develop new TA through modular construction. This includes identifying possible sites, modular developers, capital available and any Homes England grant to take forward this option.
 - Private Sector Leasing – explore opportunities to lease homes from the private sector on a longer-term basis than the nightly-paid properties. This may be through developing relationships with landlords with local portfolios.
 - Partnership working – explore opportunities to partner with a third party to provide new TA units in the borough, including but not limited to:
 - Extending the current partnership working with Clarion Housing

- Partnering with another local registered provider to explore a similar arrangement to the Clarion partnership.
- Social Lettings Agency – engage with local social lettings agencies (including an established Kent agency) to understand if and how a TA offering would work if the Council joined the agency.
- Re-purpose existing stock – identify if there are any existing sheltered accommodation schemes that could be re-purposed for TA. Work with Registered Providers (RPs) in the borough to identify potential assets to re-purpose, such as ex or soon to be ex-sheltered accommodation blocks. Be agile to any future opportunities that arise to re-purpose accommodation within the borough.

1.4 Temporary Accommodation Portfolio Action Plan

- 1.4.1 The Temporary Accommodation Portfolio Action Plan has been informed by work by the Housing Portfolio Approach OSG and Sustainable Temporary Accommodation delivery options report by Altair. The action plan has short and medium term actions all aiming towards securing more sustainable TA provision, in turn enabling the Council to move away from the current reliance on nightly paid private provision, improve quality and reduce revenue expenditure. In the short-term key actions are to:
- Explore the possibility of modular development in more detail.
 - Develop partnership working with Clarion Housing further and engage with other Registered Providers about TA provision.
 - Develop and secure management resource for existing council owned TA provision.
 - Review the current TA charging policy.
- 1.4.2 Some initial work relating to modular development has been carried out with soft market testing through contact with a range of modular development firms.
- 1.4.3 The modular market offers a range of products from single person to family sized units that are fabricated offsite for a shorter installation period. Many providers offer ‘turnkey’ solutions, where they work with the local authority for planning and design stages and deliver fully fitted out units on site. There are also some providers that offer management services.
- 1.4.4 More detailed consideration of modular delivery will be taken forward and monitored by the Housing Portfolio Approach OSG and include consideration of possible sites for this type of provision along with further engagement with modular providers as appropriate.

- 1.4.5 Progress on the action plan will be monitored through the Housing Portfolio Approach OSG. The Chair of the OSG (Director of Planning, Housing and Environmental Health) will report progress against the action plan to Management Team and relevant Cabinet Members and into this Committee as required.

1.5 Legal Implications

- 1.5.1 Statutory functions under the Housing Acts mean we have a need for TA provision for interim placements made under section 188 of the Housing Act 1996 (as amended), and longer-term placements for households accepted as homeless under section 193 of the same Act.

1.6 Financial and Value for Money Considerations

- 1.6.1 TMBC currently holds £254,343.08 S106 funds to be used for Affordable housing provision, with further contributions in the pipeline and £944,000 capital funding (included in Cabinet decision in January 2023).

- 1.6.2 S106 pipeline contributions information:

Application	Amount expected	Note
19/00287/FL (2-12 Avebury Avenue)	£229,959	2x payments of £114,979.50.
19/01108/FL (1-4 River Walk)	£441,000	2x payments of £220,500.
20/01392/FL (Former Somerfield Distribution Centre)	Unknown – profit above 17% where the appraisal provides that AH is not viable on the dev.	Viability report to be submitted 28 days after sale of last open market unit.
20/02245/FL (Oakhill House)	£854,334	2x payments of £427,167
21/01542/FL (Rear of 78 to 80 High Street)	£273,479.88 £1,389,000	Upfront payment Up to payment Cap minus upfront cost
21/01911/FL (Land Rear of 182 High Street)	£251,323.42	

- 1.6.3 Existing budgets and reserves will be explored as the first port of call to meet costs associated with delivery of this action plan, alongside any opportunities for external funding.

1.7 Risk Assessment

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 that would vary between groups of people and protected characteristics.

Additional good quality temporary accommodation in the borough should result in improved services and therefore have an overall positive impact for service users.

1.9 Policy Considerations

- 1.9.1 Development and adoption of the Temporary Accommodation Portfolio Action Plan give structured approach to work relating to temporary accommodation provision and implementing recommendations of the Altair options report.
- 1.9.2 Reducing the use and cost of nightly paid Temporary Accommodation provision is an objective in the Housing Strategy, along with seeking alternative options to ensure a range of provision.
- 1.9.3 Climate Change – The Climate Change Strategy commits to local action on climate change with an aspiration for the borough to be carbon neutral by 2020. Energy efficiency in terms of sustainable temporary accommodation provision is considered within the options report informing the Temporary Accommodation Portfolio Action Plan.

1.10 Recommendations

- 1.10.1 NOTE the report by Altair in Annex 1 and RECOMMEND to Council to endorse it.
- 1.10.2 ENDORSE the Temporary Accommodation Portfolio Action Plan in Annex 2 and RECOMMEND this to Cabinet for approval and adoption.

Background papers:

contact: Eleanor Hoyle

Annex 1 Sustainable Temporary Accommodation
Delivery Report (Altair)

Annex 2 Temporary Accommodation (TA) Portfolio
Action Plan

Eleanor Hoyle

Director of Planning, Housing and Environmental Health



Options Appraisal Report

October 2023

Tonbridge and Malling Borough Council **Sustainable Temporary** **Accommodation Delivery**

Altair

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DISCLAIMER: Our report is addressed to Tonbridge and Malling Borough Council. We stress that our report is confidential and prepared for the addressees only. It should not be used, reproduced, or circulated for any other purpose, whether in whole or in part without our prior written consent, which consent will only be given after full consideration of the circumstances at the time.

If the report is released to a third party without prior consent from Altair, we do not acknowledge any duty of care to the third party and do not accept liability for any reliance placed on the report.

1. Executive Summary

- 1.1. Altair Consultancy and Advisory Services (“Altair”) were commissioned by Tonbridge and Malling Borough Council (“TMBC” or “the Council”) to research and analyse options to deliver and secure sustainable temporary accommodation (“TA”) within the Tonbridge and Malling borough area with a target number of 40 units.
- 1.2. For the context of the review, TMBC defined ‘sustainable’ options as:
 - In-borough location
 - Enabling more direct management and provision by the Council
 - Energy efficient and low carbon
- 1.3. Altair undertook market research and interviewed key Council officers related to TA to devise a longlist of potential options for the Council to be able to deliver new TA. An interim report was provided to the project steering group who agreed the proposed options shortlist to take forward to the appraisal workshop.
- 1.4. Following this, an options appraisal workshop was undertaken with key Council officers in which the options were presented with cases studies and financial modelling. Workshop attendees discussed each of the presented options and then assessed the options’ suitability, feasibility, and acceptability (“SFA”) against TMBC’s strategic objectives and ‘sustainable’ criteria.
- 1.5. Based on the SFA scores and discussion from the workshop, we recommended that the following options are to be explored further by Council:
 1. Modular construction of new homes
 2. Private sector leasing
 3. Partnership to deliver TA
 4. Join a social lettings agency
 5. Re-purpose existing stock for TA
- 1.6. These recommendations, the rationale for them and our interim report were subsequently discussed at a meeting of the Council’s ‘Informal Cabinet.’ This important consultation with elected members was generally supportive of the options presented. However, although there was support for modular construction there was also a desire to move away from further leasing. Members also expressed a desire to utilise and expand the existing relationship with Clarion. Members are generally not open in the short term, given current interest rate levels, to taking on additional debt and prefer to utilise existing funding streams to pursue the recommended options.

2. Introduction & Context

2.1. Overview of project

- 2.1.1. The number of TA placements in TMBC has increased over the last 5 years, from an average of 60 households to a high of 160 in 2021. The number of placements currently stands at around 100 households.
- 2.1.2. The majority of TMBC's current TA portfolio is 'nightly-paid' accommodation, most of which is not located within TMBC's local authority area. In addition to the nightly-paid accommodation, TMBC own 16 units of TA within the borough which is a mixture of self-contained units and HMOs. The Council also have 7 properties on a long-term lease agreement from a private provider to use for TA placements. Finally, TMBC also have an agreement with Clarion Housing Group ("Clarion") to use up to 20 of its properties in the borough for TA. Currently, only 7 properties are being used as TA under this agreement.
- 2.1.3. In June 2023, Altair were commissioned to research and analyse options to deliver and secure sustainable TA within the Tonbridge and Malling borough area, with a target number of 40 units, carry out feasibility studies for recommended options and produce an options report and recommendations.
- 2.1.4. In the context of this review, 'sustainable' is defined by TMBC as:
- In-Borough location – sustainable in management and control terms, and for households occupying the provision to sustain and maintain their social, family and employment commitments and responsibilities. Note that it was agreed by the project steering group (see Appendix 1 for the list of project steering group members) that this criteria may be flexible to out-of-borough depending on the option (see section 6 for further explanation).
 - Enabling more direct management and influence over provision by the Council, with good quality design and ease of access.
 - Energy efficient and low carbon in its:
 - Construction methods and utilisation of unused sites/brownfield sites.
 - Energy efficiency for occupation with low carbon emissions and use of energy efficiency heating and hot water options.
- 2.1.5. The aim of this project is to minimise the use of nightly paid accommodation to manage temporary accommodation costs and seek alternative provision.

3. Approach

3.1. Project stages and methodology



- 3.1.1. Following the project inception meeting, we reviewed documents and data provided by TMBC and held interviews with nine stakeholders within TMBC to understand the Council's baseline position and its strategic priorities for delivering TA. The interviewees were from a range of teams within the Council including housing accommodation, property services, housing solutions, finance, benefits and welfare and housing improvement.
- 3.1.2. Simultaneously Altair identified a longlist of potential options for TMBC to deliver and secure TA. We drew upon the available literature and research on TA, as well as expertise from the wider Altair team who contributed best practise case studies as well as some 'outlandish' options they have seen being discussed within the sector. The longlist of options (see Appendix 2), totalling 16 options, was reviewed as part of an internal workshop by the Altair team on this project and assessed against TMBC's 'sustainable' criteria.
- 3.1.3. After Altair's internal assessment, we identified which options should be taken forward to the shortlist and which should be dismissed based on their suitability, feasibility, and acceptability against TMBC 'sustainable' criteria.
- 3.1.4. The proposed shortlist of options was presented in an interim report prior to a steering group meeting with project stakeholders on the 10th of July 2023. At the steering group meeting, the proposed longlist of options was discussed and a shortlist of 10 options was agreed to be brought forward to be assessed at the options appraisal workshop.
- 3.1.5. Following the agreement of the options shortlist, Altair undertook financial modelling on each the options under consideration. More information on the inputs, assumptions and outputs of the financial models are outlined in section 5 of this report.
- 3.1.6. On the 9th of August 2023, an options appraisal workshop was held with project stakeholders to assess the suitability, feasibility, and acceptability of the longlist of options. Further detail on the session is set out in section 6 of this report. The outcome of the session and our recommendations are included in this report.
- 3.1.7. It should be noted that Altair were made aware that TMBC have £944,000 of capital funding earmarked for TA provision after the financial modelling and options appraisal workshop took place. Therefore, it has not been included in the commentary contained

in this report. However, this funding should be considered by TMBC when exploring which options to take forward.

- 3.1.8. The options, outputs of the options appraisal workshop and recommendations from our interim report were presented to TMBC's Informal Cabinet on 26th September.
- 3.1.9. Following agreement on which options and recommendations will be taken forward, we have prepared an outline implementation plan to deliver the modular option (Appendix 5).
- 3.1.10. A final report will be taken to TMBC's Housing Planning Select Scrutiny Committee in December 2023.

4. Options Shortlist

4.1.1. Early within the options development phase of the research, it was established that there were five main categories of options that the Council could take forward. These options categories were:

- Option 1 – Direct delivery of new homes
- Option 2 – Property acquisition
- Option 3 – Leasing
- Option 4 – Partnership working
- Option 5 – Re-purpose existing stock

4.1.2. Within each option category, there were specific sub-options to be explored at the options appraisal workshop. An overview of the sub-options within the agreed shortlist are as follows:

4.1.3. Option 1a – Building new homes

4.1.4. The Council develop new TA through capital expenditure.

4.1.5. Option 1b – Modular construction of new homes

4.1.6. The Council use modular construction to deliver new TA units. Modular construction is the use of prefabricated demountable accommodation, which can be delivered onsite from a lorry, constructed rapidly, and then moved to another site when the original site is needed for permanent development.

4.1.7. Option 1c – Shipping containers

4.1.8. The Council convert shipping containers to be used as TA.

4.1.9. Option 2a – Purchasing properties as the Council

4.1.10. The Council purchases properties directly through the General Fund and let them as TA.

4.1.11. Option 2b – Office conversions

4.1.12. The Council convert commercial or Council-owned offices for the use of TA.

4.1.13. Option 3a – Private Sector Leasing

4.1.14. The Council lease properties from the private sector on long-term leases to be used as TA. This can either be through leasing directly from private landlords or through an agent whereby the Council sub-lease the property from the agent.

4.1.15. Option 3b – Private Licenced Accommodation (nightly paid)

4.1.16. The Council continue to acquire properties for TA through private licences on a nightly-paid basis.

4.1.17. Option 4a – Partnership to deliver TA

4.1.18. The Council enter into a partnership with another organisation to purchase, develop and/or manage properties to let as temporary accommodation. For example, this could be through a joint venture or in partnership with a Registered Provider of social housing.

4.1.19. Option 4b – Join a social letting agency

4.1.20. The Council join a local and existing social lettings agency to acquire more properties to use as TA.

4.1.21. Option 5a – Re-purpose existing stock for TA

4.1.22. The Council re-purpose existing stock within the borough to be used as TA. This could include social housing provision such as sheltered housing schemes which are becoming undesirable by the customer group it was originally for, and/or not fit for purpose, in partnership with Registered Providers.

5. Financial Modelling

5.1. General assumptions

- 5.1.1. Altair have undertaken financial modelling on each of the options under consideration. Consistent assumptions were made across the different models in order to provide an illustrative comparison of the options and for attendees to assess the relative strength and impact of the different options. The assumptions were based on market and internal data provided by TMBC where possible.
- 5.1.2. It should be reiterated that the costs and revenues are estimates, and that the actual costs and revenues may differ. Some options also have very wide costs parameters and therefore may have significant variability in practice.
- 5.1.3. The following financial assumptions were made:
- Two property types were considered: 1-bed self-contained accommodation (single homeless) & 3-bed family homes. Results for 2-beds would fall somewhere between the two.
 - Rental income: Tenant pays 90% 2011 LHA based on a straight average of BMRA's across TMBC. Tenant rent based on 1 bedroom size higher than the unit being occupied: includes a habitable room (e.g. dining room) assumed to be used as a bedroom.
 - House prices & market rents based on average lower quartile house prices in TMBC December 2022 and lower quartile rents for 2022/23 (with 5% uplift to 2023/24 rents).
 - Management & maintenance cost assumptions are based on the upper quartile (i.e. higher cost) 2022 RSH Global Accounts¹ averages for 54 providers with under 3,000 units, excluding lease-based providers. This was considered an appropriate benchmark for a local authority with no in-house general needs housing management function. These costs exclude depreciation.
 - Land cost assumed to be nil (except for existing property purchases).
 - No government subsidy assumed unless stated.
 - Capital cost funded by debt at PWLB fixed interest rates over 30 years (or expected asset life, if shorter).
 - Annuity loan payment – equal annual instalments, where both principal and interest are paid. Loan repaid gradually over the loan term.

¹ Annual cost data published by the RSH (Regulator of Social Housing) for all English Registered Providers of social housing with more than 1,000 units in management.

- 5.1.4. We note in the presentation of the options (in the next section) any additional assumptions being made, or where assumptions were varied from the general assumption above.
- 5.1.5. The purpose of using common assumptions across all options was to maximise comparability. Even if the absolute assumption is too high or too low (meaning the financial performance might in practice be better or worse than modelled), the use of the same assumption across all the options means that their relative performance can be compared.
- 5.1.6. We also compared the cost of schemes at 2% lower interest rates (in anticipation of interest rates being lower in future years) but they made relatively little difference to the relative viability of the schemes.
- 5.1.7. It is the annual cost from day 1 that is being considered, rather than the net present value of the investment over a 30+ year time period. It should be noted that options which deliver the lowest annual cost are not necessarily the best value long term investment, but this analysis recognises that choices need to be made under an annual cost constraint.

5.2. Summary of outputs (include comparison graphs)

- 5.2.1. We have compared the performance of each option both for the operating position (peach bars) and the post-debt position (purple bars). As noted above, we would stress that the absolute level of surplus or deficit in these calculations is less important than the relative performance of each option.

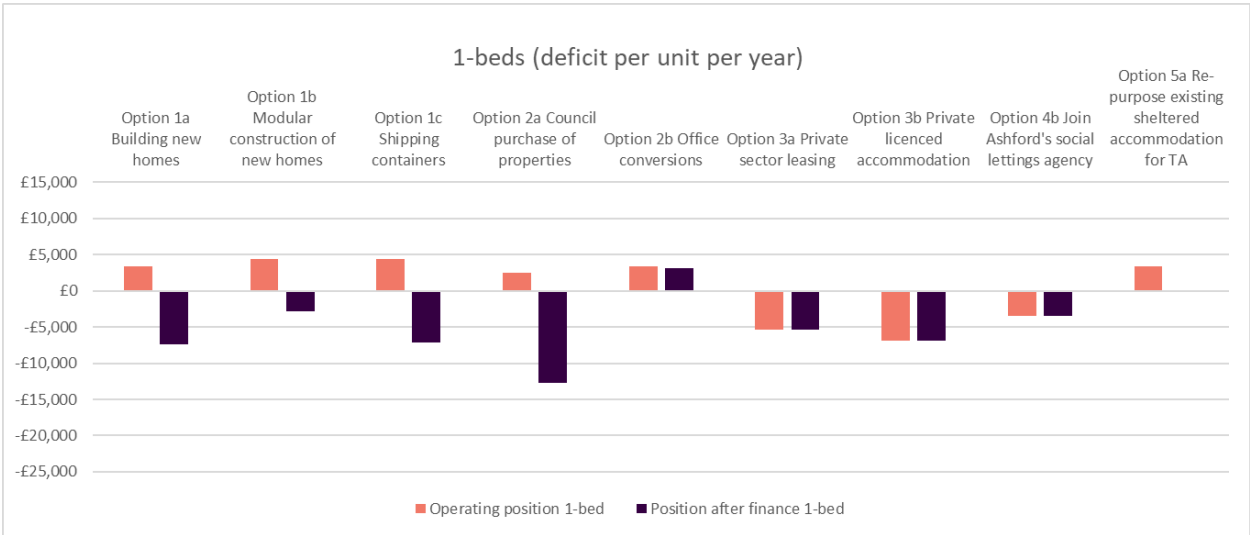


Figure 1: Options 1a-5a operating vs post debt position for 1-beds

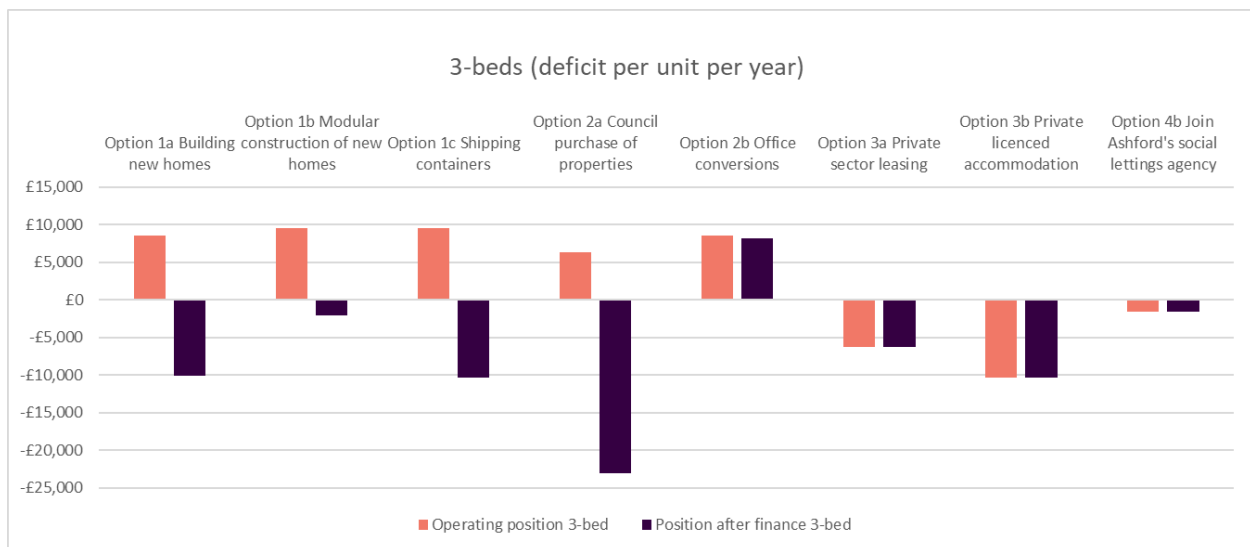


Figure 2: Options 1a-5a operating vs post debt position for 3-beds

5.2.2. As can be seen, purchase of existing properties gives the most negative outcome. This is unsurprising as it entails buying property at full market value, without subsidy, and letting it at below market rents. Options with public subsidy (e.g. 1a new build), lower capital cost (e.g. 1b modular), and options which do not involve borrowing (e.g. 3a private sector leasing) perform better in relative terms.

5.2.3. The cost of the office conversion option 2b depends hugely on the site under consideration – with free land and average conversion costs, it is the most financially viable option, but if conversion costs are higher and the building needs to be acquired, it may be as expensive as new build.

5.2.4. Similarly, option 5a (re-purposing existing sheltered accommodation) is modelled as a rental, but a capital purchase could entail much higher costs.

5.2.5. Note that no 3-bed option has been modelled for option 5a as it was considered probably that sheltered accommodation units would be mainly 1-beds and conversion to larger family-sized accommodation would be unfeasible.

5.3. Inputs, assumptions and outputs for options 1a-5a

5.3.1. In each case the relevant financial consideration is how the option compares with option 3b private licenced accommodation (also referred to as nightly paid accommodation) which is currently TMBC's dominant mode of provision.

5.4. Option 1a: Building new homes

5.4.1. It is assumed that there is no land cost, i.e. TMBC is building on land it already owns. Adding a land cost would reduce the viability of this scheme (the post-finance deficit could be 35%-70% higher, depending on the mix of housing sizes and the development density).

5.4.2. In this option it is assumed that 30% of the total scheme cost (including land, if applicable) will be funded by Homes England grant. This is based on previous TMBC discussions about possible grant funded schemes.

5.4.3. Debt servicing costs mean that there are large annual deficits until the loan is repaid. However, once the debt is repaid, TMBC owns a valuable asset with various potential alternative uses (subject to any planning conditions such as having to remain as affordable housing).

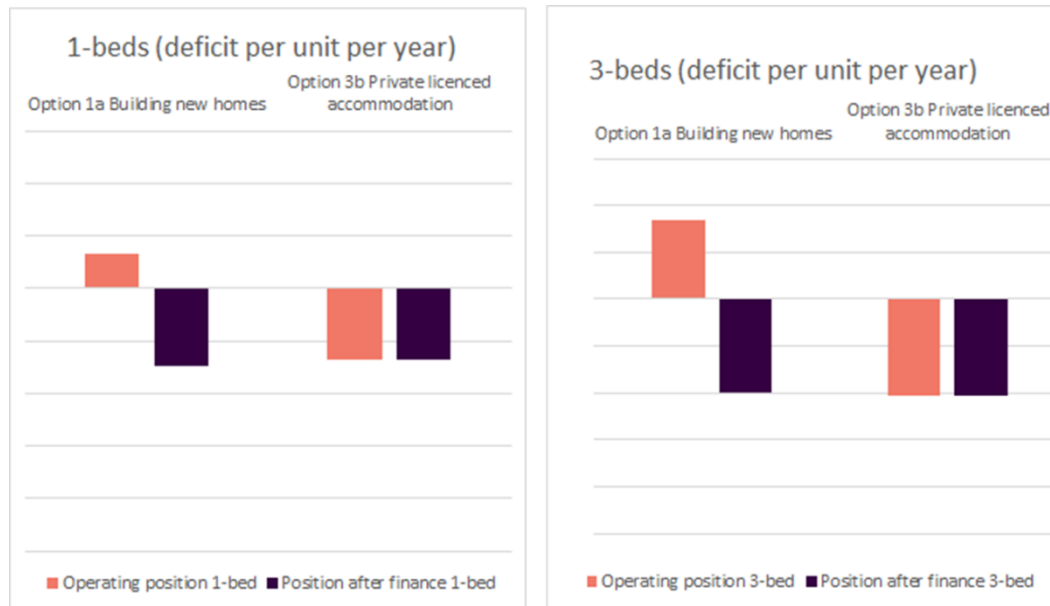


Figure 3: Comparison of financial modelling for option 1a vs current nightly-paid model

5.5. Option 1b: Modular Construction of New Homes

- 5.5.1. This model is based on the use of Hill Group's 'SoloHaus' modules being installed on council owned land (i.e. no land cost). Typical unit and installation costs have been provided by the company, but this may vary depending on site access and connections.
- 5.5.2. Costs also include an allowance for on costs (planning, building control, landscaping, additional furniture and white goods to the extent not already included in the units).
- 5.5.3. No grant has been assumed, although with a lifespan of 60 years they could be eligible for Homes England funding, which would improve viability further.
- 5.5.4. We have assumed that major repairs costs will be minimal for the first 10-20 years, so the longer-term annual cost may be higher than currently modelled. However, we would assume that being small units with only a 60 year life, the long term repairs and renewals cost should be lower than for traditional housing.

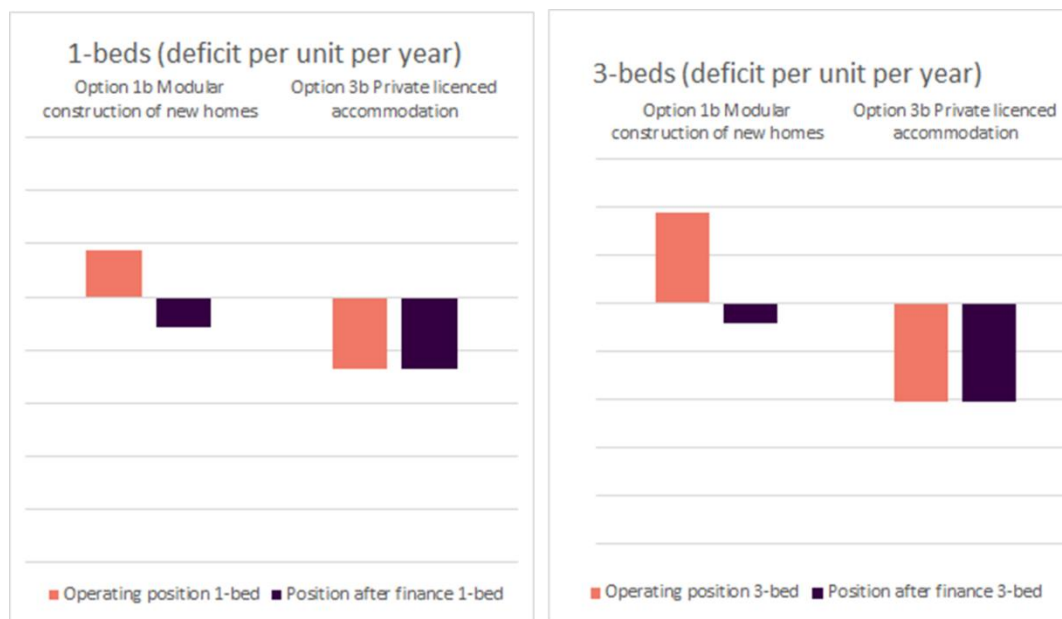


Figure 4: Comparison of financial modelling for option 1b vs current nightly-paid model

5.6. Option 1c: Shipping containers

- 5.6.1. Costs for these units were obtained from suppliers of private residential container accommodation and 'Tiny Homes'. It is possible that discounts could be obtained for bulk orders but this has not been assumed. Again, we have assumed the containers are installed on council owned land (i.e. no land cost).
- 5.6.2. Costs also include an allowance for on costs (planning, building control, landscaping, additional furniture and white goods to the extent not already included in the units).
- 5.6.3. The typical asset life of this type of dwelling is 10-15 years and many providers offer a 10 year 'lifetime warranty'. We have therefore assumed no long term repair costs. On ongoing cost for routine repairs has been retained, as the warranty is unlikely to cover wear and tear or tenant damage.
- 5.6.4. Given the asset life, we have assumed that the loan would be repaid over 10 years. This increases the annual payment significantly, reducing the viability of this option on an annual cost basis. The asset is assumed to have zero residual value at the end of its useful life. This option has a low up-front cost but is expensive over a 10-year time frame.
- 5.6.5. The site connection costs will vary, as with the modular units above: we have assumed the same connection cost for both options for consistency. However, this being a sunk cost, if after 10 years the containers were replaced with new containers, the connection costs would not need to be incurred again. This would reduce ongoing costs for the second wave of containers, bringing them closer to those of the modular units in 1b.
- 5.6.6. However, if container accommodation were to be regarded as a temporary solution, it may not be appropriate to assume that second and subsequent units would be commissioned.

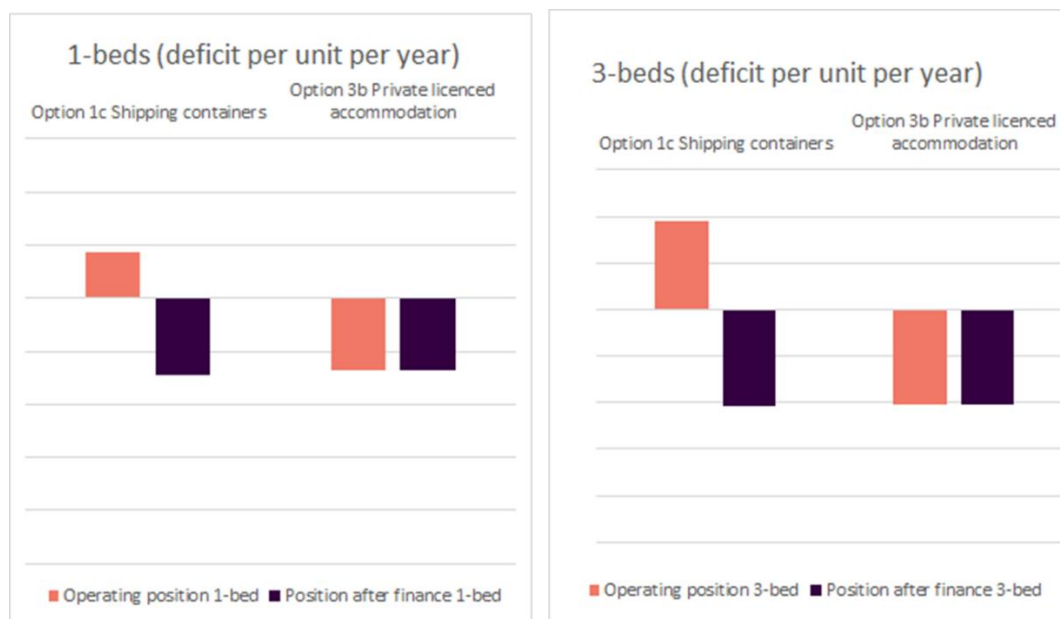


Figure 5: Comparison of financial modelling for option 1c vs current nightly-paid model

5.7. Option 2a: Purchasing existing properties

- 5.7.1. This is the least viable option from a financial perspective: buying at market value, letting at sub-market rents, and funding the purchase with a repayment loan on 100% loan-to-value terms.
- 5.7.2. Purchase grant is unlikely to be available as there is no additional housing supply created.
- 5.7.3. However, once the loan is repaid TMBC would own a valuable asset with few restrictions on its use.
- 5.7.4. We have assumed purchase prices based on an average of lower quartile sales values across all wards in TMBC (£208k for 1-beds and £383k for 3-beds). Additional costs include stamp duty, fees, and £12k-£20k spend to make the property lettable (e.g. upgrading thermal efficiency to EPC level C).
- 5.7.5. Units in least expensive wards may deliver lower deficits (but still larger deficits than nightly paid accommodation).
- 5.7.6. Less expensive areas are likely to be in lower LHA areas so capital savings may be offset by lower rental income from which to service borrowing (although there may be local areas which are outliers which would result in smaller deficits).

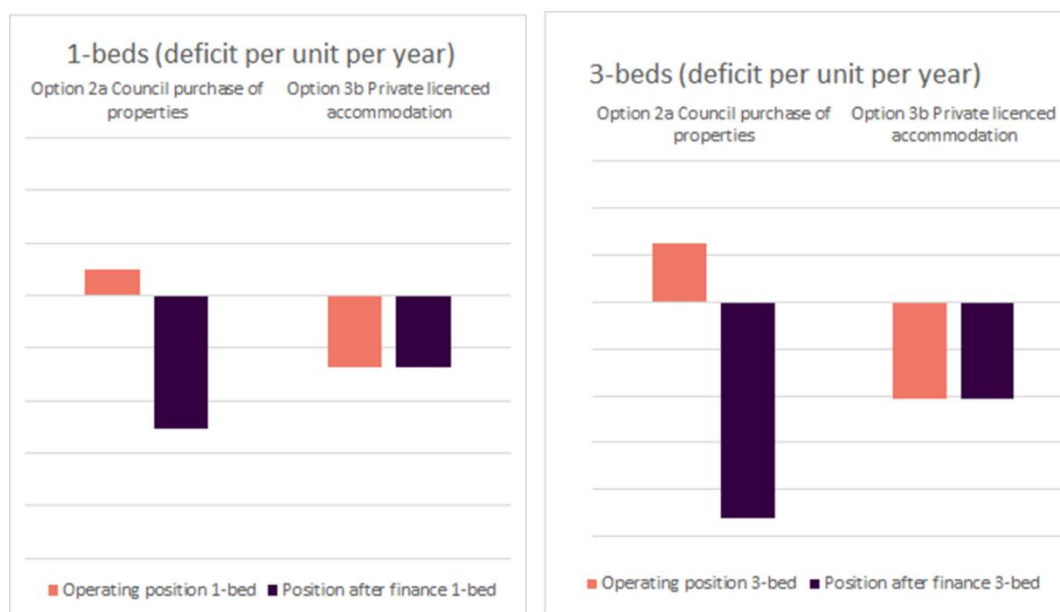


Figure 6: Comparison of financial modelling for option 2a vs current nightly-paid model

5.8. Option 2b: Office conversions

- 5.8.1. It is impossible to give a typical conversion cost, as this cost will depend heavily on the property in question.
- 5.8.2. Costs in this option are based on Buildings Cost Information Service's ("BCIS") July 2023 median refurbishment & conversion costs for the Tonbridge & Malling area, applied to nationally described space standards (NDSS) for unit sizes and allowing for circulation space and common parts. Costs include 10% on-costs (planning, building control, etc). Again, we have assumed the property is already owned by the Council, i.e. no acquisition cost.
- 5.8.3. This scheme looks like the most viable option at median costs. However, at upper quartile costs the overall scheme cost would be comparable to the new build option 1a and thus much less financially viable.
- 5.8.4. Overall, this option has a wide range of possible outcomes depending on the property, so it is worth exploring.
- 5.8.5. Purchasing unwanted office buildings could be an option (although less financially viable since there is an acquisition cost). We have not modelled this option, as it would be even more difficult to price. It should be borne in mind that any property with good conversion potential is likely to have this quality reflected to some extent in its purchase price.

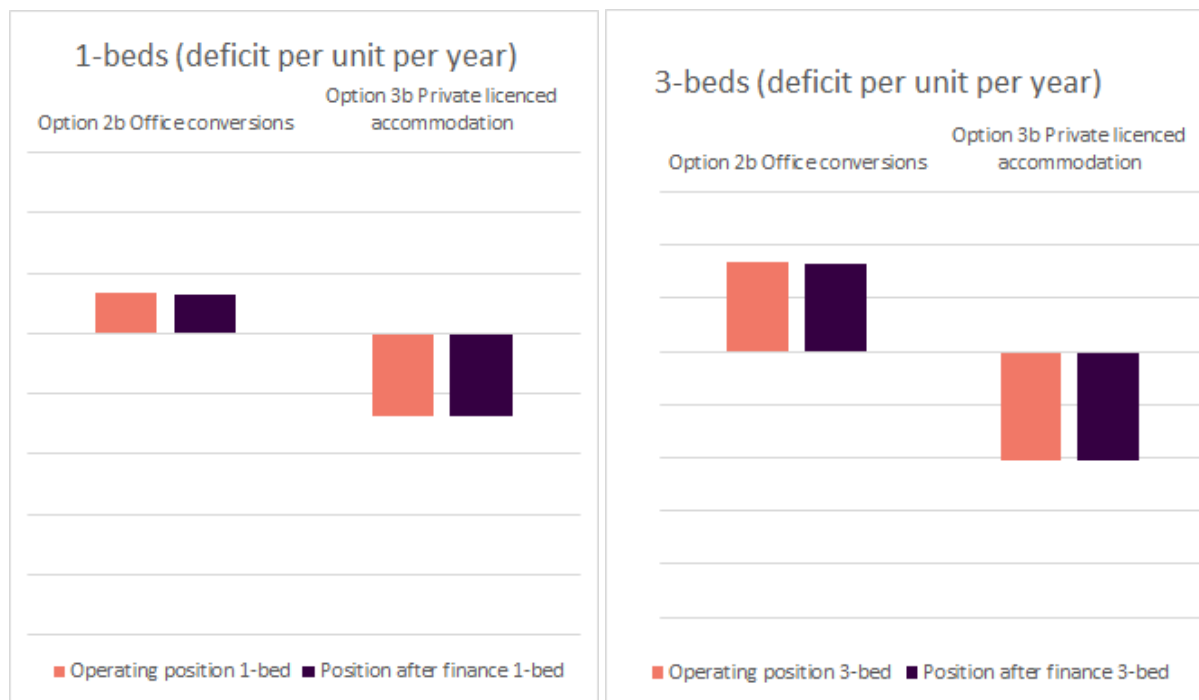


Figure 7: Comparison of financial modelling for option 2b vs current nightly-paid model

5.9. Option 3a: Private Sector Leasing

- 5.9.1. Under this model, TMBC has 3-5 year leases with private landlords. Landlords receive a 5% discount to lower quartile market rents in TMBC, the discount reflecting the benefit of guaranteed rental income. The landlord receives rent as long as the property is habitable and the void risk lies with TMBC.
- 5.9.2. We have assumed lower management & maintenance costs than for ownership models, as the landlord retains responsibility for some repairs.
- 5.9.3. Longer lease terms may be available from institutional investors, but we would advise caution as such lease models can create a risk of being tied to paying CPI-linked rents or incurring significant early termination costs.
- 5.9.4. Regardless of the length of the lease, TMBC should be aware of the potential for dilapidation costs when the lease is handed back to the owner – this risk can be reduced by keeping the properties well-maintained throughout the lease period and agreeing with the landlord a thorough property condition report at the start of the lease.
- 5.9.5. Under our modelling assumptions, this option generates a smaller deficit than nightly paid accommodation (option 3b) or purchases of traditional build properties. However, it assumes that landlords can be attracted at these rent levels and they will accept the discount in the headline rent to benefit from the guaranteed income.

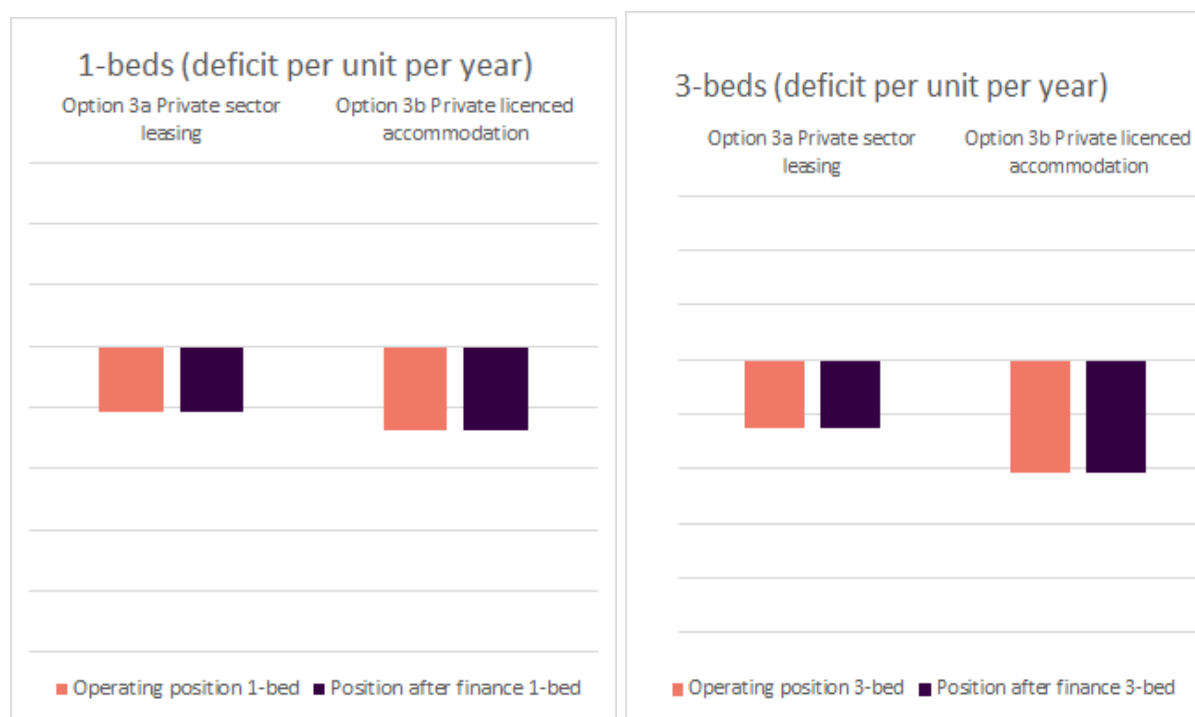


Figure 7: Comparison of financial modelling for option 3a vs current nightly-paid model

5.10. Option 3b: Private Licenced Accommodation (Nightly Paid)

5.10.1. This is the dominant model of TA provision in TMBC against which other options are being compared. Landlords receive a premium to market rents and the arrangements with TMBC are short term. This is a costly procurement route on which TMBC would like to reduce its dependence. This option is increasingly expensive as market rents increase while tenant rents are frozen.

5.10.2. We have used supplier cost information from TMBC for rents payable to landlords and assumed the same management and maintenance costs as for PSL, as landlords will be responsible for non-routine maintenance costs. Compared to lower quarter market rents, landlords receive a premium of at least 20%-30% but bear void risk.

5.10.3. The loss TMBC makes varies widely by supplier, by Local Authority area and by property size. Some suppliers appear better value than others, but the sample size is small so this may reflect arrangements at particular properties.

5.10.4. Under our modelling assumptions, this option makes a larger deficit than PSL (option 3a) but smaller than that for purchases of traditional build properties.

5.11. Option 4 – Partnerships to deliver TA

5.11.1. We have not modelled any particular arrangement as the partnership working approach could be applied to any procurement route to purchase, develop and/or manage TA properties.

5.11.2. Whichever option the partnership works to provide, the option would need to generate sufficient income for the partner to achieve their required return on investment. Depending on the partnership, finance may be more expensive than PWLB rates.

5.12. Option 4b – Join a social lettings agency

- 5.12.1. We have assumed TMBC joins an established Kent social lettings agency. Tenants pay 90% 2011 LHA rent based on bedroom need, and landlords receive current LHA based on the number of bedrooms. The Agent takes 10% of the landlord rent as a management fee. The agent provides day to day management, and routine repairs not falling to the landlord, while TMBC retains responsibility for case management, referrals and rent/HB aspects. We have assumed TMBC unit management and maintenance costs are halved, but this would depend in practice on the division of work between TMBC and the Agent.
- 5.12.2. Under our modelling assumptions, this option generates a much smaller deficit than the current nightly paid option (3b). However, the model is sensitive to differences between 2023 LHA & 2011 LHA, and to the bedroom size differential.
- 5.12.3. The main difference from PSL (option 3a) is that the rent received by the landlord is lower and a different agent manages the relationship with the landlord (providing a fully managed service). It can be financially advantageous if this service can be provided at lower cost than by TMBC in house.
- 5.12.4. If landlord rents need to be higher to attract supply, this option becomes comparable with PSL in financial terms, although without the risk to TMBC of being tied into leases with fixed outgoings.

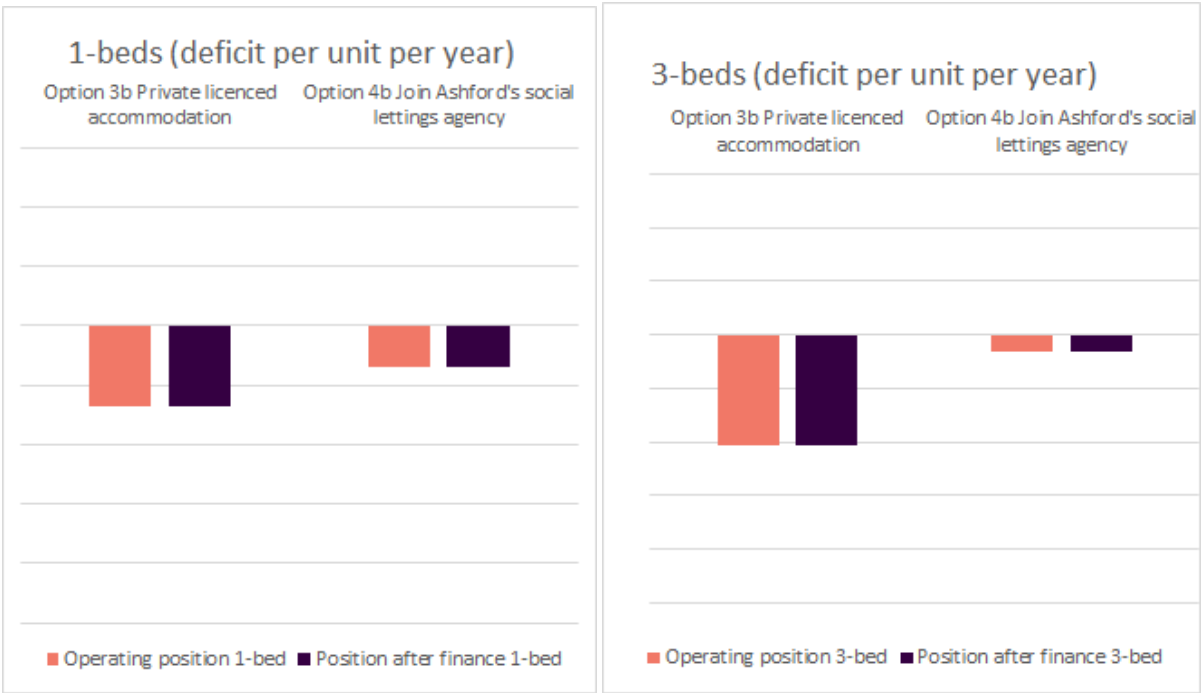


Figure 8: Comparison of financial modelling for option 4b vs current nightly-paid model

5.13. Option 5a – Repurpose existing stock

- 5.13.1. We are assuming the use of underused sheltered stock owned by RPs (or possibly other housing organisations) in borough. Sheltered accommodation is likely to provide only 1-beds and some 2-beds, so the 3-bed option has not been modelled.

- 5.13.2. We have assumed a rental model – TMBC would rent units (by room, or more likely as a block) from a housing provider at a rate to be negotiated (we have used an approximate break-even rate, which should offer an attractive level of operating surplus for the provider, but the rent would of course be subject to negotiation). TMBC is assumed to bear full management and maintenance costs (although the exact terms would again be for negotiation).
- 5.13.3. We envisaged this as a low cost option for sourcing units for single homeless households, which may be a suitable 'meanwhile' use for RP sheltered stock while redevelopment plans are being worked up by the RP (like 'short life' housing).
- 5.13.4. We assume the properties only need minor spend (void works plus provision of some furniture & white goods) to be lettable.
- 5.13.5. A purchase version of this option would increase the cost (via borrowing charges). Given the age of typical sheltered housing stock, this option entails a risk of acquiring a property in need of significant longer-term investment. We have not modelled this option as the acquisition cost is likely to depend on the condition of the property.

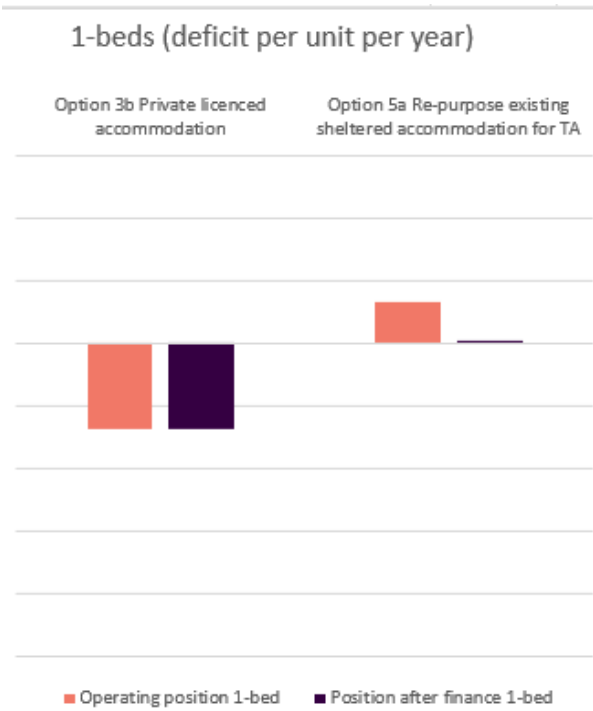


Figure 9: Comparison of financial modelling for option 5a vs current nightly-paid model

6. Options Appraisal Workshop

6.1. Introduction

- 6.1.1. On the 9th of August 2023, an options workshop was held with key Council officers at TMBC. The aim of the session was to develop and assess potential options to deliver and secure sustainable TA within the Tonbridge and Malling borough area.
- 6.1.2. This section sets out more details of the procedure for the workshop, the discussion on the proposed options and the outcome of the appraisals.

6.2. Overview of workshop

- 6.2.1. At the workshop we presented the agreed shortlist of options.
- 6.2.2. Each option was described with an overview of the option, the identified strengths and weaknesses, financial modelling (including assumptions and relative performance against TMBC's current nightly-paid TA model), and for most of the options, a case study. The case studies for the shortlisted options are outlined in Appendix 3.
- 6.2.3. After each option was presented, attendees were asked to reflect on the options and to make an assessment using the suggested criteria for suitability, feasibility, and acceptability (SFA) as outlined in the table below:

Criteria			Potential Score
1	Suitability	How suitable/effective is each option for TMBC? Does it meet TMBC's objectives (e.g. meeting the 'sustainable' criteria)?	1 (low) – 5 (high)
2	Feasibility	Is the option implementable in practice with reasonable expectations for resource and available skills? Is the option financially viable?	1 – 5
3	Acceptability	How acceptable is the option to stakeholders within your directorate and also to wider stakeholders?	1 – 5

- 6.2.4. The combined 1-5 scores for SFA of each option gave an overall score out of 15. The scores presented in the following section are the overall average of each of the attendees scores.
- 6.2.5. It should be noted that prior to the workshop, it was agreed that the 'in-borough location' element of TMBC's sustainable criteria may be flexible to be out-of-borough dependent on the option. For example, options such as property acquisition, private sector leases and direct delivery of homes would need to be in-borough but options such as accessing the private rented sector through joining a social lettings agency and shorter-term lease arrangements could be out-of-borough if suitable. The discussions on whether the option would be suitable out-of-borough or not is highlighted in the section below.

6.3. Assessment of options

6.3.1. This section highlights the identified strengths and weaknesses for each option presented in the workshop, the discussion by attendees on the options and the SFA scoring.

6.4. Option 1a – New build

6.4.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> Enables direct provision for the Council. Will create a valuable residual asset with various alternative uses. 	<ul style="list-style-type: none"> High capital or borrowing cost. High net loss per unit p.a. The Council will incur management, repairs and maintenance costs for the units.

6.4.2. The workshop attendees' discussion highlighted that the Council does not have the resources or skills to develop new homes.

6.4.3. It was also felt that this option may be more acceptable to Members if the developments were just an asset to the Council that could be used for TA as well as alternative uses, rather than solely for TA.

6.4.4. Whilst this was viewed as a suitable option for the Council to deliver new TA, the feasibility of funding this option through significant debt expenditure lead to a low feasibility scoring.

6.4.5. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
1a	Building new homes	4.4	1.6	2.8	8.8

6.5. Option 1b – Modular Construction

6.5.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> Timely and cost-effective use of sites. Speed of construction. Less waste on-site. Reduced on-site disruption. Timber frames are more sustainable than traditional building methods 	<ul style="list-style-type: none"> Availability of land for these sites will be a challenge as they are typically delivered on meanwhile sites. There may also be funding constraints for the Council. Rising building costs has led to a reduction in the market for modular developers, as seen by large RPs such as L&Q recently exiting the modular market.

	<ul style="list-style-type: none"> • Little to no residual asset value at end of asset life
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6.5.2. The attendees all agreed that there would be a lower development risk for this option in comparison to Option 1a. Some potential sites in the borough that could be used for this option were also identified and discussed by attendees.

6.5.3. Overall, this option scored the highest in the SFA assessment.

6.5.4. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
1b	Modular construction of new homes	4.8	4	4.6	13.4

6.6. Option 1c – Shipping Containers

6.6.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> • Enables direct provision for the Council. • The units are self-contained. • Cost effective to set up. 	<ul style="list-style-type: none"> • Overcrowding can be an issue in these units. • Quality of accommodation can be poor. • Shipping containers typically have a lifespan of 10-15 years so are not a long-term sustainable option for the Council

6.6.2. Attendees noted that this could be a suitable and feasible option if a site became available for a maximum of 10-15 years.

6.6.3. Despite it being the least financially viable option, the feasibility score reflected the practical ease of implementing this delivery option.

6.6.4. Ultimately, the attendees felt that it was neither a suitable nor acceptable option for the Council to progress with.

6.6.5. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
1c	Shipping containers	2.6	3.6	2	8.2

6.7. Option 2a – Purchasing Properties

6.7.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
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<ul style="list-style-type: none"> The Council can have full provision over the delivery and management of the accommodation. Long-term option for the Council to deliver more TA units. Will create a valuable residual asset with various alternative uses. 	<ul style="list-style-type: none"> This option will not address short-term fall in TA supply for TMBC. This option will be costly in the current economic environment. Buying existing stock does not increase overall supply of housing within the borough.
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6.7.2. Attendees considered the trade-off between purchasing properties in and out of borough. It was noted that in-borough prices would be higher than out-of-borough options in the north of Kent, but LHA rates would still remain the same.

6.7.3. Management costs were also noted as a consideration for this option in light of recent management services proposals received for the provision of some of the Council's TA units.

6.7.4. It was agreed that this option could have a role in meeting the number of units but would be too costly to meet the full 40-unit target number alone.

6.7.5. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
2a	Purchasing Properties	4	2.2	3.6	9.8

6.8. Option 2b – Office to residential conversions

6.8.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> Converting and repurposing commercial premises into residential can be a quick route to boosting the supply of temporary accommodation. Likely to be more cost effective than building new properties (although exact costs are unknown and dependent on the asset that is being converted). 	<ul style="list-style-type: none"> Overcrowding can be an issue in these units. These units can also often be poor quality and below the required space standards. Depending on the local market conditions, unused office accommodation may be in short supply.

6.8.2. Attendees discussed some potential commercial office sites in the borough that are currently empty. The possibility of converting the current TMBC's office building once it had been vacated was discussed, however it was deemed unlikely due to planning permission constraints on a grade 2 listed building and covenant restrictions from Kent County Council.

6.8.3. Workshop attendees agreed that the benefit of this option would be that it could allow local provision and a high amount of unit in-borough. However, there were more unknowns and uncertainties about costs for converting offices, particularly commercial offices, into residential units than other options which led to a low feasibility scoring.

6.8.4. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
2b	Office to residential conversions	3.2	2.8	3.8	9.8

6.9. Option 3a – Private Sector Leasing

6.9.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> The Council can have greater control on management, property standards, and voids. Supply is safeguarded for the duration of the lease. 	<ul style="list-style-type: none"> Although there should be break clauses, it can reduce flexibility for the Council if the property is void for long periods. In the current market PSL may not be available other than at a loss to the council – particularly with low LHA rates.

6.9.2. The attendees acknowledged that TMBC do already have properties on longer-term leases from the private sector but highlighted that it is a challenge to attract landlords within the borough due to the low LHA rates.

6.9.3. Another challenge for the Council is that this approach may result in competitive bidding for properties against local TA portfolio providers.

6.9.4. Although this was viewed as an acceptable option for TMBC, particularly as a shorter-term solution, attendees questioned how feasible and realistic it would be to get landlords to provide properties on the LHA rate basis.

6.9.5. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
3a	Private sector leasing	3.8	2.8	4	10.6

6.10. Option 3b – Private Licensed Accommodation (Nightly-Paid)

6.10.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> PLA is easier to get out of quickly for both the council and the owner/agent. This flexibility can be good if a particular property is no longer needed. Maintenance responsibilities for the council may also be less than in PSL, reflecting the potentially shorter- 	<ul style="list-style-type: none"> It is a very costly delivery model The flexibility for landlords to pull out of the market can also be a long-term challenge for this option.

term use, though this depends on the terms of the agreement.	
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6.10.2. After discussion, the attendees scored this option based on it being an as-is delivery model to increase TA supply within the borough.

6.10.3. Attendees noted that the location of the TA units acquired through this option would have to be flexible. Although in-borough units would be more acceptable, they would also be more costly.

6.10.4. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
3b	Private licensed accommodation (nightly paid)	2.2	1.6	1.8	5.6

6.11. Option 4a – Partnership to deliver TA

6.11.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> Reduces the Council's overall investment requirement for the project. May reduce the Council's up-front investment requirement (depending on how partnership is structured). Shared risk with the partner Lower total interest costs to the Council (because of lower total investment is shared). 	<ul style="list-style-type: none"> Depending on the partnership, finance may be more expensive than Public Works Loan Board rates. Risk of loss of control to the partner. For a Joint Venture, there is a risk of financial failure. Partnership with an HA may depend on the willingness of RPs in the borough. For a partnership with a developer, the developer will expect the Council to 'bring something to the table'.

6.11.2. The workshop attendees were presented with different partnership options to deliver TA such as joint venture, partnership with a developer and partnership with an HA.

6.11.3. Although the different partnership routes were discussed by attendees, there was not an agreement on which one they would take forward. As such, this option was not scored on its SFA. However, the attendees did agree to explore partnership working as a variation on each of the recommended options.

6.12. Option 4b – Join a social lettings agency

6.12.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> • Effective method of procuring properties from the private sector. • An established Kent social lettings agency is keen for TMBC to join its social letting agency. • Only costs to TMBC relate to tenant case management/referral. • Repairs costs are covered by the landlord or from the letting agency fee. 	<ul style="list-style-type: none"> • LHA rates may be too low to attract landlords in the borough. • May be more suitable for settled accommodation than temporary accommodation (with more frequent voids). • TMBC involvement might have to be greater with TA tenants (and thus more costly).

6.12.2. It was noted by attendees that social lettings agencies are more likely to be used for settled accommodation discharge into the private sector rather than for TA.

6.12.3. Although there were queries on how realistic this option would be for delivering TA, attendees agreed that they would like to explore whether TMBC could use local social lettings agencies for the use of TA. It was noted that in order to explore this option further, the Council would need to understand how the relationships would work between the agency, Council, residents and landlords to deliver TA and how they would be able to set up a potential discharge service from TA into private sector accommodation through the agency.

6.12.4. Attendees did acknowledge that joining a social lettings agency would strengthen their private sector offering but this was not within the scope of this assessment.

6.12.5. As the practicalities of this option still needed to be further explored by TMBC with local social lettings agencies, the attendees did not score this option on its SFA.

6.13. Option 5a – Re-purpose existing stock

6.13.1. The strengths and weaknesses of this option identified by Altair were:

Strengths	Weaknesses
<ul style="list-style-type: none"> • Effective and sustainable use of existing properties. • More cost effective than developing new properties. • TMBC can have direct provision of the accommodation (if purchased). 	<ul style="list-style-type: none"> • Properties may need retrofitting to bring up to adequate standard and to be energy efficient. • In the long-term, energy efficiency of properties may need addressing if below EPC C standard, therefore having future cost implications. • This option may present management challenges while existing residents are in situ

6.13.2. It was noted that a block of accommodation would need to be re-purposed for this option to be feasible, rather than just individual bed spaces. Attendees highlighted that blocks of sheltered accommodation in the borough that could be re-purposed range between 5-20 units.

6.13.3. Some potential schemes were identified by the attendees for this option.

6.13.4. It was highlighted by attendees that this option is dependent on a partner having available stock and therefore it is out of the control of the Council to pursue. Although the financial viability of this option was good, the Council's lack of control made its ability to be implemented low and therefore reduced the feasibility scoring from attendees.

6.13.5. The SFA scoring for this option was:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
5a	Re-purpose existing stock for TA	3.6	2.8	4	10.4

6.14. Conclusion

6.14.1. The overall SFA scorings from the options workshop were as follows:

No.	Option	Suitability	Feasibility	Acceptability	Overall Score
1a	Building new homes	4.4	1.6	2.8	8.8
1b	Modular construction of new homes	4.8	4	4.6	13.4
1c	Shipping containers	2.6	3.6	2	8.2
2a	Purchasing properties	4	2.2	3.6	9.8
2b	Office to residential conversions	3.2	2.8	3.8	9.8
3a	Private sector leasing	3.8	2.8	4	10.6
3b	Private licensed accommodation (nightly paid)	2.2	1.6	1.8	5.6
5a	Re-purpose existing stock for TA	3.6	2.8	4	10.4

6.14.2. Based on the SFA scores from the workshop, the following options were rated most highly (more than ten out of a possible 15):

1. Modular construction of new homes
2. Private sector leasing
3. Re-purpose existing stock for TA

6.14.3. Although they were not scored in the SFA assessment, the following options were agreed to be explored further by attendees:

1. Partnership to deliver TA
2. Join a social lettings agency

7. Informal Cabinet

7.1. Introduction

- 7.1.1. The recommendations from the Optional Appraisal Workshop and the rationale for them were subsequently discussed at a meeting of the Council's Informal Cabinet on 26th September. Brief notes of the discussion are set out below.
- 7.1.2. Members discussed the fact that TA numbers are down significantly from the peak but still much higher than the 80 'target.' Even with improved processes in place, the increased demand will mean that the number of households in TA is not likely to reduce hugely, even though officers are managing it very closely. Therefore, managing down the net cost of each placement is key.

7.2. Modular Construction

- 7.2.1. Members expressed an interest in the possibility of progressing a modular scheme on a provisional site identified for further investigation and to look to fund this scheme – at least in part – through S106 affordable housing commuted sums. Although Members were aware that for a smaller scale project the set-up, project management and ground work costs might be disproportionately and prohibitively high, this was an option they wished to explore further.

7.3. Private Sector Leasing

- 7.3.1. Generally, the view from members was that they wished to move away from leasing. However, there was also recognition that leasing will remain part of the overall provision and that the strong relationships developed with some operators should be maintained. It was noted that alternative procurement routes could be utilised, for example 'competitive dialogue' type processes, whereby solutions are co-developed with the providers. This might be a better approach as some providers do not have an appetite for competitive bidding processes due to the high demand for their product.

7.4. Clarion

- 7.4.1. Clarion are already committed to working with the Council on TA provision and members acknowledged the positive working relationship. It was noted that the properties with Clarion do not remain static, as when one is vacated for TA, it is reassessed by Clarion/TMBC working jointly to consider best use at that time (which may be another TA household, direct nomination from a TA unit into this as permanent housing or advertising on CBL).
- 7.4.2. Members wondered if there could be a further push on use of additional Clarion units for TA, but understood that without increased supply Clarion would only be using existing homes that could be put to other use, for example, permanent rehousing.
- 7.4.3. Clarion have agreed to provide information on a longer-term leasing model they utilise with other boroughs and members were keen for officers to look at this more closely.
- 7.4.4. Given the very strong relationship members were keen to explore all the options for further collaboration with Clarion.

7.5. Appetite for borrowing

- 7.5.1. Members discussed whether they were prepared to take on additional borrowing to fund new TA delivery options and there was a consensus that it was not a good time to be taking on additional borrowing given current interest rates. Therefore, existing available funding should be utilised first. Additional borrowing was not ruled out over the longer term however.

8. Recommendations

8.1. Recommendations

8.1.1. Our recommendations take account of the SFA scoring by the key Council stakeholders; however, this has not been the only driver. Rather, our recommendations are also formed on the opportunities and issues identified within the options appraisal workshop discussions and with key Council stakeholders, as well as our own view based on experience.

8.1.2. These recommendations have been subject to consultation and discussion with senior Council officers and TMBC cabinet members at TMBC's Informal Cabinet.

No.	Recommendation
1	Modular construction of new homes – TMBC should explore the option to develop new TA through modular construction. This includes identifying possible sites, modular developers, capital available to the Council and grants available from Homes England to take forward this option.
2	Private sector leasing - TMBC should continue to explore opportunities to lease homes from the private sector on a longer-term basis than the nightly-paid properties. Initially, this may be through developing relationships with landlords with local portfolios.
3	Partnership – TMBC should explore opportunities to partner with a third party to provide new TA units within the borough. These opportunities could include, but are not limited to: <ul style="list-style-type: none"> • Extending the current partnership arrangement with Clarion • Partnering with another local registered provider to explore a similar arrangement to the Clarion partnership
4	Social Lettings Agency – TMBC should engage with local social lettings agencies to understand if and how a TA offering would work if the Council joined the agency. Areas that the Council will need to understand further before exploring this option further include (but are not limited to): <ul style="list-style-type: none"> • How the relationships between TA stakeholders (resident, landlord, agent, TMBC etc.) would work in practice to deliver TA through the agency. • How a discharge service would be set up and work in practice.

5	Re-purpose existing stock – TMBC should identify if there are any existing sheltered accommodation schemes that could re-purpose for TA. TMBC should work with RPs in the borough to identify potential assets to re-purpose, such as ex or soon to be ex-sheltered accommodation blocks. TMBC should also be agile to any future opportunities that arise to re-purpose accommodation within the borough.
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8.2. Next steps

- 8.2.1. A final report will be presented at TMBC's Housing Planning Select Scrutiny Committee in December 2023.
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Appendix 1 Project Steering Group members

The project steering group comprised of the following TMBC officers:

- Julie Beilby – Chief Executive
- Eleanor Hoyle – Director of Planning, Housing and Environment
- Sharon Shelton – Director of Finance and Transformation
- Linda Hibbs – Head of Housing and Health
- Stuart Edwards – Head of Administrative and Property Services
- Andrew Rosevear – Benefits and Welfare Manager
- Gillian Aylett – Housing Strategy and Enabling Manager

Appendix 2 Longlist of Options

The following options were identified in the initial longlist presented in the interim report:

- Option 1 – Private Sector Leasing (PSL)
- Option 2 – Private Licensed Accommodation (PLA)
- Option 3 – Housing Association Leasing Schemes (HALS)
- Option 4 – Buy properties directly as the Council
- Option 5 – Wholly Owned Housing Company
- Option 6 – Joint Venture
- Option 7 – Property Purchase Fund
- Option 8 – Partner Organisation
- Option 9 – Modular Construction
- Option 10 – Working with Other Councils
- Option 11 – Office Block Conversions
- Option 12 – Shipping Containers
- Option 13 – Empty Properties
- Option 14 – Letting Agents
- Option 15 – Private Finance
- Option 16 – Repurposing existing stock

There were a number of options that were proposed by Altair team members that, after assessment, were not brought forward even onto the longlist. These included:

- **Caravans / mobile homes** – this type of accommodation can be a breach of planning as caravans / mobile homes usually have limitations to use and therefore for people to live in them for longer than a holiday can be the Council condoning a breach. Also, caravans don't need to meet building regulations so TMBC could be open to criticism if there are issues with damp/cold/mould etc.
- **Boats / canal barges** – housing benefit can only be claimed on cost of mooring and not on the rent of an actual boat. Therefore, it was deemed to be an unsuitable and unviable option for TMBC.

Appendix 3 Case Studies

The following case studies were presented alongside the associated option at the options appraisal workshop:

Proposed Option	Organisation/s	Case Study Description
Building new homes	Bournemouth, Christchurch and Poole Council (BCP)	<p>BCP Council developed 24 purpose-built temporary accommodation units through a mix of 1-, 2- and 3-bedroom self-contained units . The development, which is due for completion in autumn, is situated on the site of the former Bourne Valley Community Centre in Herbert Avenue.</p> <p>The development received the Affordable Housing Development of the Year accolade at the Insider South West Property Awards earlier this year due to the social impact of the scheme, tackling homelessness in a challenging area of the region while providing strong eco, accessibility and Passivhaus credentials.</p>
Modular construction of new homes	London Borough of Lewisham Council/PLACE's Ladywell Scheme	<p>In 2014, LB Lewisham Council decided to construct purpose-built housing for homeless families with children using pioneering modular construction techniques in partnership with PLACE.</p> <p>The units themselves are manufactured from standard timber components and fully fitted out with bathroom, kitchen, flooring and all finishes in the factory. Each apartment is made up of two 'boxes', one comprising the bedrooms and the other the bathroom, kitchen and living area with electrical and water connections. In February 2016, the apartments and four community/retail units were transported by road from the factory in Derbyshire and lifted into place, then linked together. Each of the 24 apartments provides a high-quality homes that exceeds the London Space Standards by 10%.</p>

Proposed Option	Organisation/s	Case Study Description
		Not counting the value of the land, PLACE/Ladywell cost about £160,000 per two-bed flat (including lifts and walkways fitted on site), compared to approximately £200,000 for a standard build two-bed flat.
Shipping containers	Brighton and Hove City Council	<p>Richardson's Yard, in New England Road, was built in 2013 by Brighton Housing Trust – now BHT Sussex – with an original lease of five years. The scheme is made up of 36 self-contained units of converted shipping containers used for TA.</p> <p>This was extended for another five years to May 2023 – but BHT Sussex and its partner QED Sustainable Urban Developments are asking for a further two years. Planning permission for the units to stay for another two years has been submitted.</p> <p>It was noted that there were “initial teething problems including isolated cases of ASB”.</p>
Purchasing properties	London Borough of Islington Council	<p>Islington Council were concerned about the amount spent on private accommodation for TA, which had reached about £9 million per annum. At the same time there were concerns about the standards of the accommodation being provided, as the LHA and benefits cap limited searches to the bottom decile of the property market.</p> <p>The acquisitions programme started in September 2018 with a target to purchase 50 properties for TA within the year. Six months later Islington had acquired 49 properties and 15 had been let. All 49 are within Islington and the majority of the properties are ex-right to buy properties on council estates. A ceiling of £400,000 per property means that most of the purchases are two- and three-bed flats.</p> <p>Islington's success in acquiring the properties can be partly attributed to experienced staff with good negotiating skills, who are adept at building</p>

Proposed Option	Organisation/s	Case Study Description
		<p>relationships with local estate agents. But Islington also presented as a cash buyer, able to progress the sale quickly and consequently was appealing to many sellers.</p> <p>Acquisitions were partly funded with RTB receipts. The borough's analysis showed that the strategy would deliver significant savings over ten years, but there is now a question mark over whether the government will continue to allow the use of RTB receipts for this purpose.</p> <p>Through these and other actions, Islington's overall target is to reduce reliance on the PRS (for TA) by 30% by 2020.</p>
Office to residential conversions	London Borough of Newham Council & Local Space	<p>In 2023, a small housing association set up by LB Newham Council, Local Space, recently signed a lease with Newham Council to manage a converted office block for TA.</p> <p>Acquired to accommodate homeless families, the block was refurbished using Local Space's letting standard. This was done in consultation with residents and with a focus on access to communal space.</p>
Partnership to deliver TA	London Borough of Waltham Forest & Mears	<p>London Borough of Waltham Forest entered a Joint Venture (JV) with Mears Limited to secure homes for 40 years. The JV expects to purchase 400 homes to house people in temporary accommodation and those for whom the council has accepted homelessness duty.</p> <p>The council will lease homes from the JV paying a rent (Local Housing Allowance and top up) which will enable the JV to pay a return to investors and still represent good value for money to the General Fund.</p> <p>At the end of the 40-year period, the homes will revert to the ownership of Waltham Forest.</p>

Proposed Option	Organisation/s	Case Study Description
Join a social lettings agency	Let Us	<p>Let Us is the Greater Manchester Ethical Letting Agency. It comprises a group of five housing providers (Salix Homes, Bolton at Home, Stockport Homes Group, Wigan Council and Forhousing), formed by the Greater Manchester Housing Providers partnership, and is funded by the GMCA.</p> <p>It manages over 40,000 private rented properties across the region.</p> <p>Rents are at, or very close to, the Local Housing Allowance rate and offered to homeless households.</p>
Re-purpose existing stock for TA	Birmingham City Council	<p>In 2018, Birmingham City Council converted an obsolete 1960's tower block, previously scheduled for demolition, into temporary accommodation. The 20-storey tower was converted into 160 units.</p> <p>Birmingham also converted a former care home, Magnolia House, into 55 units of temporary accommodation.</p> <p>The conversion of the former care home and tower block cost the Council a combined £16m (£5m and £11m respectively).</p>

Appendix 4 Financial assumptions

General assumptions: rental income (90% 2011 LHA) ranges from £137pw to £345pw depending on the size and location of the property in TMBC. We have used an average rent of £141.59pw for modelling 1-bed units and £246.75 for 3-beds.

Option 1a – New build

Total build cost of £224k (including 10% on-costs) for 1-beds and £386k for 3-beds. It is assumed that 3-beds are more likely to be houses, not flats. Social housing grant at rates of 30% could reduce this cost to £157k and £270k respectively.

Option 1b – Modular units

The cost information was provided confidentially by the modular unit supplier. The indicative cost including installation ranges from under £100k/unit to nearly £160k/unit, but this cost would depend on the site. The modelling includes an additional 5% on-costs for costs such as planning, building control, landscaping, etc, plus £2,500–£3,500 per unit for a resident's starter pack including additional necessary furniture or items not already included in the unit.

Option 1c – Shipping container units

Shipping containers suitable for use as accommodation can be acquired for £40k–£65k depending on size (including some internal fit out). The modelling includes an additional 10% on-costs for costs such as planning, building control, landscaping and some basic furniture and white goods to the extent not already included in the unit. Installation and connection costs of £40k/unit have been assumed but this figure would depend on the site. We have modelled a 40-unit development – it is likely that there would be some economies of scale in site connection costs so much smaller scale schemes (e.g. 3–5 units) may be expected to have higher per unit installation costs, other things being equal.

Option 2a – Purchase of existing properties

The average lower quartile house price across TMBC ranged from £157k to £275k for 1-beds and £320k to £485k for 3-beds. We used averages of £208k and £383k respectively. 90% 2011 LHA rents across different parts of the borough also varied widely, so yields on cheaper properties were not necessarily higher than those on more expensive ones. Acquisition costs included SDLT including the additional property rate, on-costs of 3% (legal and professional fees), plus £12k–£20k works to bring the properties to a suitable standard for letting (redecorating, bringing the electrical installation up to current standards, making some improvements to thermal performance e.g. loft/cavity wall insulation).

Option 2b – Conversion of offices

For modelling we used BCIS residential conversion costs per sqm. We assumed a 1-bed flat of 50sqm and a 3-bed flat of 86sqm (net internal area) plus 20% for communal/circulation space in the building. The average BCIS median costs averaged £1,616/sqm but average upper quartile costs ranged from £1,963/sqm to £3,646/sqm depending on the numbers of storeys in the building (and the cost did not appear to be correlated with height). We allowed 10% on costs for legal, professional and design costs.

Option 3a – Private Sector Leasing

Average lower quartile market rents across TBMC are assumed to be £850pcm for 1-beds and £1,358pcm for 2-beds. This reflects a 5% uplift on ONS figures for 2022/23. A discount to market rent of 5% is then assumed since the landlords benefit from a guaranteed rent. Management and maintenance costs are assumed to be 40% lower than in the ownership models, as the landlord retains some repairs responsibility.

Option 3b – Nightly Paid Accommodation

The average nightly cost of accommodation (excluding Clarion) is £47.95, which equates to £335.65pw. This compares with an average nightly rental income of £23.63, or £165.43pw. This gives an average £170.22pw (£8,851 pa) gap between rent in and rent out for each property, to which is added the cost of TMBC management and maintenance (those costs borne by TMBC rather than the landlord, as with option 3a).

Option 4b – Social Lettings Agency

Landlords receive current LHA rent levels under this option. The average LHA rent across TMBC is £189.10pw for 1-beds (ranging from £172 to £207 across the borough) and £254.07pw for 3 beds (ranging from £196 to £345).

Option 5a – Repurposing sheltered housing stock

We assume a gross 1-bed rental income of £141.59pw, which gives a net rental income of c.£135 per unit after voids, bad debts, management and maintenance costs. We assume full management and maintenance costs, including major repairs, although this would be negotiable. This equates to £3,333 per unit per year. From the net rental income we assume that TMBC could pay up to £55 per unit per week in rent and remain in at least a break-even position. We assume a one-off minor works cost of £6,500 per unit (internal redecoration, some limited furniture and white goods).

For context, a lease rental of £55pw would represent approximately half the weekly formula rent for a Clarion unit of Supported or Older People's Housing (based on historic housing association Statistical Data Return information). Depending on the RP's previous operating margin on its sheltered housing stock, any level of rental income that was no worse than its current operating position should in theory be acceptable, which may mean a lower rent payment could be negotiated which recouped the cost of the minor works to the properties.

Appendix 5 Modular Option – Outline Implementation Plan

No.	Action	Cost Est.
1.	The Council identify potential sites within the borough for modular development. Considerations for sites need to include: <ul style="list-style-type: none"> - Suitability for client group(s) - Proximity to amenities - Proximity to existing support services - Development suitability e.g. ground conditions etc - Planning policy considerations and likelihood of achieving a planning permission 	Nil (existing TMBC resources)
2.	The Council identify capital available for development and grants available from Homes England to take option forward. If required, the Council should also begin exploring alternative finance options.	Nil (existing TMBC resources)
3.	Undertake a desktop ground investigation on preferred site/s to understand potential suitability of the preferred sites for development of new homes.	£1,000 per site
4.	Engage in early discussions with potential modular developers as soon as possible after the site/s have been identified. Discussions will need to explore the type of modular home, the potential location(s) for development and the Council's wider aspirations for this programme.	Nil (existing TMBC resources)
5.	Commission an employer's agent to undertake a two-phase approach: <ol style="list-style-type: none"> 1) Employer's agent will need to work with the modular builders to understand their development model and likely additional costs (beyond the modular build) such as foundations, groundworks, external works etc. 2) Once due diligence is in hand, the employer's agent will work up site specific development costs. 	£5,000-£10,000 depending on scope.
6.	TMBC's legal team undertake legal searches and perform basic due diligence checks on the developer, finances, site etc.	Nil (existing TMBC resources)
7.	Consult with Council's planning team to outline the proposed approach to development of new homes.	Nil (existing TMBC resources)

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LOCALISM ACT – PAY ACT

Item GP 24/4 referred from General Purposes Committee of 24 January 2024

The report of the Interim Chief Executive summarised the requirements of the Localism Act 2011 and presented an updated Pay Policy Statement for 2024/25 as set out in Annex 1 to the report.

Members noted that as there had not been many significant changes in the Borough Council's remuneration policy apart from the addition in respect of the introduction of the Recruitment & Retention Market Supplement Policy in October 2023, the substantive content of the updated Pay Policy Statement in Annex 1 was nearly identical to the Borough Council's first Pay Policy Statement (adopted by the Council on 16 February 2012).

RECOMMENDED*: That the Pay Policy set out in Annex 1 be commended for adoption at the next ordinary meeting of the Council.

***Recommended to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

24 January 2024

Report of the Interim Chief Executive

Part 1- Public

Matters for Recommendation to Council

1 LOCALISM ACT - PAY POLICY

1.1 Contents of the Pay Policy

- 1.1.1 Section 38(1) of the Localism Act 2011 requires English and Welsh local authorities to review their pay policy statement for each financial year. This report summarises the requirements of the Act and presents an updated Pay Policy Statement for 2024/25 in Annex 1.
- 1.1.2 Members will note that there have not been many significant changes in the Council's remuneration policy. The main addition to the policy is the introduction of the Recruitment & Retention Market Supplement Policy which was established in October 2023. The substantive content of the updated Pay Policy Statement in Annex 1 is nearly identical to the Council's first Pay Policy Statement (adopted by the Council on 16 February 2012).
- 1.1.3 The title "chief officer" includes both statutory and non-statutory chief officers and their deputies. Therefore, within the Pay Policy Statement set out in Annex 1, the information about the remuneration of chief officers pertains to the Establishment on 1 April 2023 and therefore includes the posts of the Chief Executive, the Council's four Directors as well as the senior officers that are directly accountable to these "chief officers".
- 1.1.4 The Act's definition of remuneration includes pay, charges, fees, allowances, benefits in kind, enhancement of pension entitlements and termination payments. All of these elements have been covered in the pay policy statement attached in Annex 1.
- 1.1.5 In order to provide a holistic and transparent context for the remuneration of chief officers and their deputies, the pay policy in Annex 1 provides an overview of the pay elements for all Council employees.

1.2 Legal Implications

- 1.2.1 The policy set out in Annex 1 contains all of the elements of a statutory pay policy as stipulated in section 38 (1) of the Localism Act 2011.

1.2.2 The attached pay policy is also compliant with Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006 and the Local Government Pension Scheme (Administration) Regulations 2008 & 2014.

1.2.3 The definition of the terms “chief officer” and “deputy chief officer” is in accordance with section 2 of the Local Government and Housing Act 1989.

1.3 Financial and Value for Money Considerations

1.3.1 As set out in Section A of the attached Pay Policy, the Council’s approach to setting a pay multiple is broadly calculated on a base salary multiple of 7.5 to 8 being the gap between the remuneration of the lowest and the most highly paid employees and is enshrined within the Council’s locally determined job benchmarking evaluation scheme. Such an approach places an emphasis on cash reward as the corner stone of the Council’s pay policy, and ensures that pay is based on job requirements.

1.4 Risk Assessment

1.4.1 The Council is legally obliged to comply with the Localism Act’s requirement to have reviewed the Pay Policy Statement by 31 March 2024.

1.5 Equality Impact Assessment

1.5.1 The Council is legally obliged to comply with the Localism Act’s requirement to have reviewed the Pay Policy Statement by 31 March 2024.

1.6 Policy Considerations

1.6.1 Pay Policy Statement.

1.7 Recommendations

1.7.1 It is recommended that this committee commends the pay policy in Annex 1 to this report for adoption at the Council meeting on 20 February 2024.

Background papers:

Nil

contact: Mathew Brooks
Head of Human Resources &
Development

Adrian Stanfield
Interim Chief Executive

Annex 1

Pay Policy Statement 2024/25

Introduction

When determining remuneration levels, the Council is mindful of the requirement to balance the needs of managing scarce public resources with the need to secure and retain high-quality employees. The Council aligns its reward strategy with organisational needs by an emphasis on cash rewards, and ensuring that pay is determined by job requirements. The Council aims to operate a consistent and equitable organisation-wide reward system by placing the responsibility for remuneration decisions with a committee of elected councillors, the General Purposes Committee, and the responsibility for administering the pay policy within the Council's Human Resources team.

Section 38 (1) of the Localism Act 2011 requires the council to prepare an annual pay policy statement for 2024/25. The Act specifies that the following must be included in the pay policy statement:

- the level and elements of remuneration for each chief officer
- the policy on the remuneration of chief officers on recruitment
- increases and additions to their remuneration including performance related pay, bonuses, charges, fees, allowances, benefits in kind and termination payments
- a definition of the “lowest paid employees” and the policy on the remuneration of this group
- the policy on the relationship between the remuneration of its chief officers and other officers
- the policy on re-employing someone who has been made redundant.

This statement will be published on the Council's website.

Section 1 – Remuneration of statutory and non-statutory Chief Officers and Deputy Chief Officers

The term “chief officer” within The Localism Act includes both statutory and non-statutory chief officers, and their deputies. The actual remuneration for these roles is available on the Council's website <https://www.tmbc.gov.uk/council/council-works-constitution/2>

The salary scales for the statutory and non-statutory Chief Officers and Deputy Chief Officers in post on 1 April 2023 is set out below.

No of chief officers	Grade	% of M2 benchmark	Pay Point Range
14 (1 of whom work part time)	M7	51.0%	131-134
10 (1 of whom work part time)	M6	56.0%	141- 144
5	M5	61.0%	147 - 150
6	M4	70.0%	151- 154
3	M2a	97.5%	181- 184
1	M2	100%	186-189
1	M1	125.0%	191- 194

Fee for acting as the Returning Officer

Tonbridge & Malling Borough Council is required to appoint a Returning Officer by virtue of section 35 of the Representation of the People Act 1983. In Tonbridge & Malling, the Chief Executive has been appointed as the Returning Officer. This is a personal appointment, separate from their other duties. In this capacity they are the Returning Officer for UK Parliamentary elections and elections to the Borough Council and to Parish Councils within this Borough.

The Returning Officer fee is payable for the substantial additional duties undertaken, and leadership required of the Returning Officer in planning, delivering and undertaking the elections, and recognises the personal nature and personal responsibility of the role of the Returning Officer.

For Borough and Parish Council elections, the Returning Officer fee is calculated in accordance with an agreed Kent Scale of Fees. For National, and Police & Crime Commissioner elections the fee rate is set by central government.

Section 2 – Remuneration of the lowest paid employees

In compliance with Section 38 of the Localism Act, for the purposes of this statement the “lowest paid employee” has been defined as those who are engaged as cleaners. On 1 April 2022 employees in these posts received a full time annual salary equivalent of approximately £20,226.

Section 3 – Decision on pay

The pay of all council employees (including chief officers) is determined by the evaluated grade of the post. The pay band for most jobs within the council (including chief officers) is very narrow, based on 3 or 4 incremental points.

Progression through the pay band is based on length of service, subject to the achievement of expected performance standards, and thus recognises development in a role over time based on the accumulation of experience and knowledge.

It is anticipated that during 2024/25 the total number of permanent and fixed term contract staff on the Council's payroll will be approximately 250 in any one month.

The Council has not adopted the national local government job evaluation or grading schemes but has developed a locally negotiated framework that more closely reflects its own requirements. Within this framework there are two remuneration "families". The first has been developed for the Council's professional and senior managerial cohorts, and includes chief officers. The second is for supervisory, technical and administrative staff.

All staff (including chief officers) are appointed to the organisation at the bottom of the grade, unless there are exceptional circumstances based on business need.

Annual Pay Award

The salary of all council employees (including chief officers) may increase annually by an annual pay award which is locally determined taking into consideration:

- "caps" on public sector pay rates set by the Government
- the council's ability to pay
- inflation levels
- the "going rate" of pay awards in neighbouring authorities and nationally
- recruitment and retention levels.

Section 4 – Pay structure and pay relationships.

The Code of Recommended Practice for Local Authorities on Data Transparency September 2011 requires that there is a process established to monitor the rate of growth of senior earnings compared to all other employees in the organisation.

During 2024/25 there will be a multiple of approximately 6.77 between the base level salary of the Chief Executive and a cleaner, reflecting the differences in skill sets, complexity and span of control from the lowest to the highest paid employees of the Council.

The salary (inclusive of allowances) for the post of Chief Executive was £136,962 (as at 1 April 2023).

The median full time equivalent salary for all other employees in Tonbridge & Malling Borough Council is in the region of £31,395, the mean full time equivalent salary is in the region of £37,218. The pay multiple is therefore approximately 4.21 against the median and 3.55 against the mean.

The Council's bespoke grading structure for employees with professional and specialised high level skill sets is entitled the "M" grade framework. All those referred to as chief officers within this pay policy statement fall within the "M grade" framework.

A feature of the M grade framework is that the remuneration levels for all M grade posts (including those of chief officers), are fixed as a percentage of the benchmark grade M2. Therefore, the grading structure specifies the pay multiples attached to each grade as a percentage of the lowest incremental point of grade M2.

Posts are positioned within the M grade framework on the basis of the required specialist knowledge, professional skills, depth of professional and managerial judgement, and managerial span of control. Broadly speaking the range of capabilities required for junior M grade posts (M9 – M7 inclusive) equate to professional and/or managerial capability equivalent to qualification Level 6.

Those occupying senior managerial posts graded M6 to M4 are required to possess both professional and managerial skill sets equivalent to Level 7. All three director level chief officer posts are graded as M2a. The professional and managerial capabilities and span of control required at director level broadly equate to Level 8.

A Level 8 degree of professional and managerial expertise is also required for the post of the Chief Executive and the Deputy Chief Executive. This, alongside the extensive span of control intrinsic to the role of paid head of service for the entire Council workforce, merits the grade of M1 for the Chief Executive and M2 for their deputy.

Supervisory, technical and clerical grades

The council has developed a bespoke grading structure for its supervisory, technical and clerical staff that ranges from the grade of senior officer to clerical scale 1. Broadly speaking the managerial, professional and skill set required for posts graded Senior Officer equate to qualification Level 5, posts graded scale 5-6 equate to Level 4, posts graded scale 3-4 to Level 3, posts graded scale 1-2 require a Level 1-2 skill set.

The Council considers that the relationship between the base salaries of its highest and lowest paid employees, as well as the relationship between the

highest paid and the mean and medial salaries of the entire workforce, represents an appropriate, fair and equitable internal pay relationship.

Section 5 – Policies common to all employees

The following elements of remuneration are determined by corporate policies or arrangements which apply to all permanent employees of the Council (including its chief officers and deputy chief officers), regardless of their pay level, status or grading. Full details on any of the policies listed below can be provided on request.

The Council aims to have a streamlined and transparent pay structure and therefore it does not pay performance related or total contribution bonuses, location allowances, or subsidy towards child care costs. Pension contributions for all employees opting to join the Local Government Pension Scheme are nationally determined.

Payments on termination of employment

According to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 the Council has the power to make discretionary payments on early termination of employment. The Council has determined that it will calculate payments made to any eligible employee (including chief officers) who are made redundant or who depart on the grounds of the efficiency of the service by using the Government's statutory redundancy payment calculator formula and the employee's actual weekly pay. For those who depart on the grounds of redundancy or efficiency of the service, or who chose to retire "early", the Council does not increase the employee's total pension scheme membership or award additional pension. This response to the Local Government Pension Scheme (Administration) Regulations 2008 applies to all employees, including chief and deputy chief officers.

The Council's policy is that it does not re-employ anyone (including chief or deputy chief officers) who has left with a severance or redundancy payment, nor does it re-engage them on a self-employed basis with a contract for services.

Market Supplement Payments

The Council introduced a Recruitment & Retention Market Supplement Policy in October 2023.

The Council may utilise a market supplement to ensure that competitive salaries will attract and retain key workers in skill shortage areas without distorting the pay structures for all other employees.

A market supplement for recruitment or retention purposes will only be used where there are clear business reasons that cannot be better addressed

through the other means, such as job design, utilising existing skills within the department or service or use of temporary or agency staff for a time limited period.

It is recognised that pay is only one factor contributing to our attractiveness as an employer and other aspects of the employment offer, particularly those relating to development, should be applied in the first instance rather than using a market supplement.

Car allowances

For those posts where it is deemed that there is an essential requirement for the post holder to use a car to perform their job, and they are expected to travel in excess of 2,500 miles per annum in the course of their duties, the post holder receives a lump sum Essential Car User allowance to contribute towards the associated running costs of the car in accordance with the rates previously set by the National Joint Council.

The Council has previously run a lease car scheme which has not been open to new staff to join since June 2020. The lease car scheme is now no longer in operation as of November 2022 when the last remaining lease car holder ceased their participation in the scheme. The Council no longer pays an equivalent payment as an alternative to a lease car but certain specific posts have been identified to receive a Car Allowance.

Telephone allowances

Those employees who are deemed to be essential users of mobile telephones receive a mobile telephone allowance or a Council issued mobile phone.

Professional fees

Annual professional subscription fees to one relevant professional body are reimbursed to those employees where it is deemed an essential requirement for the post holder to belong to a professional institute.

Reimbursement of removal/relocation costs on appointment and mortgage subsidy scheme

The Council's relocation and mortgage subsidy schemes provide financial assistance (within pre-defined limits) to employees who re-locate from outside a reasonable travel area to the Borough to take up an appointment with the Council.

Subsistence Allowance

The Council reimburses expenditure on meals, accommodation, and any other expenses necessarily (within pre-defined limits) incurred by employees who have to be away from home on Council business.

Standby and call out allowances

Any employee who is required to undertake standby and call-out duties will be recompensed at the appropriate rate in accordance with the negotiated policy and payment rate for their role.

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Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

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RISK MANAGEMENT

Item AU 24/4 referred from Audit Committee of 15 January 2024

The report of the Management Team provided details of the review undertaken by Zurich Risk Management and provided an update on the risk management process and the Strategic Risk Register (SRR).

Zurich Risk Management had undertaken a Risk Management Health Check through review of the Council's current strategy and guidance; plus interviews with members of Corporate Management Team, the Chief Financial Services Officer and the Health and Safety Officer. The executive summary was attached at Annex 1 of the report and gave the Management Response to the recommendations.

Members received an update on the risk management process and the Strategic Risk Register (SRR). In September 2023, there were 10 risks categorised as 'red' as summarised below:

- Financial position/budget deficit
- Economic stability
- Savings and Transformation Strategy
- Local Plan
- Organisational Development including recruitment and retention/skills mix
- Homes for Ukraine Scheme
- Implementation of the Agile software system
- Political factors including stability of political leadership and decision making
- Performance Management
- Carbon Neutral 2030 Aspiration

Since last reported, there had been a downward movement in a number of risk scores which had resulted in a reduction in the number of RED risks. Financial position/budget deficit, economic stability, organisational development including recruitment/retention/skills mix and performance management were no longer identified as RED risks, however Safeguarding and PREVENT had been elevated to RED. Whilst 'Implementation of the Agile software system' remained a RED risk, Members were advised that the scoring had reduced given that part of the system was live. Members requested that the responsible owner of the risk be invited to attend a future meeting of the committee to discuss the associated risks.

A schedule of ongoing risks identified by Service Management Teams and Management Team since the last report to the Committee in September 2023 was set out in Annex 6 of the report.

During discussion, further information was sought on the reduced risk for 'Financial position/budget deficit', and it was noted that the draft budget for 2024/25 was looking positive. Information would be reported to the Overview and Scrutiny Committee on 25 January 2024. In terms of desirable risk scores for those risks on the Strategic

Risk Register, Members indicated that the inclusion of SMART objectives would prove useful.

RECOMMENDED*: That

- (1) the Risk Management Health Check be reviewed and the Management response to the recommendations made be considered and approved;
- (2) the Risk Management Strategy and accompanying Risk Management Guidance be reviewed, and subject to any amendments required, be recommended to Full Council for adoption;
- (3) the updates to the Strategic Risk Register since the last iteration with particular emphasis on those risks categorised as RED, as well as the general positive 'direction of travel', be noted; and
- (4) the responsible owner of the implementation of the Agile software system be invited to attend a future meeting of the Audit Committee to discuss the risk.

***Referred to Cabinet**

TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

15 January 2024

Report of the Management Team

Part 1- Public

Matters for Recommendation to Council

1 RISK MANAGEMENT

The report gives the details of the review undertaken by Zurich Risk Management and provides recommendations to both Members and Officers on improvement actions.

The report asks Members to review the Risk Management Strategy and accompanying Risk Management Guidance and to recommend to Cabinet its adoption by Full Council.

The report also provides an update on the risk management process and the Strategic Risk Register.

1.1 Introduction

1.1.1 Following recommendations from both External and Internal Audit reviews the Council asked Zurich Risk Management to carry out a review of the current strategy and strategic risk register models and provide recommendations for improvement.

1.1.2 The Risk Management Strategy sets out the Council's risk management objectives and details the roles and responsibilities of officers, Members and the Council's partners in the identification, evaluation and cost-effective control of risks.

1.1.3 The Council's risk management arrangements are designed to ensure that risks are reduced to an acceptable level or, where reasonable, eliminated thereby safeguarding the Council's assets, employees and customers and the delivery of services to the local community. Examples of risk include budget deficit, cyber/data loss, environmental and reputational.

1.1.4 The Council endeavours to pursue a forward-looking and dynamic approach to delivering services to the local community and will not be averse to taking a degree of commercial risk. However, it will always exercise a prudent approach to risk taking and decisions will be made within the parameters of the Council's internal control arrangements, i.e. Constitution, Procedural Rules, etc. These arrangements will serve to ensure that the Council does not expose itself to risks above an acceptable level.

1.2 Zurich Risk Management Review

- 1.2.1 Zurich Risk Management undertook a Risk Management Health Check through review of the Council's current strategy and guidance; plus interviews with members of Corporate Management Team, the Chief Financial Services Officer and the Health and Safety Officer.
- 1.2.2 The executive summary of the report is attached at **[Annex 1]** to this report. The report gives 12 recommendations for improvement. **[Annex 2]** to the report gives the Management Response to these recommendations and Members are asked to consider, review and approve these responses.
- 1.2.3 Officers will provide updates on the progress on the recommendations to this Committee.

1.3 Review of the Risk Management Strategy

- 1.3.1 As part of arrangements in place to ensure risk management maintains a high profile within the Council, the Strategy and accompanying Guidance is subject to annual review and endorsement through the Audit Committee, Cabinet and Council.
- 1.3.2 This latest review of the Risk Management Strategy and the accompanying Risk Management Guidance found that no major changes were required at this time.
- 1.3.3 A copy of the Risk Management Strategy and accompanying Risk Management Guidance is attached at **[Annex 3]** and **[Annex 4]** respectively.

1.4 Risk Management Escalation Process

- 1.4.1 Effectively risks are assessed/scored in terms of their likelihood/impact.
- 1.4.2 Any risk evaluated as 'High Risk' (score of 15 or above) will be deemed by the Council to be beyond 'risk tolerance' and to have exceeded its 'risk appetite' and will be escalated immediately. Such risks should be added to the service's risk register and discussed at the earliest opportunity within the Service Management Team (SMT) to inform a decision as to whether this should be escalated to Management Team by the respective Service Director. Management Team should then consider whether the risk is significant enough for inclusion in the Strategic Risk Register and action this if relevant. A record should be maintained of risks discussed at both SMTs and Management Team and the outcome of those discussions.

- 1.4.3 Similarly risks identified as “Medium Risk” may be escalated to the appropriate SMT for advice and to ensure they are kept fully aware of the current risks being faced. Risks determined as “Low Risk” should be managed within the service team. It is recommended that SMTs consider periodic review or moderation processes for Service Risk Registers to ensure they are happy with the scores risks have been given and confirm whether there are ‘Medium’ or ‘Low’ risks they wish to consider further.

1.5 Strategic Risk Register

- 1.5.1 The Strategic Risk Register (SRR) is considered to be a ‘live’ document and is updated, as often as is required, by the Management Team. An executive summary of the RED risks has been provided at [Annex 5] and a full update of the current strategic risks and how they are being managed as at the time of writing is appended at **[Annex 5a]**.
- 1.5.2 As part of the Zurich review Officers have reviewed the scoring on all of the risks identified in order to ensure that the scoring reflects the current position of the risk considered.
- 1.5.3 For completeness the risks categorised as RED at the time of the September meeting is given below.
- 1) Financial position/budget deficit
 - 2) Economic Stability
 - 3) Savings and Transformation Strategy
 - 4) Local Plan
 - 5) Organisational Development including recruitment and retention/skills mix
 - 6) Homes for Ukraine Scheme
 - 7) Implementation of the Agile software system
 - 8) Political factors including stability of political leadership and decision making
 - 9) Performance Management
 - 10) Carbon Neutral 2030 Aspiration
- 1.5.4 Following the most recent review, there has been downward movement in a number of risk scores this has resulted in a reduction in the number of **RED** risks. The remaining **RED** risks at the time of this report are:

- 1) Savings and Transformation Strategy
- 2) Local Plan
- 3) Implementation of the Agile software system
- 4) Political factors including stability of political leadership and decision making
- 5) Homes for Ukraine Scheme
- 6) Carbon Neutral 2030 Aspiration

1.5.5 However, one further risk has been elevated to **RED**,

7) **Safeguarding and PREVENT**

Safeguarding is a statutory function for the Council which has evolved and expanded significantly over recent years. Without a dedicated resource undertaking regular monitoring, administration and oversight of safeguarding issues, the Council could be at risk of being unable to discharge its safeguarding responsibilities. A further report is due to be presented to General Purposes Committee in the next few months.

1.5.6 Overall, there is a positive direction of travel. From Annex 5a Members will note that only one risk has a negative direction of travel, whilst 7 have a positive direction of travel. Whilst '*Implementation of the 'Agile software system'*' remains a red risk, Members are advised that the scoring has reduced given that part of the system is live.

1.5.7 Members are asked to note the updates in red font since the last iteration of the Register and the movement in the scoring of the risks.

1.6 Ongoing Risks and Risks Identified by Service Management Teams and Management Team

1.6.1 To give Members some reassurance as to the effectiveness of risk management outcomes from the risk management escalation process are reported to the meetings of this Committee unless that is there is something that needs to be brought to Members' attention in the interim.

1.6.2 A schedule of ongoing risks and risks identified by Service Management Teams and Management Team since the last report to this Committee in September is appended at **[Annex 6]**.

1.7 Risk in Focus Briefing Paper

- 1.7.1 **[Annex 7]** to this report contains a 'Risk in Focus' Briefing Paper issued to Internal Auditors on risks facing organisations over the forthcoming year. The paper is issued by the Chartered Institute of Internal Auditors and highlights many of the risks that are contained within the Strategic Risk Register.

1.8 Legal Implications

- 1.8.1 There is a Health and Safety requirement for effective risk management to be in place and the Strategy supports this requirement.
- 1.8.2 There is also a requirement in the Accounts and Audit Regulations that accounting control systems must include measures to ensure that risk is appropriately managed.

1.9 Financial and Value for Money Considerations

- 1.9.1 Financial issues may arise in mitigating risk which will be managed within existing budget resources or reported to Members if this is not possible.
- 1.9.2 Effective risk management arrangements make a positive contribution to ensuring value for money is provided in the delivery of services.

1.10 Risk Assessment

- 1.10.1 Sound risk management arrangements aid the Council in effective strategic decision-making. The Council's approach to risk should be reviewed on a regular basis to ensure it is up to date and operating effectively.

1.11 Equality Impact Assessment

- 1.11.1 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.

1.12 Policy Considerations

- 1.12.1 Risk management is relevant to all areas of the Council's business.

1.13 Recommendations

1.13.1 Members are asked to:

- 1) **REVIEW** the Risk Management Health Check and consider and approve the Management response to the recommendations made;
- 2) **REVIEW** the Risk Management Strategy and accompanying Risk Management Guidance and, subject to any amendments required, **RECOMMEND** to Cabinet its adoption by Full Council; and
- 3) **NOTE** the updates to the Strategic Risk Register since the last iteration with particular emphasis on those risks categorised as RED, as well as the general positive 'direction of travel'.

Background papers:

contact: Sharon Shelton

Nil

Sharon Shelton

Director of Finance and Transformation on behalf of the Management Team

Enterprise Risk Management Health Check – Report Summary

Tonbridge and Malling Borough Council



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1. Executive summary

The key findings are:

- There is a mature and comprehensive risk management framework in place, with acknowledgment of risk management as an important aspect of decision making. The consistency of the leadership team was evident in the messaging and perceptions of stakeholders but also came with the realisation that there is a threat of complacency that should be addressed through strategic discussions of the needs and capabilities of the Council.
- Leadership in risk management was seen to be a shared responsibility amongst senior leaders. It was rightly acknowledged that there is a threat of risk management not being picked up and driven by any one individual. There could be clearer focus on the messaging around risk management in the organisation, including being more specific about the objectives defined in the strategy document.
- Risk appetite is a well understood concept and there is broad agreement on the current approach of being averse to taking on risk. It was acknowledged that circumstances might result in needing to review this approach and conversations could be had around future adjustments of risk appetite and what that would mean for the risk management strategy in general.
- As a process, governance arrangements are seen to be well established and working well. Documentation and risk management reports are provided with complete information. There is more uncertainty around the effectiveness of challenge and review at both management and audit committee level. Beyond documentation and compliance, the process could be improved through reduction of strategic risks and training provided to both members, senior leaders and managers.
- The risk management methodology is following best practice and contains the elements you would expect to see. However, there are doubts about the application of these. In particular, there should be an increased focus on dedicated risk identification and establishing effective controls with reviews focussed on establishing accountability for risk owners.
- There is a need for further training to bolster risk management knowledge at both manager and member level. There is currently a training programme underway to boost capabilities on operational risk management and it would be beneficial to also strengthen the knowledge around strategic risk management especially in the light of not having a dedicated risk management resource in house.
- In the council's work with procurement, contracts and partnerships, there should be increased focus on establishing risk management procedures and escalation points. Policy documents should reflect the requirements around risk management that is necessary for the award of contracts and there should be an increased awareness of dedicating resources to monitor compliance with these terms throughout the life of the contract.

In summary, Leadership training on risk management will be a valuable first step in reviewing and possibly redefining how risk management is applied within the Council. This includes acknowledgment of the changing political and financial circumstances that might necessitate a change in approach regarding risk appetite. There should also be a focus on ownership of risk management as there is a threat that the joint approach of the present leads to a lack of direction and communication around objectives and how risk management is to be embedded.

List of recommendations

Culture and Leadership

1. Consider assigning a corporate risk champion who will drive risk management conversations, set the tone and be the example to follow for both fellow senior level managers and officers at all levels.
2. Clarify risk management roles and responsibilities, in particular to separate officers and members' roles. This should include not just what is expected, but also how responsibilities should be carried out.
3. Review the level of engagement that is possible from senior officers within current workloads to ensure that risk management responsibilities and objectives are realistic.

Risk Appetite & Strategy

4. Define risk appetite levels and statements across different risk categories. This will provide an organisational approach and align thinking across officer and members while providing officers practical guidance at key decision points.
5. Revisit the risk management strategy and its place among other frameworks. Determine if there are opportunities to include risk management as an integrated part of working rather than an add-on requiring specific resources.

Governance

6. Consider a process for increasing visibility of risks across services, this could be either at management level through a management board or more informally through risk champion officers from each service that take on responsibilities for both risk updates within services but also meet to share practices and discuss emerging risks.
7. Ensure that members, and audit committee representatives in particular, receive risk management training that include clear descriptions of their remit and responsibilities.

Methodology

8. Initiate dedicated risk identification sessions at both service- and corporate level to increase proactive risk identification and expand the timeline available to manage risks by being proactive rather than reactive.
9. Ensure controls are SMART and that risk owners complete follow-ups. Risk should have practical roadmaps to desired risk score.

People & Training

10. Mandate training sessions for elected members, senior leadership, service heads and possibly also third tier managers.
11. Consider if there are officers within teams that could have capacity to receive extra training and be integrated risk champions in each service.

Projects, Partnerships, Contracts & Supply Chain

12. Review procurement and contract policies and ensure that a defined risk management approach is included. Ensure training is supplied to increase the skills and confidence of officers managing contracts and partner relationships.

Appendix 1. List of interviewees and documents reviewed

Name	Title	Date
Julie Beilby	• Chief Executive	23/10/2023
Adrian Stanfield	• Director of Central Services and Deputy Chief Executive	23/10/2023
Sharon Shelton	• Director of Finance and Transformation	25/10/2023
Robert Styles	• Director of Street Scene, Leisure and Technical Services	27/10/2023
Eleanor Hoyle	• Director of Planning, Housing and Environmental Health	19/10/2023
Sally Rollings	• Health and Safety Officer	19/10/2023
Paul Worden	• Chief Financial Services Officer	19/10/2023

Documents

Risk Management Annex 1 Strategy

Risk Management Annex 1a (Risk Register)

Risk Management Annex 2 Guidance

Risk Management Annex 2

Risk Management report AUDIT COMMITTEE 25 September 2023

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ZM Risk Management Review Recommendation Matrix

Reference	Recommendation	Management Response	Officer / Member Responsible	Date Proposed for Implementation
	Culture and Leadership			
1	Consider assigning a corporate risk champion who will drive risk management conversations, set the tone and be the example to follow for both fellow senior level managers and officers at all levels.	This role should be considered by Corporate Management Team on who would have sufficient seniority and resource.	To be considered	January 2025
2	Clarify risk management roles and responsibilities, in particular to separate officers and members' roles. This should include not just what is expected, but also how responsibilities should be carried out.	This will be considered as part of the Risk Strategy Review	Appointed Risk Champion, CMT and Chief Financial Services Officer	January 2025
3	Review the level of engagement that is possible from senior officers within current workloads to ensure that risk management responsibilities and objectives are realistic.	Wider review will need to be undertaken	CMT	January 2025
	Risk Appetite & Strategy			
4	Define risk appetite levels and statements across different risk categories. This will provide an organisational approach and align thinking across officer and members while providing officers practical guidance at key decision points.	Wider review will need to be undertaken	Appointed Risk Champion, CMT and Chief Financial Services Officer	January 2025
5	Revisit the risk management strategy and it's place among other frameworks. Determine if there are opportunities to include risk management as an integrated part of working rather than an add-on requiring specific resources.	The Council's Risk Strategy and Guidance will be reviewed following the clarification of risk appetite.	Chief Financial Services Officer	January 2025
	Governance			
6	Consider a process for increasing visibility of risks across services, this could be either at management level through a management board or more informally through risk champion officers from each service that take on responsibilities for both risk updates within services but also meet to share practices and discuss emerging risks.	Ensure that risks are adequately discussed at Team and Service Management Meetings.	Appointed Risk Champion and CMT	January 2025
7	Ensure that members, and audit committee representatives in particular, receive risk management training that include clear descriptions of their remit and responsibilities.	Training to Members is being prepared and delivered on 15 th January 2024. The session will be recorded and placed into the members resources library.	Chief Financial Services Officer	January 2024
	Methodology			
8	Initiate dedicated risk identification sessions at both service- and corporate level to increase proactive risk identification and expand the timeline available to manage risks by being proactive rather than reactive.	Ensure that risks are adequately discussed at Team and Service Management Meetings.	Appointed Risk Champion, CMT and SMTs	January 2025
9	Ensure controls are SMART and that risk owners complete follow-ups. Risk should have practical roadmaps to desired risk score.	Risk Registers need reviewing on an annual basis by Service Management Teams along with documented evidence showing review.	Risk Champions on SMTs	January 2025
	People & Training			
10	Mandate training sessions for elected members, senior leadership, service heads and possibly also third tier managers.	Members training will be delivered in January 2024, Officer training will be arranged following policy renewal in June 2024	Chief Financial Services Officer	November 2024
11	Consider if there are officers within teams that could have capacity to receive extra training and be integrated risk champions in each service.	Review following Risk training	CMT	November 2024
	Projects, Partnerships, Contracts & Supply Chain			
12	Review procurement and contract policies and ensure that a defined risk management approach is included. Ensure training is supplied to increase the skills and confidence of officers managing contracts and partner relationships.	Consideration to be made by Procurement OSG	Head of Procurement OSG, Appointed Risk Champion	January 2025

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RISK MANAGEMENT STRATEGY



January 2024

1. Introduction

- 1.1. The risk management strategy of Tonbridge and Malling Borough Council (the Council) is to adopt best practices in the identification, evaluation, and cost-effective control of risks. This is intended to ensure that risks are reduced to an acceptable level or, where reasonable eliminated, thereby safeguarding the Council's assets, employees and customers and the delivery of services to the local community.
- 1.2. The Council endeavours to pursue a forward-looking and dynamic approach to delivering services to the local community and will not be averse to taking a degree of commercial risk. However, it will always exercise a prudent approach to risk taking and decisions will be made within the parameters of the Council's internal control arrangements, i.e. Constitution, Procedural Rules, etc. These arrangements will serve to ensure that the Council does not expose itself to risks above an acceptable level.

2. Mandate and commitment

- 2.1. This strategy is supported and endorsed by the Management Team and Members of the Audit Committee who will ensure that:
 - The risk management objectives are aligned with the objectives and strategies of the Council
 - The Council's culture and risk management strategy are aligned
 - The necessary resources are allocated to risk management
 - There is a commitment to embedding risk management throughout the organisation, making it a part of everyday service delivery and decision making
 - The framework for managing risk continues to remain appropriate

3. Applicability

- 3.1. This strategy applies to the whole of the Council's core functions. Where the Council enters into partnerships the principles of risk management established by this strategy and supporting guidance should be considered as best practice and applied where possible. We would also expect that our significant contractors have risk management arrangements at a similar level, and this should be established and monitored through procurement processes and contract management arrangements.

4. Objectives

- 4.1. The risk management objectives of the Council are to:
 - Embed risk management into the culture of the Council
 - Apply best practice to manage risk using a balanced, practical and effective approach
 - Manage risks in line with its risk appetite, and thereby enable it to achieve its objectives more effectively

- Integrate the identification and management of risk into policy and operational decisions, anticipating and responding proactively to social, environmental and legislative changes and directives that may impact on delivery of our objectives
 - Eliminate or reduce the impact, disruption and loss from current and emerging events
 - Harness risk management to identify opportunities that current and emerging events may present and maximise benefits and outcomes
 - Ensure effective intelligence sharing and collaboration between risk management disciplines across all Council activities
 - Ensure fraud risks are proactively considered and embedded into the organisation's risk management arrangements
 - Benefit from consolidating ongoing learning and experience through the collation and sharing of risk knowledge; demonstrate a consistent approach to the management of risks when embarking on significant change activity
 - Ensure sound and transparent risk management arrangements are operated in partnership and commissioner / provider situations, underpinned by a culture that supports collaboration and the development of trust, ensuring clear effective lines of communication and the management of relationships.
- 4.2. The delivery of this strategy is the collective responsibility of officers, Service Management Teams, Management Team, the Council's partners and Members, with delivery being assured by the Management Team.

5. Roles and responsibilities

- 5.1. Responsibility for risk management runs throughout the Council; everyone has a role to play. Managers and staff that are accountable for achieving an objective are accountable for managing the risks to achieving it. To ensure that risk management is successful, the roles and responsibilities of key groups and individuals must be clearly identified, see table at 5.3 below.
- 5.2. Other officer groups' deal with related risk specialisms such as Health and Safety; Treasury Management; Emergency Resilience and Business Continuity; Insurance; Information Security; Anti-fraud, bribery and corruption, etc. These groups are linked into the governance arrangements of the Council so that their work is co-ordinated within the Council's overall risk management framework.
- 5.3. In order to support Members and Officers with their responsibilities, risk management guidance is available.

Group or Individual	Responsibilities
Full Council / Cabinet	Approval of the Risk Management Strategy will be witnessed by the signature of the Leader of the Council.
Audit Committee	The Chairman of the Audit Committee will take a lead role in promoting the application of sound risk management practices across the Council. Training will be provided periodically for all Audit Committee members.

	<p>The Audit Committee will consider the Risk Management process as part of the assurance evidence in support of any Corporate Governance Statement.</p> <p>The Audit Committee will provide independent assurance of the adequacy of the risk management framework and will monitor the effective development and operation of risk management in the Council.</p>
Committees	<p>Responsibility for considering risk when making decisions on behalf of the Council.</p> <p>Promote and demonstrate the behaviours and values that support well-informed and considered risk taking, while maintaining accountability.</p> <p>Encourage open and frank conversations about risks, ensuring appropriate reporting and escalation as required.</p>
Chief Executive	<p>Responsibility for the overall monitoring of strategic risks across the Council, including the endorsement of priorities and management action. Responsible for ensuring that risk management resources are appropriate.</p> <p>Also responsible for counter-signing the Risk Management Strategy.</p>
Section 151 Officer	<p>Active involvement in all material business decisions to ensure immediate and longer term financial implications, opportunities and risks are fully considered.</p>
Management Team (MT)	<p>To ensure the Council manages risks effectively and actively consider, own and manage key strategic risks affecting the Council through the Strategic Risk Register.</p> <p>Keep the Council's risk management framework under regular review and approve and monitor delivery of the annual risk work programme.</p> <p>Promote and demonstrate the behaviours and values that support well-informed and considered risk taking, while maintaining accountability.</p> <p>Encourage open and frank conversations about risks, ensuring appropriate reporting and escalation as required.</p> <p>Delegate the development and delivery of appropriate training to support the implementation of this policy for Members and Officers.</p>
Service Management Teams (SMT)	<p>Responsibility for the effective management of risk within the directorate, including risk escalation and reporting to the Management Team as appropriate.</p> <p>Briefing sessions will be provided on an as and when basis to senior management.</p>
Internal Audit	<p>Assesses the effectiveness of the risk management framework and the control environment in mitigating risk.</p> <p>Review and challenge risk management arrangements through its audit and fraud prevention activities.</p>
All elected Members and staff	<p>Identify risks and contribute to their management as appropriate. Report inefficient, unnecessary or unworkable controls. Report loss events or near-miss incidents to management.</p>

6. Review of this strategy

- 6.1. It is the responsibility of the Audit Committee to: 'On behalf of the Council ensure that Risk Management and Internal Control systems are in place that are adequate for purpose, and are effectively and efficiently operated.' Internal Audit will support their role in assuring its effectiveness and adequacy.
- 6.2. Information from Internal Audit and from other sources will be used to inform recommended changes to the strategy and framework at least annually. Any changes will be presented to the Audit Committee for approval before publication. The Strategy was last reviewed in January 2024 and will be reviewed next in January 2025.

7. Approval

Signed:

Print Name: Matt Boughton

Date:

Position: Leader of the Council

Signed:

Print Name: Adrian Stanfield

Date:

Position: Interim Chief Executive

Document Review History

Version	Reviewed	Reviewer	Approver	Date Approved
Current	December 2023	Chief Financial Services Officer	Audit Committee and Full Council	

TONBRIDGE AND MALLING BOROUGH COUNCIL
RISK MANAGEMENT GUIDANCE

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TONBRIDGE AND MALLING BOROUGH COUNCIL
RISK MANAGEMENT GUIDANCE

1. Introduction

- 1.1. Tonbridge and Malling Borough Council (the Council) has an approved Risk Management Strategy (the Strategy) and this guidance should be read in conjunction with this Strategy. The aim of this guidance is two-fold; to specify how the Council will deliver its objectives as outlined in the Strategy, and provide guidance on how to effectively manage risk.

2. Achieving strategy objectives

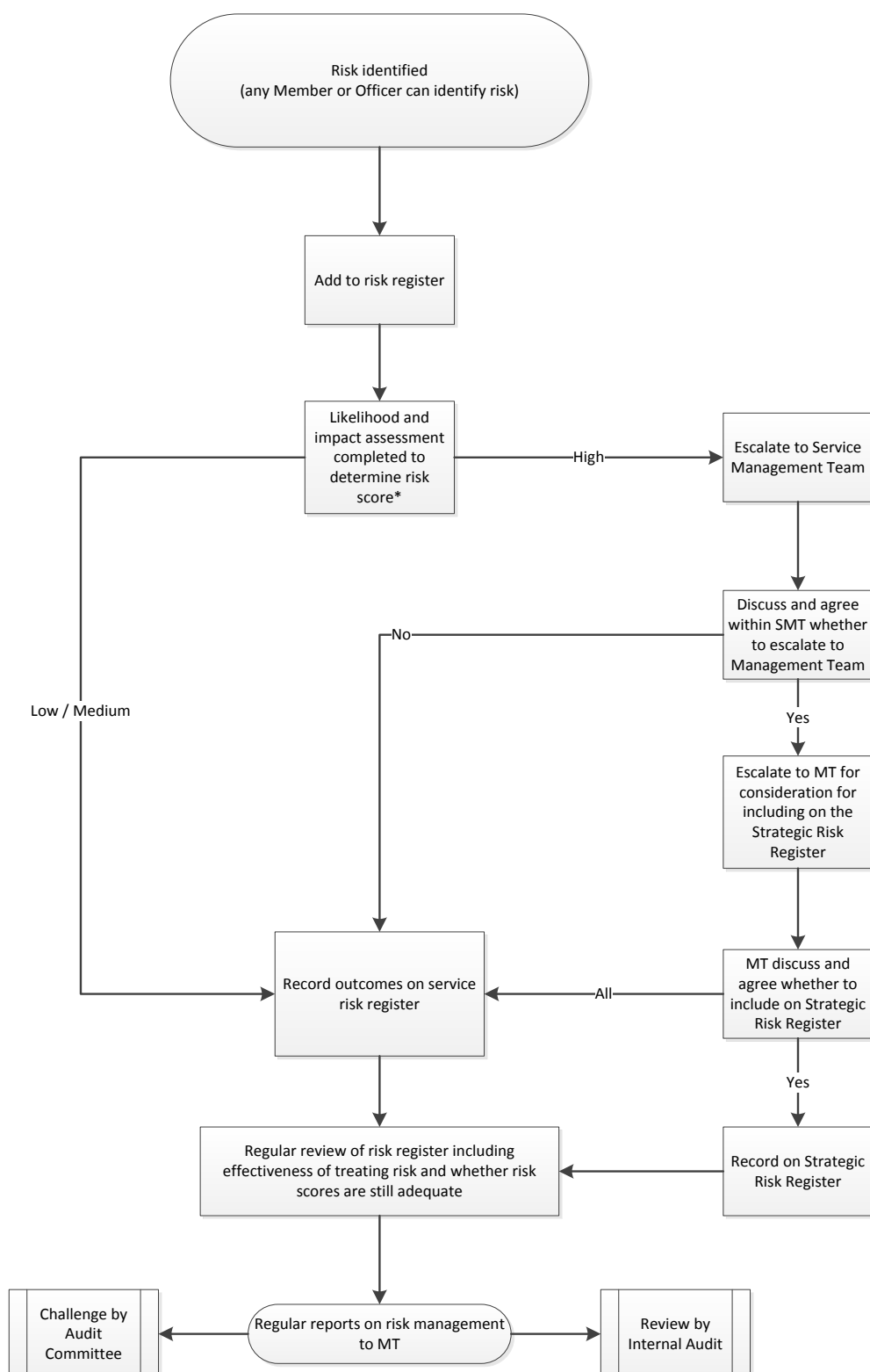
- 2.1. The Council shall achieve its objectives, as outlined in the Strategy, through:
- Integrating effective risk management practices into the Council's management, decision making and planning activities.
 - Maintaining common links between business planning, performance and risk management.
 - Maintaining the frequency and effectiveness of monitoring of key risks.
 - Providing a mix of risk management training, awareness sessions and support for both Members and Officers of the Council.
 - Ensuring links between audit planning and risk management processes to enable assurance on the effectiveness of risk management across the Council.
 - Subjecting the Council's risk framework and practice to annual review to determine the effectiveness of arrangements and level of risk maturity.
 - Ensuring risk management arrangements are embedded within transformation activity.
 - Providing continuous challenge and quality assurance to all elements of the risk management process.
 - Focusing on robust monitoring of mitigating actions to ensure that risks, once identified and assessed, are appropriately managed.
 - Working collaboratively with partners and providers (both internal and external) to develop effective risk ownership and risk sharing arrangements; striking a proportionate balance of oversight of risks of providers / partners without being over-constrictive.
 - Providing guidance on identifying, assessing, managing and reporting on risk, including escalation of risks.

3. Risk management at a glance

- 3.1. The following process flow visually demonstrates the risk management process.

TONBRIDGE AND MALLING BOROUGH COUNCIL

RISK MANAGEMENT GUIDANCE



* A risk assessment form is available at appendix B which can be used to help this part of the process

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RISK MANAGEMENT GUIDANCE

4. Identifying risks

- 4.1. Risk is something that might happen, which if it materialises will affect us in some way or other. A risk is a combination of 'likelihood' and 'impact', that is; how likely the risk is to happen and if it did how much would it affect us. As soon as a risk is identified it should be recorded on the Risk Register, see Appendix A. This Register should be continually updated to demonstrate assessment, evaluation, treatment and ongoing review.
- 4.2. Before we can evaluate the level of risk associated with an activity we have to determine what is most likely to trigger the risk or initiate its occurrence and assess what the consequences may be if it did occur, i.e. identify the risk event.
- 4.3. Risk assessment looks to determine the key triggers and causes and the likely consequences and impact. Once these are established we can use the assessment to gauge the likelihood of occurrence and impact of the consequences to determine the severity or level of risk.

5. Assessing risks

- 5.1. Identified risks need to be assessed so that they may be evaluated to determine their severity and to present an overall picture of the extent of the combined risks on the achievement of the objectives. The Council recognises 3 levels of risk:


LOW	MEDIUM	HIGH
1 – 4	5 – 12	15 – 24

- 5.2. The scoring of risks will be carried out using a Likelihood & Impact matrix, see table below with accompanying definitions.

Likelihood	Almost inevitable	6	6 Medium	12 Medium	18 High	24 High
	Very likely	5	5 Medium	10 medium	15 High	20 High
	Likely	4	4 Low	8 Medium	12 Medium	16 High
	Unlikely	3	3 Low	6 Medium	9 Medium	12 Medium
	Very Unlikely	2	2 Low	4 Low	6 Medium	8 Medium
	Almost impossible	1	1 Low	2 Low	3 Low	4 Low
			1	2	3	4

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RISK MANAGEMENT GUIDANCE

Impact 	Negligible	Marginal	Significant	Critical
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- 5.3. Each risk identified and recorded may be broken down into its component parts using a Risk Assessment Form – see Appendix B.
- 5.4. The source/cause, risk event and consequences should be listed, together with any controls or actions and their owners. Such controls and actions are used to mitigate the risk level and should be described in a clear and specific manner to enable stakeholders to gain sufficient understanding of them.
- 5.5. Risk assessments should be used to assess the level of risk associated with the objective and inform the process for refreshing risk registers. In some cases, where the details of risks are clear, key risk information can be entered straight onto risk registers.
- 5.6. Key project and partnership risks should be included within this process as they will have their sources of origin in business objectives.

6. Evaluating risks

- 6.1. From the information collated and recorded when assessing the risk it should be possible to estimate and distinguish how likely the risk is to happen – Almost inevitable, very likely, likely, unlikely, very unlikely, almost impossible. Similarly, from the information collated and recorded it should be possible to distinguish the level of impact the risk would have if the risk occurred now – negligible, marginal, significant or critical.

For example:

- A risk with an “unlikely” likelihood (3) and “critical” impact (4) would equate to a “Medium” risk level with a score of 12 (3 x 4).
 - A risk that is judged to be “likely” (4) and have a “negligible” impact (1) would equate to a “Low” risk level with a score of 4 (4 x 1).
- 6.2. When determining the risk rating, bear in mind that it is not an exact science. Without significant historical data or mathematical prediction it is, for the most part, a subjective but important estimate. Appendix C provides a couple of guides to help you to estimate likelihood and impact.
 - 6.3. For reference, the initial result of an evaluation is known as the ‘inherent risk’, which refers to the exposure arising from a specific risk *before* any action has been taken to manage it. Due to the fact that determining the inherent risk can seem a rather theoretical exercise, there is not a requirement to include this as part of the risk assessment process. The focus is instead on assessing the current level of risk, taking controls in place into account, and setting a realistic target level of risk that you would wish to manage the risk down to.

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7. Escalating risks

- 7.1. It is not uncommon for risks to have knock-on effects for other activities across a risk perspective or in another risk perspective, for example a risk in one operational (perspective) area may be a source of risk to another; similarly a high level risk in a project perspective may need to be highlighted and considered at a strategic perspective.
- 7.2. It is essential that we understand risks and their potential to have knock-on effects. It is equally important that we set out clear rules for escalation of risks.
- 7.3. Any risk evaluated as 'High Risk' (score of 15 or above) will be deemed by the Council to be beyond 'risk tolerance' and to have exceeded its 'risk appetite' and will be escalated immediately. Such risks should be added to the service's risk register and discussed at the earliest opportunity within the Service Management Team (SMT) to inform a decision as to whether this should be escalated to Management Team (MT) by the respective Service Director. Management Team should then consider whether the risk is significant enough for inclusion in the Strategic Risk Register and action this if relevant. A record should be maintained of all 'High' risks discussed at SMTs and MT and the outcome of those discussions.
- 7.4. Similarly risks identified as "Medium Risk" may be escalated to the appropriate Service Management for advice and to ensure they are kept fully aware of the current risks being faced. Risks determined as "Low Risk" should be managed within the service team. It is recommended that SMTs consider periodic review or moderation processes for Service Risk Registers to ensure they are happy with the scores risks have been given and confirm whether there are 'Medium' or 'Low' risks they wish to consider further.
- 7.5. Where 'High' risks are identified in Project and Programme Risk Registers the Project / Programme Manager must check its impact on the relevant division or directorate risk registers.
- 7.6. The target residual rating for a risk is expected to be 'Medium' or lower. In the event that this is not deemed realistic in the short to medium term, this shall be discussed as part of the escalation process, and this position regularly reviewed with the ultimate aim of bringing the level of risk to a tolerable level.
- 7.7. There may be rare occasions where a risk is deemed to be well within risk appetite and therefore could be seen as over-controlled. In this instance a target level of risk could be set that is higher than the current level, as long as it remains within risk appetite.

8. Proximity of risk

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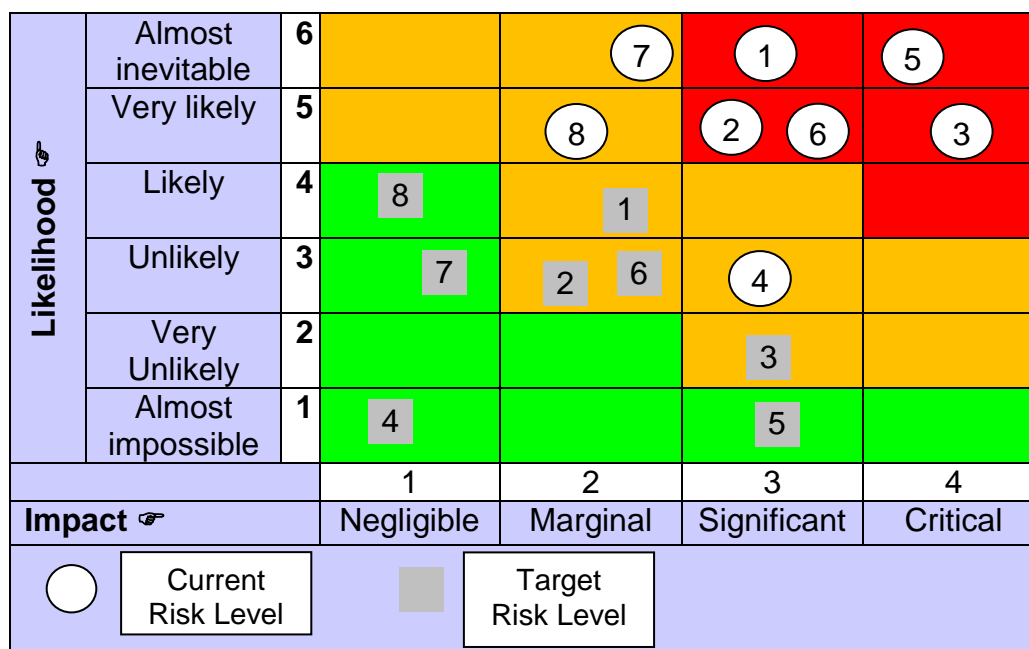
RISK MANAGEMENT GUIDANCE

- 8.1. Some risks identified may pose an immediate risk whereas others may not be a risk for several months or even years. Establishing risk 'proximity' adds an additional dimension especially when planning and prioritising resources to deal with risk actions.
- 8.2. Proximity may be categorised as follows:
- Immediate – Risk likely to occur / most severe within the next 6 months
 - Medium Term - Risk likely to occur / most severe between 6 to 12 months
 - Long Term - Risk likely to occur / most severe 12 months plus

9. Summary risk profile

- 9.1. A summary risk profile is a simple mechanism to increase the visibility of risks. It is a graphical representation of information normally found on an existing risk register.
- 9.2. It provides a powerful visual snapshot of the collective risk associated with the activity. The summary risk profile makes use of the chart in figure 1 above to plot each of the risks identified. The example below gives an example of a completed Summary Risk Profile.

- 9.3. Example - Completed Summary Risk Profile



- 9.4. In the example, the risk numbers (in white circles) are plotted to show their current risk levels for a series of 8 risks. It suggests that the activity is fairly high risk overall.
- 9.5. Again, in the example, the risk numbers (in grey squares) are plotted to show the target risk levels for the series of 8 risks. These show the effect that the risk

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controls and actions should have on the risks if they were successfully applied and completed.

- 9.6. Overall it demonstrates how an activity that carries a degree of high risk and potential failure could be made more acceptable. On a cautionary note, the effort and resources to be expended on managing the risk need to be re-factored into plans to ensure the activity in question remains a viable one.

10. Allocating risks and determining actions

- 10.1. All risks, no matter how they are assessed, should be allocated an owner. The owner shall be responsible for managing the risk to ensure it is appropriately treated. The level of risk will determine who the owner should be:

- High Risk – Service Management Team / Management Team
- Medium Risk – Service Management Team
- Low Risk – Service Manager

- 10.2. Once a risk has been identified, assessed and evaluated, it's important that actions are determined to treat the risk. The extent of any actions will be driven by a number of factors including the overall risk score, risk appetite and desired risk score. All actions should be documented on the Risk Assessment Form.

11. Monitoring Risks

- 11.1. Risks should be continuously monitored, as unmanaged risks can prevent the Council from achieving its objectives. The extent of monitoring will be driven by the risk rating. For example a risk assessed as High would require more frequent monitoring than a risk assessed as Low.

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Appendix A - Risk Register

Area _____

No	Risk Title	Consequences	Date identified	Likelihood Score	Impact score	Overall inherent risk score	Risk Assessment form completed?	Desired risk score	Mitigating actions to achieve desired risk score	Links to Corporate Objectives / Directorate Business Plans	Risk Owner	Review Date

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Appendix B - Risk Assessment Form

SECTION 1 – RISK																																																						
Risk Owner:				Service:				Directorate:																																														
Risk Event:				Source/ cause:				Consequences:																																														
<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td rowspan="6" style="writing-mode: vertical-rl; transform: rotate(180deg); background-color: #d9e1f2;">Likelihood F</td> <td style="background-color: #d9e1f2;">Almost inevitable</td> <td style="background-color: #d9e1f2;">6</td> <td style="background-color: #ffff00;">6 Medium</td> <td style="background-color: #ffff00;">12 Medium</td> <td style="background-color: #ff0000;">18 High</td> <td style="background-color: #ff0000;">24 High</td> </tr> <tr> <td style="background-color: #d9e1f2;">Very likely</td> <td style="background-color: #d9e1f2;">5</td> <td style="background-color: #ffff00;">5 Medium</td> <td style="background-color: #ffff00;">10 medium</td> <td style="background-color: #ff0000;">15 High</td> <td style="background-color: #ff0000;">20 High</td> </tr> <tr> <td style="background-color: #d9e1f2;">Likely</td> <td style="background-color: #d9e1f2;">4</td> <td style="background-color: #00ff00;">4 Low</td> <td style="background-color: #ffff00;">8 Medium</td> <td style="background-color: #ffff00;">12 Medium</td> <td style="background-color: #ff0000;">16 High</td> </tr> <tr> <td style="background-color: #d9e1f2;">Unlikely</td> <td style="background-color: #d9e1f2;">3</td> <td style="background-color: #00ff00;">3 Low</td> <td style="background-color: #ffff00;">6 Medium</td> <td style="background-color: #ffff00;">9 Medium</td> <td style="background-color: #ffff00;">12 Medium</td> </tr> <tr> <td style="background-color: #d9e1f2;">Very Unlikely</td> <td style="background-color: #d9e1f2;">2</td> <td style="background-color: #00ff00;">2 Low</td> <td style="background-color: #00ff00;">4 Low</td> <td style="background-color: #ffff00;">6 Medium</td> <td style="background-color: #ffff00;">8 Medium</td> </tr> <tr> <td style="background-color: #d9e1f2;">Almost impossible</td> <td style="background-color: #d9e1f2;">1</td> <td style="background-color: #00ff00;">1 Low</td> <td style="background-color: #00ff00;">2 Low</td> <td style="background-color: #00ff00;">3 Low</td> <td style="background-color: #00ff00;">4 Low</td> </tr> <tr> <td colspan="2" style="background-color: #d9e1f2;"></td> <td style="background-color: #d9e1f2;">1</td> <td style="background-color: #d9e1f2;">2</td> <td style="background-color: #d9e1f2;">3</td> <td style="background-color: #d9e1f2;">4</td> </tr> <tr> <td colspan="2" style="background-color: #d9e1f2;">Impact □</td> <td style="background-color: #d9e1f2;">Negligible</td> <td style="background-color: #d9e1f2;">Marginal</td> <td style="background-color: #d9e1f2;">Significant</td> <td style="background-color: #d9e1f2;">Critical</td> </tr> </table>				Likelihood F	Almost inevitable	6	6 Medium	12 Medium	18 High	24 High	Very likely	5	5 Medium	10 medium	15 High	20 High	Likely	4	4 Low	8 Medium	12 Medium	16 High	Unlikely	3	3 Low	6 Medium	9 Medium	12 Medium	Very Unlikely	2	2 Low	4 Low	6 Medium	8 Medium	Almost impossible	1	1 Low	2 Low	3 Low	4 Low			1	2	3	4	Impact □		Negligible	Marginal	Significant	Critical	<p>Likelihood score:</p> <p>Impact score:</p> <p>Overall risk score:</p> <p>Accepted?*</p> <p><small>* If yes, provide rationale. * If no, go to Section 2.</small></p>	
					Likelihood F	Almost inevitable	6	6 Medium	12 Medium	18 High	24 High																																											
						Very likely	5	5 Medium	10 medium	15 High	20 High																																											
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						1	2	3	4																																													
Impact □		Negligible	Marginal	Significant	Critical																																																	
SECTION 2 – CONTROLS/ MITIGATING ACTIONS (copy this section for each control/ action)																																																						
Control/ Action Owner:				Service:				Directorate:																																														
Control/ Action:				Dependencies:				<p>Key Dates:</p> <ul style="list-style-type: none"> Implementation: Review date: Reporting intervals: 																																														

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Appendix C - Determining Likelihood and Impact

	Likelihood	Example – winter weather
Almost Inevitable	<ul style="list-style-type: none"> Is expected to happen 	<ul style="list-style-type: none"> Rain
Very Likely	<ul style="list-style-type: none"> More likely to happen than not 	<ul style="list-style-type: none"> Strong winds
Likely	<ul style="list-style-type: none"> Strong possibility it will happen 	<ul style="list-style-type: none"> Snow
Unlikely	<ul style="list-style-type: none"> This could happen 	<ul style="list-style-type: none"> Flooding
Very Unlikely	<ul style="list-style-type: none"> There is a remote possibility this could happen 	<ul style="list-style-type: none"> Hurricane
Almost Impossible	<ul style="list-style-type: none"> Once in a lifetime occurrence 	<ul style="list-style-type: none"> Thames freezes over

	Impact*	Example
Critical	<ul style="list-style-type: none"> Unacceptable level of loss or damage 	<ul style="list-style-type: none"> Significant material financial loss e.g. impacts statutory service delivery/going concern status Loss of life or permanent/ debilitating damage National media coverage, judicial review, government intervention
Significant	<ul style="list-style-type: none"> Considerable level of loss or damage 	<ul style="list-style-type: none"> Material financial loss e.g. impacts non-statutory service delivery, risk of redundancies Major injury Local media coverage, government interest
Marginal	<ul style="list-style-type: none"> Limited loss or damage 	<ul style="list-style-type: none"> Some financial loss but manageable impact on service delivery Minor injury Limited social media interest
Negligible	<ul style="list-style-type: none"> Tolerable level of loss or damage 	<ul style="list-style-type: none"> No or very minimal financial loss Minor 'trips and slips' No media interest

*Impact should always be considered in terms of financial loss, harm to a person or people and the Council's reputation and should link to Tonbridge and Malling Borough Council's risk appetite.

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No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
1	Safeguarding and PREVENT	S, R	Significant impact should a child, young person or adults at risk come to harm, including radicalisation and child sex exploitation, and TMBC are unable to demonstrate appropriate processes are in place with adequate staff resource to ensure safeguarding procedures are consistently being followed.	01/04/2017	4	4	16	The overall responsibility for safeguarding lies with the Chief Executive, rather than individual services. The Council has undertaken the following actions to mitigate risk Carried out audit review of procedures to identify and address weaknesses Provided training to all licenced Hackney Carriage and Private Hire Drivers Provides a secure database for the recording and sharing of safeguarding concerns. Officer Study Group with safeguarding champions across services who are able to provide advise and support regarding safeguarding issues Training provided to staff	3	4	12	Continue to refer Safeguarding concerns to appropriate agencies where necessary and also raise with partners at the weekly CSU meetings. Undertake actions from the latest Safeguarding Audit and update Safeguarding Policy. Consideration for additional resourcing.	Safeguarding Policy	Chief Executive	Upward	As required
6	Savings and Transformation Strategy	F, R, S	Failure to meet objectives and/or make savings. Impact on quality of service, budget overspends, salami slicing, etc. staff motivation impacted and increased risk of fraud or error. Coronavirus pandemic and the subsequent economic crisis has significant economic implications for the Council, businesses and residents.	01/04/2017	4	4	16	STS reviewed and updated in line with review of MTFS. With regular reports to update MT and Members MTFS and STS updated and approved by Council in Feb 2023. Funding gap estimated to be £1.7m, with tranche 1 of this (£0.5m) to be delivered by April 2024. Interim update of MTFS to Cabinet December 23	3	3	9	The 2023/24 Budget is balanced with contribution to General Revenue Reserve. Subject to receipt of the Finance Settlement for 24/25, this year also expected to be balanced. However, it is expected that after 24/25 once the Fair Funding Review has been undertaken, the position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again. Some savings have been identified in report to Cabinet Dec 23 which have been incorporated into draft budget. Further prospective savings/contributions have been identified, but these are subject to consultation and member decision.	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Chief Executive / Director of Finance and Transformation/ Management Team	No change	Feb-24
7	Local Plan	F, R	Lack of sound legal footing for Plan through inadequacies in evidence base, legal advice or process, including duty to cooperate. Leading to widespread public concern, or risk of failure at Examination. External factors or widespread planning reforms leading to delays to timetable, reputational risks around plan-making and impacts on development management processes through protracted period with no up-to-date plan. Absence of corporate or external co-ordination leading to a lack of infrastructure to support future development.	01/04/2017	4	4	16	Members are updated via informal email updates and reports to the Housing & Planning Scrutiny Select Committee Reg 18 concluded in late 2022 Revised LDS adopted summer 2023 The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirements of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the PI by 30th June 2025. The Council has recently engaged Towers and Hamilins Law Firm to advise and support the Planning Policy Team in order to progress matters up until the Adoption stage of the Local Plan. Proposed informal engagement with members on emerging spatial strategy in Autumn 2023	3	3	9	Regular review of Government policy announcements that may impact on delivery, including housing standard methodology and WMS relating to Planning Ongoing engagement with Counsel Ongoing engagement with Members Regular analysis of budget position Regular analysis of programme - within Policy team on a weekly basis, reporting to Head of Planning/DPHEH bi-weekly.	Local Plan assists in economic growth, delivering the supply of future housing and addressing affordability. Procedures set by National Government	Director of Planning, Housing and Environmental Health	No change	Feb-24
17	Political factors including stability of political leadership and decision making	F, R	Decisions required to achieve objectives including corporate strategy and savings and transformation may not be made and therefore required savings not achieved.	01/04/2017	4	4	16	Significant focus on temporary accommodation and in borough provision as well as framework agreement with private providers. Close liaison with Leader, Deputy Leader and Cabinet in developing the Savings & Transformation Strategy. Clear and comprehensive reports to support Members in making appropriate decisions to support the S&TS.	3	3	9	Member briefings and training sessions. Training for Officers has been arranged for September 2023 by the LGA - 'working in a no overall control council'	Underpins delivery of overall strategy and Savings and Transformation.	Chief Executive	No change	As required

Direction of Travel key



Downward or positive movement



No change in movement



Upward or negative movement

No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
19	Homes for Ukraine Scheme	F, R, S	Districts are required to undertake home assessments for potential host households to support Ukrainian refugees fleeing the conflict. Increased workload expected as likelihood of breakdown in housing arrangements as we approach the 2 year mark (and the end of thank you payments to hosts). There is a risk of homelessness and duty to place in T.A. therefore work needs to be undertaken to or support into private rented sector. This is an escalating risk given the longevity of the hosting arrangements. As of 1 April 2023, TMBC have taken on wider support role for Ukrainians in the borough under HFU scheme.	01/09/2022	4	4	16	Some reserve host families have been identified but larger families pose a bigger risk. Re-matches are unsustainable in the longer term. Work underway to support more families into PRS.	3	4	12	Additional support into Private Rented Sector required. Full time Resettlement Worker now in post.		Chief Executive	↔	As required
21	Implementation of Agile system	F, S	Service impacts from level of staff time required to develop the Agile product for use as operating system. Significant level of concern from staff about implementation process results in a lack of confidence in implementation, which will adversely impact service delivery and record keeping	01/11/2022	5	3	15	Programme of liaison meetings with Agile in place including Board and weekly catch ups Employment of Business Change PM to manage project on behalf of TMBC and coordinate all issues Weekly meetings with CM for Finance & Housing, who is the Cabinet Lead for Agile. Internal meetings with staff, managed by Business Change Project Manager Issues log in use Issues escalated to Agile management APAS (Planning) Module now live. Placis Module currently in implementation phase	2	2	4	Further escalation of issues to Agile CEO At least 3 stand ups per week between Business Change PM and SRO (DPHEH) in September to oversee APAS go live by end of September Request for PLACIS delivery plan to be populated by Agile by 8 Sept made by CE and Cabinet Member Weekly review of project plan and considerations of service impacts required to meet go live programme - to be reported into MT on a regular basis Completion of all modules.	Digital Strategy	Director of Planning, Housing and Environmental Health	↓	Mar-24
23	Carbon Neutral 2030 Aspiration	F, R, S	Significant reputational risk, particularly if other similar councils have achieved similar goals or targets. Significant financial cost to purchasing offsets to meet carbon neutral. High cost of increased frequency and intensity of extreme events (floods, heat waves) that increase costs and disrupt service delivery.	01/09/2023	5	3	15	Development of climate evidence (e.g. for the Local Plan), partnerships (residents, community and other Councils) and pathway analysis to support move towards transformative and larger scale emissions reductions Increased contributions to Climate Change Reserve to Support match funding as well as capital projects.	3	2	6	Ongoing commitment by Members, senior management and services to new actions beyond 'business as usual'. Improved understanding of financial returns from climate mitigation measures that can be reinvested. Innovative thinking and delivery of services and mitigation options. Successful outcomes in bids for significant additional grant funding. Funding is dependant on successful applications and awards being achieved, otherwise Council Resources will be needed. Gap analysis report being prepared for Overview and Scrutiny Committee in January 24.	Climate Change Strategy, Corporate Strategy 2023 - 2025	Chief Executive	↔	January 2024 (ahead of next climate change action plan)




No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
1	Safeguarding and PREVENT	S, R	Significant impact should a child, young person or adults at risk come to harm, including radicalisation and child sex exploitation, and TMBC are unable to demonstrate appropriate processes are in place with adequate staff resource to ensure safeguarding procedures are consistently being followed.	01/04/2017	4	4	16	The overall responsibility for safeguarding lies with the Chief Executive, rather than individual services. The Council has undertaken the following actions to mitigate risk Carried out audit review of procedures to identify and address weaknesses Provided training to all licenced Hackney Carriage and Private Hire Drivers Provides a secure database for the recording and sharing of safeguarding concerns. Officer Study Group with safeguarding champions across services who are able to provide advise and support regarding safeguarding issues Training provided to staff	3	4	12	Continue to refer Safeguarding concerns to appropriate agencies where necessary and also raise with partners at the weekly CSU meetings. Undertake actions from the latest Safeguarding Audit and update Safeguarding Policy. Consideration for additional resourcing.	Safeguarding Policy	Chief Executive	Upward	As required
2	Financial position/budget deficit	F, R	Financially unstable organisation. Failure to deliver a balanced budget, detrimental impact on quality of service, increased intervention. This includes Failure to maximise New Homes Bonus (for as long as it exists). Assessment of the current economic implications of higher inflation and interest rates Failure to deliver identified savings / Additional income	01/04/2017	3	4	12	The Council provides an annual statement (as a minimum) on the following areas; Treasury Management and Investment Strategy. Robustness of estimates and adequacy of reserves. Medium Term Financial Strategy (MTFS) Savings and Transformation Strategy (STS) Statement of Accounts containing Audit and Value for Money Opinion The Council also considers it has the following Effective Budgetary control and reporting procedures covering areas such as Leisure Trust Utility costs Effective monitoring covering Business Rates and Council Tax income including reporting to the Kent Pool. Regular reviews undertaken on the forecast of the Local Government Settlement. Interest rates for investments are at a recent high, these are providing some additional funds for reserves but cannot provide a long term solution. Minimum level of General Revenue Reserve maintained at £3m. In addition, a Budget Stabilisation Reserve is held. Current financial position within MTFS shows balanced budget for final year. This is after allowing for assumptions made on long term resourcing issues covering Fair Funding, Business Rates reset and allows for increased contract costs on major council contracts.	3	3	9	The 2023/24 Budget is balanced with contribution to General Revenue Reserve. Subject to receipt of the Finance Settlement for 24/25, this year also expected to be balanced. However, it is expected that after 24/25 once the Fair Funding Review has been undertaken, the position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again. Ensure that Business Rate income is maximised for benefit of TMBC prior to any Reset by Report to Cabinet 5 December 2023 with update on MTFS position Await and assess the outcome of the Government's consultation and review of New Homes Bonus. This was anticipated Spring 2023, but has still not been forthcoming. Three key financial risks were highlighted to Members: namely Waste (including the proposed Extended Producer Responsibility scheme which has been delayed), Homelessness and Local Plan. All three have significant financial implications for the Council in different ways and are being assessed and managed. MT and Cabinet working with LGA to consider the best way of delivering transformation which could also to assist with identification and delivery of efficiencies Report to Cabinet 5 December 2023 with areas of saving that have either been incorporated into draft budget, or could assist in future savings tranches subject to consultation and member decision. Savings, contained with MTFS and Saving and Transformation Strategy, must be achieved in a timely manner in order to ensure that MTFS targets maintained.	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Director of Finance and Transformation	Downward	Feb-24

Direction of Travel key

Downward or positive movement

No change in movement

Upward or negative movement

No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
3	Economic Stability	F	<p>Financial impact and effect on the economy as well as uncertainty around current EU legislation, i.e. what replaces it, could have a significant financial impact and lead to legislative changes impacting on finance and resources. A number of key threats to business continuity including: border delays and congestion impacts on the Kent road network creating difficulties for local businesses, TMBC staff and potential air quality issues; loss of KCC staff e.g. welfare/social services support; potential loss of TMBC waste contract workforce, general increase in costs as imports become restricted.</p> <p>Current high rates of inflation coupled with higher interest rates than have been seen for a number of years likely to have wider impact on community and businesses</p>	01/04/2017	3	4	12	<p>Kent-wide working to understand, plan for and react to pressures.</p> <p>Regular review of;</p> <p>MTFS reflecting economic factors</p> <p>Treasury Management and Investment strategies.</p> <p>Collection performance for council tax and business rates</p> <p>All staff equipped to be able to work from home and deliver public services and arrangements set out in adopted working policy</p> <p>Delivery of Household Support funds in liaison with KCC</p> <p>Delivery of government schemes (e.g. related to energy) to mitigate impacts on households</p> <p>Whilst inflation remains above BoE levels they now are beginning to fall with stability expected in the next few years.</p>	3	4	12	<p>Council continuing to work with Kent Resilience forum and County Partnership groups as needed</p> <p>Keep Business Impact assessments under review.</p> <p>Business continuity planning updated to ensure smooth running of services to public.</p> <p>Household Support Fund tranche 4 approved by Cabinet July 2023 well underway and on track to be spent by March 2024.</p> <p>Continued focus on homelessness prevention work. Consultants invited back to advise/comment on progress made and further work needed (Dec 23). Report to Housing & Planning Scrutiny Select Committee Dec 23 on options for TA provision.</p>	N/A - external risk.	Chief Executive / Director of Finance and Transformation/ Management Team		Feb-24
4	Corporate Strategy	F, R, S	<p>The lack of an up to date Corporate Strategy would lead to a lack of strategic direction for the Council, and lead to a lack of clarity about priorities, and the ability to meet objectives and make savings.</p>	04/01/2017	4	3	12	<p>Following the Peer Challenge Review (PCR), a draft Corporate Strategy was produced and benefited from staff consultation in November 2022 and Cabinet and O&S consideration ahead of going out to public consultation in Jan-Feb 2023. The findings from this consultation, along with aligned KPIs and draft Annual Action Plan went to Cabinet and O&S in Spring 2023 and the final version was approved by Council in July 2023. KPIs (including targets, trends and benchmarking) will continue to be reported to MT, SSCs, O&S and Cabinet on a quarterly basis. A report covering progress on the Annual Action Plan and the refreshed plan for 2024/25 will be presented in Spring 2024.</p>	3	2	6	<p>Final adoption of the Corporate Strategy 2023-2027 (achieved in July 2023), along with monitoring of the annual action plan and KPI's that will ensure overview of performance.</p>	The new Corporate Strategy has a vision to "be an innovative and forward thinking council that leads the people and businesses of the borough towards a vibrant, prosperous and sustainable future".	Chief Executive		Mar-24
5	Performance Management	F,R,S	<p>Without an effective performance management framework in place, the authority will not be able to understand any required improvements or achieve value for money.</p>	30/08/2023 (separated from Corporate Plan)	3	3	9	<p>As mentioned above, with the adoption of the new Corporate Strategy, the authority has also set in place new aligned KPIs to monitor progress, and provide detail on direction of travel, and targets. Further work is required on benchmarking and also on instilling the KPIs within the culture of the organisation.</p> <p>At present the KPIs are discussed with Management Team and Informal Cabinet before being shared with the Scrutiny Select Committees, O&S and Cabinet on a quarterly basis.</p>	2	3	6	<p>Further work is being undertaken on benchmarking and also instilling the KPIs and broader performance management within the culture of the organisation.</p> <p>Following the Auditors Annual report for 2022/23, a review of the process of discussing and sharing KPI data is to be undertaken.</p> <p>Internal Audit is being undertaken on Performance Management with the report scheduled for February 2024.</p>	One of the priorities in the new Corporate Strategy is "Efficient services for all our residents, maintaining an effective council"	Chief Executive/ Management Team		Feb-24

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6	Savings and Transformation Strategy	F, R, S	Failure to meet objectives and/or make savings. Impact on quality of service, budget overspends, salami slicing, etc. staff motivation impacted and increased risk of fraud or error. Coronavirus pandemic and the subsequent economic crisis has significant economic implications for the Council, businesses and residents.	01/04/2017	4	4	16	STS reviewed and updated in line with review of MTFS. With regular reports to update MT and Members MTFS and STS updated and approved by Council in Feb 2023. Funding gap estimated to be £1.7m, with tranche 1 of this (£0.5m) to be delivered by April 2024. Interim update of MTFS to Cabinet December 23	3	3	9	The 2023/24 Budget is balanced with contribution to General Revenue Reserve. Subject to receipt of the Finance Settlement for 24/25, this year also expected to be balanced. However, it is expected that after 24/25 once the Fair Funding Review has been undertaken, the position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again. Some savings have been identified in report to Cabinet Dec 23 which have been incorporated into draft budget. Further prospective savings/contributions have been identified, but these are subject to consultation and member decision.	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Chief Executive / Director of Finance and Transformation/ Management Team	↔	Feb-24
7	Local Plan	F, R	Lack of sound legal footing for Plan through inadequacies in evidence base, legal advice or process, including duty to cooperate. Leading to widespread public concern, or risk of failure at Examination. External factors or widespread planning reforms leading to delays to timetable, reputational risks around plan-making and impacts on development management processes through protracted period with no up-to-date plan. Absence of corporate or external co-ordination leading to a lack of infrastructure to support future development.	01/04/2017	4	4	16	Members are updated via informal email updates and reports to the Housing & Planning Scrutiny Select Committee Reg 18 concluded in late 2022 Revised LDS adopted summer 2023 The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirements of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the PI by 30th June 2025. The Council has recently engaged Towers and Hamlins Law Firm to advise and support the Planning Policy Team in order to progress matters up until the Adoption stage of the Local Plan. Proposed informal engagement with members on emerging spatial strategy in Autumn 2023	3	3	9	Regular review of Government policy announcements that may impact on delivery, including housing standard methodology and WMS relating to Planning Ongoing engagement with Counsel Ongoing engagement with Members Regular analysis of budget position Regular analysis of programme - within Policy team on a weekly basis, reporting to Head of Planning/DPHEH bi-weekly.	Local Plan assists in economic growth, delivering the supply of future housing and addressing affordability. Procedures set by National Government	Director of Planning, Housing and Environmental Health	↔	Feb-24
8	Organisational development inc. staff recruitment and retention/skills mix. Impact of loss of capacity caused by recruitment difficulties upon delivery of corporate objectives. Increase in rate of inflation and consequent pressure on level of pay award.	F, R, S	Lack of resources or the right skills to deliver required outcomes, loss of key professionals/senior officers due to pay constraints and pressures, reduced staff morale and quality of work, leading to financial loss, reputational damage and detrimental impact on staff wellbeing.	01/04/2017	3	4	12	Review of staff resources and skills via service reviews. Organisational structure reviews are part of S&TS to achieve efficiency, coordinated service delivery and reflect changing legislative and policy requirements and priorities. New market supplement and 'golden hello' recruitment and retention salary package offer being proposed to General Purposes Committee on 3 July 2023. Focused on the recruitment and retention of RTPi qualified planning staff. Wider market supplement policy to be considered by General Purposes committee in October 2023.	3	4	12	Succession planning along with Development of further skills and expertise through strategies such as shared services and specialist Commissioning. Engagement of external consultants and specialists where required. Resilience and rationalisation of existing structures. Recruitment and retention strategy reviewed by MT. R&R report to be submitted to GP Committee and Council in October 2023 re hard to recruit to posts Pay award for 2023/24 5% for all staff, from April 2023. Backdated 5% to Jan 23 for scales 1-6 Structural reviews approved by Members on an ongoing basis. HR staff recruited with specialist experience in recruitment. This was demonstrated with a revised methodology for the recruitment of the DPEHH and Head of IT. Workforce Strategy approved by General Purposes Committee in June 2022	HR Strategy Savings and Transformation Strategy	Director of Central Services and Deputy Chief Executive/ Chief Executive	↓	Mar-24

Direction of Travel key



Downward or positive movement



No change in movement



Upward or negative movement

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9	Health and Safety	F, R, S	Significant reputational impact should a service user, officer, member or contractor come to harm and TMBC are unable to demonstrate appropriate processes were in place.	01/04/2017	3	4	12	Lone working policy and service based practices to be continuously monitored. Health and Safety considered by management at weekly SMT meetings. Staff involvement with Health & Safety Group Ongoing review undertaken to react to potential key risk areas. Organisational learning and response to national events. Incident and near miss reporting.	2	3	6	Embedding and dissemination of good practice through staff briefings. Corporate Health and Safety Group (chaired by DPHEH) identifying cross organisational issues with feedback to Management Team and Health and Safety Officer. All services have reviewed all their Health & Safety local Procedures in particular Lone working and service specific risk assessments. Staff survey on H&W completed spring 2021, results reviewed and a future survey will be incorporated into general staff survey approach Corporate Health & Safety Policies and procedures are up to date and reviewed regularly which all staff can access. Continuing focus on risk assessment process including reviews as a result of Coronavirus pandemic. Further staff wellbeing survey to focus on working at home and wellbeing.	Staff wellbeing and customer care underpin the Council's fundamental service and corporate objectives	Director of Planning, Housing and Environmental Health		Mar-24
10	Compliance with legislation	F, R	Failure to meet legislative requirements or statutory obligations may result in loss of personal data, financial penalties and/or damage to the Council's reputation.	01/04/2017	3	4	12	The Council has a nominated Data Protection Officer and a separate Senior Information Risk Owner (SIRO) Assessment of Legal implications included within all reports to Members. GDPR requirements are addressed by two officer groups, Information Governance Group and Procurement OSG, which includes Legal representation. CPD and Professional Monitoring offered to all staff The Council has undertaken both Corporate Governance and GDPR reviews / audits. Code of Corporate Governance reported to members on an annual basis. Legal Services give sign off of key corporate projects	2	3	6	The Council continues to disseminate new legislative requirements to both Officers and Members. Officers ensure that professional update training is undertaken. Members received GDPR training in July 2018, with all officers completing e-learning on GDPR by May 2018. GDPR training is a requirement for all new starters and is offered through the TMBC Learning portal. Revised constitution approved by Members in July 2019. Further amendments submitted since that date to Council as and when required. Governance changes approved in April 2022 led to further revisions to Constitution. Regular review by Monitoring Officer and reports to full Council (most recently at Council in July 2023). Additional GDPR and Cyber Awareness Training rolled out to all staff and members (July 2023).	Information Governance Policy	Director of Central Services and Deputy Chief Executive		As required

Direction of Travel key




Downward or positive movement



No change in movement



Upward or negative movement

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11	Cyber Security	F, R	Loss of data and legislative breach, leading to financial penalties and reputational impact.	01/04/2017				The Council has; Information Security Policy deployed via Policy Management System. Implemented network security measures including access controls. Considered cyber insurance. Established an Information Governance Group. Appointed a Member Cyber Champion. Rolled out Cyber awareness training to all staff and Members via eLearning. Deployed 'Next generation' Palo Alto firewall technology for improved visibility and control. Deployed software solution to identify potential confidential data held on file servers. Deployed DLP software at email egress point. Implemented secure email in accordance with NCSC guidelines. Maintained dual level firewall security with the KPSN gateway being primary and the Council's own firewalls secondary. Implemented Solarwinds Security Event Manager. 1 member of IT team obtained Certified Information Systems Security Professional (CISSP) qualification October 2020. Implemented cloud backup and DR facilities to improve resilience; and embedded cyber security into DR and BCP processes. Continued to monitor Cybersecurity alerts via LGA Cyber Security email; through membership of NLAWARP and CiSP; and attending information sharing events such as Kent Connects Information Security Group. Cloud based web and email filtering has been deployed to improve availability and resilience. Completed firewall ruleset review following migration to Cloud to ensure our configuration is in line with best practice guidelines. Carried out phishing simulation exercise as first phase of awareness training for staff and members, to highlight areas of risk and to identify training needs. Subsequent online training sent out to all staff and members. Carried out phishing training quiz for all staff as second phase of phishing awareness campaign. Quiz was extended to Members although take-up has not been as successful. Further training to be targeted. Developed and deployed wallpaper/ lock screen to all TMBC laptops and PCs, with cyber security reminder to further reduce risk by increasing awareness. Head of IT appointed Senior Information Risk Owner (SIRO) from October 22. This role has responsibility for information and data risk and protection. Obtained Cyber Essentials accreditation in November 2022, demonstrating that our technical controls are designed to defend against the most common cyber threats. NCSC approved cyber security training has been evaluated and made available via the Council's new LMS. Achieved 'Substantial' rating for Cyber Security at Internal Audit Report TM19-2023 & TM07-2023 - Cyber Security and ICT Infrastructure (Combined Report).				The Council has; Prioritised the resources (both financial and staff) to ensure relevant updates and security mitigations are carried out in a timely manner. Scheduled annual IT Health Check (ITHC), quarterly PCI scans, and monthly vulnerability scans, feeding into remediation plans. July 2022 PCI scan passed. Investigating and resolving detected security issues from last ITHC 8/8/22 - 12/8/22. New ITHC completed August 2023, including the TMBC Microsoft 365 environment, report pending. Regular email messages are sent out to all staff and Members on cyber security vigilance. Continuing to investigate emerging threats and cyber alerts, communicating with 3rd party suppliers to check compliance/obtain security updates and implementing mitigations as required to reduce likelihood of compromise. Training for IT staff on security aspects of Cloud environment is underway. Investigating further improvements to DR capability with specific regard to recovery from cyber incidents. Ensuring new staff have been invited to undertake training cyber security training. Further training and audits will follow to ensure the Council is as aware and prepared as possible to respond to potential cyber attacks. Continued ongoing development training to ensure that knowledge is kept up to date. An in-depth phishing training package, to highlight specific risks and increase staff awareness, was been deployed to all staff. Completed by 76% of staff. To be followed up with phishing exercise in Q3. Procured NCSC approved cyber security training for Members from Matobo. Mandatory training deployed to Members August 2023. Completed by 4 members as at end November 2023. Deployed NCSC approved cyber security training for Staff from Matobo. Mandatory training, completion being monitored and reminders to be sent as required. Completed by 238 staff as at end of November 2023. We are currently working towards meeting requirement for resubmission for Cyber Essentials accreditation. Enrolment and management of devices in Intune now live and working towards deployment of all line of business apps as a replacement for SCCM and to leverage additional security features including network blocking when malware is detected, and enforcement of encryption as a potential replacement for Checkpoint. Test restore to sandbox environment carried out November 2023 to validate our ability to recover successfully from a cyber incident. Areas for improvement identified, documentation of process underway and training for all technical support staff planned. Further phishing exercise run November 2023 for all staff and Members to check for improvement in detection following training.	IT Strategy	Director of Finance and Transformation		Mar-24

Direction of Travel key



Downward or positive movement



No change in movement



Upward or negative movement

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12	IT Infrastructure	F, R	Failure to adequately invest resulting in inability to keep pace with technological change, leading to systems that are not fit for purpose to meet organisational need.	01/04/2017	3	4	12	<p>IT Strategy has been reviewed, updated and extended to 2023 (previously 2018-2022) with linkage to MTFS and Savings and Transformation and Digital Strategy.</p> <p>Invest to save opportunities and funding identified and projects have been initiated.</p> <p>Digital Strategy - developed and approved by Members in July 2019.</p> <p>Replacement of legacy business systems and greater use of digital alternatives (cloud based) projects have been initiated.</p> <p>Disaster Recovery solution (cloud based) has been implemented.</p> <p>All staff are able to work remotely via laptops and secure 'always-on' VPN.</p> <p>iPads and required software rolled out to Councillors, MT Members, Senior Management and in-field Staff.</p> <p>Data quality policy has been introduced to ensure improvement and efficiency can be achieved.</p> <p>Introduced Microsoft Teams for virtual meetings for members and staff.</p> <p>Implemented hybrid media conferencing solutions for on-site and remote workers.</p> <p>Multi-factor authentication solution enabled for remote access to O365 to improve security and business continuity.</p> <p>Migrated Telephony to the Cloud to improve business continuity and functionality.</p> <p>Multi-media Cloud based Contact Centre management solution implemented to improve functionality, availability and business continuity.</p> <p>Migrated production environment from on-premises to Cloud to improve and sustain business continuity and service availability.</p> <p>New CMS solution and website implemented to improve digital engagement for residents and businesses.</p> <p>Implemented cross-region Cloud backups for the new Cloud production environment to improve resilience.</p> <p>Implemented 'My TMBC' mobile app facilities to enable proactive and responsive engagement with residents and businesses in parallel with the Council's new website.</p> <p>Implemented corporate/enterprise document management system.</p> <p>VPN migrated to Cloud and Multi-factor authentication implemented for remote access over VPN to improve security and business continuity.</p> <p>All staff migrated to Office 365 to improve flexibility and reliability.</p> <p>MFD equipment and associated print management software renewed in March 2023.</p> <p>Microsoft Enterprise Subscription Agreement re-procured; new 3 year contract from June 2023.</p> <p>Licenses migrated from E3 to E5 to provide additional functionality and improved security features.</p> <p>Implemented the use of AI bots for automation of switchboard via the multi-media Cloud Contact Centre solution, in line with the Digital Transformation agenda in March 2023.</p> <p>Implemented new DR sandbox subscription in Azure Cloud IaaS in June 2023 for testing restore from backup to provide assurance of the Council's ability to recover critical systems and data.</p> <p>Achieved 'Substantial' rating for ICT Infrastructure at Internal Audit Report TM19-2023 & TM07-2023 - Cyber Security and ICT Infrastructure (Combined Report).</p> <p>On-premises firewall hardware has been renewed and additional software solution has been implemented to improve and simplify management of all firewall configurations on premises and in the cloud.</p>	3	4	12	<p>Active engagement of Officer and Member Groups in the implementation of digital agenda and changes to the Website format and content.</p> <p>Mobile working solution for in-field workers currently being developed and undergoing field testing.</p> <p>Further development of corporate/enterprise document management system and expansion in usage across the Council is being planned.</p> <p>Further development of the multi-media Cloud Contact Centre solution, to exploit state of the art technology and features to improve customer experience in line with current industry standards, is in progress. Wider use of AI bots for automation of contact centre endpoints is currently under development.</p> <p>Implementation of an immutable backup solution to improve resilience to cyber-attack is completed. All VMs in the Cloud and on-premises are being successfully backed up. Work required to improve Oracle backups is progressing and approaching testing stage.</p> <p>Replacement of Varonis GDPR solution with features available in Microsoft E5 licenses is currently in test, to simplify management and reduce costs.</p> <p>Review of wired and wireless network infrastructure, in line with planned Gibson Building accommodation changes, is in progress. Proposals and quotations requested from suppliers.</p> <p>Planning migration from Server 2012 R2 in line with EOL notification. To be completed by end of Q2 2023/24 for on-premises VMs. Azure hosted VMs have up to 3 years extended support for 2012 R2. Upgrade of on-premises servers is underway and on target for completion by October.</p> <p>Review of end user IT equipment is underway to inform future device policy.</p> <p>Implementation of Agile Applications cloud based solution as a replacement for IDOX DMS, Uniform and TLC is underway to provide a cost-effective and modern service delivery platform.</p> <p>Digital Strategy and IT Strategy currently under revision.</p> <p>iPad renewals for Members is nearing completion. 2 outstanding at end November 2023.</p> <p>Laptop renewals project has is under way for equipment that is due to be replaced in Q4 to ensure end user equipment is fit for purpose. 1 batch of equipment delivered and being imaged.</p>	IT Strategy	Director of Finance and Transformation		Mar-24

Direction of Travel key



Downward or positive movement



No change in movement



Upward or negative movement

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13	Business Continuity and Emergency Planning	F, R, S	Failure to provide statutory service or meet residents' needs resulting in additional costs, risk of harm and reputational impact. Impact/pressures on services and resources. Failure to ensure proper safeguards to prevent or to respond adequately to a significant disaster/event e.g. terrorist attack at a large scale public event or fire.	updated January	3	4	12	The Council has in place; Business Continuity Plan. Corporate Business Continuity Risk Register Emergency Plans Disaster Recovery Plans Inter-Authority Agreements Mutual Aid Agreement Partnership agreement with Kent Resilience Team. Emergency Planning Support Officer. Duty Emergency Coordinator System and Duty Officer System introduced to provide greater resilience. Covid Secure rest centre plan has been developed	3	4	12	Emergency planning documentation undergoing constant review and key aspects exercised . Increase % of staff trained in roles identified in the Emergency Plan Training organised by Kent Resilience Team . Business Continuity working group established to review and update existing Plan. Updated plan to be considered by Management Team and tested by a training exercise. Duty Officer rota in place to support Duty Emergency Coordinators out of hours. All staff fully trained before commencing duties. Out of Hours Manual reviewed and regularly updated. DSSLTS sits on Kent Resilience Forum Strategic Board. Actions taken in response to the Covid 19 pandemic will be reviewed and lessons learnt for the future. Any approved changes will be reflected in the Corporate Business Continuity Plan. Business Continuity Group including all members of Management Team meets twice weekly to oversee and coordinate response to pandemic. Annual Emergency planning review to be reported to Management Team. Pandemic response dealt with as emergency through Kent Resilience Forum. Reports regularly presented to Cabinet. More detailed reports covering Review Reorientation and Recovery presented to relevant Advisory Boards. Recruitment into roles in the Emergency Plan is on-going. Emergency Planning Officer's hours increased to full time during pandemic. Virtual Emergency Management systems are being developed to allow a virtualised Emergency Control Room and data handling.	Business continuity underpins the delivery of the Council's essential services	Director of Street Scene, Leisure & Technical Services		Mar-24
14	Devolution	F, R, S	Uncertainty about future operating models and changes / opportunities in responsibilities or service provision leading to financial pressures, impact on quality of services, reputational damage.	01/04/2017	3	3	9	Continual scanning of national / regional and Kent wide agenda by CE / Corporate Services manager. Participation in county wide debate via Joint Kent Chief Execs and Kent Leaders meetings. Update DEC 18 - County wide devolution discussions have been formally ceased. Horizon scanning and continued participation in Kent Leaders and CE meetings is ongoing. County Deal discussions are invited and Kent Leaders are giving preliminary considerations albeit that there is no agreed view at this stage.	3	3	9	White Paper on Devolution is to be published in the Autumn. Analysis of this will be a priority action. This is now replaced by the anticipated "Levelling Up" prospectus in 2022	External risk/national issue	Chief Executive		As required

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15	Partnerships inc. shared services	F, R, S	<p>Reliance on partners to deliver key services, including private sector companies. Could include specific partnership or shared service models such as the Leisure Trust and risks around service delivery and impact on staff morale / retention if base moves from TMBC . Potential resistance to shared services / partnerships impacting on ability to deliver Savings & Transformation Strategy. Private sector partnerships failing having consequences for service delivery.</p> <p>Coronavirus pandemic has significant economic implications for the Council, businesses and residents.</p>	01/04/2017	2	3	6	<p>Regular liaison meetings with partners. Partnership Agreements in place and reviewed as appropriate.</p> <p>Good communication with staff.</p> <p>Officers maintain awareness of issues relating to private sector partners and plans formulated for service delivery in the event of failure via business continuity.</p> <p>KCC undertaking Audit and Fraud function from 1 October 2021 on a newly agreed delegated functions arrangement. As previously report to Audit Committee and Cabinet, this arrangement will provide greater resilience and breadth of experience/knowledge.</p> <p>Partnership work and liaison with key voluntary sector groups will continue via community development meetings in priority wards.</p> <p>Economic stability of major partners appears to be on a better footing now that effects of Covid and Inflationary pressures have now reduced.</p>	2	3	6	<p>Strengthening of the West Kent Partnership, including joint delivery of economic initiatives through the UKSPF and REPF, as well as creating a greater focus on promotion and inward investment. Work needed on improving governance.</p> <p>New Waste Services Contract in partnership with Urbaser, TWBC and KCC commenced 1st March 2019. Formal Inter Authority Agreement and Partnership Agreement in place.</p> <p>Ground Maintenance Contract extended in light of good performance of contractor.</p> <p>The Council is working within guidance issued by Cabinet Office "Guidance on responsible contractual behaviour in the performance and enforcement of contracts impacted by the Covid-19 emergency " and Procurement Policy Notes to support contractors and suppliers.</p> <p>The Council will continue to administer the grants to key voluntary sector bodies, with progress to be reported annually. Additional Government grants as a result of the response to the pandemic (Emergency Assistance Grant and Covid Winter Grant) will be promoted to local voluntary sector organisations and applications for funding will be agreed.</p>	Savings and Transformation Strategy	Chief Executive		As required
16	Welfare reform inc. Housing need	F, R, S	<p>Safeguarding impact on TMBC residents due to reduction in benefits, introduction of UC and increase in applications for DHP, etc. Failure to adequately understand and meet housing needs and return unsuitable properties to use leading to increase in homelessness or occupation of unsuitable homes. Financial impact of increased emergency accommodation and failure to maximise new homes bonus.</p> <p>Current economic situation has implications for residents and businesses with high inflation and increasing interest rates.</p> <p>Ukrainian refugee temporary resettlement program - We are awaiting full guidance on Local Authority responsibilities. Kent Resilience Forum are acting as</p>	01/04/2017	4	3	12	<p>Cross sector working (e.g. welfare reform group) to identify issues and solution.</p> <p>Providing advice to residents on welfare and housing issues, or signposting to relevant providers.</p> <p>Working with partners to identify land and funding opportunities.</p> <p>Working with Registered Provider Partners to ensure needs of residents are being met.</p> <p>Working with owners to bring long term empty properties back into use.</p> <p>Work with consultancy firm Altair on options for longer term TA provision</p> <p>commissioned consultancy work in respect of Homelessness function (TA)</p> <p>Concessionary charges for key services. EQIA assessment of key decisions included in all Board reports.</p> <p>Council rolled out energy schemes on behalf of government</p> <p>Signposting now to UC rather than HB for new working age claimants. Keeping track of welfare statistics</p> <p>CTR Scheme approved for 23/24 . Government council tax support of up to £25 being credited to bills for those on lower incomes</p> <p>Household Support fund tranche allocated by KCC</p> <p>Councils asked to administer further energy support schemes on behalf of government</p> <p>New housing panel in place to work alongside RPs in considering best use of available properties.</p>	3	3	9	<p>Improved working with TA providers leading to more guarantees of available accommodation and developing a TA Procurement Strategy</p> <p>Improved working with main housing provider to identify trends/specific cases across borough to jointly agree approach to preventing homelessness using housing provider mechanisms, DHP payments and homeless prevention funding where needed.</p> <p>Consideration by Members of report from Altair on options for TA provision (Dec 23)</p> <p>Continue to facilitate Welfare Reform group and widen participation from external partners so as to ensure best support for those affected by welfare reforms in T&M.</p> <p>Work with Kent councils collaboratively to ensure grants and support targeted to those most in need</p> <p>Continued focus on homelessness prevention</p> <p>Consideration of use of DHP to encourage downsizing to free up under occupied property. Report to be brought forward to Members in due course</p> <p>Focus on Empty properties in the Borough and how they can be brought back into use. Report targeted for March 24</p> <p>Deliver District responsibilities of Ukrainian resettlement scheme.</p> <p>Continue to deliver payments in respect of latest Household support fund Tranche 4 in liaison with KCC. On track to spend by March 24</p>	Promoting Fairness - acting transparently at all times and being accountable for what we do, and promoting equality of opportunities. Embracing Effective Partnership Working - achieving more by working and engaging effectively with a wide range of local partners from the private, public, voluntary and community sectors.	Director of Finance and Transformation/ Director of Planning, Housing and Environmental Health		Feb-24

No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
17	Political factors including stability of political leadership and decision making	F, R	Decisions required to achieve objectives including corporate strategy and savings and transformation may not be made and therefore required savings not achieved.	01/04/2017	4	4	16	Significant focus on temporary accommodation and in borough provision as well as framework agreement with private providers. Close liaison with Leader, Deputy Leader and Cabinet in developing the Savings & Transformation Strategy. Clear and comprehensive reports to support Members in making appropriate decisions to support the S&TS.	3	3	9	Member briefings and training sessions. Training for Officers has been arranged for September 2023 by the LGA - 'working in a no overall control council'	Underpins delivery of overall strategy and Savings and Transformation.	Chief Executive		As required
18	Flooding	F, R, S	Impact on resources to support emergency planning, financial impact due to damage, loss of resources, etc. Residents and staff put at risk of harm. Impact on key flood risk areas - Tonbridge, Hildenborough, East Peckham and Aylesford.	01/04/2017	3	4	12	Working with partners through the Medway Flood Partnership (including EA/KCC/LEP) to secure funding and implement flood defence schemes which will reduce risk of future flooding, including LEHES and property resilience works at East Peckham. Assistance provided to Parish/Town Council's to help develop local Flood Plans. Team of Volunteer Flood Wardens in place.	3	4	12	Work with partner organisations via Kent Resilience Forum and the Medway Flood Partnership continuing. Council Officers dial into Severe Weather Advisory Group meetings. Regular attendance at KRF training sessions. Ongoing support for Tonbridge Flood Group. Funding allocated in Council's Capital Plan to support works to Leigh Flood storage area which will be completed by 2025. £20,000 from Business Rates Retention Pilot Reserve approved for Natural Flood Management Schemes in the Borough (Leybourne Lakes and Ightham Mote). Leybourne Lakes Scheme has been delivered.	Emergency Plan Civil Contingencies Act 2004 Kent Emergency Response Framework West Kent Partnership and Medway Catchment Partnership	Director of Street Scene, Leisure & Technical Services		Mar-24
19	Homes for Ukraine Scheme	F, R, S	Districts are required to undertake home assessments for potential host households to support Ukrainian refugees fleeing the conflict. Increased workload expected as likelihood of breakdown in housing arrangements as we approach the 2 year mark (and the end of thank you payments to hosts). There is a risk of homelessness and duty to place in T.A. therefore work needs to be undertaken to or support into private rented sector. This is an escalating risk given the longevity of the hosting arrangements. As of 1 April 2023, TMBC have taken on wider support role for Ukrainians in the borough under HFU scheme.	01/09/2022	4	4	16	Some reserve host families have been identified but larger families pose a bigger risk. Re-matches are unsustainable in the longer term. Work underway to support more families into PRS.	3	4	12	Additional support into Private Rented Sector required. Full time Resettlement Worker now in post.		Chief Executive		As required

No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
20	Waste/ Recycling Contract	F, R, S	<p>Failure to provide new service and deliver described outcomes in accordance with contract timescales and health and safety obligations. Significant reputational risk. Risk of challenge from tenderers.</p> <p>Failure to achieve financial targets for garden waste and performance payments scheme linked to changes in collection and disposals methods explained below and links to finance above.</p> <p>Coronavirus pandemic has significant economic implications for businesses and residents.</p> <p>Future sustainability of contract.</p> <p>Risk associated to the outcome of current government consultations on three waste aspects (Collection Consistency, Garden Waste and Extended Producer Responsibilities). Potential for alteration to levels and mechanisms for Council income associated to these areas including, but not restricted to, KCC Performance Payments and Garden Waste Subscriptions, this links to the Council's long term financial stability</p>	01/07/2018	3	3	9	<p>Partnership arrangement with TWBC, with allocation of key tasks.</p> <p>Internal Project Group reporting regularly to MT and Members.</p> <p>Joint Member meeting established with TW's to guide strategic approach</p> <p>External advice sought from specialists on key decisions including Legal.</p> <p>New inter authority agreement with KCC encourages improved recycling performance and shares risks and rewards.</p> <p>IT, Communications and Operations identified as crucial work streams and individual working groups established to manage and implement these work areas.</p> <p>Waste services have been affected by pandemic and national HGV shortage. Agreed with contractor to temporarily ceasing collection of garden waste, Saturday freighter and bulky waste booking system for a period of time to allow focus on recycling and general waste. Garden Waste and bulky booking has resumed.</p> <p>With regard to garden waste collections, residents will have subscriptions extended to compensate.</p> <p>New GW subscriptions were reinstated on 4.04.22.</p> <p>Street cleansing was not suspended but has been impacted as other services have taken priority.</p> <p>Council recently approved supplementary payments, financial support in relation to vehicle leasing. This will enable re-rounding to progress leading to improved service.</p> <p>Consultations currently being monitored through the KRP and updates being channelled through the Kent Chief Executives meetings</p>	3	3	9	<p>Continuation of Partnership working with TW's and monitoring through established Steering Group.</p> <p>Continuation of Member working group to steer strategic approach.</p> <p>Contract monitoring and the firm use of remedies to improve performance including the contractual default procedure.</p> <p>CE's continuing to liaise with Urbaser to discuss future sustainability of the contract.</p> <p>Monitor and phase roll out to flats and any impact of other frontline collections.</p> <p>Reports on progress submitted to appropriate meetings/committees</p>	Delivery of cost effective service to meet customer needs.	Director of Street Scene, Leisure & Technical Services	Downward	Mar-24
21	Implementation of Agile system	F, S	<p>Service impacts from level of staff time required to develop the Agile product for use as operating system.</p> <p>Significant level of concern from staff about implementation process results in a lack of confidence in implementation, which will adversely impact service delivery and record keeping</p>	01/11/2022	5	3	15	<p>Programme of liaison meetings with Agile in place including Board and weekly catch ups</p> <p>Employment of Business Change PM to manage project on behalf of TMBC and coordinate all issues</p> <p>Weekly meetings with CM for Finance & Housing, who is the Cabinet Lead for Agile.</p> <p>Internal meetings with staff, managed by Business Change Project Manager</p> <p>Issues log in use</p> <p>Issues escalated to Agile management</p> <p>APAS (Planning) Module now live. Placis Module currently in implementation phase</p>	2	2	4	<p>Further escalation of issues to Agile CEO</p> <p>At least 3 stand ups per week between Business Change PM and SRO (DPHEH) in September to oversee APAS go live by end of September</p> <p>Request for PLACIS delivery plan to be populated by Agile by 8 Sept made by CE and Cabinet Member</p> <p>Weekly review of project plan and considerations of service impacts required to meet go live programme - to be reported into MT on a regular basis</p> <p>Completion of all modules.</p>	Digital Strategy	Director of Planning, Housing and Environmental Health	Downward	Mar-24

Direction of Travel key



Downward or positive movement



No change in movement



Upward or negative movement

No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
22	Elections	R	Failure to comply with legislation, miscounts and significant reputational impact.	14/12/22				Ensure experienced staff are in place, corporate team reviewing activity and monitoring progress.				Broadening of staff skills and experience to build resilience. Discussions on core staffing for Elections and use of more IT modules to reduce workload and progress digital transformation Increase in temp staffing resources to mitigate delayed implementation of two IT system modules. Following elections this needs to be reviewed. Implementation of changes to Postal Votes portal and new application forms, changes to Proxy votes, Overseas electors, EU Citizenship. Core team keeping up to date with all notifications from EC and Cabinet Office and undertaking any training required. Changes to Parliamentary Boundaries to be completed this year including a further Polling District review. DA waiting for final recommendations to be able to implement. Changes to Register 1/2/24. MT horizon scanning on any increased chance of snap General Election. RO and DRO's assessing risks. Risk has diminished at the moment.	Statutory requirement	Chief Executive		Mar-24
23	Carbon Neutral 2030 Aspiration	F, R, S	Significant reputational risk, particularly if other similar councils have achieved similar goals or targets. Significant financial cost to purchasing offsets to meet carbon neutral. High cost of increased frequency and intensity of extreme events (floods, heat waves) that increase costs and disrupt service delivery.	01/09/2023	5	3	15	Development of climate evidence (e.g. for the Local Plan), partnerships (residents, community and other Councils) and pathway analysis to support move towards transformative and larger scale emissions reductions Increased contributions to Climate Change Reserve to Support match funding as well as capital projects.	3	2	6	Ongoing commitment by Members, senior management and services to new actions beyond "business as usual". Improved understanding of financial returns from climate mitigation measures that can be reinvested. Innovative thinking and delivery of services and mitigation options. Successful outcomes in bids for significant additional grant funding. Funding is dependant on successful appliactions and awards being achieved, otherwise Council Resources will be needed. Gap analysis report being prepared for Overview and Scrutiny Committee in January 24.	Climate Change Strategy, Corporate Strategy 2023 - 2025	Chief Executive		January 2024 (ahead of next climate change action plan)
24	Waste/Recycling Income	F	Risk associated to the outcome of current government consultations on three waste aspects (Collection Consistency, Garden Waste and Extended Producer Responsibilities). High potential for alteration to levels and mechanisms for Council income associated to these areas including, but not restricted to, KCC Performance Payments and Garden Waste Subscriptions	01/09/2023	4	3	12	Consultations currently being monitored through the KRP and direct through DEFRA briefings/updates by Waste and Financial Services and updates being channelled through the Kent Chief Executives meetings.	3	3	9	Whilst consultations and implementation plans will be monitored, the influence on government policy may be limited. This restricts the ability for the Council to directly control the level of this risk and is why the risk remains the same following mitigations.	Statutory Requirement	Director of Street Scene, Leisure and Technical Services		Mar-24

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Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified		Background	Removed or ongoing	Reason for removal / ongoing
Central and Exec	Homes For Ukraine Scheme	Moved to Strategic Risk Register		
	UKSPF Programme (inc. REPF)	Having had our T&M Investment Plan approved by DLUHC, implementation of projects required over the next few years (up to March 2025)	Ongoing.	Need to keep under review to ensure that delivery on track so that future years funding is not compromised (based on annual funding award). Report to MT in November 2023 setting out progress.
	Gibson Building - unable to deliver financial saving which has been assumed within MTFS	Cabinet agreed in Sept 2022 that the main offices of the Council should remain located at Kings Hill and that Officers should investigate the feasibility of progressing option 4 set out in the report.	Ongoing.	Need to keep under review to ensure that changes in office accommodation deliver value for money and deliver identified savings.
	Tonbridge Castle Gatehouse Roof - costs of resolving roof issue	Water ingress from roof in Great Hall. Feb 2023 rot discovered in roof beam ends. Facility now open following completion of remedial works in July 2023. Permanent works in autumn 2024 to now be scoped	Ongoing	Extent to permanent works required still unknown and therefore operational and financial risk remains
	Elections	Introduction of Elections Bill changes Tranche 2	Ongoing.	Further Election Bill changes, including new Postal vote portal being introduces, Postal vote renewals changing to every 3 years Proxy Vote changes. Overseas electors renewal every 3 years, changes to EU citizenship eligibility
	Elections	Move over of Election calls to Customer Contact	Ongoing.	Hope to move over all election calls to Customer Contact before 8July. Training being undertaken and FAQS being written and shared. To be reviewed April/ May 2024
	Elections	Changes to Parliamentary boundaries	Ongoing.	Increased work load to implement changes and more complex for running future Parliamentary elections, due to sharing constituencies with other authorities. Further review of polling districts. Consultation to start 1/12/23, changes made to register 1/2/24
	Elections	Pending Parliamentary Election	Ongoing	Parliamentary Election has to take place by 25/1/25, no set date, can be called at any time.
	Climate Change Action Scorecard	Climate Emergency UK conduct an annual review of all local authority's climate actions. For 2022-23, the Right to Reply process revealed that TMBC is likely to score only around 25% and, as such, we should expect to be one of the lower scoring authorities. Climate Emergency UK will seek national media coverage for its findings and publish its results in Autumn 2023, posing a reputational risk to TMBC.	Ongoing	Scorecard results not yet published so level of media interest and final TMBC score unknown. Climate Emergency UK will carry out the annual process again for 2023/24 and while some further actions will result in a higher score (e.g. we have started climate literacy training) it is hard to assess progress relative to other authorities at this stage.

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified		Background	Removed or ongoing	Reason for removal / ongoing
Finance and Transformation	IT Security (formerly COCO Compliance)	Review of IT Infrastructure identified several areas of weakness for IT standards compliance	Ongoing	Number of risk removed, expected that remaining risks, once removed, will allow full compliance.
	Economic Stability	Economic issues surrounding Council Finances	Ongoing	Part of Strategic Risk Register.
	Recruitment of staff	Recent resignations will cause vacancies in several sections.	Ongoing and updated	Recruitment has commenced on vacant posts but it is likely that vacancies could last for several months. The vacancy in one section creates a 20% loss in capacity at a time of year with heightened resource requirements.
	Corporate Insurance	Increases and changes to premiums for 2023/24 insured year	Ongoing	The Councils Insurers have made changes to the charges included within the premiums. Therefore changes will be required to capital and revenue project evaluations to include insurance assessment.
	Payroll	Key information being supplied to Payroll in a timely manner, causing risk of staff and members not being paid.	Ongoing.	The Payroll Team pay over 250 Staff and Councillors on a monthly basis. Due to the date of payment, being the closest working day to the 15th of the month, information to be included in the pay run must be received no later than three working days into the month. In recent months some delays have occurred on the submission of data due to incomplete or incorrect information being supplied. This has jeopardised the payment to all staff requiring additional unsocial hours to be worked by the payroll team.
	IT Resources	Resource capacity for Development Staff	Ongoing	The current demands on IT Development Staff are placing increased pressures on the resource capacity on the staff given competing demands of corporate systems being reviewed and implemented.
	GDPR Compliance findings	Redacted information being stored with unredacted information	New	Access being restricted and will be removed once uniform is fully deactivated.
	Security and Access to Information	Access to information with shared access with DWP	Ongoing	Review of staff access to be carried out and further additional checks to be carried out.
	Preparation of Windmill Lane, Gypsy and Traveller Site transfer	Site due to be transferred back to TMBC control from Kent County Council.	New	Preparation for financial information and recording needs to be established, tested and implemented.
	Supported Accommodation	Change in KCC approach for care need could have impact on ability to recover Housing Benefit Subsidy	Ongoing	The Supported Housing (Regulatory Oversight) Act 2023 came in to force August 2023. Assessment of the act is ongoing and a consultation will be undertaken on responsibilities to be allocated to Local Authorities and other partners.

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified		Background	Removed or ongoing	Reason for removal / ongoing
Planning, Housing and Environmental Health	Temporary Accommodation (TA)	TA consultancy review undertaken Dec 2021, actions implemented in 2022. Cost of living crisis and DA legislation implementation are impacting on maintaining TA levels within the agreed range.	Ongoing	TA costs remain high, as does level of need. Project underway to look at sustainable TA portfolio approach to help manage unit costs for TA. This is alongside ongoing work/training in service to support demand.
	Temporary Accommodation (TA)	Personal injury claims	Ongoing	Updated inspection regime being developed by officers.
	Food & Safety	Increased risk of food complaints/poisoning. Additional resources to manage backlog of inspections.	Ongoing	During the Covid-19 crisis the ceasing/reduction in the food hygiene inspection regime may result in food safety issues. There will also be a backlog of food safety inspections due to restrictions on visiting/businesses closed. Agreed catch up programme in place utilising COMF funding.
	Increased number of planning appeals/inquiries	Application determination timescales not being met, more speculative development, creates reputational risks and increases likelihood of appeals.	Ongoing	Volume and complexity of applications coming forward in parallel with local plan progression and given current uncertainties in timescales for adoption. MT agreed agency planning funding for short term. Head of Planning conducting service review summer 2022
	Staffing challenges in Planning services	Ongoing recruitment and retention difficulties in the sector and in T&M specifically. Several recruitment campaigns carried out.	Ongoing.	MT agreed that development of a Workforce Strategy will include recruitment and retention. Part 2 report to GP in July 2023 to look at immediate pressures. This will likely be followed by a new recruitment campaign and therefore this risk remains.
	Windmill Lane Gypsy Site	KCC have requested return of management of this site (which is already owned by TMBC) to TMBC on 31 March 2024. This is part of a programme of returns to districts of their owned G&T sites. Initial discussions about management issues and costs have been undertaken.	Ongoing	The return requires Member approval, proposing that this happens via Cabinet in Jan 2024. There are a mixture of Property and Housing risks relating to this potential transfer. Officers are awaiting detailed information from KCC on maintenance costs, the detailed works schedule for grant funded improvements that are scheduled to complete before end of financial year and rent roll. TMBC will require a management arrangement for the site, which is being explored with neighbouring authorities as well as external providers. There will also be a requirement for the Council to have a G&T Allocation Scheme. Risk that the approach to management of this site is not fully in place before the proposed transfer, which could cause liability issues. Also need to consider specific equalities considerations for this group of residents.
	Local Plan	Reg 18 carried out in Autumn 2022. Changes to NPPF and proposed changes to system via LURB published December 2022. Assessing options for delivery of a Local Plan.	Ongoing	Members to make a decision on a revised Local Development Scheme in Summer 2023. This is subject to a number of challenges including ongoing delays in Govt announcements on national planning policy. The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirement of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the Planning Inspectorate by 30th June 2025. The Council has recently engaged Trowers and Hamlins Law Firm to advise and support the Planning Policy Team up until adoption stage.

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified		Background	Removed or ongoing	Reason for removal / ongoing
Street Scene, Leisure and Technical	Bridge inspections	Bridges on Council owned land identified as service risk. Internal Officer Group established and bridge audit progressed. Identified as Service Pressure Aspiration. Revenue budget approved to inspect and repair bridges over 2 years and annual inspections to be progressed. Structural assessments being undertaken.	Ongoing	Second year programme of work currently being progressed. Further survey undertaken and report to be analysed. Remembrance Garden and Maintenance bridges reassessed to check if structurally stable. Remembrance Garden bridge confirmed safe for 5-7 years, Maintenance bridge confirmed safe for 3-5 years. Structural assessment being undertaken re Haysden Country Park bridge replacement.
	Pay & Display machines	Continual issues with contractor, G4S in terms of cash collection.	Ongoing	Considering alternative options as very few companies in market place willing to undertake work.
	Phone Signal	CEOs having difficulty enforcing parking in Tonbridge and customers having issues accessing Ringo due to deterioration in mobile phone signal.	Ongoing	Multi-network sim cards issues to CEO's and liaison taking place with service providers.
	Garden Waste invoices	Delay in invoices being issued to subscribers wanting to renew due to IT issues.	Ongoing	Ongoing liaison with IT Services to resolve issue and distribute invoices.
	Utilities costs	Significant energy price increases at leisure centres is resulting in financial cost to the Council under the risk sharing agreement in the Management Agreement with the Trust.	Ongoing	Trust providing regular updates via Strategic/Service Fee meetings - cost of swim charges increased to help contribute to additional cost, energy saving initiatives being investigated and implemented and central government being lobbied. Government recently announced support package within the Budget statement.
	Tonbridge Swimming Pool / Larkfield Leisure Centre	Low supply of chemicals for treating pools available across Europe. May lead to closures.	Ongoing	Trust exploring all opportunities to secure supply. Alternative means of cleansing investigated by Property Services and order to be placed for new system. Funded through BRREP and contribution from Leisure Trust.
	KRF Review	The KRF have undertaken a review and plan to make adjustments to how the forum operates.	Ongoing.	Risks associated with increased responsibility being undertaken by LA's . The impact of this is currently being assessed and addressed by Kent Chief Executives.
	Business Continuity & Emergency Planning	The current structure of the LRF and legislation has been added to. The Kent Resilience Forum is undergoing a review with significant changes to how the Kent Resilience Team will provide support and guidance to Local Authorities. The UK Government has also recently published a new 'UK Government Resilience Framework'. Further guidance is expected but the theme is around increasing locally led resilience and planning at the LA level.	Ongoing	Need to track new guidance and review how we contribute and participate in the Kent Resilience Forum. We also need to be able to ensure that we maintain a fit-for-purpose organisation to enable suitable response.

2024

RISK IN FOCUS

Hot topics for
internal auditors

BOARD BRIEFING

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BOARD BRIEFING: RISK IN FOCUS 2024

Co-ordinating corporate efforts with agile strategies

Economic uncertainty in 2023 topped a seemingly permanent state of crisis first initiated by the pandemic. Organisations are now grappling with an ensuing polycrisis – with multiple catastrophic events occurring simultaneously. With Europe's economies in a fragile state, boards must deal with increased climate-related pressures, geopolitical uncertainties, a dangerous cyber-risk landscape and inflationary pressures. But many organisations face challenges in securing the talent and skills required to navigate through such uncertainties.

Preparing to be resilient for possible trouble and being ready to leap forward when conditions improve are key success factors.

Among other tactics, Boards can be successful by working with their chief audit executives (CAEs) on two key strategies. First, organisations benefit from not seeing their businesses as a set of disparate siloes and by ensuring that effort is well co-ordinated to strengthen risk identification and management. Second, boards can take advantage of internal audit's unique overview of the organisation to provide consultancy, advice and brainstorming on fast-moving strategically important initiatives.

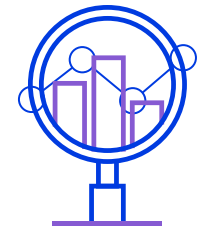
Getting an upfront risk view on mission-critical projects increases the chance of success.

In this report, CAEs have identified five core areas to help boards focus on over the coming twelve months: macroeconomic uncertainty, cybersecurity, human capital, climate change and supply chains. In addition, they have identified five strategic imperatives for boards seeking to enhance the value provided by internal audit functions.

Five strategic imperatives for boards

Maximising the value of internal audit

1. Support efforts to help CAEs co-ordinate the identification, assessment and management of strategic risks across the three lines
2. Keep a strategic perspective on legislative changes so that compliance efforts are combined with strengthening the business' longer-term goals and objectives
3. Call upon internal audit's unique perspective for advice on emerging threats and the implementation of new strategic initiatives
4. Consider internal audit as a valuable source of information in areas such as cultural transformation and on the Environmental, Social and Governance agenda – both important areas for attracting and retaining key talent
5. Use internal audit to embed long-term resilience into operational infrastructure and supply chains and to help management develop and actively test business continuity and disaster recovery programmes

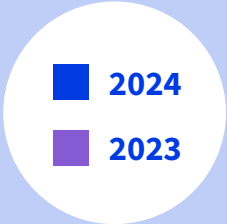


Key findings

2023 vs 2024

What are the top five risks your organisation currently faces?

Business continuity and operational resilience moved up two places this year in response to continuing global turmoil with market changes coming in as a new category



HOT TOPICS

MACROECONOMIC AND GEOPOLITICAL UNCERTAINTY

Focusing on strategic transformation

Chief audit executives ranked macroeconomic and geopolitical uncertainty as the third biggest risk to organisations in the report's quantitative survey – jointly with changes to laws and regulations. Yet while organisations got to grips with geopolitics last year, this year with higher inflation, and a higher interest rate environment they focused heavily on the changing economic landscape.

This category includes a wide range of interconnected risks – from supply chains and changes in customer behaviour to financial liquidity, insolvency and fraud risk.

Board members could work with their CAEs to keep a firm strategic lens on the operational changes they make to tackle these risks. Cost cutting, for example, can be backed up with cost-benefit analyses that ensure payback does not jeopardise long-term success.

Supply chain resilience is another critical area in light of political de-globalisation trends and climate-related events.

CAEs can help by providing advisory services that help co-ordinate effort across the organisation's three lines – and by ensuring assurance is well-targeted. Data analytics can help with monitoring key risks. Risk remediation follow-up in areas of critical strategic importance must be firm.

Boards, should help ensure that internal audit has the time, technology, skills and resources to deal with these fast-moving areas effectively.



HOT TOPICS

CYBERSECURITY AND DATA SECURITY

Getting ready for regulatory change

Cybersecurity is the biggest persistent threat to Europe's organisations, according to CAEs responding to the report's quantitative survey: 84% ranked it as a top five threat. That was matched by internal audit effort – 79% said it was a top five area of focus.

Despite the fact that while ransomware attacks, industrialised hacking and state-sponsored cybercrime remained major threats, the rate of growth in the magnitude of the risk has eased. Awareness among boards and management is high.

But in sound risk management, complacency is not an option. Not only do boards need to ensure their organisations are resilient in the face of disruptive technologies such as AI, but they are prepared for (and have the talent to cope with) a broad range of new cybersecurity and data security regulations coming into force over the next couple of years. The EU's Data

Act and Cyber Resilience Act – to name just two – will help standardise cyber defences but also bring fines for non-compliance – a new regulatory threat.

Given that AI can be a major business enabler, and as organisations continue to move their operating systems onto digital platforms, internal auditors can help in ensuring these are secure, compliant and have solid disaster recovery plans in place for when trouble strikes.

CAEs have been working with IT departments to develop digital cyber security systems to monitor, detect and react to attacks. Boards have a role to play in participating in scenario testing events for ransomware attacks, for example, and supporting awareness-raising initiatives so that the culture around cybersecurity matures.



HOT TOPICS

HUMAN CAPITAL, DIVERSITY, TALENT MANAGEMENT AND RETENTION

Transforming organisational culture

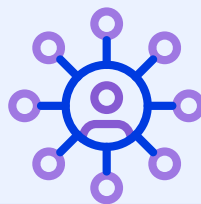
Human capital remained the second biggest risk organisations face according to the quantitative survey: 58% of CAEs cited it as a top five risk. They expect it to remain in that position by 2027.

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In the cost-of-living and doing business crises, boards must balance the effect of pay increases on the bottom line with an ability to fill strategically important roles in their organisations. But with changing attitudes to employment practices – such as demands for more flexibility and hybrid styles of work – some boards have found that their organisational culture lags broader social trends.

Businesses that focus on achieving cultural transformation fare best – boosting diversity in the workplace creates more profitable businesses and clearly communicating an organisation's wider social purpose can act as a magnet to attract younger staff. People need to

feel listened to and safe to speak out in cultures that engender diversity of thought.

Boards have not always turned to CAEs for help in these softer areas of business – but that represents a missed opportunity. While traditional assurance metrics on policies and procedures have their place, internal auditors can provide a balance of well-targeted audits in key areas as well as rapid informal assessments that keep the board informed of fast-moving problems and tap into the cultural mood of the business.



58% of respondents cited
Human Capital as a top five risk.
They expect it to remain in that
position by 2027.



HOT TOPICS

CLIMATE CHANGE, BIODIVERSITY AND ENVIRONMENTAL SUSTAINABILITY RETENTION

Embracing ESG in the corporate mission

With two of the hottest European summers on record and climate-related disasters happening around the world, the weather has put the environment firmly on board agendas. The location of critical business infrastructure, the availability of manufacturing resources and key suppliers have become strategic issues. With growing public, investor and regulatory attention, CAEs in the quantitative survey said that climate change will be the 3rd biggest risk organisations face by 2027.

Together with other regulations and standards, Europe's Corporate Sustainability Reporting Directive came into force in 2023 and has shone the spotlight on company disclosures. At the same time, as organisations rush to enhance their green credentials in the marketplace, poor data quality raises the risk of greenwashing.

Treating such disclosures as a compliance-driven activity is a missed opportunity. But boards can work with CAEs to retain a strategic focus. That ensures that the organisation's objectives are built on solid data and that sustainability goals are firmly grounded in the broader corporate mission. Building relationships with key external stakeholders such as specialist NGOs can not only improve the quality of reporting data but help boost a company's reputation.

Internal auditors can provide assurance that such regulations not only apply to businesses' operations but also extend to their environmental and social impacts through suppliers. Boards looking to gain competitive advantage can adopt such double materiality measurements to provide much deeper, more meaningful insights into climate-related risks and opportunities.



HOT TOPICS

SUPPLY CHAIN, OUTSOURCING AND NTH PARTY RISK RETENTION

Strengthening critical partnerships

The pandemic, climate change and heightened geopolitical tensions helped push supply chain relationships into the spotlight during 2023. CAEs ranked it as their organisations' 7th biggest risk in the quantitative survey.

Globalisation trends accelerated by the pandemic and the US' decoupling strategy from China began to find its way into legislation such as the Inflation Reduction Act aimed at attracting corporations to move to North America. Such trends threaten to accelerate a weakening of global supply chain infrastructures.

In the qualitative research for Risk in Focus 2024, CAEs said supply chain diversification was a crucial strategy – but attention has switched to securing critical materials from wherever possible. CAEs can help boards in either supporting innovation into new materials or in finding ways to partner tightly with critical suppliers. In addition, co-ordinating efforts

across the business to create, test and run through business continuity planning and disaster recovery procedures has never been more important. Boards can support CAEs in encouraging management to fully engage with these critical initiatives.

To complicate matters, the European Union voted to back enhanced scrutiny of supplier relationships in its Corporate Sustainability Due Diligence Directive. CAEs can support the board in identifying potential compliance hotspots improving the resilience of the supply chain network through stronger due diligence processes.



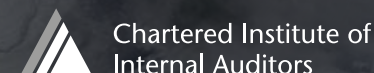
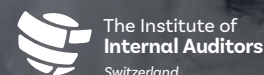
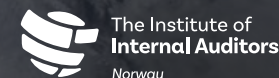
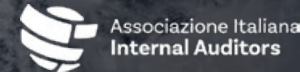
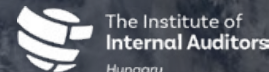
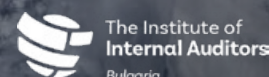
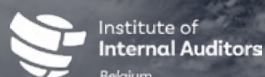
ABOUT RISK IN FOCUS

For the past eight years, Risk in Focus has sought to highlight key risk areas to help internal auditors prepare their independent risk assessment work, annual planning and audit scoping. It helps Chief Audit Executives (CAEs) to understand how their peers view today's risk landscape as they prepare their forthcoming audit plans for the year ahead.

This year, Risk in Focus 2024 involved a collaboration between 16 European Institutes of Internal Auditors, spanning 17 countries which included Austria, Belgium, Bulgaria, France, Germany, Greece, Hungary, Italy, Luxembourg, The Netherlands, Norway, Poland, Spain, Sweden, Switzerland, and the UK & Ireland. The highest number of European countries involved so far.

The survey elicited 799 responses from CAEs across Europe. Simultaneously, five roundtable discussions were organised with 46 CAEs on each of the risk areas covered in the report. In addition, we also conducted 11 one-to-one interviews with subject matter experts that included CAEs, Audit Committee Chairs and industry experts to provide deeper insights into how these risks are manifesting and developing.

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Due to the timescales and print deadlines, the recommendations of the meeting of Cabinet held on 13 February 2024 will be circulated to Members in advance of the meeting of Council.

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TREASURY MANAGEMENT UPDATE AND TREASURY MANAGEMENT AND ANNUAL INVESTMENT STRATEGY FOR 2024/25

Item AU 24/5 referred from Audit Committee of 15 January 2024

The report of the Director of Finance and Transformation provided details of investments undertaken and return achieved in the first eight months of the current financial year and introduced the Treasury Management and Annual Investment Strategy 2024/25 attached at Annex 5 to the report.

In addition, the report made reference to non-treasury management practices and the required procedures to ensure compliance with the Treasury Management and Prudential Codes of Practice and Statutory Guidance on Local Government Investments.

A full list of investments held on 30 November 2023 was attached at Annex 1 to the report and a copy of the lending list at Annex 2. In terms of cash flow and core cash investments, £1,959,433 was earned in interest to the end of November 2023, which was above the original budget estimate for the same period. The increase reflected the continued upward movement of interest rate rises and the favourable rates available to the Council. During the period 1 April 2023 to 30 September 2023, the £5m investment in property funds generated dividends of £92,939, which represented an annualised return of 3.72%, compared to 3.49% in 2022/23.

The parameters to limit the Borough Council's exposure to investment risks were summarised in Annex 5. There were no changes to the current approved risk parameters proposed at this time.

RECOMMENDED*: That

- (1) the treasury management position as at 30 November 2023 be noted; and
- (2) the Treasury Management and Annual Investment Strategy for 2024/25 (attached as Annex 5) be adopted.

***Referred to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

15 January 2024

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 TREASURY MANAGEMENT UPDATE AND TREASURY MANAGEMENT AND ANNUAL INVESTMENT STRATEGY FOR 2024/25

The report provides details of investments undertaken and return achieved in the first eight months of the current financial year and an introduction to the 2024/25 Treasury Management and Annual Investment Strategy. Members are invited to recommend adoption of the Strategy to Cabinet.

1.1 Introduction

- 1.1.1 The Local Government Act 2003 requires the Council to 'have regard to' the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are 'affordable, prudent and sustainable'.
- 1.1.2 The Act also requires the Council to set out its Treasury Management Strategy for borrowing and to prepare an Annual Investment Strategy. The latter sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

1.2 Interest Rate Forecast

- 1.2.1 The Bank Rate has held at 5.25%, which is expected to be the peak in the tightening cycle. Link's forecast used in the 2023/24 Investment Strategy assumed economic conditions would steadily climb and peak at around 4.5% before steadily reducing to 2.5% over the next three years.
- 1.2.2 Since the approval of the 2023/24 Strategy was published last February interest rates have continued to rise. Short, medium, and long dated gilts remained elevated, CPI inflation has reduced but remains the highest in the G7, and the UK labour market has proved challenging in terms of high vacancies and high wage growth.
- 1.2.3 As the growing drag from higher interest rates intensifies over the next six months, the economy is expected to continue to lose momentum and soon fall into a mild recession. Strong labour demand, fast wage growth and government handouts have all supported household incomes over the past year. With CPI inflation past

its peak and expected to decline further, the economy has got through the cost-of-living crisis without recession. Even though the worst of the falls in real household disposable incomes are behind us, the phasing out of financial support packages provided by the government during the energy crisis means real incomes are unlikely to grow strongly. Higher interest rates are expected to bite harder soon. The Bank of England is expected to keep interest rates at the probable peak of 5.25% until the second half of 2024. Mortgage rates are likely to stay above 5.0% for around a year.

- 1.2.4 CPI inflation declined from 6.8% in July to 6.7% in August and September, being the lowest rate since February 2022. The biggest positive surprise was the drop in core CPI inflation, which declined from 6.9% to 6.1%. CPI inflation continues to reduce and is reported at 3.9% in November 2023.
- 1.2.5 The UK labour market is continuing to ease with the number of vacancies being reported below one million. That is the first time it has fallen below one million since July 2021. The job vacancy rate is getting closer to 2.5%, which would be consistent with slower wage growth. However, the cooling labour market conditions have yet to feed through to an easing in wage growth.
- 1.2.6 Link's latest Bank Rate forecast, updated in December 2023, is included in **[Annex 5]** and anticipates the Bank Rate peaking at 5.25% in 2023/24 before reducing to 3.00% by March 2026.

1.3 Investment Performance

- 1.3.1 The Council's investments are derived from cash flow surpluses, core cash balances and other long term cash balances.
- 1.3.2 Cash flow surpluses are available on a temporary basis and the amount is mainly dependent on the timing of council tax and business rates collected and their payment to precept authorities and government. Less significant cash flows relate to receipt of grants, payments to housing benefit recipients, suppliers and staff. Cash flow surpluses build up during the course of a financial year and are spent by financial year end. Thus far in 2023/24 cash flow surpluses have averaged £30.2m.
- 1.3.3 The Authority also has £34m of core cash balances. These funds are for the most part available to invest for more than one year, albeit a proportion is usually transferred to cash flow towards the end of the financial year to top-up daily cash balances. Core cash includes the Council's capital and revenue reserves which are being consumed over time to meet capital expenditure and 'buy time' to enable the authority to deliver its revenue savings targets.
- 1.3.4 Cash flow and core cash balances also include sums to meet business rate appeals which are expected to be resolved in 2023/24 and future years.
- 1.3.5 Long term investment comprises £5m in property fund investments.

- 1.3.6 Medium term investment comprises £4.25m in diversified income fund investments.
- 1.3.7 A full list of investments held on 30 November 2023 is provided at **[Annex 1]** and a copy of our lending list of 30 November 2023 is provided at **[Annex 2]**. The table below provides a summary of funds invested and income earned at the end of November.

	Funds invested on 30 November 2023	Average duration to maturity	Weighted average rate of return	SONIA benchmark November 2023	Interest / dividends earned 1 April to 30 November 2023	Gross annualised return
	£m	Days	%	%	£	%
Cash flow	30.25	7	5.33	5.20	985,114	4.94
Core cash	34.00	172	5.80	5.24	974,319	5.57
Sub-total	64.25	94	5.57	5.22	1,959,433	5.26
Long term	5.00				92,939	3.72
Medium term	4.25				144,821	5.10
Total	73.50				2,197,193	5.14

Table 1

Property funds pay dividends quarterly. The return quoted above is based on dividends received for the period April to September 2023.

- 1.3.8 **Cash flow and core cash investments.** The SONIA benchmark above have slowly begun to pull back over the past few months (September rates: 5.28% & 5.39%). Market sentiment is for interest rate cuts in June 2024 and therefore the focus will be to secure investments for a longer duration (up to 12 months) to remain ahead of the curve.
- 1.3.9 Interest earned of £1,959,433 to the end of November is £1,209,441 above the original budget estimate for the same period. The increases in Bank Rates have been taken into consideration and updated figures have been included in the revised budget.
- 1.3.10 The Council takes advantage of Link's benchmarking service which enables performance to be gauged against Link's other local authority clients. An extract from the latest benchmarking data is provided in the form of a scatter graph at **[Annex 3]**. The graph shows the return (vertical scale) vs. the credit / duration risk (horizontal scale) associated with an authority's investments. As at 30 September 2023 the Council's return was 5.47% (purple diamond) was above the local benchmarking group average of 5.11%. Link's predicted return is between

the upper and lower boundary indicated by the diagonal lines. The Council's risk exposure was consistent with the local authority average.

- 1.3.11 Only cash flow and core cash returns form part of the benchmarking data. The additional return the Council makes from its property fund, and diversified income fund investments are not included. The data also excludes any short-term borrowing costs authorities may have incurred to meet payment obligations, however, no such costs have been incurred to date and none are anticipated during the remainder of 2023/24.
- 1.3.12 **Long term investment.** The availability of cash balances over the longer term (10 years) and the suitability of different types of long-term investment (equities, bonds and commercial property) was explored in the report to Audit Committee, January 2017. Of the alternatives, investment in property funds was considered best suited to meet the Council's more immediate funding need: a sustainable, stable income stream.
- 1.3.13 £3m was invested in property investment funds during 2017/18 and a further £2m invested during 2018/19. Investment was spread across three funds to ensure, as far as is possible, stability of annual income and capital growth over time. Additional property fund investments could be made in the future as resources become available from asset disposals and other windfalls.
- 1.3.14 During the period 1 April 2023 to 30 September 2023 the £5m investment in property funds generated dividends of £92,939 which represents an annualised return of 3.72% (3.49% in 2022/23). Income from property funds is expected to be in line with the budget for the financial year as a whole.
- 1.3.15 Property funds issue and redeem primary units at a buy and sell price with the difference between the two prices reflecting the costs associated with buying and selling property (legal and other fees, stamp duty etc.). The price spread varies from fund to fund but is typically in the region of 8% (6% on entry to a fund and 2% on exit). Where units are traded on a secondary market the impact of the spread can be reduced and delays in the purchase / redemption of units avoided.
- 1.3.16 Although each property is unique, its value is informed by the sale of similar properties. During recession property transaction volumes diminish making valuation less certain. Each of our property fund managers attributed "uncertainty" to their monthly valuations during the summer. At the same time, and by regulation, when valuation is uncertain fund managers are required to suspend the purchase and redemption of units by investors. The suspension is intended to protect the interests of purchasers, sellers and continuing investors such as ourselves and was welcomed. Trading of shares has now resumed.

1.3.17 Sale values at the end of November vs initial purchase prices are as follows:

Property fund (Primary = units in the fund purchased from the fund manager. Secondary = units purchased from another investor at a discount. Date = first month the investment attracted dividends)	Purchase price	Sale value at date of purchase	Sale value 30 November 2023	30 November 23 sale value above (below) purchase price (c-a) £
	a	b	C	
	£	£	£	
LAPF (Primary, July 2017)	1,000,000	922,200	894,946	(105,054)
Lothbury (Primary, July 2017)	1,000,000	927,700	765,067	(234,933)
Hermes (Secondary, Oct 2017)	1,000,000	939,000	902,978	(97,022)
LAPF (Primary, June 2018)	1,000,000	922,200	858,074	(141,926)
Lothbury (Secondary, July 2018)	1,000,000	973,000	750,318	(249,682)
Total change in principal	5,000,000	4,684,100	4,171,383	(828,617)
Total dividends received to September 2023				1,009,756
Net benefit since inception				181,139

Table 2

1.3.18 Since inception, the Council have received dividends from its property fund investments totalling £1,009,756. Commercial property values having momentarily recovered from the impact suffered from Covid-19, has faced new challenges including inflationary pressures. All property fund investments recorded capital depreciation in the period April 2023 to September 2023. The property funds continue to distribute dividends of which we have received £92,939 for the first six months of the year.

1.3.19 The Lothbury Property Trust was due to wind up on 31 December 2023 and have requested, by way of an EGM and unit holder vote, to be granted an extension until 31 March 2024 enabling them to pursue a merger option with a prospective fund which aligns well with Lothbury's vision. If the fund thinks that the merger is a viable option, it would still be subject to a unit holder vote, which would need a 75% vote in favour to pass. Confirmation was received on Monday 18th December that 99.4% of the unit holders voted in favour of the extension.

1.3.20 If, however, the fund does get wound up, then all investors would be treated on an equal basis, i.e. the fund sells down assets and the income distributed back to investors on a pro-rata basis. The fund will continue to pay out distributions on live assets as it always has done.

- 1.3.21 The current situation with Lothbury could not have been foreseen and is due to a surge in redemptions which happened in a very short period of time, and was primarily related to pension funds invested in the fund who hold significant shares.
- 1.3.22 Members are reminded that higher yielding investments (e.g. property, equities) have the potential to fluctuate in value, both up and down. It is this feature which makes them unsuitable for short term investment where certainty over value at maturity is a key criteria. The Council's property fund investments are not required to meet day to day spending commitments and will only be realised should a higher yielding opportunity be identified.
- 1.3.23 **Medium term investment.** In recent years multi asset (diversified income) funds have grown in popularity. The rationale for adopting such a fund was explored in the Audit Committee report of January 2018 and their use for medium-term investment reaffirmed in the January 2021 Audit Committee report which introduced the multi asset (diversified income) funds into the Annual Investment Strategy.
- 1.3.24 Like property funds, multi asset (diversified income) funds aim to generate returns over and above inflation and thus preserve spending power.
- 1.3.25 A total of £4.25m was invested in 2021/22 between three funds chosen from the rigorous selection process, Fidelity Multi Asset Income Fund, Ninety-One Diversified Income Fund and Aegon Diversified Monthly Income Fund. It is expected that each fund will deliver a return in excess of 3% per annum and preserve capital over the five-year duration of the investment. Additional multi asset fund investments could be made in the future as resources become available from asset disposals and other windfalls.
- 1.3.26 During the period April 2023 to November 2023 the £4.25m investment in multi asset funds generated dividends of £144,821 which represents an annualised return of 5.10%.
- 1.3.27 **Treasury management function.** An extract from the draft income and expenditure estimates (*due to be presented to the Overview and Scrutiny Committee on 25 January*) attributed to the Treasury Management function are provided at **[Annex 4]**. This shows the aggregate staff resource applied to treasury management is less than one full time equivalent and that income exceeds costs by a significant margin. Income in future years forms part of the Council's medium term financial strategy and is expected to decrease in the short term as Bank Rate pulls back. Expenditure is expected to rise in-line with inflation.

1.4 Annual Investment Strategy for 2024/25

- 1.4.1 The Council's treasury advisors anticipate bank rate has peaked at 5.25% and is expected to hold for the next two quarters. It is anticipated that rates will steadily decrease, and by December 2025 the bank rate is anticipated to be 3.00%, where

it will remain for the foreseeable future. Whilst there is no expectation of further rate rises, the Bank of England has again said that “further tightening in monetary policy would be required if there were evidence of more persistent inflationary pressures”, citing the rise in global bond yields and the upside risks to inflation from “energy prices given events in the Middle East”.

- 1.4.2 The Bank of England does not want the markets to decide that a peak in rates will be soon followed by rate cuts, which would loosen financial conditions and undermine its attempts to quash inflation. The language also gives the Bank of England the flexibility to respond to new developments. A rebound in services inflation, another surge in wage growth and/or a further leap in oil prices could conceivably force it to raise rates in the future.
- 1.4.3 CPI inflation declined from 6.8% in July to 6.7% in August and September, the lowest rate since February 2022. The biggest positive surprise was the drop in core CPI inflation, which declined from 6.9% to 6.1%. That reverses all the rise since March. CPI inflation continues to reduce and is reported at 3.9% in November 2023.
- 1.4.4 The tightness of the UK labour market continued to ease, with employment in the three months to July falling by 207,000. The further decline in the number of job vacancies from 1.017m in July to 0.989m in August suggests that the labour market has loosened a bit further since July. That is the first time it has fallen below 1m since July 2021. At 3.0% in July, and likely to have fallen to 2.9% in August, the job vacancy rate is getting closer to 2.5%, which would be consistent with slower wage growth. Meanwhile, the 48,000 decline in the supply of workers in the three months to July offset some of the loosening in the tightness of the labour market. That was due to a 63,000 increase in inactivity in the three months to July as more people left the labour market due to long term sickness or to enter education. The supply of labour is still 0.3% below its pre-pandemic February 2020 level.
- 1.4.5 **Risk parameters.** The Strategy sets out the parameters that limit the Council’s exposure to investment risks by requiring overnight and term deposits to be placed with highly credit rated institutions and that those investments are diversified across a range of counterparties. Except where indicated by bold italic text, the 2024/25 Annual Investment Strategy [**Annex 5**] adopts the same risk parameters as currently approved. In summary these are:
 - 100% of funds can be invested in the UK. Exposure to non-UK institutions is restricted to no more than 20% of funds per sovereign.
 - Non-UK counterparties must be regulated by a sovereign rated AA- or higher as recognised by each of the three main rating agencies (Fitch, Moody’s or Standard & Poor’s).

- Investment in UK institutions is subject to the UK sovereign being rated A- or higher by each of the three main rating agencies. The UK currently receives a rating of AA- from Fitch and Moody's and AA from Standard and Poor's.
- Exposure to individual counterparties / groups of related counterparty must not exceed 20% of funds or **10% of funds if a housing association**.
- In selecting suitable counterparties for overnight deposits and deposits up to 2 years in duration (3 years with a local authority), the Council has adopted Link's credit worthiness methodology. The methodology combines the output from all three credit rating agencies including credit watches / outlooks and credit default swap data to assign a durational band to a financial institution (100 days, 6 months, 1 year, 5 years, etc.). At the time of placing an investment the financial institution must be assigned a durational band of at least 100 days (based on credit ratings alone). Other than for UK nationalised institutions this broadly equates to a minimum long term credit rating of Fitch A- (high) and a short-term credit rating of Fitch F1 (highest).
- Investment in UK nationalised banks is subject to the bank having a minimum long term credit rating of Fitch BBB (good) and a short-term credit rating of Fitch F2 (good). The Royal Bank of Scotland and National Westminster Bank are currently rated Fitch A+, F1.
- The duration of an investment in a foreign bank must not exceed Link's post CDS recommendation. For UK financial institutions Link's duration recommendation can be enhanced by up to 6 months subject to the combined duration (Link recommendation plus the enhancement) not exceeding 12 months. The Council's Treasury Management Practices have been modified to ensure that where duration is being enhanced by more than 3 months the bank's CDS must be below the average for all other banks at the time the investment is placed.
- Money Market funds will be AAA rated and exposure limited to no more than 20% per fund. LVNAV (low volatility) or VNAV (variable net asset value) funds may be used as an alternative to CNAV (constant net asset value) funds.
- Enhanced cash and Government liquidity funds will be AAA rated and **ultra-short duration bond funds rated AA or higher**. Exposure is limited to no more than 10% of investment balances per fund and 20% to all such funds.
- Exposure to non-credit rated property funds is limited to no more than 20% (£3m) of expected long term cash balances. No limit applies where invested funds are derived from or in anticipation of new resources e.g. proceeds from selling existing property.
- Exposure to non-credit rated diversified income (multi-asset) funds **and or short dated bond funds** is limited to no more than 20% (£3m) of expected long term cash balances per fund and across all such funds.

- The strategy also limits the type of instrument (e.g. fixed term deposits, certificates of deposit, commercial paper, floating rate notes, treasury bills, etc.) that can be used and establishes a maximum investment duration for Gilts of 5 years, 3 years for deposits with local authorities and 2 years for all other types of investment other than investment in property funds, diversified income funds and **short dated bond funds**.

- 1.4.6 The strategy includes prudential indicators for borrowing. Whilst there is no expectation, *based on the current capital plan*, that the Council will need to borrow to fund its capital expenditure proposals prior to 2029/30, borrowing on a temporary basis may be required to meet payment obligations. Borrowing limits are expressed as the operational limit (£4m) and authorised limit (£7m). Our largest monthly outflows relate to business rates (£5m) and precept payments (£8.2m). Whilst those payments tend to fall on different days of the month that is not always the case. The limits are a precautionary measure to allow borrowing on a short-term basis should the need arise. In recent years, the Council's cash flows have been managed in such a way that no overdraft fees or temporary borrowing costs have arisen.
- 1.4.7 The cooling in labour market conditions has yet to feed through to an easing in wage growth. The headline 3myy rate rose 7.8% for the period June to August, which meant UK wage growth remains much faster than in the US and in the Euro-zone. Moreover, while the Bank of England's closely watched measure of regular annual average total pay growth for the private sector was 7.1% in June to August 2023, for the public sector this was 12.5% and is the highest total pay annual growth rate since comparable records began in 2001. However, this is affected by the NHS and civil service one-off non-consolidated payments made in June, July and August 2023. The Bank of England's prediction was for private sector wage growth to fall to 6.9% in September.
- 1.4.8 The returns on our **property fund investments**, though representing only 6.80% of 2023/24 investment portfolio, are likely to generate a similar percentage next year due to the elevated bank rate on offer, this is expected to adjust in future years and will represent a high percentage of future income. The property fund investments are long term (10 year) investments. As a consequence of the high entry / exit costs (circa 8%) and potential for significant volatility in capital values, our strategy limits exposure to property funds from existing resources to 20% of expected long term balances, circa £3m per fund.
- 1.4.9 The returns on our **diversified income fund investments**, though representing only 5.78% of 2023/24 investment portfolio, are likely to generate a similar percentage next year due to the elevated bank rate on offer, this is expected to adjust in future years and will represent a high percentage of future income. The diversified income fund investments are medium term (5 year) investments. As a consequence of the potential for significant volatility in capital values, our strategy limits exposure to diversified income funds from existing resources to 20% of expected long term balances, circa £3m per fund.

1.4.10 Diversified income fund investment typically implies a 5-year commitment to negate volatility in capital values over the life of the investment.

1.4.11 The changes to the 2024/25 strategy include the updated position of the UK Sovereign Rating, **[Annex 5, 10.1]**. The treasury team continuously monitor the market for potential investment which may align with the Council's strategic plans, and which would provide additional revenue streams.

1.4.12 **Risk parameters.** The Strategy sets out the parameters that limit the Council's exposure to investment risks by requiring overnight and term deposits to be placed with highly credit rated institutions and that those investments are diversified across a range of counterparties. The 2024/25 Annual Investment Strategy **[Annex 5]** adopts the same risk parameters as currently approved. In summary these are:

- 100% of funds can be invested in the UK. Exposure to non-UK institutions is restricted to no more than 20% of funds per sovereign.
- Non-UK counterparties must be regulated by a sovereign rated AA- or higher as recognised by each of the three main rating agencies (Fitch, Moody's or Standard & Poor's).
- Investment in UK institutions is subject to the UK sovereign being rated A- or higher by each of the three main rating agencies. Following a review in April 2023 by the three agencies, the UK Sovereign debt rating was placed on Stable Outlook. Accordingly, this Authority has agreed to reinstate the minimum rating of A- for the UK. The UK currently receives a rating of AA- from Fitch, AA3 from Moody's and AA from Standard and Poor's.
- Exposure to individual counterparties / groups of related counterparty must not exceed 20% of funds or 10% of funds if a housing association.
- In selecting suitable counterparties for overnight deposits and deposits up to 2 years in duration (3 years with a local authority), the Council has adopted Link's credit worthiness methodology. The methodology combines the output from all three credit rating agencies including credit watches / outlooks and credit default swap data to assign a durational band to a financial institution (100 days, 6 months, 1 year, 5 years, etc.). At the time of placing an investment the financial institution must be assigned a durational band of at least 100 days (based on credit ratings alone). Other than for UK nationalised institutions this broadly equates to a minimum long term credit rating of Fitch A- (high) and a short term credit rating of Fitch F1 (highest).
- Investment in UK nationalised banks is subject to the bank having a minimum long term credit rating of Fitch BBB (good) and a short term credit rating of Fitch F2 (good). The Royal Bank of Scotland and National Westminster Bank are currently rated Fitch A+, F1.

- The duration of an investment in a foreign bank must not exceed Link's post CDS recommendation. For UK financial institutions Link's duration recommendation can be enhanced by up to 6 months subject to the combined duration (Link recommendation plus the enhancement) not exceeding 12 months. The Council's Treasury Management Practices have been modified to ensure that where duration is being enhanced by more than 3 months the bank's CDS must be below the average for all other banks at the time the investment is placed.
- Money Market funds will be AAA rated and exposure limited to no more than 20% per fund. LVNAV (low volatility) or VNAV (variable net asset value) funds may be used as an alternative to CNAV (constant net asset value) funds.
- Enhanced cash and Government liquidity funds will be AAA rated and ultra-short duration bond funds rated AA or higher. Exposure is limited to no more than 10% of investment balances per fund and 20% to all such funds.
- Exposure to non-credit rated property funds is limited to no more than 20% (£3m) of expected long term cash balances. No limit applies where invested funds are derived from or in anticipation of new resources e.g. proceeds from selling existing property.
- Exposure to non-credit rated diversified income (multi-asset) funds and or short dated bond funds is limited to no more than 20% (£3m) of expected long term cash balances per fund and across all such funds.
- The strategy also limits the type of instrument (e.g. fixed term deposits, certificates of deposit, commercial paper, floating rate notes, treasury bills, etc.) that can be used and establishes a maximum investment duration for Gilts of 5 years, 3 years for deposits with local authorities and 2 years for all other types of investment other than investment in property funds, diversified income funds and short dated bond funds.
- The strategy includes prudential indicators for borrowing. Whilst there is no expectation that the Council will need to borrow to fund its ongoing capital expenditure proposals (as set out in the current capital plan) prior to 2029/30, borrowing on a temporary basis may be required to meet payment obligations. Borrowing limits are expressed as the operational limit (£4m) and authorised limit (£7m). Our largest monthly outflows relate to business rates (£5m) and precept payments (£8.2m). Whilst those payments tend to fall on different days of the month that is not always the case. The limits are a precautionary measure to allow borrowing on a short term basis should the need arise. In recent years the Council's cash flows have been managed in such a way that no overdraft fees or temporary borrowing costs have arisen.

1.4.13 The 2024/25 Strategy [**Annex 5**] reflects the current economic environment, Link Asset Services' latest interest rate forecast and incorporates the risk parameters summarised in paragraph 1.4.5.

1.5 Non-treasury Management Practices

- 1.5.1 The authority is currently debt free, and no borrowing is forecast to meet the ongoing Council's capital expenditure proposals (based on the current capital plan) prior to 2029/30. This does not however, preclude a decision to borrow in order to fund in full or in part an investment opportunity that meets the Council's strategic priorities and objectives, and achieves value for money. Each such opportunity to be considered on a case by case basis as appropriate.
- 1.5.2 At present the Council has no material non-treasury investments, e.g. expenditure on loans or the acquisition of non-financial assets (property) intended to generate a profit. The report to Audit Committee 20 January 2020 made reference to procedures that would need to be adopted to ensure compliance with the Chartered Institute of Public Finance & Accountancy's Treasury Management and Prudential Codes of Practice 2017 and the 2018 Statutory Guidance on Local Government Investments relating to non-treasury investments. Accordingly, a practice note was prepared and endorsed at the Audit Committee meeting in January 2021 and is attached at **[Annex 6]** for information.

1.6 Legal Implications

- 1.6.1 Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority, including securing effective arrangements for treasury management.
- 1.6.2 This report fulfils the requirements of the Chartered Institute of Public Finance & Accountancy's Treasury Management and Prudential Codes of Practice 2017 and the 2018 Statutory Guidance on Local Government Investments. Please note, both Codes have been updated in December 2021 and have been taken into account in the 2024/25 Treasury Management and Annual Investment Strategy.

1.7 Financial and Value for Money Considerations

- 1.7.1 The Bank Rate is currently 5.25%. Link's current forecast (December 2023) anticipates Bank Rate have peaked at 5.25% and will start to fall back by June 2024. Longer term the rates are expected to fall back to 3.00% and remain there for the foreseeable future.
- 1.7.2 Following the interest rates increases over the past several months the investment income at the end of November 2023 (month eight of the financial year) from cash flow surpluses and core cash investments exceeds the original budget for the same period by £1,209,440. Income from property funds at the end of September 2023 is in line with the original budget for the same period. Investment income from multi-asset funds has generated £144,820 of income, and is some £40,000 in excess of the original budget. Investment income for the year as a whole is expected to exceed the original budget by £1,729,000.

- 1.7.3 Performance is monitored against a benchmark return and against other local authorities in Kent and the broader local authority pool via Link's benchmarking service.
- 1.7.4 Whilst the annual income stream from a property fund exhibits stability (circa 4% per annum net of management fees) capital values rise and fall with the cyclical nature of economic activity. During a downturn in the economy capital values may fall significantly. The duration of a property fund investment may need to be extended to avoid crystalizing a loss and as a consequence the investment's duration cannot be determined with certainty.
- 1.7.5 Buying and selling property involves significant costs making property unsuitable for short term investment. Buying and selling costs are reflected in the entry fees (circa 6%) and exit fees (circa 2%) a property fund will charge unit holders. These fees are expected to be recouped overtime through capital appreciation.
- 1.7.6 The money being applied to property fund investment from existing resources is expected to be available in perpetuity. Nevertheless, the Council's cash balances will continue to be monitored and due regard had to the potential for a fund to delay payment of redemption requests by up to 12 months. Funds will seek to minimise their own cash balances in favour of holding property and therefore manage redemption requests for the benefit of all fund participants. The Council is only likely to seek redemption to pursue a higher yielding income opportunity should one be identified.
- 1.7.7 Diversified income funds aim to limit risk by spreading investment across a broad range of asset classes (equities, bonds, property and cash). Nevertheless, the principal sum invested may fall as a consequence of adverse economic or market events.
- 1.7.8 Short term bond values are linked to interest rate expectations and long-term bond values are linked to inflation expectations. Funds aim to minimise the risk of issuer default by investing in a broad spread of issuers and across different sectors and geographic regions. Nevertheless, the principal sum invested may fall as a consequence of adverse economic or market events.

1.8 Risk Assessment

- 1.8.1 Link Asset Services are employed to provide advice on the content of the Treasury Management and Annual Investment Strategy and this, coupled with a regular audit of treasury activities ensures that the requirements of the Strategy and the Treasury Policy Statement adopted by this Council are complied with.
- 1.8.2 Credit ratings remain a key tool in assessing risk. It is recognised that their use should be supplemented with sovereign ratings and market intelligence. Appropriate sovereign, group and counterparty limits are established to ensure an appropriate level of diversification.

- 1.8.3 In the light of these safeguards and stringent Treasury Management Procedures it is considered that any risks to the authority implicit in the 2024/25 Strategy have been minimised.

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 invited to **RECOMMEND** that Cabinet:

- 1) Note the treasury management position as at 30 November 2023.
- 2) Adopts the Treasury Management and Annual Investment Strategy for 2024/25 set out at **[Annex 5]**.

Background papers:

contact: Donna Riley

Link Asset Services: Interest rate forecast (December 2023), economic commentary and benchmarking data.

Sharon Shelton
Director of Finance and Transformation

Tonbridge and Malling Borough Council - Investment summary 30 November 2023

Counterparty / type of investment	Sovereign	Fitch long term	Fitch short term	Link suggested post CDS duration limit	Investment						Cash Flow surpluses £	Core Cash balances £	Medium term investment balances £	Long term investment balances £
					Start date	End date	Duration at start	Amount invested £	Return %	Proportion of total %				
Banks, Building Societies & Other Financials														
Barclays Bank : 95 day notice account	UK	A+	F1	6 months	23/07/2019	TBD	95 Days	3,000,000 3,000,000	5.30	4.08%	6,000,000	3,000,000		
Goldman Sachs : Certificate of Deposit Certificate of Deposit	UK	A+	F1	6 months	03/07/2023 10/07/2023	03/04/2024 10/04/2024	9 Months 9 Months	5,000,000 2,000,000 3,000,000	6.14 6.34	6.80%		2,000,000 3,000,000		
Handelbanken : Fixed term deposit	UK	AA	F1+	1 year	17/07/2023	17/01/2024	6 Month	3,000,000 3,000,000	5.60	4.08%		3,000,000		
HSBC Bank : 31 day notice account	UK	AA-	F1+	1 year	02/12/2019	TBD	31 Days	6,000,000 6,000,000	5.25	8.16%				
Lloyds Bank : Certificate of Deposit Certificate of Deposit	UK	A+	F1	6 months	12/07/2023 15/11/2023	11/07/2024 14/11/2024	1 Year 1 Year	6,000,000 3,000,000 3,000,000	6.75 5.66	8.16%		3,000,000 3,000,000		
National Westminster Bank : Deposit account	UK	A+	F1	1 year	30/11/2023	01/12/2023	Overnight	50,000 50,000	1.45	0.07%	50,000			
Nordea : Certificate of Deposit	Finland	AA-	F1+	1 year	31/08/2023	29/02/2024	6 Months	3,000,000 3,000,000	5.88	4.08%		3,000,000		
Rabobank : Certificate of Deposit Certificate of Deposit	Netherlands	A+	F1	1 year	15/09/2023 03/11/2023	17/06/2024 01/11/2024	9 Months 12 months	6,000,000 3,000,000 3,000,000	5.88 5.62	8.16%		3,000,000 3,000,000		
Santander: Certificate of Deposit	UK	AA-	F1	6 months	06/10/2023	06/02/2024	6 months	3,000,000 3,000,000	5.48	4.08%		3,000,000		
Toronto Dominion Bank : Certificate of Deposit Certificate of Deposit	Canada	AA-	F1+	1 year	12/12/2022 06/10/2023	12/12/2023 04/10/2024	1 year 1 year	5,000,000 2,000,000 3,000,000	6.80% 4.78 5.89			2,000,000 3,000,000		
Money Market Funds														
Blackrock MMF - shares/units held	N/A	AAA	mmf (Eq)	5 years	30/11/2023	01/12/2023	Overnight	8,000,000	5.34	10.88%	8,000,000			
BNP Paribas MMF - shares/units held	N/A	AAA	mmf (Eq)	5 years	30/11/2023	01/12/2023	Overnight	8,000,000	5.34	10.88%	8,000,000			
CCLA PSDF MMF - shares/units held	N/A	AAA	mmf	5 years	30/11/2023	01/12/2023	Overnight	0	5.30		-			
DWS Deutsche MMF - shares/units held	N/A	AAA	mmf	5 years	30/11/2023	01/12/2023	Overnight	0	5.32		-			
Federated MMF - shares/units held	N/A	AAA	mmf	5 years	30/11/2023	01/12/2023	Overnight	8,000,000	5.39	10.88%	8,000,000			
Morgan Stanley MMF - shares/units held	N/A	AAA	mmf	5 years	30/11/2023	01/12/2023	Overnight	202,000	5.32	0.27%	202,000			
Property Funds														
Hermes Property Unit Trust : Property fund units	N/A	N/A	N/A	N/A	29/09/2017	N/A	N/A	1,000,000 1,000,000	3.57	1.36%				1,000,000
Local Authorities' Property Fund : Property fund units Property fund units	N/A	N/A	N/A	N/A	29/06/2017 30/05/2018	N/A N/A	N/A N/A	2,000,000 1,000,000 1,000,000	4.11 4.98	2.72%				1,000,000 1,000,000
Lothbury Property Trust : Property fund units Property fund units	N/A	N/A	N/A	N/A	06/07/2017 02/07/2018	N/A N/A	N/A N/A	2,000,000 1,000,000 1,000,000	2.88 2.88	2.72%				1,000,000 1,000,000
Multi Asset Funds														
Aegon Multi Asset fund units	N/A	N/A	N/A	N/A	29/07/2021	N/A	N/A	1,750,000 1,750,000		2.38%			1,750,000	
Fidelity Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,000,000 1,000,000		1.36%			1,000,000	
Ninety One Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,500,000 1,500,000		2.04%			1,500,000	
					Total invested			73,502,000		100.00%	30,252,000	34,000,000	4,250,000	5,000,000

Number of investments	28	Average investment value £		2,625,000	
Number of counter parties	22	Average counter party investment £		3,341,000	
Group exposures:		Core £	Cash £	Combined £	%
Royal Bank of Scotland + National Westminster (UK Nationalised MAX 20%)		-	50,000	50,000	0.07
Bank of Scotland + Lloyds (MAX 20%)		6,000,000	-	6,000,000	8.16
Property Funds Total				£	%
Multi Asset Funds Total				5,000,000	6.80
				4,250,000	5.78

Total non-specified investments should be less than 60% of Investment balances 12.58%

Notes:
Property fund returns are based on dividends distributed from the start of each investment. Capital appreciation / depreciation is recorded elsewhere. Last update November 2023.

End date for notice accounts to be determined (TBD)

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Tonbridge and Malling Borough Council Lending List

Checked against Link's "Suggested Credit List" dated 30/11/23
Minimum investment criteria is Link's green duration band (100 days). Entry point broadly equates to Fitch A-, F1 unless UK nationalised.

Counterparty	Sovereign	Sovereign rating [1]	Fitch long term	Fitch short term	UK classification	Exposure limit	Link duration based on [2]	
							Credit ratings	Post CDS
UK Banks, Building Societies and other Financial Institutions :								
Bank of Scotland (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Barclays Bank (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Non-RF	£7m	6 months	6 months
Barclays Bank UK (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Close Brothers Ltd	UK	AA-	A-	F2	Exempt	£7m	6 months	6 months
Goldman Sachs International Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Handelsbanken Plc (Group Limit with Svenska Handelsbanken AB £7m)	UK	AA-	AA	F1+	Exempt	£7m	1 year	1 year
HSBC UK Bank	UK	AA-	AA-	F1+	Ring-fenced	£7m	1 year	1 year
Lloyds Bank (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Santander UK	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Standard Chartered Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Coventry Building Society	UK	AA-	A-	F1	Exempt	£7m	6 months	6 months
Nationwide Building Society	UK	AA-	A	F1	Exempt	£7m	6 months	6 months
Skipton Building Society	UK	AA-	A-	F1	Exempt	£7m	6 months	6 months
National Westminster Bank (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
The Royal Bank of Scotland (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
UK Debt Management Office including Treasury Bills	UK	AA-	n/a	n/a	n/a	No limit	5 years	5 years
UK Treasury Sovereign Bonds (Gilts)	UK	AA-	n/a	n/a	n/a	£16m/£8m	5 years	5 years
UK Local Authority (per authority)	UK	AA-	n/a	n/a	n/a	£7m	5 years	5 years

Non-UK Banks :

Australia & New Zealand Banking Group	Australia	AAA	A+	F1	n/a	£7m	1 year	1 year
Bank of Montreal	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Toronto Dominion Bank	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Royal Bank of Canada	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Nordea Bank Abp	Finland	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Rabobank (Coöperatieve Rabobank U.A.)	Netherlands	AAA	A+	F1	n/a	£7m	1 year	1 year
ING Bank	Netherlands	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Development Bank of Singapore	Singapore	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Svenska Handelsbanken AB (Group Limit with Handelsbanken Plc £7m)	Sweden	AAA	AA	F1+	n/a	£7m	1 year	1 year

[1] Reflects the lowest of the three rating agencies views (Fitch, Moody's and Standard and Poor's). Strategy requires non-UK sovereigns to be rated at least AA- and the UK rated at least A-. Non-UK sovereign limit of 20% or £7m per sovereign.

[2] All deposits overnight unless otherwise approved in advance by the Director of Finance and Transformation AND Chief Financial Services Officer. If other than overnight duration for non-UK entities must not exceed Link's post CDS duration suggestion. For UK entities duration may be extended by up to three months based on credit ratings alone or six months if CDS is below average, subject to a maximum combined duration of 12 months.

Money Market Funds (Minimum investment criteria AAA) :

Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Blackrock Institutional Cash Series - Sterling Liquidity	AAA	-	AAA	£8m	5 years
BNP Paribas InstiCash - GBP	-	-	AAA	£8m	5 years
CCLA Public Sector Deposit Fund	-	AAA	-	£8m	5 years
DWS Deutsche Global Liquidity - Deutsche Managed Sterling	AAA	AAA	AAA	£8m	5 years
Federated Cash Management - Short Term Sterling Prime	-	AAA	AAA	£8m	5 years
Insight - Sterling Liquidity (Group limit IL & ILP of £7m)	-	AAA	AAA	£8m	5 years
Morgan Stanley Liquidity - Sterling	AAA	AAA	AAA	£8m	5 years

Enhanced Cash Funds (Minimum investment criteria AAA) :

Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Insight - Sterling Liquidity Plus (Group limit IL & ILP £7m)	-	AAA	AA+	£3.5m	5 years

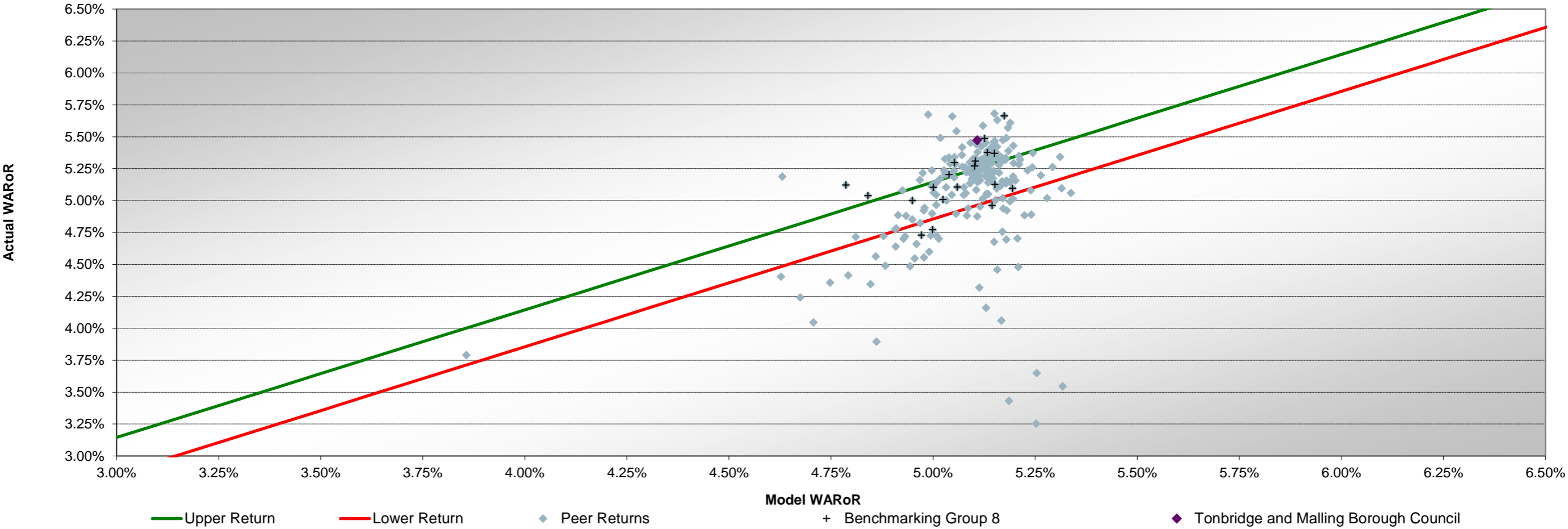
Approved by Director of Finance and Transformation
12 December 2023

Barclays post CDS rating changed from 100 days to 6 months

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Tonbridge And Malling Borough Council

Population Returns against Model Returns



	Actual WARoR	Model WARoR	Difference	Lower Bound	Upper Bound	Performance
Tonbridge And Malling Borough Council	5.47%	5.11%	0.36%	4.96%	5.25%	Above

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Extract from O&S estimates presentation - January 2024. Costs attributed to banking arrangements and transfers in lieu of interest are excluded.

DIRECTOR OF FINANCE & TRANSFORMATION

	2023/24		2024/25
	ORIGINAL ESTIMATE £	REVISED ESTIMATE £	ESTIMATE £
4 <u>TREASURY MANAGEMENT</u>			
Employees			
Salaries	33,500	32,650	35,050
Supplies & Services			
Treasury Advisor & Dealing Fees	12,100	17,000	16,000
	<hr/>	<hr/>	<hr/>
	45,600	49,650	51,050
	<hr/>	<hr/>	<hr/>
Less Income			
Interest on:			
Cash Flow Investments	(526,000)	(1,277,000) b)	(1,433,000) b)
Core Cash Investments	(599,000)	(1,103,000) b)	(676,000) b)
Medium Term Investments	(153,000)	(175,000)	(183,500) c)
Long Term Investments	(180,000)	(175,000)	(185,000) c)
	<hr/>	<hr/>	<hr/>
	(1,458,000)	(2,730,000)	(2,477,500)
	<hr/>	<hr/>	<hr/>
<u>Sub-total</u>	<hr/> (1,412,400) <hr/>	<hr/> (2,680,350) <hr/>	<hr/> (2,426,450) <hr/>
Central, Departmental & Technical Support Services			
Central Salaries & Administration	11,950	12,350	12,650
Information Technology Expenses	900	1,350	1,100
Departmental Administrative Expenses	17,950	25,400 d)	19,150
	<hr/>	<hr/>	<hr/>
<u>TO SUMMARY</u>	<hr/> (1,381,600) <hr/>	<hr/> (2,641,250) <hr/>	<hr/> (2,393,550) <hr/>
Full Time Equivalent Number of Staff (Including Support Service Staff)	0.91	0.91	0.91

- b) Reflects anticipated movement and peak interest rate rises in the investment market.
- c) Assumes an increase in the return to be achieved.
- d) Reflects allocation of one-off service expenditure attributable to Accountancy staff section.

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Treasury Management and Annual Investment Strategy 2024/25

1 Introduction

1.1 Treasury management is defined as:

‘The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks’.

1.2 The strategy covers:

- Statutory and regulatory requirements
- Balanced budget requirement
- Prudential and treasury Indicators
- Borrowing requirement
- Current treasury position
- Prospects for interest rates
- Investment policy
- Creditworthiness policy
- Country, counterparty and group exposure limits
- Cash flow and core fund investment
- Medium and long term investment
- Year end investment report
- Policy on use of external service providers.

2 Statutory and regulatory requirements

2.1 The Local Government Act 2003 (the Act) and supporting regulations requires the Council to ‘have regard to’ the Chartered Institute of Public Finance (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years to ensure that the Council’s capital investment plans are affordable, prudent and sustainable.

- 2.2 The Act requires the Council to set out its Treasury Management Strategy for borrowing and to prepare an Annual Investment Strategy which sets out the Council's policies for managing its investments and for giving priority to the **security** and **liquidity** of those investments.
- 2.3 The Department for Levelling Up Housing and Communities, (DLUHC) issued revised Statutory Guidance on Local Government Investments (2018 Edition). CIPFA amended the Prudential Code for Capital Finance in Local Authorities (2017 Edition) and the Treasury Management in the Public Services: Code of Practice and Cross Sectorial Guidance Notes (2017 Edition). In December 2021 CIPFA published updates to the Treasury Management Code which has been taken into account in the 2024/25 Strategy.
- 2.4 Historically, the scope of the statutory guidance and CIPFA codes was limited to the investment of an authority's cash surpluses and the management of borrowing undertaken to support its capital expenditure plans. The updated statutory guidance and codes broaden that scope to include expenditure on loans and the acquisition of non-financial assets (property) intended to generate a profit. The Council has not engaged in any commercial investments and has no material non-treasury investments.
- 2.5 The Council formally adopted the revised CIPFA Treasury Management Code of Practice (2017 Edition) on 30 October 2018 and in December 2021 CIPFA published updates to the Treasury Management Code. The primary requirements of the Code are as follows:
- Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's treasury management activities.
 - Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
 - Receipt by the full Council of an Annual Treasury Management Strategy, including the Annual Investment Strategy, for the year ahead; a mid-year Review Report; and an Annual Report (stewardship report) covering activities during the previous year.
 - Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.

- Delegation by the Council of the role of scrutiny of the Treasury Management Strategy and policies to a specific named body. For this Council, the delegated body is the Audit Committee.
- 2.6 The scheme of delegation and role of the Section 151 officer that give effect to these requirements are set out at **[Appendix 1]**.

3 Balanced budget requirement

- 3.1 It is a statutory requirement under Section 33 of the Local Government Finance Act 1992, for the Council to produce a balanced budget. In particular, Section 32 requires a local authority to calculate its budget requirement for each financial year to include the revenue costs that flow from capital financing decisions. This means that increases in capital expenditure must be limited to a level whereby increases in charges to revenue from:
- increases in interest charges caused by increased borrowing to finance additional capital expenditure, and
 - any increases in running costs from new capital projects are limited to a level which is affordable within the projected income of the Council for the foreseeable future.

4 Prudential and treasury indicators

- 4.1 It is a statutory duty under Section 3 of the Act and supporting regulations, for the Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the 'Affordable Borrowing Limit'. In England and Wales the Authorised Limit represents the legislative limit specified in the Act.
- 4.2 The Council must have regard to the Prudential Code when setting the 'Authorised Limit', which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future council tax levels is 'acceptable'.
- 4.3 Whilst termed an 'Affordable Borrowing Limit', the capital plans to be considered for inclusion may incorporate financing by both external borrowing and other forms of liability, such as credit arrangements. The 'Authorised Limit' is to be set, on a rolling basis, for the forthcoming financial year and two successive financial years.
- 4.4 Prudential and Treasury Indicators relevant to setting an integrated treasury management strategy are set out in **[Appendix 2]**.

5 Borrowing requirement

- 5.1 Other than for cash flow purposes and then within the limits set out at **[Appendix 2]** borrowing will not be necessary (based on the current capital plan). All capital expenditure prior to 2029/30 is expected to be funded from the Revenue Reserve for Capital Schemes, grants, developer contributions and capital receipts arising from the sale of assets. This does not however, preclude a decision to borrow in order to fund in full or in part a capital investment opportunity that meets the Council's strategic priorities and objectives and achieves value for money. Each such opportunity to be considered on a case by case basis as appropriate.
- 5.2 The borrowing of monies purely to invest or on-lend and make a return is unlawful and this Council will not engage in such activity.

6 Current treasury position

- 6.1 The Council is debt free and as such the overall treasury position at 30 November 2023 comprised only investments. On that date the Council's cash flow and core fund investments totaled £64.25m and was invested in a mix of money market funds, bank notice accounts and time deposits with banks and building societies. The average duration to maturity of the portfolio was 94 days with a weighted average rate of return 5.57%. Returns in future years are expected to decrease as Bank Rate cuts are implemented. Income from investments forms part of the Council's ten-year medium term financial strategy (MTFS). An updated MTFS will be presented to Council in February 2024.
- 6.2 The Council held £5m in externally managed property fund investments at 30 November 2023. The property funds are expected to generate a stable income of 3.7% in 2024/25 and this level should continue in future years. Over time, the rise in the value of each property funds' assets (capital appreciation) is expected to negate fund entry and exit costs.
- 6.3 The Council also held £4.25m in externally managed multi asset fund investments at 30 November 2023. The multi asset funds are expected to generate income of 4.3% in 2024/25 pulling back to 4% in future years. There are no exit costs associated with multi asset funds.
- 6.4 At present the Council has no material non-treasury investments (e.g. directly owned commercial property, shares in subsidiaries or loans to third parties). The procedures, practices and governance arrangements to enable the Council to meet the requirements of the Chartered

Institute of Public Finance & Accountancy's Treasury Management and Prudential Codes of Practice, and the Statutory Guidance on Local Government Investments relating to non-treasury investments was included in The Audit Committee report of 18 January 2021 and endorsed by Council approving appropriate Non-treasury Management Practices.

7 Prospects for interest rates

7.1 The Council has appointed Link Asset Services as treasury advisor to the Council and part of their service is to assist the Council to formulate a view on interest rates. Link's current interest rate forecast is provided at **[Appendix 3]**. Link's expectation for Bank Rate, for each financial year ending March, are:

- 2024/2025 4.00%
- 2025/2026 3.00%
- 2026/2027 3.00%

7.2 The forecast may be overly optimistic (downside risks) dependent on:

- **Labour and supply shortages** prove more enduring and disruptive and depress economic activity (accepting that in the near-term this is also an upside risk to inflation and, thus, could keep gilt yields high for longer).
- **The Bank of England** has increased Bank Rate too fast and too far over recent months, and subsequently brings about a deeper and longer UK recession than we currently anticipate.
- **UK / EU trade arrangements** - if there was a major impact on trade flows and financial services due to complications or lack of co-operation in sorting out significant remaining issues.
- **Geopolitical risks**, for example in Ukraine/Russia, the Middle East, China/Taiwan/US, Iran and North Korea, which could lead to increasing safe-haven flows.

7.3 The forecast may be overly pessimistic (upside risk) dependent on:

- **The Bank of England** despite the recent tightening to 5.25%, proves too timid in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to remain elevated for a longer period within the UK economy, which then necessitates Bank Rate staying higher for longer than we currently project.

- **The Pound weakens** because of a lack of confidence in the UK Government's pre-election fiscal policies, resulting in investors pricing in a risk premium for holding UK sovereign debt.
- **Longer-term US treasury yields** rise strongly if inflation remains more stubborn there than the market currently anticipates, consequently pulling gilt yields up higher. (We saw some movements of this type through October although generally reversed in the last week or so).
- **Projected gilt issuance, inclusive of natural maturities and QT**, could be too much for the markets to comfortably digest without higher yields compensating.

7.4 Link's more detailed view of the current economic background is included at **[Appendix 4]**.

8 Investment policy

- 8.1 The Council's investment policy has regard to the DLUHC's Guidance on Local Government Investments and the CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes. **The Council's investment priorities will be security first, liquidity second, and then yield.**
- 8.2 In accordance with the above guidance from the DLUHC and CIPFA, and in order to minimise the risk to investments, the Council applies minimum acceptable credit criteria in order to generate a list of highly creditworthy counterparties. The key ratings used to monitor counterparties are the Short Term and Long Term ratings.
- 8.3 Ratings are not the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment also takes account of information that reflects the opinion of the markets. To this end the Council engages with its advisors to maintain a monitor on market pricing such as 'credit default swaps' and overlay that information on top of the credit ratings.
- 8.4 Other information sources used includes the financial press, share price and other information relating to the banking sector in order to establish a robust scrutiny process on the suitability of potential investment counterparties.

- 8.5 Investment instruments identified for use are listed in **[Appendix 5]** under 'specified' and 'non-specified' investment categories. Counterparty limits are detailed in section 10 below.

9 Creditworthiness policy

- 9.1 The creditworthiness service provided by Link has been progressively enhanced over the last few years and now employs a sophisticated modelling approach using credit ratings from each of the three main credit rating agencies - Fitch, Moody's and Standard and Poor's. The credit ratings are supplemented using the following overlays:
- Credit watches and credit outlooks from credit rating agencies;
 - Credit Default Swap (CDS) spreads to give early warning of likely changes in credit ratings; and
 - Sovereign ratings to select counterparties from only the most creditworthy countries.
- 9.2 This modelling approach combines credit ratings, and any assigned credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads. The end product is a series of colour code bands which indicate the relative creditworthiness of counterparties. These colour coded bands are also used by the Council to inform the duration of an investment and are therefore referred to as durational bands. The Council is satisfied that this service now gives a much improved level of security for its investments.
- 9.3 The selection of counterparties with a high level of creditworthiness is achieved by selecting institutions down to a minimum durational band within Link's weekly credit list of potential counterparties (worldwide). Subject to an appropriate sovereign and counterparty rating the Council uses counterparties within the following durational bands:

Yellow/Pink	5 years
Purple	2 years
Blue	1 year (UK nationalised Banks)
Orange	1 year
Red	6 months
Green	100 Days

- 9.4 The Council does not use the approach suggested by CIPFA of using the lowest rating from all three rating agencies to determine creditworthy counterparties. Moody's tends to be more aggressive in giving low ratings than the other two agencies and adopting the CIPFA

approach may leave the Council with too few banks on its approved lending list. The Link creditworthiness service uses a wider array of information than just primary ratings and in combination with a risk weighted scoring system undue preponderance is not given to any one agency's ratings.

- 9.5 All credit ratings are reviewed weekly and monitored on a daily basis. The Council is alerted to changes to ratings of all three agencies through its use of the Link creditworthiness service.
- If a downgrade results in the counterparty no longer meeting the Council's minimum criteria its use for new investment is withdrawn immediately.
 - In addition to the use of credit ratings the Council is advised of movements in Credit Default Swap data against the iTraxx European Financials benchmark and other market data on a daily basis. Extreme market movements may result in a scaling back of the duration assessment or removal from the Councils lending list altogether.
- 9.6 Sole reliance is not placed on the use of the Link service. In addition the Council uses market information including information on any external support for banks to assist the decision making process.

10 Country, counterparty and group exposure limits

- 10.1 The UK Sovereign debt rating has been placed on Stable Outlook following a review by the three major rating agencies in April 2023. Accordingly, when setting minimum sovereign debt ratings, this Authority has agreed to reinstate the minimum rating of A- for the UK.
- 10.2 The Council has determined that it will only use approved counterparties from the UK. Counterparties from other countries will be subject to a minimum sovereign credit rating of AA-. The minimum will be the lowest rating determined by Fitch, Moody's and Standard and Poor's. The list of countries that qualify using this credit criteria as at the date of this report are shown in **[Appendix 6]**. The list will be amended in accordance with this policy should ratings change.
- 10.3 Avoidance of a concentration of investments in too few counterparties or countries is a key to effective diversification and in this regard the limits set out below are thought to achieve a prudent balance between risk and practicality.

Country, Counterparty and Group exposure	Maximum Proportion of Portfolio
UK regulated institutions subject to UK Sovereign rating of A- or higher and the institution limits detailed below.	100%
Non-UK regulated institutions as an amount per sovereign rated AA- or higher and subject to the institution limits detailed below.	20%
Group of related institutions.	20%
Each financial institution rated Fitch A-, F1 or higher (green excluding CDS using Link's credit methodology) or each local authority.	20%
Each UK nationalised bank rated Fitch BBB, F2 or higher (green excluding CDS using Link's credit methodology).	20%
Each AAA rated multilateral / supranational bank.	20%
Each AAA rated CNAV, LVNAV or VNAV money market fund.	20%
Each AA or higher rated enhanced cash fund / government liquidity fund / gilt fund / ultra-short dated bond fund subject to a maximum 20% exposure to all such funds.	10%
Each housing association rated Fitch A- or higher and 20% for all housing association investment.	10%
Non-specified investments over 1 year duration.	60%
Each non-rated property fund used for long term investment subject to a maximum £3m (20% of expected long term balances) per fund and across all such funds. No cash limit applies to new resources made available from, or in anticipation of, the sale of existing property assets or other windfalls.	N/A
Each non-rated diversified income (multi-asset) fund and or short dated bond fund used for medium term investment subject to a maximum £3m (20% of expected long term balances) per fund and across all such funds. No cash limit applies to new resources made available from, or in anticipation of, the sale of existing property assets or other windfalls.	N/A

- 10.4 Cash flow balances vary depending on the timing of receipts and payments during the month and from month to month. The investment limits identified in paragraph 10.2 will be based on an estimate of the expected average daily cash flow balance at the start of the financial year augmented by core cash and other balances. Counterparty investments will be managed to ensure compliance with the limits at the start and end of each financial year when balances available for investment will be at a low point.

11 Cash flow and core fund investment

- 11.1 Funds available for investment are split between cash flow and core cash. Cash flow funds are generated from the collection of council tax, business rates and other income streams. They are consumed during the financial year to meet payments to precept authorities and government (NNDR contributions) and to meet service delivery costs (benefit payments, staff salaries and suppliers in general). The consumption of cash flow funds during the course of a financial year places a natural limit on the maximum duration of investments (up to one year). Core funds comprise monies set aside in the Council's revenue and capital reserves and are generally available to invest for durations in excess of one year.
- 11.2 **Cash flow investments.** The average daily cash flow balance throughout 2024/25 is expected to be £13.1m with a proportion available for longer than three months. Cash flow investments will be made with reference to cash flow requirements (liquidity) and the outlook for short-term interest rates i.e. rates for investments up to 12 months. Liquidity will be maintained by using bank deposit accounts and money markets funds. Where duration can be tolerated, additional yield will be generated by utilising term deposits with banks and building societies and enhanced cash and government liquidity funds. Investment in ultra-short dated bond funds will also be considered. Cash balances available for more than 3 months may be transferred to the core fund portfolio if a better overall return for the Council can be achieved by doing so.
- 11.3 In compiling the Council's estimates for 2024/25 a return on cash flow investments of 5.20% has been assumed.
- 11.4 **Core fund investments.** Historically the Council's core funds have been managed by an external fund manager. All core funds were returned to the Council for in-house management during 2014/15. The core fund balance is diminishing as a proportion is consumed each year (approximately £2m per annum) to support the Council's revenue

budget and capital expenditure plans. The average core fund balance during 2024/25 is expected to be £22.8m.

- 11.5 The Council will avoid locking into longer term deals while investment rates continue their current low levels unless attractive rates are available with counterparties of particularly high creditworthiness which make longer term deals worthwhile and are within the risk parameters set by the Council.
- 11.6 In compiling the Council's estimates for 2024/25 a return on core fund investments of 5.50% has been assumed. Subject to the credit quality and exposure limits outlined in paragraph 10.2, liquidity and yield will be achieved by a mix of investments using predominantly fixed term deposits and certificates of deposit. Notice accounts, enhanced cash and government liquidity funds and ultra-short dated bond funds will also be used if these offer favourable returns relative to term deposits. Investment with housing associations and other local authorities will also be considered.

12 Medium and long term investment

- 12.1 The strategy includes provision (paragraph 10.2 and detailed in Appendix 5) to undertake medium term investment in either short dated bond funds and or diversified income funds (a mix of cash, bonds, equity and property) through externally managed collective investment schemes. Investment in such schemes typically implies a three to five year commitment to recoup entry and exit fees and mitigate the potential for a fall in the value of assets under management.
- 12.2 A detailed evaluation of a fund's asset quality, market risk, redemption constraints, management and governance arrangements will be undertaken in advance of any investment taking place. Support to identify and select the most appropriate fund(s) will be sought from the Council's treasury advisor. Any sums invested will be reported at regular intervals with income received and changes in capital value separately identified. The strategy places an upper limit on exposure to such funds of 20% of expected long term cash balances, circa £3m.
- 12.3 The strategy includes provision (paragraph 10.2 and detailed in Appendix 5) to undertake long term investment in property through an externally managed collective investment scheme (fund). Investment in such schemes typically implies a 10 year commitment to recoup entry and exit fees. To mitigate the risk that capital values may fall due to changes in economic activity, investment duration cannot be determined with certainty at the time the investment commences. As a consequence any cash balances applied to such an investment must

be available for the long term and there must be flexibility over the timing of redemption(s) in the future. Sums invested will be reported at regular intervals with income received and changes in capital value separately identified. The strategy places an upper limit on exposure to such funds from existing resources of 20% of expected long term cash balances, circa £3m. No limit applies to new resources made available from the sale of existing assets or other windfalls.

13 Year end investment report

- 13.1 At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

14 Policy on the use of external service providers

- 14.1 The Council uses Link Asset Services as its external treasury management advisors.
- 14.2 The Council recognises that responsibility for treasury management decisions remains with the Council at all times and will ensure that undue reliance is not placed upon our external service providers.
- 14.3 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

**Financial Services
January 2024**

Appendices

1. Treasury management scheme of delegation
2. Prudential and treasury indicators
3. Interest rate forecasts
4. Economic background provided by Link Asset Services
5. Credit and counterparty risk management (TMP1)
6. Approved countries for investments

Appendix 1 Treasury management scheme of delegation

Full Council

- Budget approval.
- Approval of treasury management policy.
- Approval of the annual treasury management and investment strategy.
- Approval of amendments to the Council's adopted clauses, treasury management policy and annual treasury management and investment strategy.
- Approval of the treasury management outturn and mid-year reports.

Cabinet

- Budget consideration.
- Approval of the division of responsibilities.
- Approval of the selection of external service providers and agreeing terms of appointment.
- Acting on recommendations in connection with monitoring reports.

Audit Committee

- Reviewing the annual treasury management and investment strategy and making recommendations to Cabinet and Council.
- Receive reports on treasury activity at regular intervals during the year and making recommendations to Cabinet.
- Reviewing treasury management policy, practices and procedures and making recommendations to Cabinet and Council.

The S151 (responsible) officer

- Recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance.
- Submitting regular treasury management policy reports.
- Submitting budgets and budget variations.
- Receiving and reviewing management information reports.
- Reviewing the performance of the treasury management function.
- Ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function.
- Prepare and maintain effective treasury management practices (TMPs).
- Ensuring the adequacy of internal audit, and liaising with external audit.
- Recommending the appointment of external service providers.
- Preparation of a Capital Strategy and for ensuring the strategy is sustainable, affordable and prudent in the long term and that due diligence has been carried out to support each investment decision and those decisions are in accordance with the risk appetite of the authority.

Appendix 2 Prudential and treasury indicators

The prudential indicators relating to capital expenditure cannot be set until the capital programme is finally determined and will as a consequence be reported as part of the Setting the Budget for 2024/25 report that is to be submitted to Cabinet on 13 February 2024.

The treasury management indicators are as set out in the table below:

TREASURY MANAGEMENT INDICATORS	2022/23	2023/24	2024/25	2025/26	2026/27
	Actual	Estimate	Estimate	Estimate	Estimate
	£'000	£'000	£'000	£'000	£'000
Authorised Limit for external debt :					
borrowing	nil	7,000	7,000	7,000	7,000
other long term liabilities	nil	nil	nil	nil	nil
TOTAL	nil	7,000	7,000	7,000	7,000
Operational Boundary for external debt:-					
borrowing	nil	4,000	4,000	4,000	4,000
other long term liabilities	nil	nil	nil	nil	nil
TOTAL	nil	4,000	4,000	4,000	4,000
Actual external debt	nil	nil	nil	nil	nil
Upper limit for fixed interest rate exposure > 1 year at year end	nil	It is anticipated that exposure will range between 0% to 60%			
Upper limit for variable rate exposure < 1 year at year end	19,620 (35.5%)	It is anticipated that exposure will range between 40% to 100%			
Upper limit for total principal sums invested for over 365 days at year end	9,250 (16.7%)	60% of funds			

Maturity structure of fixed rate borrowing during 2023/24 – 2026/27	upper limit	lower limit
under 12 months	100 %	0 %
Over 12 months	0 %	0 %

A new Liability Benchmark indicator was introduced in 2023/24. Whilst consideration has been given to the Liability Benchmark, this Council is debt free and therefore there is no debt maturity profile to report. The forecast net investment requirement for the next three years (excluding the liquidity allowance) is: 2024/25 £32.1m, 2025/26 £25.9m and 2026/27 £19.9m.

Appendix 3 Interest rate forecasts – December 2023

Link Group Interest Rate View 07.11.23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26
BANK RATE	5.25	5.25	5.25	5.00	4.50	4.00	3.50	3.25	3.00	3.00	3.00	3.00	3.00
3 mth ave earnings	5.30	5.30	5.30	5.00	4.50	4.00	3.50	3.30	3.00	3.00	3.00	3.00	3.00
6 mth ave earnings	5.60	5.50	5.40	5.10	4.60	4.10	3.60	3.40	3.10	3.10	3.10	3.10	3.10
12 mth ave earnings	5.80	5.70	5.50	5.20	4.70	4.20	3.70	3.50	3.30	3.30	3.30	3.30	3.30
5yr PWLB	5.00	4.90	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.60	3.50	3.50	3.50
10yr PWLB	5.10	5.00	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.70	3.60	3.60	3.60
25yr PWLB	5.50	5.30	5.10	4.90	4.70	4.50	4.30	4.20	4.10	4.10	4.00	4.00	4.00
50yr PWLB	5.30	5.10	4.90	4.70	4.50	4.30	4.10	4.00	3.90	3.90	3.80	3.80	3.80
Bank Rate													
Link	5.00	4.9	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.60	3.50	3.50	3.50
Capital Economics	5.25	5.25	5.25	5.25	4.75	4.25	3.75	3.25	3.00	3.00	--	--	--
5yr PWLB Rate													
Link	4.20	4.90	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.60	3.50	3.50	3.50
Capital Economics	4.20	4.50	4.40	4.30	4.20	4.10	3.90	3.80	3.70	--	--	--	--
10yr PWLB Rate													
Link	5.10	5.00	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.70	3.60	3.60	3.60
Capital Economics	4.32	4.60	4.50	4.40	4.30	4.30	4.20	4.10	4.10	--	--	--	--
25yr PWLB Rate													
Link	5.50	5.30	5.10	4.90	4.70	4.50	4.30	4.20	4.10	4.10	4.00	4.00	4.00
Capital Economics	4.82	4.90	4.80	4.60	4.40	4.40	4.50	4.50	4.60	--	--	--	--
50yr PWLB Rate													
Link	5.30	5.10	4.90	4.70	4.50	4.30	4.10	4.00	3.90	3.90	3.80	3.80	3.80
Capital Economics	4.54	4.60	4.50	4.50	4.40	4.40	4.40	4.40	4.40	--	--	--	--

Appendix 4 Economic background based on text provided by Link Asset Services

- 1 **UK** – The first half of 2023/24 saw:
 - Interest rates rise by a further 100bps, taking Bank Rate from 4.25% to 5.25% and, possibly, the peak in the tightening cycle.
 - CPI inflation falling from 8.7% in April to 6.7% in September, its lowest rate since February 2022, but still the highest in the G7.
 - Core CPI inflation declining to 6.1% in September from 7.1% in April and May, a then 31 years high.
 - A cooling in labour market conditions, but no evidence yet that it has led to an easing in wage growth (as the 3myy growth of average earnings rose by 7.8% for the period June to August, excluding bonuses).

- 2 The registering of 0% GDP for Q3 suggests that underlying growth has lost momentum since earlier in the year. Some of the weakness in July was due to there being almost twice as many working days lost to strikes in July (281,000) than in June (160,000). But with output falling in 10 out of the 17 sectors, there is an air of underlying weakness.

- 3 The fall in the composite Purchasing Managers Index from 48.6 in August to 46.7 in September left it at its lowest level since COVID-19 lockdowns reduced activity in January 2021. At face value, it is consistent with the 0% q/q rise in real GDP in the period July to September, being followed by a contraction in the next couple of quarters.

- 4 As the growing drag from higher interest rates intensifies over the next six months, the economy is expected to continue to lose momentum and soon fall into a mild recession. Strong labour demand, fast wage growth and government handouts have all supported household incomes over the past year. With CPI inflation past its peak and expected to decline further, the economy has got through the cost-of-living crisis without recession. Even though the worst of the falls in real household disposable incomes are behind us, the phasing out of financial support packages provided by the government during the energy crisis means real incomes are unlikely to grow strongly. Higher interest rates will soon bite harder too. The Bank of England is expected to keep interest rates at the probable peak of 5.25% until the second half of 2024. Mortgage rates are likely to stay above 5.0% for around a year.

- 5 The tightness of the labour market continued to ease, with employment in the three months to July falling by 207,000. The further decline in the number of job vacancies from 1.017m in July to 0.989m in August suggests that the labour market has loosened a bit further since July. That is the first time it has fallen below 1m since July 2021. At 3.0% in July, and likely to have fallen to 2.9% in August, the job vacancy rate is getting closer to 2.5%, which would be consistent with slower wage growth. Meanwhile, the 48,000 decline in the supply of workers in the three months to July offset some of the loosening in the tightness of the labour market. That was due to a 63,000 increase in inactivity in the three months to July as more people left the labour market due

to long term sickness or to enter education. The supply of labour is still 0.3% below its pre-pandemic February 2020 level.

- 6 The cooling in labour market conditions still has not fed through to an easing in wage growth. The headline 3myy rate rose 7.8% for the period June to August, which meant UK wage growth remains much faster than in the US and in the Euro-zone. Moreover, while the Bank of England's closely watched measure of regular annual average total pay growth for the private sector was 7.1% in June to August 2023, for the public sector this was 12.5% and is the highest total pay annual growth rate since comparable records began in 2001. However, this is affected by the NHS and civil service one-off non-consolidated payments made in June, July and August 2023. The Bank of England's prediction was for private sector wage growth to fall to 6.9% in September.
- 7 CPI inflation declined from 6.8% in July to 6.7% in August and September, the lowest rate since February 2022. The biggest positive surprise was the drop in core CPI inflation, which declined from 6.9% to 6.1%. That reverses all the rise since March.
- 8 In the latest monetary policy meeting published on 14 December, the Bank of England left interest rates unchanged at 5.25%. The vote to keep rates on hold was a split vote, 6-3. It is clear that some members of the MPC are still concerned about the stickiness of inflation.
- 9 Like the US Fed, the Bank of England wants the markets to believe in the higher for longer narrative. In terms of messaging, the Bank once again said that "further tightening in monetary policy would be required if there were evidence of more persistent inflationary pressures", citing the rise in global bond yields and the upside risks to inflation from "energy prices given events in the Middle East". So, like the Fed, the Bank is keeping the door open to the possibility of further rate hikes. However, it also repeated the phrase that policy will be "sufficiently restrictive for sufficiently long" and that the "MPC's projections indicate that monetary policy is likely to need to be restrictive for an extended period of time". Indeed, Governor Bailey was at pains in his press conference to drum home to markets that the Bank means business in squeezing inflation out of the economy.
- 10 This narrative makes sense as the Bank of England does not want the markets to decide that a peak in rates will be soon followed by rate cuts, which would loosen financial conditions and undermine its attempts to quash inflation. The language also gives the Bank of England the flexibility to respond to new developments. A rebound in services inflation, another surge in wage growth and/or a further leap in oil prices could conceivably force it to raise rates in the future.
- 11 **Central Bank Concerns.** Currently, the Fed has pushed up US rates to a range of 5.25% to 5.5%, whilst the MPC followed by raising Bank Rate to 5.25%. EZ rates have also increased to 4% with further tightening a possibility.

- 12 Ultimately, however, from a UK perspective it will not only be inflation data but also employment data that will mostly impact the decision-making process, although any softening in the interest rate outlook in the US may also have an effect (just as, conversely, greater tightening may also).

Link Asset Services
18 December 2023

Appendix 5 Credit and counterparty risk management (TMP1)

All specified and non-specified Investments will be:

Subject to the sovereign, counterparty and group exposure limits identified in the Annual Investment Strategy (Section 10).

Subject to the duration limit **where applicable** suggested by Link (+6 months for UK institutions) at the time each investment is placed.

Subject to a maximum of 60% of funds being held in non-specified investments at any one time.

Sterling denominated.

Specified Investments (maturities up to 1 year):

Investment	Minimum Credit Criteria
UK Debt Management Agency Deposit Facility	UK Sovereign A-
Term deposits - UK local authorities	UK Sovereign A-
Term deposits - UK nationalised banks	UK Sovereign A- Counterparty BBB, F2 or Green excluding CDS
Term deposits – all other banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 or Green excluding CDS
Certificates of deposit - UK nationalised banks	UK Sovereign A- Counterparty BBB, F2 or Green excluding CDS
Certificates of deposit – all other banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1, or Green excluding CDS
UK Treasury Bills	UK Sovereign A-
UK Government Gilts	UK Sovereign A-
Bonds issued by multi-lateral development banks	AAA
Sovereign bond issues (other than the UK Gov't)	AAA
Money market funds (CNAV, LVNAV or VNAV)	AAA
Enhanced cash / Government liquidity / Ultra-short dated bond funds	AA

Non-specified Investments (maturities in excess of 1 year and any maturity if not included above):

Investment	Minimum Credit Criteria	Max duration to maturity
Fixed term deposits with variable rate and variable maturities (structured deposits) - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Fixed term deposits with variable rate and variable maturities (structured deposits) - banks and building societies	UK sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Term deposits - local authorities	UK Sovereign A-	3 years
Term deposits - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Term deposits - banks, building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Term deposits – housing associations	UK Sovereign A- Counterparty A-	2 years
Certificates of deposit - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Certificates of deposit - banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Commercial paper - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Commercial paper - banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Floating rate notes issued by multilateral development banks	AAA	2 years
Bonds issued by multilateral development banks	AAA	2 years
Sovereign bonds (other than the UK Government)	AAA	2 years
UK Government Gilts	UK Sovereign A-	5 years
Property funds	N/A	N/A
Diversified income and or short dated bond funds	N/A	N/A

Accounting treatment of investments. The accounting treatment may differ from the underlying cash transactions arising from investment decisions made. To ensure that the Council is protected from any adverse revenue impact, which may arise from these differences, we will review the accounting implications of new transactions before they are undertaken.

Appendix 6 Approved countries for investments

Each financial institution must meet the minimum credit criteria specified in the Annual Investment Strategy (Section 10). For non-UK regulated institutions the institutions sovereign must be rated AA- or higher by each of the three rating agencies - Fitch, Moody's and Standard and Poor's.

This list will be reviewed and amended if appropriate on a weekly basis by the Director of Finance and Transformation.

As of 15 December 2023 sovereigns meeting the above requirement which also have banks operating in sterling markets with credit ratings of green or above on the Link Asset Services' Credit Worthiness List were:

AAA	Australia Denmark Germany Netherlands Norway Singapore Sweden Switzerland
AA+	Canada Finland USA
AA	Abu Dhabi (UAE)
AA-	Belgium Qatar France UK

At 15 December 2023 the UK received a credit rating of AA-

Non-treasury Management Practices

1 Introduction

- 1.1 The Council recognises that investment in other financial assets and property primarily for financial return, taken for non-treasury management purposes, requires careful investment management. Such activity includes loans supporting service outcomes, investments in subsidiaries, and investment property portfolios.
- 1.2 The Council will ensure that all its investments are covered in a capital strategy, investment strategy or equivalent, and will set out, where relevant, the Council's risk appetite and specific policies and arrangements for non-treasury investments. It is recognised that the risk appetite for these activities may differ from that for treasury management.
- 1.3 The Council will maintain a schedule setting out a summary of existing material investments, subsidiaries, joint ventures and liabilities including financial guarantees and the organisation's risk exposure.
- 1.4 The Council recognises that many of the principles underlying treasury management practices will apply to non-treasury investments as they do to treasury investments. However, some aspects are likely to differ significantly.
- 1.5 It is recognised that the Council may make investments for policy reasons outside of normal treasury activity, and these may include:
 - Service investments – these are held clearly and explicitly in the course of the provision, and for the purposes of, operational services, including regeneration
 - Commercial investments – these are undertaken for mainly financial reasons. They may include:
 - Investments as part of business structures, such as loans to and shares in subsidiaries.
 - Investments explicitly taken out with the aim of making a financial surplus for the council and include commercial properties
- 1.6 The investment practices for non-treasury investments detailed below will be complied with by all officers and agencies responsible for such investments. These practices will evolve over time and will be subject to annual review.

2 Risk management (NTMP 1)

- 2.1 Investment of the Council's cash surpluses and reserves is governed by the CIPFA Treasury Management Code of practice and DLUHC Statutory Guidance. These require authorities to prioritise security and liquidity over yield. Compliance aims to protect the value of sums invested and ensure funds are available to spend as spending commitments arise. Investment in equity, bonds or property are likely to fail the security and liquidity tests and are therefore considered inappropriate for short term cash surplus and reserve fund management purposes.
- 2.2 Commercial property covers a broad range of property uses and types including, retail outlets, office accommodation, warehouses, industrial units, and residential accommodation.
- 2.3 Risks associated with commercial property ownership include:
- Close correlation between value and changes in **GDP**. Values fall significantly in a downturn. Values rise when the economy is growing.
 - Property is **illiquid** both in terms of transaction times and price transparency.
 - **Tenant covenant strength** will impact on ability to meet rental payments, lease renewal, exercise break clauses and CVA.
 - **Valuations** are not a guarantee of sale price and may be subject to investor confidence / sentiment.
 - **Stock, sector, and geographic** risk will all impact on the value of a particular property.
 - Subject to **environmental risk** such as flooding and land contamination.
 - **Interest rate** changes not only affect the cost of borrowing but also bond / equity prices which may impact on the relative attractiveness of property.
 - Changes in **legislation and regulation** e.g. energy efficiency may involve additional cost to the investor.
 - Changes in **taxation** (stamp duty / SDLT) may affect value.
- 2.4 Risks will be explored in the property acquisition business case and through regular monitoring of the property market post acquisition. Nevertheless, risk will persist.
- 2.5 A risk assessment is provided at **[Appendix 1]**.

3 Decision making, governance and organisation (NTMP 2)

- 3.1 Any new commercial property investment will be subject to a business case that meets HM Treasury Green Book standards. The report seeking Capital Plan budget provision will follow the normal budget approval process (O&S, Cabinet and Council).
- 3.2 Day to day management of commercial property investments is delegated to the Director of Central Services (DCS). The DCS will undertake that management using in-house resources or appoint specialist external agents where appropriate. Functions include:
- Collection of rent & service charges
 - Establishing lease terms
 - Advertising vacant units
 - Negotiating tenant lease agreements
 - Monitoring the commercial property market
 - Undertaking annual property revaluations
- 3.3 New lease agreements will be certified, without delegation, by the DCS. Any rent free periods and other tenant inducements will be reported under the reporting arrangements detailed in NTMP 4.
- 3.4 The Director of Finance and Transformation will undertake a periodic reconciliation of income and expenditure. Internal audit, subject to a risk assessment, will review commercial property activity.

4 Performance management (NTMP 3)

- 4.1 Baseline performance requirements for commercial properties will be drawn from the business case submitted as part of property purchase approval. Gross income, service costs and tenant arrears will be monitored against baseline on a quarterly basis. Variation from a pre-determined tolerance level will trigger a report to the Council's Management Team and, if appropriate, will be escalated in accordance with NTMP 4.
- 4.2 Performance of the Council's commercial property function and that of any associated external support will be monitored and reviewed annually to ensure best practice and value for money are being achieved.

5 Reporting and management information (NTMP 4)

- 5.1 An information report setting out the performance of the Council's commercial property investments will be prepared by the Director of

Central Services and submitted to Members. Reports will be subject to prior consideration by the Council's Management Team.

- 5.2 Reports will include:
- A commentary on commercial property market conditions
 - Gross income against budget
 - Income performance against benchmark
 - Operating costs
 - Changes in occupancy
 - Changes to existing lease agreements / new lease agreements
 - Tenant arrears
 - Market value (to be reported annually).
- 5.3 Commercial property investment performance against budget will also be incorporated in the financial planning & control reports submitted to members.
- 5.3 Any extraordinary issues that are likely to generate a change in budget requirement will be subject to endorsement by Cabinet and approval by Council.

6 Training and qualifications (NTMP 5)

- 6.1 Members and officers involved in the property investments decision making process need to have appropriate capacity, skills, and information to enable them to take informed decisions as to whether to enter into a specific property investment.
- 6.2 The Councils employs qualified property, legal and finance officers to manage activity and provide advice within their respective disciplines. Specialist external advisors will be engaged where appropriate. Member training will be provided in-house or by external agents when required.

Property Investment – Risk Register

Risk	Risk Areas	Likelihood 1(low) 6(High)	Impact 1(low) 4(High)	Total Score	Controls
Downturn in property market	Capital value and income potential reduce for purchased assets.	4	4	16	Continued monitoring of markets. Sale of Assets at a benchmarked threshold. Annual Valuation.
Upturn in property market	Purchase cost of potential assets increases.	4	3	12	Continued monitoring of markets. Adjusting purchase criteria to reflect market movement. Consider sales of assets for capital gain. Annual Valuation.
Increase in interest rates (borrowing)	Cost of borrowing where adopted increases with detrimental impact on income.	4	3	12	Ensure most competitive rate achieved if borrowing, fixed term if possible. Consider increased use of reserves to ensure loan to value ratios are acceptable.
Increase in interest rates (investment)	Lower rate of return when compared to other potential investments	4	3	12	Consider revising income return criteria upwards. Consider disposal of assets for re-investment.
Available opportunities	Market opportunities meeting investment criteria not available.	4	3	12	Identify opportunities early and move swiftly to acquire.
Changes in Tenant demand	Certain types of property may become less favorable with tenants.	3	3	9	Consider alternative use at acquisition. Construct a varied portfolio by use.

Risk	Risk Areas	Likelihood 1(low) 6(High)	Impact 1(low) 4(High)	Total Score	Controls
Obsolescence of Asset	Physical obsolesce in terms of building fabric and fit out.	3	3	9	Ensure full repairing and insuring leases are in place via pre-purchase due diligence. Have building surveys undertaken to establish condition of building.
Tenant default	Loss of rental income, increased costs incurred.	3	3	9	Undertake financial due diligence of tenants pre-purchase, obtain the best possible tenant covenants. Look for guarantors or cash deposits where covenants are considered weak. Consider multi-tenanted properties in order to diversify risk. Ensure robust credit control procedures in place. Monitor tenant company performance.
Void periods	Loss of rental income, holding costs incurred – rates, utilities etc. Costs of re-letting.	3	3	9	Monitoring tenancies as described above. Move quickly to appoint letting agents should a “void” period appear likely. Act expediently in concluding legal process of letting.
Government Legislation - Energy Performance (Minimum Energy Efficiency Standards, MEES)	From 1 April 2018 it is illegal for a landlord to grant a new letting of a commercial property that has an EPC of below E.	4	3	12	Undertake appropriate pre purchase due diligence to establish what the EPC rating of a property is and purchase accordingly. Identify if opportunities exist to increase the EPC rating appropriately.
Illiquidity of Property Assets	Asset identified for disposal to raise capital receipt or for reinvestment.	4	4	16	Ensure that assets are kept “sale ready” in terms of documentation and information.

Risk	Risk Areas	Likelihood 1(low) 6(High)	Impact 1(low) 4(High)	Total Score	Controls
Staff Resources	Lack of suitably professionally qualified staff.	3	3	9	Ensure that appropriately professionally qualified staff, with experience in Property Investment, are available to act on the Council's behalf.
Residential Properties – generally all of the above plus greater landlord input, more management intensive	Residential Properties generally require a more active landlord involvement, maintaining the structure and services of a property – maintenance costs and management costs are therefore higher.	4	3	12	Ensure that increased holding costs are factored into purchase valuations. Appoint external professionals to manage landlord and tenant processes. Ensure that tenant deposits are taken.

Assessing risks

Identified risks need to be assessed so that they may be evaluated to determine their severity and to present an overall picture of the extent of the combined risks on the achievement of the objectives. The Council recognises 3 levels of risk:

LOW	MEDIUM	HIGH
1 – 4	5 – 12	15 – 24

The scoring of risks will be carried out using a Likelihood & Impact matrix, see table below with accompanying definitions.

Likelihood	Almost inevitable	6	6 Medium	12 Medium	18 High	24 High
	Very likely	5	5 Medium	10 medium	15 High	20 High
	Likely	4	4 Low	8 Medium	12 Medium	16 High
	Unlikely	3	3 Low	6 Medium	9 Medium	12 Medium
	Very Unlikely	2	2 Low	4 Low	6 Medium	8 Medium
	Almost impossible	1	1 Low	2 Low	3 Low	4 Low
			1	2	3	4
Impact □			Negligible	Marginal	Significant	Critical

TONBRIDGE & MALLING BOROUGH COUNCIL
COUNCIL

20 February 2024

Report of the Interim Chief Executive

Part 1- Public

Matters For Information

1 STANDARDS HEARING PANEL – 8 DECEMBER 2023 – CLLR MARK HOOD

The report sets out the decision of the Standards Hearing Panel held on 8 December 2023

1.1 Introduction

1.1.1 On 8 December 2023 the Hearing Panel of the Joint Standards' Committee met to determine an allegation that Councillor Mark Hood had breached the Code of Conduct of this Council.

1.1.2 The allegations within the complaint (made by Cllr Matt Boughton) relate to posts made in the name of the Tonbridge & Malling Green Party and the Judd Ward Green Party on 1 April and 5 April 2023 respectively. The latter of these posts took the form of a 'Personal Statement by Cllr Mark Hood'. The complaint alleged that these posts included details of a private and confidential workshop held at Tonbridge & Malling Borough Council offices on 13 March 2023, that workshop relating to the review of Council assets in Tonbridge town centre.

1.1.3 An independent external investigator (Mr Richard Lingard) was appointed to carry out the investigation into the allegation, and his report concluded, on the balance of probabilities, that Cllr Hood had breached the Code of Conduct by virtue of his disclosure of information given to him in confidence at the meeting on 13 March 2023. The specific obligation within the Code of Conduct is contained in paragraph 3(2)(d), set out in full below.

..(2) you must not

(d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the written consent of a person authorised to give it; or

(ii) you are required by law to do so; or

- (iii) *the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
- (iv) *the disclosure is:*
 - *reasonable and in the public interest; and*
 - *made in good faith and in compliance with the reasonable requirements of the Authority*

Protocol D to the Code of Conduct contains additional guidance on the requirements of the Council relating to the disclosure of confidential information.

1.1.4 Having heard in person from Mr Lingard and Cllr Hood and considered the written representations of the Independent Person the Panel concluded, on the balance of probabilities on the evidence presented to it, that in relation to paragraph 3 (2) (d):

- (1) the nature of the consultant workshop in question was confidential; and
- (2) Cllr Hood had disclosed information acquired from the confidential workshop to the public on social media.

The Panel therefore found that Cllr Hood had breached the Tonbridge & Malling Borough Council Code of Conduct.

1.1.5 The full reasons for the decision are contained in the Decision Notice which is annexed to this report as **Annex 1**.

1.2 Sanctions

1.2.1 Once the Panel have found that there has been a breach of the Code of Conduct the adopted arrangements for dealing with complaints require the Panel to consider representations from the Subject Member i.e. Cllr Hood, the Monitoring Officer ("MO") and the Independent Person ("IP") on the application of sanctions. The representations made to the Panel have been recorded in the Decision Notice.

1.2.2 The Council's adopted arrangements for dealing with Hearings contain the range of possible sanctions which the Panel can make. These are set out at paragraph 12 of the Hearing Panel procedure at **Annex 2**. The Panel are not entitled to apply or recommend any other sanctions.

1.2.3 At the Hearing the Panel imposed the following sanction:

- the Panel's Findings be reported to the Full Council at its next ordinary meeting.

1.2.4 The Panel further recommended that consideration be given to the format of the workshops/informal meetings of such nature in the future, with particular reference made to notes and guidance provided for Members.

1.2.5 The Decision Notice has also been published on the Council's website.

1.3 Legal Implications

1.3.1 The Panel have determined that there was a breach of the TMBC Code of Conduct by Councillor Hood. There is no right of appeal against that decision, nor is full Council permitted to reconsider the decision or sanction(s).

1.4 Financial and Value for Money Considerations

1.4.1 The investigation into this matter involved the appointment of an external investigator, in the interests of ensuring an independent investigation. The total cost of his appointment, including attendance at the Standards Hearing Panel was £1448.75.

1.5 Risk Assessment

1.5.1 None arising from this report.

1.6 Equality Impact Assessment

1.6.1 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.

1.7 Recommendations

1.7.1 Council is requested to note the findings of the Hearing Panel set out in this report and **Annex 1**.

Background papers:

contact: Adrian Stanfield

Adrian Stanfield
Interim Chief Executive

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TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION

Decision Taken By: Standards Hearing Panel

Decision No:
D230001SHP

Date: 08 December 2023

Decision(s) and Reason(s)

Code of Conduct Complaint against a Borough Councillor

On 8 December 2023, the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Tonbridge & Malling Borough Councillor Mark Hood (the "Subject Member"). The investigation was conducted by Mr Richard Lingard LLB, an investigator appointed by the Monitoring Officer.

A general summary of the complaint is set out below.

1. Complaint Summary

- 1.1 On 6 June 2023 the Monitoring Officer received a complaint from Cllr Matt Boughton, Leader of Tonbridge & Malling Borough Council about the conduct of Cllr Mark Hood, Leader of the Green group.
- 1.2 The allegations within the complaint relate to posts made in the name of the Tonbridge & Malling Green Party and the Judd Ward Green Party on 1 April and 5 April 2023 respectively. The latter of these posts took the form of a 'Personal Statement by Cllr Mark Hood'.
- 1.3 The complaint alleges that these posts included details of a private and confidential workshop held at Tonbridge & Malling Borough Council offices on 13 March 2023.
- 1.4 It was alleged that Cllr Hood had breached paragraph 3(2)(d) of the Code of Conduct, which provides that Members must not disclose information given to them in confidence. The full text of paragraph 3(2)(d) is set out below:-

(2) you must not

...(d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the written consent of a person authorised to give it; or*
- (ii) you are required by law to do so; or*
- (iii) the disclosure is made to a third party for the purpose of obtaining*

- professional advice provided that the third party agrees not to disclose the information to any other person; or*
- (iv) *the disclosure is:*
- *reasonable and in the public interest; and*
 - *made in good faith and in compliance with the reasonable requirements of the Authority*

2. Application of Schedule 12A Local Government Act 1972

- 2.1 The complaint and Investigating Officer's Report were presented to the Panel in private papers, as the information presented consisted of information relating to an individual / information which is likely to reveal the identity of an individual (paragraphs 1 and 2 of Schedule 12A).
- 2.2 The Panel was invited to consider whether the public interest in maintaining the exemption – and therefore holding the hearing in private - outweighed the public interest in having the matter heard in public.
- 2.3 The Monitoring Officer submitted that in most cases the public interest in transparent decision making by the Hearing Panel will outweigh the subject member's interest in limiting publication of an unproven allegation that has yet to be determined. There is a legitimate public interest in ensuring that elected members uphold the highest standards of conduct expected under their Codes of Conduct.
- 2.4 The Monitoring Officer did acknowledge there was risk of further confidential information contained in the report being released if the matter were to be heard in public. Moreover, there were other associated outstanding complaints, of which the investigation could be prejudiced if the hearing were to be held in public.
- 2.5 Cllr Hood submitted that the hearing should be held in public on the grounds that it would be in the public interest to do so. He contended that no further information relating to the workshop would be disclosed by holding the hearing in public.
- 2.6 In light of the representations made, the Panel considered that it was important that the confidentiality of the ongoing consultant work in respect of the asset review of the Tonbridge Town Centre was maintained and the investigation of the other associated outstanding complaints was not prejudiced, the public interest in maintaining the exemption should prevail and the matter should be heard in private. However, the Panel agreed that the Monitoring Officer be asked to consider whether the recordings of the hearing and the confidential report could be released to the public at a later date once the consultancy report and the other associated outstanding complaints had been resolved.

3. Consultation with Independent Person

- 3.1 The Independent Person (IP) made written submissions to the Panel.

- 3.2 On the issue of whether or not there had been a breach of the Code by Cllr Hood, the view of the IP was that there had been a breach. He concurred with paragraph 8.10 of the investigator's report, in particular his finding that the timing of a direction of confidentiality is irrelevant if it still occurs within a relevant meeting or event. In the view of the IP, it was clear that, at least on some level, and by all accounts, Cllr Boughton provided such a direction or request during the workshop. Coupled with the wording of the briefing note, which Cllr Hood received prior to the meeting, the IP agreed that on the balance of probabilities Cllr Hood had breached the Code by virtue of disclosing information he was either aware or ought to have been reasonably aware was confidential.

4. Findings

- 4.1 The Panel received the report of the external independent investigator (Investigating Officer), Mr R Lingard of Richard Lingard LLB, who had been appointed to carry out the investigation into the allegation. The report, dated 7 September 2023, contained details of the relevant legislation and protocols, evidence gathered and witness statements and was presented by Mr R Lingard.
- 4.2 The Investigating Officer's report found that, on the balance of probabilities, Cllr Hood had breached paragraph 3 (2) (d) of the Tonbridge & Malling Borough Council Code of Conduct.
- 4.3 The Panel had regard to all the evidence, including the Investigating Officer's report and the evidence given by Cllr Hood, and having taken into account the views of the Independent Person, concluded, on the balance of probabilities on the evidence presented to it, that in relation to paragraph 3 (2) (d):
- 4.3.1 the nature of the consultant workshop in question was confidential; and
- 4.3.2 Cllr Hood had disclosed information acquired from the confidential workshop to the public on social media.
- 4.4 The Panel therefore found that Cllr Hood had breached the Tonbridge & Malling Borough Council Code of Conduct.

5. Sanctions Applied

- 5.1 The Panel received and had regard to a further written statement of the Independent Person in relation to sanctions. In coming to its conclusions on the sanctions the Panel again had regard to the legal advice provided and was mindful of the need to impose reasonable and proportionate sanctions. Additionally the Panel had regard to the following factors:
- 5.1.1 Cllr Hood had sought advice from the Monitoring Officer before disclosing the confidential information on social media. He was therefore aware that disclosure of the information would be likely to

constitute a breach of the Code of Conduct;

5.1.2 Cllr Hood could not confirm that the incident would not be repeated in the future;

5.1.3 No apology had been given by Cllr Hood to any affected persons; and

5.1.4 Cllr Hood had not previously breached the Borough Council Code of Conduct.

5.2 The Hearing Panel therefore resolved that the following sanction be imposed:

5.2.1 the Panel's Findings be reported to the Full Council at its next ordinary meeting.

5.3 The Panel further recommended that consideration be given to the format of the workshops/informal meetings of such nature in the future, with particular reference made to notes and guidance provided for Members.

6. Appeal

6.1 There is no right of appeal against the Panel's decision.

7. Notification of Decision

7.1 This decision is sent to:

- Subject Member (Cllr Hood)
- Complainant (Cllr Boughton)

Reasons: As presented to the Standards Hearing Panel on 8 December 2023

Signed Chairman of
Standards Hearing Panel:

D Davis

Date of publication:

12 February 2024

Hearing Panel Procedure

1. Pre-Hearing Procedure

- 1.1 In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:
- (a) Which facts in the investigation report are agreed and which are in dispute.
 - (b) Whether there is fresh evidence not mentioned in the investigation report which will be put before the hearing.
 - (c) Whether there is documentary evidence which a party intends to put before the hearing.
 - (d) Whether the parties intend to attend, whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom, the number and identity of witnesses to be called.
 - (e) Whether the Subject Member requests the whole or any part of the hearing to be held in private.
 - (f) Whether the Subject Member requests the whole or any part of the investigation report or other relevant documents to be withheld from the public.
- 1.2 The Monitoring Officer will notify the parties of the date, time, and place for the hearing.

2. Rules of Procedure

- 2.1 The Hearing Panel shall be comprised as follows –
- (a) Where the Subject Member is a Borough Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chair.
 - (b) Where the Subject Member is a Town or Parish Councillor, the Panel shall be comprised of three Borough Members and three Parish/ Town Members drawn from the Joint Standards Committee, one of whom shall be elected as Chair.
 - (c) Where the Subject Member is acting in a capacity both as a Borough Councillor and as a Town/ Parish Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chair.

Where practicable, members of the Hearing Panel shall be drawn from a different planning area of the Borough than the member against whom the complaint has been made.

- 2.2 The quorum for a meeting of the Hearing Panel is three elected Members.

- 2.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
- 2.4 The legal requirements for publishing agendas, minutes, and calling meetings, will apply to the Hearing Panel. The presumption is that the hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) may be applied to exclude the public and press from meetings of the Hearing Panel.
- 2.5 Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 2.6 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chair having a second or casting vote.
- 2.7 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

3. Right to be Accompanied by a Representative

- 3.1 The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing.

4. Order of Business

- 4.1 Subject to paragraph 4.2 below, the order of business will be as follows:-
- (a) Elect a Chair.
 - (b) Apologies for absence.
 - (c) Declarations of interests.
 - (d) In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 2.7 above).

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

July 2023

- (e) Introduction by the Chair, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative.
 - (f) To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press.
 - (g) To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.
- 4.2 The Chair may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

4.3 The Hearing Panel may adjourn the hearing at any time.

5. Presentation of the Complaint

- 5.1 The Monitoring Officer, legal advisor, or Chair may make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.
- 5.2 The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.
- 5.3 The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer.
- 5.4 The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

6. Presentation of the Subject Member's Case

- 6.1 The Subject Member or their representative presents their case and calls their witnesses.
- 6.2 The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.
- 6.3 The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

7. Summing Up

- 7.1 The Investigating Officer sums up the complaint.
- 7.2 The Subject Member or their representative sums up their case.

8. Views/Submissions of the Independent Person

- 8.1 The Chair will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

9. Deliberations of the Hearing Panel to be in Private

- 9.1 The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- 9.2 The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member, or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

10. Announcing Decision on Facts Found

- 10.1 The Hearing Panel will reconvene the hearing in public (if the public have not been excluded from the proceedings) and the Chair will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct.
- 10.2 Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chair will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
- 10.3 When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
 - (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish Council's Code of Conduct?
 - (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
 - (c) Has there been a breach of trust?
 - (d) Has there been financial impropriety, e.g., improper expense claims or procedural irregularities?
 - (e) What was the result/impact of failing to follow the Borough or Parish Council's Code of Conduct?
 - (f) How serious was the incident?
 - (g) Does the Subject Member accept that they were at fault?
 - (h) Did the Subject Member apologise to the relevant person(s)?
 - (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
 - (j) Has the Subject Member previously breached the Borough or Parish Council's Code of Conduct?
 - (k) Is there likely to be a repetition of the incident?

10.4 Mitigating factors may include:

- (a) An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- (b) A councillor's previous record of good service.
- (c) Substantiated evidence that the councillor's actions have been affected by ill-health.
- (d) Recognition that there has been a failure to follow the Code.
- (e) Co-operation in rectifying the effects of that failure.
- (f) An apology to affected persons where that is appropriate.
- (g) Self-reporting of the breach by the councillor.
- (h) Compliance with the Code since the events giving rise to the complaint.

10.5 Aggravating factors may include:

- (a) Dishonesty or breaches of trust.
- (b) Trying to gain an advantage or disadvantage for themselves or others.
- (c) Bullying.
- (d) Continuing to deny the facts despite clear contrary evidence.
- (e) Seeking unfairly to blame other people.
- (f) Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- (g) Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

10.6 Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.

11. Final Decision

11.1 Where the complaint has a number of elements, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each element separately.

11.2 The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

11.3 Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chair will announce:

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- (a) The Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision.
- (b) The sanctions (if any) to be applied.
- (c) The recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer.
- (d) That there is no right of appeal against the Panel's decision and/or recommendations.

12. Range of Possible Sanctions or Other Actions

12.1 Where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

- (a) Report its findings in respect of the subject member's conduct to the Council (or the relevant Parish Council).
- (b) Issue (or recommend to the Parish Council to issue) a formal censure (i.e., the issue of an unfavourable opinion or judgement or reprimand).
- (c) Recommend to the leader of the authority that the Subject Member be removed from positions of responsibility.
- (d) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member.
- (e) Recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish Council).
- (f) Recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access.
- (g) Recommend to Council (or recommend to the Parish Council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings, and/or restricts contact with officers to named officers only.
- (h) If relevant recommend to Council that the Subject Member be removed from their role as leader of the authority.
- (i) If relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
- (j) Recommend that the Subject Member make an apology in respect of the conduct or take some other action to resolve the matter.

12.2 Where the Subject Member is a Parish or Town councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction. The Town or Parish Council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They

cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

- 12.3 Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.
- 12.4 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.
- 12.4 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

13. Publicising the Findings

- 13.1 The Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned. A template decision notice is appended which may be used for these purposes.
- 13.2 If the panel finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.
- 13.3 If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should:
 - (a) Say that the councillor failed to follow the Code, but that no action needs to be taken.
 - (b) Outline what happened.
 - (c) Give reasons for the panel's decision not to take any action.
- 13.4 If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:
 - (a) Say that the councillor failed to follow the Code.
 - (b) Outline what happened.
 - (c) Explain what sanction has been imposed.
 - (d) Give reasons for the decision made by the panel.
- 13.5 The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.

14. Appeals

- 14.1 Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

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TEMPLATE – DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of Tonbridge & Malling Borough Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/Town Council]
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both Borough and County level]*

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Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please contact our Customer Services on 01732 844522 or email customer.services@tmbc.gov.uk.

Signed:

Date

Print name:

Chair of the Hearing Panel
Tonbridge & Malling Borough Council

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Agenda Item 19

To receive and note the Minutes of meetings of Cabinet and Committees as set out in the Minute Book (attached as a supplement).

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