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08 December 2020

To: All Councillors

As a Member or Substitute of the **Governance & Resources Committee**, please treat this as your summons to attend a **Special meeting on Thursday, 17 December 2020 at 6.00pm** via the Zoom application. (Joining details will be provided separately).

Under Regulations made under the Coronavirus Act 2020, the meeting will be held virtually. As a member of the public you can view the virtual meeting via the District Council's website at www.derbyshiredales.gov.uk or via our YouTube channel.

Yours sincerely

A handwritten signature in blue ink, appearing to read "James McLaughlin".

James McLaughlin
Director of Corporate Services and Customer Services

AGENDA

1. APOLOGIES/SUBSTITUTES

Please advise the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. PUBLIC PARTICIPATION

As the Council cannot hold meetings at the Town Hall, Public Participation can only take place using the Zoom application or by written representations. Members of the public are able to comment or ask questions on the items listed in the agenda and must give notice before 12 noon on the day preceding the meeting by:

Web-form: [Make your submission here](#)

Email: committee@derbyshiredales.gov.uk

Post: Democratic Services, Derbyshire Dales District Council, Town Hall, Matlock DE4 3NN

The Committee Team will assist any member of the public without access to electronic means by capturing their concerns over the telephone.

Phone: 01629 761133 (working days only 9am – 5pm)

Written representations, received by the deadline will be read out at the meeting, verbal contributors will be given instructions on how to join the meeting after giving notice.

All meeting proceedings open to the public will be streamed live on our YouTube channel when all non-exempt items are being considered. Recordings of the meeting will also be available after the event on the District Council's website.

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

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| 4. | COVID-19 BUSINESS SUPPORT GRANTS: DERBYSHIRE DALES
ADDITIONAL RESTRICTIONS GRANT | 04 - 35 |
| <p>To note the policy guidance for allocating discretionary COVID-19 support grants to certain businesses in the Derbyshire Dales, that uses local and national priorities to determine grants from the limited funding provided by the Government, approved under urgency provisions by the Chair and Vice Chair of the Committee on 24 November 2020.</p> | | |
| 5. | CORPORATE ENFORCEMENT POLICY | 36 - 46 |
| <p>To consider a report seeking approval for a revised and updated Corporate Enforcement Policy</p> | | |
| 6. | LOCAL GOVERNMENT ETHICAL STANDARDS – REVIEW BY
COMMITTEE ON STANDARDS IN PUBLIC LIFE | 47 - 72 |
| <p>To note a report on how the Council's ethical standards framework compares with the best practice recommendations included in the 2019 report from the Committee on Standards in Public Life. This update will form the basis of the Council's submission to the Local Government Association on how it has responded to the recommendations</p> | | |

8. REVENUES AND BENEFITS SERVICES AND INVOICE PROCESSING CONTRACT

73 - 78

To consider a report outlining actions relating to the expiry on 17 January 2021 of the current contract with Arvato for the delivery of the Revenues and Benefits and Invoice Processing Services, and describes the arrangements for the delivery of services thereafter be noted.

Also to consider that authority be delegated to the Director of Corporate and Customer Services to sign the Service Level agreement with Chesterfield Borough Council for the Revenues and Benefits service and that the Chair of the Governance and Resources Committee be approved as the Council's representative on the Revenues and Benefits Strategic Board.

Members of the Committee - Councillors Jacqueline Allison, Robert Archer, Sue Bull (Chair), Neil Buttle, David Chapman (Vice Chair), Paul Cruise, Tom Donnelly, Graham Elliott, Steve Flitter, Alyson Hill, Susan Hobson, Michele Morley, Garry Purdy, Mike Ratcliffe, Peter Slack and Alasdair Sutton

Substitutes – Councillors Jason Atkin, Mathew Buckler, Richard FitzHerbert, Helen Froggatt, Chris Furness, David Hughes, Peter O'Brien, Joyce Pawley, and Steve Wain.

GOVERNANCE AND RESOURCES COMMITTEE
17 DECEMBER 2020

Report of the Director of Regeneration and Policy

**COVID-19 BUSINESS SUPPORT GRANTS: LOCAL RESTRICTIONS
SUPPORT GRANTS AND ADDITIONAL RESTRICTIONS GRANT**

PURPOSE OF REPORT

To consider a policy for allocating discretionary COVID-19 support grants to certain businesses in the Derbyshire Dales, that uses local and national priorities to determine grants from the limited funding provided by the Government, approved under urgency provisions by the Chair and Vice Chair of the Committee on 24 November 2020.

RECOMMENDATION

1. That the policy guidance for the Derbyshire Dales COVID-19 Business Support Grants: Derbyshire Dales Additional Restrictions Grant.
2. That the Director of Regeneration and Policy be given delegated authority to set criteria for Local Restrictions Support Grant (Open) based on guidance already issued by the Government for LRSG (Closed) together with relevant elements of the Additional Restrictions Grant policy.
3. That the processes for Local Restrictions Support Grants and Additional Restrictions Grant are noted.

WARDS AFFECTED

All

STRATEGIC LINK

‘Prosperity’ is highlighted in the Corporate Plan 2020-24 as a District Council priority due to low local wages and high local house prices. With regard to the recommendations in this report, the District Council specifically aims to: *Support businesses to encourage productivity, growth, and higher wage jobs in rural and urban locations*; and to *Promote investment to stimulate the economy of our market towns*.

1 BACKGROUND

- 1.1 There are two COVID-19 business grant schemes the District Council is required to administer and pay in respect of the period of lockdown between 5 November and 1 December:

- **Local Restrictions Support Grant - Lockdown** (mandatory grant for businesses with a rateable value obliged to close by the Government)
- **Additional Restrictions Grant** (discretionary scheme to assist other businesses impacted by lockdown).

- 1.2 The grants were announced at the start of the second lockdown period. The District Council received detailed guidance from Government on 10th and 11th November on these grant schemes. We received final confirmation of the Derbyshire Dales funding allocations on 12th November. Officers worked quickly to develop the Council's application and payment process for both sets of grants. A system ready to accept on-line applications had been designed, built, tested and launched by 25th November, with payments to eligible businesses being made during December.
- 1.3 The District Council is acutely aware how important these grants are for businesses obliged to close by the Government. The Council's application and payment process is as simple as possible. It is also designed to facilitate further grants due from remaining in a tiered system from 3rd December.
- 1.4 Grants are being administered via the Meritec CRM system. The project involves the Economic Development, Finance, Internal Audit, Transformation, BSU and Revenues teams, with support from every council department.

2 LOCAL RESTRICTIONS SUPPORT GRANT - LOCKDOWN

- 2.1 The grant is to support businesses required to close during the national lockdown period (5 November to 1 December). Examples include hospitality, accommodation, leisure, personal care and non-essential retail. It is estimated there were at least 2,000 businesses in the Derbyshire Dales eligible for this Local Restrictions Support Grant. However not all will apply for a grant.
- 2.2 Local Restrictions Support Grant is mandatory for businesses that have a rateable value. The grant amounts are fixed, dependent on Rateable Value (£1334; or £2000; or £3000). There is no discretionary element. For the 27-day lockdown period (5 Nov to 1 Dec) a single grant must be paid in respect of each eligible property for every eligible business that applies.
- 2.3 In outline, the process is:
- (1) Applications made via the CRM from Weds 25 November.
 - (2) Revenues Team checks applicants to verify they are the ratepayer, confirm the rateable value, and check bank details if available.
 - (3) LRSG Team do a document check (bank statements), to confirm the bank account details are entered correctly and to verify the trading status of applicants. If required information is missing, they contact the applicant to obtain the missing information.
 - (4) Internal Audit check applicant status and on a sample basis verify claims in depth.

- (5) Payments are authorised when all checks have been completed. A payment file is generated by the system each day for Finance to pass to the bank.
- 2.4 As well as roles for Finance, Revenues and Internal Audit, there is an LRSG Team involved in processing LRSG claims. This team is drawn from other parts of the Council (including Corporate Services, Regulatory Services, Housing, Community Development and Housing). It is a temporary team to meet an urgent task, with other tasks postponed where necessary as well as of course work in evenings and at weekends.
- 2.5 The District Council has received £3,013,146 to pay out in Local Restrictions Support Grants - Lockdown. Grants are being paid during December 2020. By the end of the first full week of the 'live' scheme, 397 grants to businesses had been paid, out of some 800 valid applications received up to that point.

3 ADDITIONAL RESTRICTIONS GRANT (ARG)

- 3.1 The District Council has been allocated a further £1,446,500 for Additional Restrictions Grant (ARG) payments.
- 3.2 ARG is a discretionary grant scheme, mainly to support closed businesses that do not qualify for LRSG (for example, if they do not have a rateable value) or those that are severely affected rather than closed (for example, those in the supply chain of closed businesses).
- 3.3 The team for ARG comprises past and present economic development officers. This is a discretionary scheme so requires more intervention and decision-making than LRGS. Because ARG is a discretionary scheme, the Council needed urgently to put in place a policy for allocating ARG grants in time for publication with pre-registration opening on 25 November.
- 3.4 The policy and guidance for ARG (Appendix 1) was approved under urgency provisions by the Chair and Vice Chair of the Governance and Resources Committee on 24 November 2020. As required, it is being reported retrospectively to committee.
- 3.5 This policy guides officers in making decisions as to which businesses are ruled in / ruled out of the discretionary scheme. As with the Discretionary Grants Fund that the District Council managed this summer, this inevitably means upsetting some businesses. The policy has however been designed and written with great care. It takes into account national advice, the policies of neighbouring authorities, and the specific circumstances of the Derbyshire Dales. In addition, as well as designing the allocation criteria, staff have developed the grants process, application form, IT system, payment system, and administration structure.
- 3.6 Applications for ARG are focused on the following:
- businesses in impacted sectors operating from shared business premises ineligible for business rates

- businesses who supply other businesses required to close e.g. catering services / food & drink suppliers
 - Bed & Breakfast accommodation who pay Council Tax due to being ineligible for business rates (must be registered as food businesses with the District Council)
 - self-catering accommodation providers who pay Council Tax (must qualify as a Furnished Holiday Let)
 - outdoor and indoor activity providers unable to open
 - businesses impacted by delayed or cancelled events
 - market traders based in the Dales normally trading at weekly stall markets but unable to trade due to COVID restrictions
 - personal care and other mobile businesses unable to trade.
- 3.7 There is an appeals process for non-award of grants. There will be no appeals against the level of grant awarded. Grant applications are subject to a series of self-declarations, electronic checking and manual audit. At the time of writing, approximately 400 businesses had pre-registered for ARG; these will be emailed the link to make a full application when the system goes live.

4 TIER RESTRICTIONS AND GRANTS 2nd DECEMBER ONWARDS

- 4.1 Tier restrictions re-commenced on 2nd December. Initial guidance on business grants for Tiers 2 and 3 was published on 1st December.
- 4.2 As a result, in addition to LRSG (Lockdown) and ARG, since entering Tier 3 restrictions on 2nd December the following further grants have become applicable to the Derbyshire Dales:
- i. LRSG (Open) Tier 3 discretionary grant for businesses able to open but impacted by tier restrictions (*for period 2-15 Dec*)
 - ii. LRSG (Closed) Tier 3 mandatory grant for businesses required to close (*for period 2-15 Dec*)
 - iii. 'Wet-led pub' additional one-off £1000 mandatory grant (*one-off for pubs required to close in December, on top of their LRSG (Closed) grant*) - announced by the Prime Minister on 1 December.
- 4.3 At the time of writing, no further guidance had been published by the Government, nor had our funding allocations been made known. New application and payment systems for these grants are currently being designed and built by District Council officers, with testing and launch to follow. It is recommended that the criteria for LRSG (Open) discretionary grants be based on guidance already issued by the Government for LRSG (Closed) together with relevant elements of the existing ARG policy at Appendix 1. Because these are existing policies, it is recommended that the Director of Regeneration and Policy be given delegated authority to set LRSG (Open) criteria subject to following these existing policies.
- 4.4 Tier allocations are being reviewed every 14 days, and there is currently no indication what tier Derbyshire will be in (and therefore what grants will be due)

after 16th December. This uncertainty, coupled with lack of timely Government guidance, causes difficulties for both businesses and the Council.

5 EQUALITY IMPACT ASSESSMENT

- 5.1 An Equality Impact Assessment (Appendix 2) has been undertaken in support of the Council's duty to ensure that the criteria under which small businesses will qualify to make an application to the Derbyshire Dales Additional Restrictions Grant, and the process for applying, are fair and transparent.
- 5.2 This Assessment found no key issues. It did however note that, in prioritising small and micro businesses in rural communities, the Additional Restrictions Grant might have a positive effect on factors local to the Derbyshire Dales.

6 RISK ASSESSMENT

6.1 Legal.

The Council is required to administer these grants and a clear and transparent policy criteria have been set out and used when implementing the Additional Restrictions Grant. The legal risk is considered to be low.

6.2 Financial.

The Council has been allocated government grants of £3m for Local restrictions Grants and £1.446m for Additional Restrictions Grants. Payments will be monitored for each scheme to ensure that they do not exceed the funding that has been allocated. The policy criteria for Additional Restrictions Grant reflect the limited amount of funding provided by the Government. The government has indicated that a New Burdens grant will be paid towards the administrative costs, though at the time of writing the amount had not been confirmed. Therefore, the financial risk is assessed as low.

7 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

CONTACT INFORMATION

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ATTACHMENTS

Appendix 1 Derbyshire Dales Additional Restrictions Grant guidance

Appendix 2 Equality Impact Assessment

BACKGROUND PAPERS

- Additional Restrictions Grant – Guidance for Local Authorities (November 2020) Department for Business, Energy and Industrial Strategy
- Local Restrictions Support Grants and Additional Restrictions Grant – Frequently Asked Questions (FAQ) Extended – Issue 2 (November 2020) Department for Business, Energy and Industrial Strategy

COVID-19 Business Support Grant Guidance

ADDITIONAL RESTRICTIONS GRANT

First Call for Applications – November 2020

Introduction

1. Following new Government lockdown restrictions announced on the 31 October 2020, further funding has been made available to local councils to support eligible businesses during the second national lockdown and periods of local restrictions. Two grant schemes will be administered in the Derbyshire Dales:
 - **Local Restrictions Support Grant** (Open and Closed) - for businesses with a rateable value which are impacted by the latest COVID restrictions (with higher grant amounts for businesses legally required to close)
 - **Additional Restrictions Grant** - discretionary scheme to assist other businesses impacted by the latest COVID restrictions.
2. This guidance sets out the eligibility criteria for the **Additional Restrictions Grant**, which, under the first call for applications will assist businesses without a rateable value required to close or severely impacted by COVID restrictions as they supply businesses in sectors required to close.
3. The Grant is intended to fill gaps within the current Government COVID related schemes and support businesses with high ongoing fixed costs. The scheme is not intended to provide wage support. The Government's extended Self-Employment Income Support Scheme (SEISS) and Coronavirus Job Retention Scheme (furlough scheme) are in place to provide those who are self-employed and employees with income support.
4. Derbyshire Dales District Council is responsible for administering the Additional Restrictions Grant fund to businesses located within the district. The District Council has been allocated funding of £1.446m for this grant scheme, which is to be used across the financial years 2020/2021 and 2021/2022. The funding can be used to provide grant assistance to businesses in impacted sectors and wider business support measures to support local economic recovery.
5. At this stage, the District Council intends to allocate up to 50% of the available funding allocation in the form of **monthly discretionary grant payments** to impacted businesses ineligible for the Local Restrictions Support Grant. The remaining Additional Restrictions Grant allocation will be retained to provide additional support in the event that further local or national restrictions are required and to provide other strategic support to assist the recovery of the Derbyshire Dales economy. This will be the subject of separate guidance.

Scope of the Grant – First Call for Applications

6. During November 2020, December 2020 and January 2021, priority access will be given to **small and micro businesses** – including any linked or partner enterprises – with fixed business costs which:
 - were legally required to close between 5 November and 2 December 2020 due to national restrictions who fall outside the business rates system
 - were not legally required to close but have been severely impacted by restrictions as they supply businesses in sectors required to close
 - are in or supply goods or services to the following sectors:
 - Hospitality
 - Visitor accommodation
 - Leisure
 - Events sector
 - Non-essential retail
 - Personal care
7. The list of businesses required to close by Government is available here *{link}*.
8. Applications are anticipated from the following types of businesses – noting the qualifying criteria for accommodation providers – where the business is their primary source of income:
 - businesses in impacted sectors operating from shared business premises ineligible for business rates
 - businesses who supply other businesses required to close e.g. catering services / food & drink suppliers
 - Bed & Breakfast accommodation who pay Council Tax due to being ineligible for business rates – to be eligible to apply businesses must be registered as food businesses with the District Council
 - self-catering accommodation providers who pay Council Tax due to being ineligible for business rates – to be eligible to apply accommodation must qualify as a Furnished Holiday Let (FHL with a HMRC Tax Return Self-Assessment 105 declaration) on 4 November 2020
 - outdoor and indoor activity providers unable to open
 - businesses impacted by delayed or cancelled events
 - market traders based in the Dales normally trading at weekly stall markets but unable to trade due to COVID restrictions
 - personal care and other mobile businesses unable to trade.
9. To be a small business, under the Companies Act 2006, a business must satisfy two or more of the following requirements in a year:
 - Turnover: not more than £10.2 million
 - Balance sheet total: not more than £5.1 million
 - Number of employees: a headcount of staff of less than 50

10. To be a micro business, under the Companies Act 2006, a business must satisfy two or more of the following requirements:
- Turnover: not more than £632,000
 - Balance sheet total: not more than £316,000
 - Number of employees: a headcount of staff of not more than 10
11. To make an application for grant under the Additional Restrictions Grant, a small or micro business, either in or supplying the sectors above, must:
- be based in the Derbyshire Dales (trading address)
 - have been open / trading on 4 November 2020 prior to the second national lockdown (businesses remaining open but severely impacted will also need to confirm they were open / trading on 31 October 2020 i.e. when additional restrictions were announced for Derbyshire)
 - be able to demonstrate a minimum 30% reduction in turnover due to COVID restrictions (where allowed to remain open and continuing to trade, including any SEISS or JRS payments)
 - intend to continue trading beyond 2 December 2020.
12. Businesses that have been unable to provide their usual 'in-person' customer service from their premises and are providing an alternative service e.g. a business forced to close now providing a takeaway only or delivery service are eligible to apply subject to meeting the remaining scheme criteria.
13. The Government has confirmed that Town and Parish Councils are eligible to apply for support if they meet all of the scheme criteria (and are not eligible for Local Restrictions Support Grant). Applications to the Additional Restrictions Grant will only be considered where premises are legally required close. Applications from registered charities will also be considered on the same basis. Charities must be local i.e. a charity which operates within the Derbyshire Dales and whose charitable objects primarily benefit residents of the Derbyshire Dales and is not affiliated to a national charitable organisation.
14. The District Council reserves the right to vary the terms of the Grant at any time, and without notice, should it be necessary to do so.
15. The District Council proposes to undertake further grant funding calls through its Additional Restrictions Grant scheme on a quarterly basis. Further information about the eligibility criteria for future calls will be publicised at the appropriate time.

Grant Funding Available

16. The grant amounts to be awarded to successful applicants take account of the fixed costs of different businesses applying for support and the grant rates available to businesses liable for business rates under the Local Restrictions Support Grant (Open and Closed).

17. Awards will also reflect whether an applicant has received support from the extended Self-Employment Income Support scheme and whether the business is their primary source of income.

18. Grant awards will be determined as follows:

Closed / Open	Business Category	Grant Level (per 28 days closed / impacted)	Grant Rate
A) Legally required to close	Businesses occupying business premises and paying an annual rent which are: - <i>ineligible for business rates e.g. a business occupying shared space</i> OR - <i>awaiting a rates assessment on or before 4 November 2020</i>	£1,334 – Annual rent £15k or below £2,000 – Annual rent >£15k to <£51k £3,000 – Annual rent £51k or above Businesses able to maintain partial trading on-line will be awarded grants at 70%	Equivalent to LRSG Closed
B) Legally required to close	Businesses operating from domestic, part domestic or other premises ineligible for business rates where this is their primary source of income e.g. - <i>mobile hairdressers, beauticians, therapists, events businesses, activity providers, market traders and qualifying B&Bs / Self-catering Furnished Holiday Lets (with SA105)</i>	£800 – business ineligible for SEISS £500 – business eligible for SEISS	Higher grant rate equivalent to 60% LRSG Closed
C) Not legally required to close / severely impacted	Businesses occupying business premises with their own rating assessment severely impacted* as they supply businesses in sectors required to close <i>*turnover down 30%+</i>	£934 – RV £15k or below £1,400 – RV >£15k to <£51k £2,100 – RV £51k or above	Equivalent to LRSG Open i.e. 70% of grant for closed business
D) Not legally required to close / severely impacted	Businesses occupying business premises and paying an annual rent severely impacted* as they supply businesses in sectors required to close which are: - <i>ineligible for business rates e.g. a business occupying shared space</i> OR - <i>awaiting a rates assessment on or before 4 November 2020</i> <i>*turnover down 30%+</i>	£934 – Annual rent £15k or below £1,400 – Annual rent >£15k to <£51k £2,100 – Annual rent £51k or above	Equivalent to LRSG Open i.e. 70% of grant for closed business

19. Businesses unable to register their premises for business rates will be considered for support. Businesses with premises eligible for rating will be required to seek a rating from the VOA prior to being considered for grant.

20. Businesses who have applied to the Coronavirus Job Retention Scheme, Business Interruption and Bounce Back Small Business Loan schemes or are eligible for the extended Self-Employment Income Support Scheme are eligible to apply for this Grant. However, eligibility for Self-Employment Income Support will be taken into account when determining the level of grant award.

Exclusions

21. A business is ineligible to apply for support from the Additional Restrictions Grant if they:

- are eligible for support from the Local Restrictions Support Grant
- are able to continue to trade because they do not depend on providing direct in-person services from premises and can operate their services effectively remotely e.g. accountants, solicitors, insurance agents, financial advisors (list not exhaustive)
- have chosen to close but are not legally required to close
- have received a Local Restrictions Support Grant passed on by a landlord
- have received Additional Restrictions Grant support in another district (e.g. a market trader who trades in other locations)
- are from businesses that are part of national chains or franchises
- were in administration, were insolvent or subject to a striking-off notice on or before 4 November 2020 or at the time of application
- have previously received grant payments that equal the maximum levels of State Aid permitted under the De-minimis and COVID 19 Temporary State Aid Framework.

22. Grants will not be awarded to organisations whose activities are contrary to the vision and values of the District Council as set out in section 5.4 of the Council's Policies for Discretionary Rates Reliefs December 2018¹.

23. As with all COVID-19 Business Support Grants, funding assistance from the Additional Restrictions Grant is subject to State Aid rules – see section 35.

Application Process

24. The District Council has prepared an on-line application process for the Additional Restrictions Grant. This will be the route for all applications (except in exceptional cases where an applicant does not have internet access).

25. Businesses will be required to register for an on-line account to access the application form (businesses in receipt of previous COVID Discretionary Grant will not be required to create a new account).

¹ [NNDR Discretionary Reliefs Policy Approved 5 December 2018.pdf](#)

26. In line with the process for the Local Restrictions Support Grant, applications will initially be considered for the 28-day period national lockdown restrictions are in place. One grant will be considered per qualifying business, including those with more than one business property.
27. Should restrictions continue beyond 2 December 2020, businesses in receipt of Additional Restrictions Grant will be required to re-confirm the status of their business via an on-line declaration (rather than re-apply) prior to being considered for additional monthly grant support.
28. The first call for applications will cover the period to **31 January 2021** unless there is an earlier change to restrictions imposed by Government requiring the eligibility criteria to be reviewed. The position regarding the funding allocation will be reviewed during this period, as will the option to offer additional funding on top of the Local Restrictions Support Grant (Closed) to businesses with a rateable value of £51k or above.
29. Please be aware that processing of applications and grant payments may take up to 20 working days. Grant payments will be made direct to the business bank account provided via faster payment. Businesses must supply a copy of a recent bank statement to enable payment verification.
30. Should the grant fund be oversubscribed the District Council reserves the right to end the call for applications and only consider those applications received to this point.

Evidence Required

31. Grant awards will be based on the information submitted and declarations made by businesses within their application. The Government and the District Council will not accept deliberate manipulation or fraud. Any business providing false or misleading information to gain grant money will face prosecution and any funding issued will be subject to clawback, as may any grants paid in error.
32. The following supporting evidence will be required with the application:
- bank statements for the current and previous month, and for the equivalent period in 2019
 - most recent HMRC Tax Return Self-Assessment OR filed annual company accounts. Current management accounts may also be submitted
 - evidence of business rent obligations / payments made (where applicable).
33. As part of their application, businesses will be required to make a series of declarations to confirm their eligibility for grant assistance, including State Aid compliance, and that the information they have provided is accurate.

34. Information provided by businesses will be subject to both pre and post payment checks by the District Council's Auditor. The District Council reserves the right not to proceed any further with an application if there is doubt over the evidence provided.

State Aid

35. All grants provided under the Additional Restrictions Grant must be State Aid compliant. Businesses applying for assistance are required to confirm that in accepting a grant, the business, including any linked or partner enterprises, will not exceed State Aid limits. Further details can be found here {insert link}
36. Payments will be made under the De Minimis Aid regulation, meaning applicants can receive up to €200,000 of aid over a three fiscal year period (i.e. your current fiscal year and previous two fiscal years). Any business in receipt of State Aid must submit a State Aid Declaration and their grant claim will not be processed until this is provided.
37. COVID grant payments, including those previously issued by the District Council count towards the total De Minimis State Aid allowed over a three-year period (€200,000). If a business has reached that threshold but is still eligible for aid, payments will be made under the COVID-19 Temporary Framework for UK Authorities scheme under which the maximum level of aid that a company may receive is €800,000 (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). This is across all UK schemes under the terms of the European Commission's Temporary Framework. Recipients must also declare they were not an undertaking in difficulty on 31 December 2019 but faced difficulties or entered into difficulty thereafter as a result of the COVID-19 outbreak. This aid is in addition to any aid that you may have received under the De Minimis regulation.
38. Recipients will need to declare any grant funding awarded to any other aid awarding body who requests information on how much public aid you have received.

Decisions

39. Applications will be determined by District Council Officers using the criteria set out in this document. A record will be made of the decision, the grant awarded, or the reasons for rejection. The decision will be notified to the applicant in writing (email) and where a grant has not been awarded, a short explanation of the reason will be given.

Appeals Process

40. If you have been informed that your business is not eligible for an Additional Restrictions Grant and you feel that the decision is wrong, you can appeal for that decision to be looked at again. Your case will then be reviewed by a different officer(s) to check that the initial decision was correct. Details of the District Council's Appeals process are available [here](#) {insert link}

Other Important Information

41. Grant income received by a business is taxable therefore funding paid under the Additional Restrictions Grant will be subject to tax. Only businesses which make an overall profit once grant income is included will be subject to tax.
42. Grant claims will be processed through a series of checks, including checks against our business rates database and checks for fraud including use of the Government Spotlight anti-fraud software and the National Fraud Initiative database. The District Council reserves the right to verify/put on hold any application to enable detailed checks to be carried out. Any suspected cases of fraud will be investigated by the Council's Auditor and passed onto relevant the relevant Government agency.
43. The Government guidance on which this document is based has been subject to change and, as such, this document may also be subject to change. The District Council does not accept any liability if any of the changes affect the eligibility of any business for the Additional Restrictions Grant. In addition, the District Council does not accept any liability for any issues that may arise for businesses because of applying for, receiving, or not receiving payments under this Grant.
44. Enquiries about the Fund can be emailed to economicdevelopment@derbyshiredales.gov.uk

Privacy Notice

Derbyshire Dales District Council takes your privacy seriously. We will treat all personal information provided in confidence and store it securely in accordance with the Data Protection Act 2018 and General Data Protection Regulations.

Your information will be used for the purpose for which it was intended, to provide a Coronavirus community response.

Your data may be shared with other departments within the Council, other Government Departments, Councils and third party processors operating on their behalf. We may also share information with other enforcing authorities for the purpose of preventing fraud, misuse of public funds and any legal or statutory requirements.

For more information on how we process your personal data and your rights as a data subject, visit www.derbyshiredales.gov.uk

Derbyshire Dales District Council
Equality Impact Assessment



1. Outline

Title of policy, practice, service or function being assessed	Covid-19 Business Support Grants: <i>Derbyshire Dales Additional Restrictions Grant</i>
Officers conducting assessment	Steve Capes, Giles Dann, Elizabeth Wilson
Date of assessment	27 November 2020
Reason for assessment	<p>The District Council is closely monitoring the ever-changing advice and rules from Government regarding support for businesses in the COVID-19 pandemic. In addition to grants and rate relief offered in Spring/Summer 2020, a mandatory Local Restrictions Support Grant (LRSg) has been made available to businesses with a rateable value obliged to close during the Autumn/Winter 2020 lockdown. Information for local businesses is updated regularly on the Council's website: https://www.derbyshiredales.gov.uk/services-business/business-support-events-funding/business-news</p>

	<p>The Additional Restrictions Grant widens access to support to businesses struggling due to the Coronavirus shut down but unable to access LRS. Discretionary ARG funding is targeted at</p> <ul style="list-style-type: none"> • businesses in impacted sectors operating from shared business premises ineligible for business rates • businesses who supply other businesses required to close e.g. catering services / food & drink suppliers • Bed & Breakfast accommodation who pay Council Tax due to being ineligible for business rates (must be registered as food businesses with the District Council) • self-catering accommodation providers who pay Council Tax (must qualify as a Furnished Holiday Let) • outdoor and indoor activity providers unable to open • businesses impacted by delayed or cancelled events • market traders based in the Dales normally trading at weekly stall markets but unable to trade due to COVID restrictions • personal care and other mobile businesses unable to trade. <p>This assessment supports the Council's duty to ensure that the discretionary criteria set by the District Council under which businesses will qualify to make an application for the Derbyshire Dales Additional Restrictions Grant and the process for applying are fair and transparent.</p>
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	Available funding from Government for ARG is limited. Based on the number of businesses in the Dales, it will not be possible to support every business. Therefore prioritisation is required.
What is the purpose of this policy, practice, service or function? (specify aims and objectives)	<p>The purpose of this policy is to allocate discretionary Covid-19 grant support to certain qualifying businesses in the Derbyshire Dales, using local and national priorities to determine grants from the limited funding provided by the Government.</p> <p>Guidance explaining the criteria, assessment and appeals process has been developed to support businesses in making any application.</p>
Are there any other organisations involved in its implementation?	No. However, checks will be made against the Council's business rates database (managed by Arvato) and checks for fraud will include use of the Government Spotlight anti-fraud software and the National Fraud Initiative database.
Main customer groups (beneficiaries) / stakeholders	Businesses which are ineligible for COVID-19 Local Restrictions Support Grant and have been impacted by the Coronavirus shutdown.
Customer Groups	Other stakeholders
Small businesses	Small charities which meet the Fund criteria
Micro businesses	

Which other District Council departments are affected by the policy, practice, service or function? Do any of the objectives directly support or hinder another activity?	Resources, Regeneration & Policy, Corporate & Customer Services, Arvato Derbyshire Dales District Council is currently prioritising maintaining key services in its response to the Covid-19 pandemic. This includes business support.
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2. Assessing relevance to the general equality duty

The General Equality Duty has three aims which require the District Council to have due regard to the need to:	Tick those which are relevant
Eliminate unlawful discrimination (both direct or indirect), harassment and victimisation	✓
Advance equality of opportunity between all persons by <ul style="list-style-type: none"> - removing or minimising disadvantages suffered by protected groups; - taking steps to meet the needs of people from protected groups where these are different from the needs of other people - encouraging people from protected groups to participate in public life or other activities where participation is disproportionately low 	
Foster good relations between people who share a protected characteristic and those who do not.	

3. What existing information / data do you have / monitor about different diverse groups in relation to this policy, practice, service or function?

Eg: previous EIA's, reports, consultation, surveys, demographic data etc.

Information / Data	When and how collected	Source	What it tells you	Gaps
Derbyshire Dales Equalities Profile (available national and local data) via intranet: http://sidd.derbyshiredales.gov.uk/sidd/index.php/document_s	Census 2011 - national survey of all households National statistics	ONS DWP NOMIS ONS	Analysis of key demographic data relating to protected groups	
Derbyshire Dales Equality Information published on website: http://www.derbyshiredales.gov.uk/your-council/equalities/equality-information	Census 2011 Monitoring data collected by services (in-house and outsourced)	ONS DDDC	Summary profile of Census 2011 data Equalities monitoring data - employees - customer satisfaction with services	

Information / Data	When and how collected	Source	What it tells you	Gaps
Derbyshire Dales Economic Plan 2019-2033 https://www.derbyshiredales.gov.uk/images/E/Economic-Development/Derbyshire Dales Economic Plan 2019-2033.pdf	Various	DDDC Economic Plan 2019-2033	In common with other rural areas the Dales economy is characterised by a predominance of smaller businesses. The majority of firms (87%) employ less than 10 people, some 6% employ up to 20 and 3% employ 50+, including larger employers of strategic importance to the local economy.	No information is available on the equalities characteristics of owners /employees in small and micro businesses.
UK Business Counts 2019 https://www.nomisweb.co.uk/reports/imp/la/1946157136/report.aspx?#idbr	Inter Departmental Business Register (ONS)	NOMIS	Approx. 4,240 micro businesses and 400 small businesses in the Dales in 2019 registered for VAT or PAYE).	
Self Employment Rate (Oct 2018-Sept 2019)	Annual Population Survey (ONS)	NOMIS	20.2% in the Derbyshire Dales	

Information / Data	When and how collected	Source	What it tells you	Gaps
D2N2 COVID-19 Business Survey	April – May 2020 D2N2 webform	D2N2 Survey	COVID has impacted the majority of business sectors with significant negative impacts in rural sectors such as accommodation and food services	

4. Based on the evidence above, does the policy, practice, service or function have a positive or negative impact on any protected group(s)?

Protected groups	Positive effects	Negative effects	Improvement actions
Age	Positive impact on owners / employees of all working age groups in eligible small and micro businesses by supporting		

Protected groups	Positive effects	Negative effects	Improvement actions
	<p>those businesses at a time of significant economic difficulty.</p> <p>Provides support for younger owners/employees who may not have built up financial contingency budgets</p> <p>Longer term positive impact on those residents, visitors and businesses which benefit from goods & services provided.</p> <p>Micro businesses and small local charities provide important services to support Dales communities which have a higher proportion of older people. Filling gaps in existing</p>		

Protected groups	Positive effects	Negative effects	Improvement actions
	Government schemes will help to sustain these services.		
Disability or long term ill health Physical disabilities, sensory impairments, limiting long-term illnesses, learning disabilities or mental health issues	<p>Positive impact on disabled owners / employees in eligible small and micro businesses by supporting those businesses at a time of significant economic difficulty.</p> <p>Longer term positive impact on disabled residents, visitors and businesses which benefit from goods & services provided.</p>		
Race / ethnic groups	<p>Positive impact on owners / employees of all ethnic groups in eligible small and micro businesses by supporting those businesses at a time of significant economic difficulty.</p> <p>Positive impact on BEM residents, visitors and</p>		

Protected groups	Positive effects	Negative effects	Improvement actions
	businesses which benefit from goods & services provided.		
Women or men	<p>Positive impact on male and female owners / employees in eligible small and micro businesses by supporting those businesses at a time of significant economic difficulty.</p> <p>Positive impact on those residents, visitors and businesses which benefit from goods & services provided.</p> <p>More women are likely to have micro businesses/be low earners and thus benefit from the grants.</p>		
Sexual orientation	N/A		

Protected groups	Positive effects	Negative effects	Improvement actions
Religion or belief (including non belief)	N/A		
Transgender (including people planning to or going through gender reassignment)	N/A		
Pregnancy and maternity (including maternity and paternity leave)	N/A		
Marital status (including civil partnership & same sex marriage)	N/A		

4a. Are there any local priority groups / factors which should be considered?

Other factors	Positive effects	Negative effects	Improvement actions
Rural areas	<p>The Dales economy is characterised by a predominance of small and micro businesses. The discretionary criteria proposed seek to prioritise key elements of the Dales rural economy e.g.</p> <ul style="list-style-type: none"> • businesses in impacted sectors operating from shared business premises ineligible for business rates • businesses who supply other businesses required to close e.g. catering services / food & drink suppliers • Bed & Breakfast accommodation who pay Council Tax due to being 		

Other factors	Positive effects	Negative effects	Improvement actions
	<p>ineligible for business rates (must be registered as food businesses with the District Council)</p> <ul style="list-style-type: none"> • self-catering accommodation providers who pay Council Tax (must qualify as a Furnished Holiday Let) • outdoor and indoor activity providers unable to open • businesses impacted by delayed or cancelled events • market traders based in the Dales normally trading at weekly stall markets but unable to trade due to COVID restrictions 		

Other factors	Positive effects	Negative effects	Improvement actions
	<ul style="list-style-type: none"> personal care and other mobile businesses unable to trade. <p>ARG will be promoted widely, including via the Council's business newsletter, website, a press release and via networks such as Business Peak District to ensure eligible small and micro businesses from across the Dales are aware of the opportunity</p> <p>The application process will be on-line with applications accepted by other means in exceptional circumstances. In rural areas such as Derbyshire Dales, this may disadvantage a small number of potential business applicants in rural areas with limited access to the internet.</p>		

Other factors	Positive effects	Negative effects	Improvement actions
	Taking all these factors into account the grant scheme is likely to have an overall beneficial effect on rural areas.		
Poverty / deprivation	The ARG criteria prioritises those businesses suffering relatively more significant financial hardship as a result of COVID-19		

5. Consultation and engagement

Do we need to seek the views of others and if so, who? If not, please explain why.

The Council undertakes continuous pro-active engagement with its business community including offering practical support for businesses through its Economic Development service. The Council has received a high number of enquiries from businesses regarding grant support during the Covid-19 - the design of the discretionary criteria seeks to address gaps identified in existing support schemes provided by the Government.

There is some urgency to getting funds to eligible businesses as quickly as possible therefore given the unprecedented circumstances, and the extent of knowledge of businesses within local economy, formal consultation with the business community is not proposed.

6. Commissioned / outsourced services

Is your policy, practice, service or function partly or wholly provided by any external organisation / agency?	No – the ARG will be administered by the District Council. Arvato provides the Revenues service for DDDC and will make eligibility checks with regard to ARG
If yes, please list any contractual or other arrangements which aim to ensure that the provider promotes equality and diversity (eg: <i>monitoring data</i>)	N/A

7. Improvement Plan

Key issues identified	Actions
N/A	N/A
The ARG criteria should be considered following completion of the initial call for applications and any appropriate adjustments considered by officers.	

PLEASE FORWARD THE COMPLETED FORM TO THE POLICY MANAGER / POLICY OFFICER (Consultation & Equalities)

Signed _____ (Completing Officer)

Governance & Resource Committee

17 December 2020

Report of Director of Corporate and Customer Services

CORPORATE ENFORCEMENT POLICY

PURPOSE OF REPORT

This report presents for approval a revised and updated Corporate Enforcement Policy

RECOMMENDATION

1. That the policy attached at Annex 1 be approved.
2. That the Director of Corporate and Customer Services be authorised to make minor editorial changes to the Corporate Enforcement Policy, which, by definition, make no change to the scope or meaning of the Policy.

WARDS AFFECTED

All

STRATEGIC LINK

This policy will contribute to the Council's objectives of providing and high quality customer experience that is customer focused and assisting in keeping the District Clean, Green and Safe with the relevant enforcement and regulatory activities.

1 BACKGROUND

- 1.1 The Council has statutory responsibility for the regulation of a wide range of activities which impact upon our residents, visitors, communities and businesses. These include environmental health, licensing and planning. In addition, the Council is also responsible for developing and implementing local regulations covering issues such as littering and dog control.
- 1.2 Allied to these responsibilities is the need for the Council to have an effective and efficient enforcement process that operates with due efficacy. The objective is to maximise clarity, certainty and consistency for everyone in the process as to how the

Council will operate in resolving known breaches of regulatory control. Officers will be able to focus activity on timely and meaningful action.

2 REPORT

2.1 The revised policy covers the general aims of enforcement, the national guidance and government expectations, and sets out guiding principles for enforcement activities.

2.2 In summary, the suggested Council approach is:

- ensuring compliance with the relevant legislation and associated regulations whilst enabling business growth;
- supporting individuals or businesses to achieve compliance;
- proportionate and transparent, with frequent and clear communication • solutions sought at the lowest level likely to secure compliance;
- penalty action in cases of serious breaches or where individuals or businesses are not co-operating in an open or timely way.

2.3 The policy has also been reviewed to ensure that it is in compliance with the Council delegated decision make process.

2.4 It is recommended that authority is delegated to the Director of Corporate and Customer Services to ensure that the policy is kept up to date. This is especially important when authorities face re-organisations or changes in job titles and removes the requirement to return to Council or committee for administrative changes.

3 RISK ASSESSMENT

Legal

3.1 It is important that the Council has a clear policy that incorporate government guidance in order to avoid complaints and legal challenges to its enforcement actions. It is also important that Officers can make minor changes in order to keep that policy up to date

Financial

3.2 There are no financial implications to this report.

4 OTHER CONSIDERATIONS

4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

5.1 Lee Gardner, Legal Services Manager
Tel: 01629 761319
Email Legal@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

6.1 None

7 ATTACHMENTS

7.1 Annex 1 – Draft Corporate Enforcement Policy



Corporate Enforcement Policy

Contents

1. Introduction
2. Aims
3. Scope
4. General principles of enforcement
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11. Death at Work
12. Restarting a Prosecution
13. Publicity
14. Recovery of costs
15. Accountability

1. INTRODUCTION

Derbyshire Dales District Council ("The District Council") functions as a regulator and enforcement agency with a wide range of legal powers and duties. The authority has an essential role in the protection of the environment and of the health, safety and interests of residents, visitors and businesses within the District.

This Corporate Enforcement Policy ("The Policy") is designed to ensure a consistent, fair, proportionate and effective approach to regulatory inspection and enforcement across a number of services. The Policy highlights the aims and principles each enforcement service should consider when exercising their duties.

The Policy is also designed to make sure that everyone knows the principles that the District Council applies when carrying out enforcement work to ensure stakeholders are treated consistently, fairly but effectively.

2. AIMS

The District Council's aim is to undertake its regulatory and enforcement role in an impartial, open, and consistent manner. This is achieved through education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and business as necessary. The Policy is based on the principles of openness (about our policies and practices), clear standards (performance and levels of service), proportionality (to secure compliance), consistency (of approach), targeting (of enforcement action) and transparency (of methods and organisation). The Policy follows the principles of the Human Rights Act 1998.

Securing compliance through the use of enforcement powers and sanctions, including prosecution, is sometimes necessary to achieve this. In doing this, the District Council's enforcement officers will act in accordance with the guidance and standards set out in this policy.

In particular Derbyshire Dales District Council will:

- Work with people and businesses to help them understand and comply with their legal responsibilities, obligations and whether the outcomes can be achieved by less burdensome means while supporting economic growth.
- Undertake proportionate, fair and effective enforcement activities
- Robustly challenge the actions of individuals who have a negative effect on the community
- Liaise and co-operate closely with partner agencies to ensure the most appropriate and proportionate action is taken in each case
- Ensure enforcement staff are competent, appropriately trained, and apply this policy and its principles professionally and consistently
- Make information about this policy widely available to the public and businesses within and outside Derbyshire Dales
- Act in accordance with the Code for Crown Prosecutors and the Regulators' Code.
- Have regard to other Council policies and procedures that sit underneath this overarching policy.

3. SCOPE

This Policy sets out the general principles of enforcement and applies to all enforcement functions carried out by the District Council. It supports and supplements existing specific guidance on enforcement action contained in the statutory Regulators Code and other relevant guidance documents, and guidelines issued by other government departments.

Further more detailed guidance on certain functions (for example on Food Safety and Health and Safety at Work enforcement) is contained within specific departmental protocols. These are consistent with and are intended to support this document and, provide detailed information about the use of specific legal powers having regard to any relevant statutory codes of practice and guidance.

Included in the District Council's functions is the ability to deal with Anti-Social behaviour matters. The District Council has various powers in order to tackle Anti-Social behaviour, some of which include criminal sanctions. This policy is not intended to deal with Anti-Social behaviour enforcement and any policy on Anti-Social behaviour takes precedent and nothing in this Policy is intending to limit the options available to tackle such behaviour.

4. GENERAL PRINCIPLES

In enforcing relevant legislation, the District Council will pay due regard to the following principles of good enforcement practice.

Standards: where appropriate, clear standards will be drawn up to set out the level of service and performance that can be expected by service users.

Openness: against whom enforcement action is considered will receive sufficient explanation in plain English to enable them to understand what is expected of them. The District Council will give clear explanations of things which are legal requirements, and things which are recommendations. Our correspondence and advice, where appropriate will set out clear deadlines as to when and what appropriate action is required.

Helpfulness: prevention is better than cure and the District Council will actively work with people and businesses to advise on and assist with compliance.

Consistency: Broadly similar approaches will be used in similar circumstances in order to achieve consistent ends. The District Council recognises that businesses and people expect consistency from different enforcement officers, The District Council will continue to take steps to promote consistency of enforcement.

Proportionality: Enforcement action will be related to the risk and the public interest. Any action taken by enforcement officers to achieve compliance with the law will depend on the seriousness of any breach.

Any decision regarding enforcement action will be taken on the merits of each case, be impartial and objective. It will not be affected by race, disability, socio-economic

factors, age, politics, gender, sexual orientation or religious beliefs of any District Council employee, offender, victim or witness. However, where a victim has been targeted by an offender by virtue of their status (eg ethnicity) or where the perpetrator is young or vulnerable, consideration will be given to this when deciding on any course of action.

Where appropriate, the District Council will seek to achieve compliance through early engagement, mediation, education and advice. Where this is deemed by officers to be an inappropriate route, their decisions will be recorded and justified. Further if Officers believe that any provision of the Regulators Code does not apply they will record that decision and the reasons for it

5. AUTHORISATIONS

The District Council's Constitution specifies the decision making process and delegates to the relevant Officers of the District Council to undertake enforcement actions. This can include investigating complaints, serving notices and taking legal action.

Enforcement action under the relevant Acts will only be initiated by suitably qualified, experienced and competent Enforcement officers who are properly authorised in writing.

Any decision to instigate a criminal prosecution will have the case reviewed by suitably qualified legal advisors who will apply the Code for Crown Prosecutors before allowing the prosecution to proceed.

6. SERVICE REQUESTS

If the District Council receive a complaint which may result in enforcement action against a business or individual, it will be brought to their attention as soon as practicable. Officers will keep complainants and witnesses informed of the progress of any enforcement action taken. In circumstances where notifying any party could impede enforcement action, notification will not take place until those circumstances no longer exist.

7. ENFORCEMENT ACTIONS

The following courses of action are available to the Council:

- Use of informal warnings
- Provision of written advice and guidance
- Issuing Fixed or Variable Penalty / Monetary Notices
- Suspending, revoking, or attaching conditions to an existing licence or refusing an application for a new one
- Statutory Notices Stop / Prohibition Notices
- Simple Cautions
- Undertaking work in default (in appropriate cases)
- Undertakings / Injunctive Proceedings

- Prosecution
- Confiscation and Seizure / Forfeiture (including Proceeds of Crime Act 2002 applications)
- No action – where it is considered not to be in the public interest to proceed.

Any sanctions and penalties imposed will be consistent, balanced, and fairly implemented. They will relate to common standards which ensure the adequate protection of individual safety and welfare, public safety, financial security, or the environment. Where it is clear that another regulator is responsible for enforcing any matter or imposing any form of sanction, the matter will be passed across to them accordingly; however this will not preclude an investigation from taking place to ascertain relevant facts. The aim of using sanctions and penalties is to: Protect the public and businesses from harm

- Stop the infringing conduct immediately
- Change the behaviour of the offender
- Deter future non-compliance and reassure the community
- Restore the harm caused by regulatory non-compliance
- Eliminate any financial gain or benefit from non-compliance
- Be proportionate to the nature of the offence and the harm, or risk of harm caused and with consideration as to the public stigma that might come with receiving a criminal conviction

8. DECIDING WHETHER TO PROSECUTE

The requirements of the Code for Crown Prosecutors (“The Code”) applies to prosecutions undertaken by the District Council.

Under the General Principles of the Code it states

“The independence of the prosecutor is central to the criminal justice system of a democratic society. Prosecutors are independent from persons or agencies that are not part of the prosecution decision-making process... prosecutors are also independent from theinvestigators. Prosecutors must be free to carry out their professional duties without political interference and must not be affected by improper or undue pressure or influence from any source.”

As such all decisions taken to prosecute will be assessed by suitable qualified legal advisors in their role as the Prosecutor.

There are two further stages in the decision to take formal enforcement action.

- Stage 1 : the evidential test
- Stage 2 : the public interest test.

The first stage is the evidential test. If the case does not pass the evidential test, it must not go ahead, no matter how important or serious it may be.

If the case does meet the evidential test, it must then be decided if formal enforcement action is needed in the public interest. This second stage is the public interest test.

The District Council will only start, and continue, with formal enforcement action when the case, in the opinion of the Prosecutor, has passed both tests.

In applying the Code there is nothing that prohibits the Prosecutor from advising the investigating Officers of what additional evidence is required, suggesting other enforcement options or discussing the public interest test with Officers before making a final decision. However the Prosecutor must be minded to their overriding duty to the rule of law and to the Court.

9. COMMON PUBLIC INTEREST FACTORS

Here is a list of common factors that will be considered, both in favour or against a prosecution. There may be other factors considered that are not listed below, but this is an indication of the sort of issues Officers will be considered when deciding how to proceed.

A prosecution is likely to be needed if:

- A conviction is likely to result in a significant sentence;
- The evidence shows that the defendant was a ringleader or an organiser of the offence;
- There is evidence that the offence was premeditated;
- The victim of the offence was vulnerable, has been put in considerable fear, or suffered personal, damage or disturbance;
- The offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- There is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption;
- The defendant's previous convictions or cautions are relevant to the present offence;
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct.
- The defendant's actions were committed in full knowledge that it was illegal and either with no or little disregard to the impact of their actions.
- The actions were an attempt to defraud the public purse

A prosecution is less likely to be needed if:

- The court is likely to impose a nominal penalty;
- The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution;
- The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- There has been a long delay between the offence taking place and the date of the trial unless;

- the offence is serious;
- the delay has been caused in part by the defendant; the offence has only recently come to light; or
- the complexity of the offence has meant that there has been a long investigation.
- A prosecution is likely to have a significant detrimental effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence
- The defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.

10. LIAISON

Enforcement activity will be co-ordinated to maximise the effective enforcement of any matters that are related to more than one of the services.

Where an enforcement matter affects a wide geographical area beyond the District's boundaries, or involves enforcement by one or more other local authorities or organisations; all relevant authorities and organisation will be informed of the matter as soon as possible and all enforcement activity co-ordinated with them.

11. DEATH AT WORK

Where there has been a breach of the law leading to a work related death, consideration will be given to whether the circumstances might justify a charge of manslaughter. To ensure any investigation and prosecution are properly co-ordinated following a work related death, account will be taken of the publication "*Work Related Death – A protocol for liaison*" jointly agreed between Health and Safety Executive, the Association of Chief Police Officers and the Crown Prosecution Service (CPS).

The police are responsible for deciding whether to pursue a manslaughter investigation and whether to refer a case to the CPS to consider possible charges. The Council is responsible for investigating any possible health and safety offences. If evidence suggesting manslaughter is found it will be passed on to the police. If the police or the CPS decide not to pursue a manslaughter case, the District Council will consider its enforcement under its relevant health and safety legislation. However due to the seriousness of the consequences of the breach, prosecution will be the starting consideration for any enforcement action.

12. RE-STARTING A PROSECUTION

People should be able to rely on enforcement decisions taken. Normally, if a suspect or defendant is advised that there will not be a prosecution, or that the enforcement action has been stopped, that is the end of the matter and the case will not start again. But occasionally there are special reasons why enforcement action will re-start, particularly if the case is serious. These reasons include:

- Rare cases where a new look at the original decision shows that it was clearly wrong and should not be allowed to stand.

- Cases which are stopped so that more evidence, which is likely to become available in the fairly near future, can be collected and prepared. In these cases, the defendant will be told that the enforcement action may well start again.
- Cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

13. PUBLICITY

The District Council will consider whether the outcome should be publicised in the media particularly in relation to prevalent or frequent issues. The District Council may publicise a conviction in order to draw wider attention to the need to comply with the law or to deter others who may be tempted to behave in a similar way.

14. RECOVERY OF COSTS

Where appropriate, the District Council will seek to recover all costs incurred in carrying out any proceedings (including staff time) from relevant parties to ensure that the financial burden of the infringement is not borne by the authority and ultimately the tax-payer.

15. ACCOUNTABILITY

If any person or business is unhappy with the implementation of this Policy they are invited to raise the issue with the relevant enforcement officer. If they feel this has not resolved the issue they may raise a formal complaint.

Complaints about our service or decision regarding enforcement action will be addressed through our corporate complaints procedure, which can be found on our website

This Policy is available on the Council's web site and on request, this policy will be made available on tape, large type, or in a language other than English.

Governance and Resources Committee

19 December 2020

Report of Director of Corporate and Customer Services

Local Government Ethical Standards – Review by Committee on Standards in Public Life

PURPOSE OF REPORT

To provide an update on how the Council's ethical standards framework compares with the best practice recommendations included in the 2019 report from the Committee on Standards in Public Life.

This update will form the basis of the Council's submission to the Local Government Association on how it has responded to the recommendations.

RECOMMENDATION

1. To note the report.
2. To amend the general obligations section of the Member Code of Conduct to include:
 - a) definitions of bullying and harassment and provide examples of unacceptable behaviours;
 - b) clarification on the expectations for Councillors participating in the complaints process.
3. To amend the principles section of the Protocol on Member/Employee relations to make reference to bullying and harassment.
4. To note that annually the Monitoring Officer will bring a report to the Committee providing a summary of Code of Conducts received and reviewing the content of the Code against best practice and experience.
5. To amend the section in the Code of Conduct on gifts and hospitality to clarify that that Monitoring Officer must be notified if gifts or hospitality are accepted and note that in future Members will be reminded to check their entries in the Gifts and Hospitality Register as part of the annual review of the Members' Register of Interests.
6. To note that in future a checklist will be used as the basis for the meeting between the Monitoring Officer and the Independent Person when carrying out an initial assessment on allegations will be updated to reflect best practice.

How does this contribute to our policies and legal obligations?

The Council's ethical standards framework has direct links to the Council's core values of fairness and equality, listening to people and quality of service. Additionally it links to the Council's aim of providing excellent services.

WARDS AFFECTED

All

STRATEGIC LINK

The Council has a statutory duty to promote and maintain high standards of conduct for its Members and Officers. One of the ways to make sure this happens is to make sure that the Authority regularly reviews its ethical framework in the context of best practice and external reports.

BACKGROUND

- 1.1 In January 2019 the Committee on Standards in Public Life published its 20th report which focussed on the subject of ethical standards in local government. The review was prompted by a desire to establish how the current framework, introduced by the Localism Act 2011, was working rather than any specific allegations of misconduct. A summary of the report recommendations is reproduced as appendix 1.
- 1.2 A copy of the full report can be viewed using the following link:
<https://www.gov.uk/government/publications/local-government-ethical-standards-report>
- 1.3 The evidence collated during the review supported the view that the vast majority of councillors and officers maintain high standards of conduct. However there was some clear evidence of misconduct by some councillors. The majority of these cases identified related to bullying or harassment, or other disruptive behaviour. There was also evidence of persistent or repeated misconduct by a minority of Councillors.
- 1.4 The Localism Act 2011, abolished the Standards Board for England and gave local authorities responsibility for their own ethical standards. The Committee's report recognises the benefits of this approach in terms of flexibility and the discretion to resolve standards issues informally and suggests that this should continue.
- 1.5 The report does however recognise that there are some risks to maintaining ethical standards under the current arrangements and therefore makes a number of recommendations for changes to primary legislation, secondary legislation and the Local Government Transparency Code. While these may take time to progress the report also includes best practice recommendations which the Committee considers to be a benchmark of good ethical practice that all local authorities can and should implement.
- 1.6 The Committee is currently reviewing implementation of its best practice recommendations and the Council has been asked to respond.

2 REPORT

- 2.1 In light of the best practice recommendations in the report we have looked at each one and identified where further action is needed. A copy of this analysis is set out in Appendix 2.
- 2.2 It is reassuring to see that the Council already complies with the majority of the recommendations and no further action is required however the following have been identified as areas which need further attention.

Bullying and Harassment

- 2.3 The Council's current Member Code of Conduct refers to treating others with dignity and respect and not to pursue a course of action which amounts to bullying or harassment. However, in order to reflect the best practice recommendations, it is proposed that the Code is amended to include definitions of bullying and harassment and provide examples of unacceptable behaviours. It is also suggested that the Member Officer Protocol is also amended to refer to bullying, intimidation or harassment.

Member participation in investigations and trivial and/or malicious allegations

- 2.4 There is no evidence to suggest that the Council has a problem with Members refusing to engage in investigations to complaints or relatedly making trivial or malicious allegations. However, it is proposed that the Code is amended to clarify the expectations for Members participating in the process and identify the issues around making trivial or malicious allegations.

Reviewing the Member Code of Conduct

- 2.5 The Committee's report suggests that Councils should be able to demonstrate that they regularly review the Code of Conduct. To achieve this it is proposed that a report be brought to this Committee annually which gives an anonymised account of complaints received during the year, lessons learned and, where appropriate, proposals to amend the code in light of experience and best practice.

Reviewing Gifts and Hospitality Register

- 2.6 The Council does not publish the Gifts and Hospitality Register on-line or make it available as a comma-separated values ('csv') file. To remove the need for a quarterly review it is proposed that this data is updated as and when declarations are received. Members would then be asked to review their entries in the Gifts and Hospitality Register annually at the same time as reviewing their entries in the Register of Interests.

Carrying out an initial assessment on Code of Conduct Complaints

- 2.7 In the best practice recommendations it is suggested that a checklist is used as the basis for the meeting between the Monitoring Officer and the Independent Person when carrying out an initial assessment on allegations. It is therefore proposed that the Monitoring Officer will adopt something similar to the two stage test used by Northern Ireland Local Government Commissioner for Standards which when

assessing a new complaint that asks whether a complaint 'can' be investigated and whether it 'should'.

Are there any corporate implications members should be concerned about?

3 RISK ASSESSMENT

Legal

- 3.1 There are no direct legal risks arising from the proposal in this report. However there is a risk of legal challenge or reputational damage if our governance arrangements do not comply with the best practice recommendations from the Committee on Standards in Public Life.

Financial

- 3.2 There are no financial considerations arising from this report.

4 OTHER CONSIDERATIONS

- 4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

- 5.1 James McLaughlin, Director of Corporate and Customer Services, Tel: 01629 761281
Email james.mclaughlin@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

- 6.1 None

7 ATTACHMENTS:

- | | |
|------------|---|
| Appendix 1 | Local Government Ethical Standards - Review by Committee on Standards in Public Life – Summary of Recommendations |
| Appendix 2 | Derbyshire Dales District Council Response to Best Practice Recommendations |

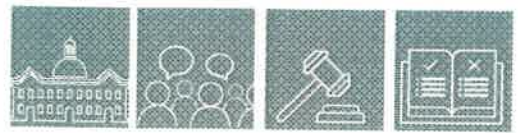
Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**

January 2019



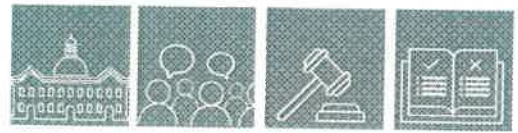


Local Government Ethical Standards

Committee on Standards in Public Life

Chair: Lord Evans of Weardale KCB DL

January 2019



The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

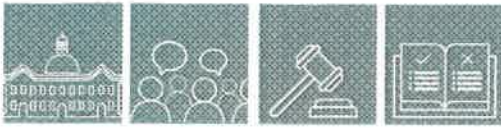
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

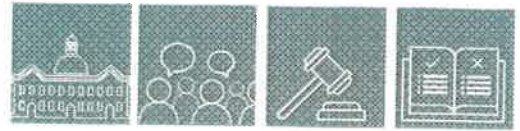
It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of



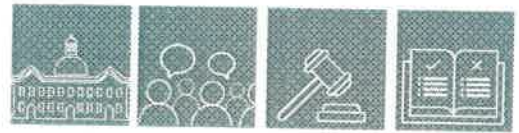
appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

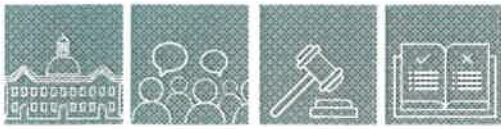
I commend the report to you.

Lord Evans of Weardale
Chair, Committee on Standards in Public Life



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Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

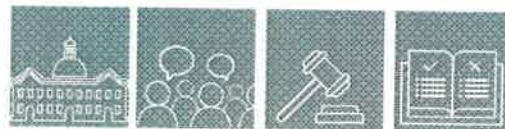
Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

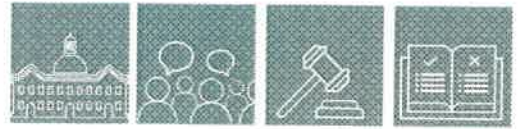


Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



List of recommendations

Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

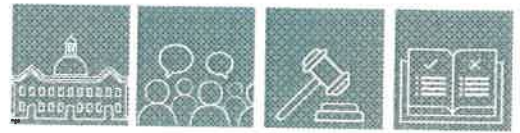
Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.



Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

	Best Practice Recommendation	Current Arrangements	Proposed Action
1.	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition	<p>One of the principles set out at the beginning of the Council's current Member Code of Conduct refers to treating others with dignity and respect and must not pursue a course of conduct which amounts to bullying or harassment of another.</p> <p>The Member Officer Protocol also refers to respect for others but does not refer specifically to bullying, intimidation or harassment.</p>	<p>We will provide greater clarity by including definitions of Bullying and Harassment in the Code of Conduct under the section on general obligations and provide examples of unacceptable behaviours.</p> <p>We will also make reference to bullying and harassment in the principles section of the Protocol on Member/Employee relations.</p>
2.	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	There are no provisions within the Council's Code of Conduct requiring Councillors to comply with investigations. This has not proved to be an issue as all Councillors who have been the subject of Complaints have engaged in the process.	We will add a paragraph to the Code of Conduct under the general obligations to clarify the expectations for Councillors participating in the process for dealing complaints and highlight the issues around trivial or malicious allegations.
3.	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	Although there is currently no regular review at a meeting of the Council or Committees, the Monitoring Officer keeps the Code of Conduct under review in light of guidance and best practice and brings proposals to the Committee or Council.	At the end of each civic year the Monitoring Officer will bring a report to the Governance and Resources Committee providing a summary of Code of Conduct complaints received during the past 12 months and ask the Committee to review the Code in this context.

	Best Practice Recommendation	Current Arrangements	Proposed Action
			The revised code will then be ratified by the Council at the Annual meeting.
4.	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	The Authority's Code and supporting documents such as Codes and Protocols and the arrangements are included in the Council's Constitution and available on the Council website and for inspection at the Town Hall (when open).	No further action required.
5.	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	<p>The Authority's register is not available online and offers of gifts do not appear to be added to entries in the Register of Interests where they should remain for three years following receipt.</p> <p>It should however be noted that as our Code of Conduct states that generally Members should not accept money or gifts there are not many entries in the register.</p>	<p>We will regularly remind Members to check that their entries in the Register of Gifts and Hospitality are up to date.</p> <p>Going forward we will publish the register on the website as a cvs file and make sure entries to the register are included in the Register of Interests.</p> <p>We will amend the section in the Member Code of Conduct to clarify that if gifts and hospitality are accepted the Monitoring Officer should be notified immediately using the prescribed form.</p>
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	There is currently no standard check list that the Monitoring Officer and his Deputies use to go through each complaint with the Independent	To look at the two stage test the Northern Ireland Local Government Commissioner for Standards uses to asks whether they 'can' investigate

	Best Practice Recommendation	Current Arrangements	Proposed Action
		person to make a judgement on whether complaints are trivial or vexatious, or if they should proceed to a full investigation.	the complaint, and whether they 'should' and, if appropriate, use this as the basis for a checklist to be used to 'test' individual complaints at the initial assessment stage.
7.	Local authorities should have access to at least two Independent Persons.	The Council has already appointed two Independent Persons who meet with the Monitoring Officer to give impartial advice on all complaints received that related to an Authority Member.	No further action required.
8.	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	The Council's current arrangements involve the Monitoring Officer consulting with an Independent Person on all complaints relating to District and Parish Councillors.	No further action required.
9.	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	Since the current arrangements were introduced in 2012 only one recent allegation of misconduct regarding a Parish Councillor has resulted in a formal investigation that has been considered by a hearing panel. In accordance with the arrangements the decision notice will be published on the Council's website.	No further action required.

	Best Practice Recommendation	Current Arrangements	Proposed Action
10.	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	The Council's current arrangements are published on the Council website along with the prescribed form. In addition when receipt of the complaint is acknowledged both the complainant and the subject Member are sent a copy of the procedure that confirms that timescales for handling the complaint.	No further action required.
11.	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	This is the approach we would encourage when asked for advice by a Clerk or Parish Councillor. However, in practice this does not always happen.	No further action required.
12.	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	<p>The Monitoring Officer and his Deputies spend a considerable amount of time advising on and responding to Code of Conduct issues at Parish Councils across the District.</p> <p>The Monitoring Officer and his Deputies do undertake regular training on Code of Issues and specifically those relating to Parish Councils and attended a course on 26 November specifically related to Parish Council Complaints.</p>	No further action required.

	Best Practice Recommendation	Current Arrangements	Proposed Action
13.	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	<p>To avoid any conflict of interest, if it is decided that a formal investigation is required, the Authority appoints an external investigator to look into allegations and report back. The recommendations are then presented to a hearing panel of Councillors who then make recommendations on what action, if any, should be taken in light of the findings.</p> <p>It should be noted that this best practice recommendation is not suggesting that the complaint should be determined by another Authority as this is not possible in the current framework. The recommendation is that where there is a perceived conflict of interests a Monitoring Officer from another authority should be asked to “check” the validity of the investigation and the conclusions reached.</p>	<p>No further action required.</p> <p>The current arrangements for appointing an independent investigator provides a considerable degree of independence.</p> <p>By appointing deputies the Monitoring Officer is able to step back from a complaint if he has previously been involved in anyway</p>
14.	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their	The Council reports on relevant separate bodies in its Annual Governance Statement and a statement on its relationship with these bodies is provided in the annual accounts under the section on related party transactions.	No further action required.

	Best Practice Recommendation	Current Arrangements	Proposed Action
	board agendas and minutes and annual reports in an accessible place.		
15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	The Monitoring Officer has regular meetings with the political group leaders and this would be an opportunity to raise standards issues.	

Governance and Resources Committee

17 December 2020

Report of the Director of Resources

REVENUES AND BENEFITS SERVICES AND INVOICE PROCESSING CONTRACT

PURPOSE OF REPORT

This report outlines actions relating to the expiry on 17 January 2021 of the current contract with Arvato for the delivery of the Revenues and Benefits and Invoice Processing Services, and describes the arrangements for the delivery of services thereafter.

RECOMMENDATION

1. That the actions relating to the expiry on 17 January 2021 of the current contract with Arvato for Revenues and Benefits and Invoice Processing and the arrangements for delivery of services thereafter be noted;
2. That the Director of Corporate and Customer Services be given delegated authority to sign the Service Level agreement with Chesterfield Borough Council for the Revenues and Benefits service;
3. That the Chair of the Governance and Resources Committee be approved as the Council's representative on the Revenues and Benefits Strategic Board.

WARDS AFFECTED

All wards

STRATEGIC LINK

The delivery of an effective Revenues and Benefits and invoices processing service is central to the delivery of all of the Council's services, as it relates to the collection of taxation and other income that funds Council services. The service provides financial support to vulnerable households and maintains thousands of tenants in social and private rented housing through the payment of benefits and award of council tax reliefs and discounts. The service also supports local businesses through the award of business rate reliefs and timely payment of supplier invoices.

1 BACKGROUND

- 1.1 The Revenues and Benefits and Invoice Processing service for Derbyshire Dales District Council (DDDC) is currently delivered by Arvato, who also provide the Chesterfield Borough Council (CBC) service. The majority of staff associated with the

service are located in CBC offices. The current contract between Arvato and Derbyshire Dales DC expires on the 17 January 2021 (having been extended from 16 October 2020 due to Covid-19 and other issues).

1.2 The Revenue and Benefits and Invoice Processing service objectives include;

- Producing bills, collecting amounts due and taking recovery action when appropriate in respect of all Council Tax, Non-Domestic Rates, Overpaid Housing Benefits and other Sundry Debts;
- Processing claims for Universal Credit, Housing Benefit, Local Housing Allowance and Council Tax Support & Discretionary Hardship Reliefs;
- Making payments to suppliers and other creditors.

1.3 The entire revenues and benefits and invoice processing service is currently provided by Arvato and includes two areas and five distinct services:

Revenues and Benefits	<ul style="list-style-type: none">• Council tax collection
	<ul style="list-style-type: none">• Business rates collection
	<ul style="list-style-type: none">• Administration of housing benefits & council tax support
Invoice Processing	<ul style="list-style-type: none">• Sundry debtors (accounts receivable)
	<ul style="list-style-type: none">• Payment of creditors (accounts payable)

1.4 The Derbyshire Dales service is delivered by around 25 employees, some of whom work solely on the Derbyshire Dales contract and some who work on both the Derbyshire Dales and Chesterfield Borough Council contracts.

1.5 At the meeting of the Governance and Resources Committee held on 11 July 2019, it was resolved that “The proposal to pursue a new hybrid model of delivery with Chesterfield Borough Council is approved”.

The hybrid model consists of:

- A partnering arrangement with Chesterfield Borough Council for the delivery of the Revenues and Benefits Service;
- Bringing the Invoice Processing (Accounts Payable and accounts Receivable) functions back in house.

2 REPORT

2.1 Expiry of the contract with Arvato

An expiry plan has been agreed with Arvato and since June 2020 Council officers (mainly the Director of Resources, Legal Services Manager and Human Resources Manager and their counterparts at CBC) have attended regular meetings with Arvato to ensure that progress is on track. Good progress is being made and, at the time of writing, there has been no significant cause for concern and tasks are expected to be completed on time. The expiry plan covers items such as:

- Arrangements for transfer of Returning Staff to DDDC (TUPE applies)*

- Meetings with Returning Employees (CBC holding meetings with all employees transferring to them);
- Data protection arrangements & data transfers
- Transfer of assets
- Recruitment to vacant posts
- Review and transfer of unexpired contracts
- Review of policies and procedures
- Review of business continuity and quality monitoring arrangements.

*There are two employees who will transfer back in-house from Arvato, and these employees have been consulted and kept fully informed.

2.2 New arrangements for Revenues and Benefits Service

2.2.1 Chesterfield Borough Council will deliver the Revenues and Benefits Service from 18 January 2021. A Service Level Agreement (SLA) is being prepared to set out the terms and conditions. The SLA is based on a partnership between CBC and DDDC, with risks and benefits being shared, however CBC will have responsibility for the day to day operational management of the services. The majority of employees will continue to be based in Chesterfield, with a customer enquiry and appointment service from Matlock Town Hall (as has been the case with Arvato operating the service, except when the building has been closed to visitors during the coronavirus pandemic).

2.2.2 The SLA will run for an initial 5 year period with a review for the period to 31 March 2021 and then annually for each financial year. At the end of the 5 years the SLA may be extended by a further 5 years and then continued with 5 year extensions until notice is given. Either party can terminate this SLA on 2 years' notice unless fundamental breach occurs.

The key items included within the Service Level Agreement are:

- Service specification (roles and responsibilities for both parties)
- Governance arrangements (see below)
- Cost model & payment arrangements
- Transformation and service improvements (CBC will have an ongoing reasonable obligation to identify potential service improvements)
- Transferring employees, pension and redundancy provisions
- Data Protection & Security
- ICT provision
- Monitoring Performance (Key Performance indicators and "fundamental breach" defined)
- Audit
- Insurance & Indemnities
- Change Management
- Dispute resolution

2.2.3 Governance arrangements comprise:

- monthly Operational Board meetings attended by officers from CBC and DDDC, and

- twice-yearly meetings of the Strategic Board a mid-year meeting and a meeting following the year-end).

The strategic board will include an elected member from each local authority with support from officers. It is recommended that the Chairman of the Governance and Resources Committee should be approved as the Council's representative on the Strategic Board. The chairmanship will rotate annually. In the event of a dispute that cannot be resolved by the Operational Board, the matter will be referred to the Strategic Board; for such events the Independent Person from the non-chairing Council may be called to take part in the dispute resolution if necessary.

2.2.4 It is recommended that the Director of Corporate and Customer Services be given delegated authority to sign the Service Level Agreement on behalf of DDDC.

2.3 New arrangements for Invoice Processing - Accounts Payable (AP) and Accounts Receivable (AR)

2.3.1 Good progress is being made to bring AR and AP back in-house, where they will become part of the Financial Services Team. Two employees are transferring back from Arvato and recruitment is underway for two 0.5 FTE posts (one for AR and one for AP) to provide support and cover (the AP post was already vacant and the AR post was part of a shared post in revenues that will transfer to CBC). The management of the functions within the Financial Services Team is currently under review (see paragraph 2.4 below).

2.3.2 In recent weeks, weekly meetings have been held with the two transferring employees, representatives from Arvato, the Director of Resources, Financial Services Manager and Human Resources Manager. These meetings give the two employees an opportunity to discuss any areas of concern and also serve to ensure a smooth transition without any service disruption. Recent discussions have included terms and conditions of employment, HR policies, resilience, office accommodation and ICT and telephony provision.

2.3.3 There is a risk of service disruption in the early weeks of the contract due to a lack of resilience in the event of a prolonged absence of one of the transferring employees until such time as the newly recruited staff are fully trained. This risk is being mitigated by:

- A recruitment and training programme;
- Discussions with CBC to put in place mutual support for such events.

2.4 Overall cost of new service

The table below sets out the estimated annual costs and compares them against the revised budget:

	Accounts Payable & Accounts Receivable £'000	Revenues & Benefits £'000	Total £'000
Revised budget 2020/21	169	624	793
Proposed cost from CBC		660	660

Estimated direct DDDC costs	78		78
Total estimated annual costs	78	660	738
Amount (under) / over revised budget	-91	36	-55

It is proposed that the estimated under-spend of £55,000 be used to strengthen management arrangements, add resilience and give much needed additional capacity within the DDDC Financial Services Team. A further report to consider such matters is to be reported to the January meeting of full Council.

3 RISK ASSESSMENT

3.1 Legal

The Council has the power under section 111 of the Local Government Act 1972 to enter into agreements/contracts for the discharge of its functions and is under a duty under section 3(1) of the Local Government Act 1999 to obtain best value for those functions. The arrangements set out in the report seek to obtain best value for the discharge of the Council's functions of collecting CT and Business Rates as well as administering Housing Benefit payments and Council Tax Support.

The Service Level Agreement ensures that all relevant authorities and authorisations are provided for Chesterfield Borough Council to act on the Council's behalf and sets out the way that the service will operate including payments and governance.

For the staff returning in-house, TUPE will apply, to ensure that their rights are protected.

As such, the risk is assessed as low.

3.2 Financial

The revised budget for the current service for 2020/21 is £792,700 a year. These costs can vary due to new burdens etc. but as these are usually offset by government grant the cost of new burdens has not been included in this exercise.

The estimated costs set out within this report can be contained within the current budget, leaving around £55,000 that could be used to strengthen management arrangements for the contract within the DDDC Financial Services Team (it is planned to report to the January Council meeting).

However, as stated above, the Service Level Agreement will operate on a partnering basis with risks and benefits being shared. This means that there is risk that costs will increase as well as an opportunity to share reduced costs. The financial risk is therefore assessed as medium.

4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

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6 BACKGROUND PAPERS

None

7 ATTACHMENTS

None.

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