



# Cabinet

**A meeting of the Cabinet will be held at the Forum, Towcester, NN12 6AF  
on Tuesday 11 April 2023 at 6.00 pm**

## Agenda

<b>Public Session</b>	
<b>1.</b>	<b>Apologies for Absence and Notification of Substitute Members</b>
<b>2.</b>	<b>Declarations of Interest</b> Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.
<b>3.</b>	<b>Minutes</b> (Pages 5 - 10) To confirm the minutes of the meeting of Cabinet held on 7 March 2023.
<b>4.</b>	<b>Chair's Announcements</b> To receive communications from the Chair.
<b>5.</b>	<b>Urgent Business</b> The Chairman to advise whether they have agreed to any items of urgent business being admitted to the agenda.
<b>6.</b>	<b>Report from the Overview and Scrutiny Committee (if any)</b>
<b>7.</b>	<b>Planning Advisory Service - Planning Peer Review</b> (Pages 11 - 42)
<b>8.</b>	<b>Community Grants Framework</b> (Pages 43 - 64)

9.	<b>Private Sector Housing Enforcement and Civil Penalties Policy</b> (Pages 65 - 124)
10.	<b>Replacement of existing contract for WNC's main Housing Management System 'OpenHousing'</b> (Pages 125 - 128)
11.	<b>A43 Northampton - Kettering Improvements Phase 3</b> (Pages 129 - 138)
12.	<b>2023/24 Bus Subsidy Budget</b> (Pages 139 - 144)
13.	<b>Local Government and Social Care Ombudsman Report</b> (Pages 145 - 164)
14.	<b>SACRE Annual Report</b> (Pages 165 - 174)
15.	<b>Consolidating printers into a single contract</b> (Pages 175 - 180)
16.	<b>Consolidating phone lines into a single contract</b> (Pages 181 - 186)
17.	<p><b>Exclusion of the Press and Public</b></p> <p>In respect of the following items the Chairman may move the resolution set out below, on the grounds that if the public were present it would be likely that exempt information (information regarded as private for the purposes of the Local Government Act 1972) would be disclosed to them: The Committee is requested to resolve: "That under Section 100A of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business on the grounds that if the public were present it would be likely that exempt information under Part 1 of Schedule 12A to the Act of the descriptions against each item would be disclosed to them"</p>

Catherine Whitehead  
Proper Officer  
30 March 2023

**Cabinet Members:**

Councillor Jonathan Nunn (Chair)

Councillor Adam Brown (Vice-Chair)

Councillor Fiona Baker  
Councillor Matt Golby  
Councillor Phil Larratt  
Councillor Malcolm Longley

Councillor Rebecca Breese  
Councillor Mike Hallam  
Councillor Daniel Lister  
Councillor David Smith

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence and the appointment of substitute Members should be notified to [democraticservices@westnorthants.gov.uk](mailto:democraticservices@westnorthants.gov.uk) prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare that fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

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## Cabinet

Minutes of a meeting of the Cabinet held at The Forum, Towcester, NN12 6AF on Tuesday 7 March 2023 at 6.00 pm.

### Present:

Councillor Jonathan Nunn (Chair)  
 Councillor Adam Brown (Vice-Chair)  
 Councillor Fiona Baker  
 Councillor Rebecca Breese  
 Councillor Matt Golby  
 Councillor Mike Hallam  
 Councillor Phil Larratt  
 Councillor Daniel Lister  
 Councillor Malcolm Longley  
 Councillor David Smith

### Also Present:

Councillor Sally Beardsworth  
 Councillor Janice Duffy  
 Councillor Rosie Herring  
 Councillor Nigel Hinch  
 Councillor Rosie Humphreys  
 Councillor Bob Purser  
 Councillor Wendy Randall  
 Councillor Emma Roberts  
 Councillor Danielle Stone

### Officers:

Anna Earnshaw, Chief Executive  
 Rebecca Peck, Assistant Chief Executive  
 Martin Henry, Executive Director - Finance (Section 151 Officer)  
 Catherine Whitehead, Director of Legal and Democratic (Monitoring Officer)  
 Sarah Reed, Executive Director - Corporate Services  
 Stuart Timmiss, Executive Director - Place, Economy and Environment  
 Tony Challinor, Assistant Director - Commissioning and Partnerships  
 Paul Hanson, Head of Democratic and Elections  
 Kathryn Holton, Committee Officer  
 Gillian Baldock, Political Assistant to the Conservative Group  
 Jed Scoles, Political Assistant to the Labour Group

## 166. Declarations of Interest

There were none.

167. **Minutes**

The minutes of the meeting of Cabinet on Monday 13 February 2023 were agreed as an accurate record.

168. **Chair's Announcements**

There were none.

169. **People Overview and Scrutiny Committee - Child and Adolescent Mental Health and the Risk of Self-Harm Scrutiny Review**

At the Chair's invitation Councillor Herring, Chair of the People Overview and Scrutiny Committee presented the report and summarised the salient points. The recommendations had come out of the work of the Task and Finish Panel and Councillor Herring thanked all those who had been involved.

Councillors made the following comments:

- The number of children self-harming in West Northants was above the national average and increasing. There was a need for youth provision.
- Urgent action needed to be taken to invest in young people and address issues such as anxiety and not feeling safe.
- The environments people inhabited needed to be safer and friendlier with appropriate spaces for young people.
- WNC no longer had the budget to provide therapeutic care for children.
- Sure Start schemes had benefited many families and the closure of centres had had a detrimental effect.
- Children and young people were being failed by having to wait so long for mental health treatment.

Councillor Baker thanked the Task and Finish Panel and declared that she was in agreement with the findings. A programme of youth support had commenced and more youth provision in local areas was being looked into. Despite the absence of grant funding, family hubs were being set up in Towcester and Northampton and many services would be included within them. WNC could not arbitrarily top-slice the Dedicated Schools Grant (DSG) to fund mental health services in schools but could consult with schools to see if this was something they wanted to consider.

Councillor Golby expressed support for the comments and recommendations and noted the number of absences due to exclusion and the effects of this on children. There were plans to look at using school facilities for longer in the day to engage with children. The LAP structure could help in responding to needs.

Councillor Brown commended the work of the Task and Finish Panel and urged cabinet members to reflect on what could be done.

**RESOLVED:** That Cabinet welcomed the recommendations of the People Overview and Scrutiny Committee in relation to the Child and Adolescent Mental Health and the Risk of Self-Harm Scrutiny Review and undertook to review the recommendations and respond with proposals at a future meeting.

170. **Corporate Plan - Quarterly Performance Report**

The Chair presented the report and summarised the salient points. At the Chair's invitation Cabinet Members made the following points:

Councillor Larratt advised that trees which had been removed from WNC land were all dead, dying or dangerous. These had mainly been on highways but some had been within parks. Money was being claimed from the Urban Tree Fund and more planting undertaken. The next quarter was likely to be positive. The Queen's Green Canopy initiative had been very successful.

Councillor Golby noted that performance in adults and public health had been positive. The measures were good but could be reviewed in order to get more value from them.

Councillor Breese referred to the 'percentage of planning applications approved by Committee as recommended' and advised that other measures such as timeframe of decisions could potentially be included. Information had been added to the Apprentices measure to indicate the numbers undertaking each qualification level.

Councillor Lister noted the approval of WNC's UKSPF Investment Plan. The Rural England Prosperity Fund was still awaited. WNC continued to proactively support businesses in West Northamptonshire. Housing Benefit had been brought back in house and since then the timescale for determining applications had been reducing.

Councillor Baker acknowledged that school results were not satisfactory, but only one secondary school was under WNC control. The rest were academies over which WNC had no direct influence. Schools were suffering from 2 years of Covid disruption.

Mr Jake Blackburn was invited to address the Cabinet and made the following comments:

- Reporting tree coverage within WNC as a percentage of land mass would be a useful measure.
- Why were measures such as Covid booster programmes being reported instead of key performance indicators such as average hospital stays?
- If targets for roads had been met, why was the £1m pothole fund needed?
- Delivery of new homes needed to be vastly increased to have any meaningful impact on the waiting list.

Mr Mark Higgs was invited to address the Cabinet and made the following comments:

- When would the climate summit take place and what metrics would this be measured by?
- Heritage assets provided value to the town and green infrastructure was important. Ongoing pressures to deliver housing and jobs meant some could be lost.
- Who decided how valuable green space was? Despite negative feedback the Northampton relief road had still been approved.
- Would WNC back the position for Harlestone Firs to be protected?

Councillors made the following comments:

- Fly tipping was still an issue. Services needed to be joined up to provide an effective prevention and enforcement programme. Could benchmarking against other authorities be undertaken? Was there any link between rising rates of fly tipping and the increased cost of bulky waste collection?
- Comparison of like for like quarters would be helpful to understand trends in leisure sports services. Figures by leisure centre would also be helpful.
- The figures for housing were welcomed. Retrospective quarterly figures were not so useful and projection into the future would be more helpful.
- Why had the number of planning applications approved gone down?
- Academies needed to be held to account. The Regional Director had declined to meet with the People Overview and Scrutiny Committee.
- More education was needed regarding recycling to avoid contamination.
- Why were children put on a Child Protection Plan for a second or subsequent time? Had they previously been taken off too early, or lost support?
- A repair timescale would be helpful for potholes. How many repairs lasted more than 12 months? Dangerous central carriageway defects were taking too long to be repaired.
- Would debt that was overdue by 90+ days be collected or written off?
- Was there any cohort tracking of those aged 16-18 not in employment, education or training (NEET)? How many were not known and what were they doing?
- The targets and figures relating to homelessness and overcrowding did not reflect the urgency of need. More detail was needed – was demand for housing due to inability to afford rents or other factors such as resettlement of Ukrainian refugees?
- More comprehensive data had previously been provided in relation to schools, such as age, key stage, gender, race and area. Context was relevant when looking at attainment figures.
- Many GP surgeries no longer provided a baby weighing service and health visitor visits had been reduced.
- There had been no progress with tree planting due to budget cuts. How many of the Queen's Canopy trees were still alive?
- Do we know how many school buildings are unsafe?
- The increase in adoption of children was encouraging.
- Children were being targeted with vaping which was concerning.
- How many council houses were lost with the right to buy? Was money still paid to the government upon sale?
- 38.6 days to determine housing benefit applications was not good enough.
- What was being done about the level of referrals within 2 days for children of concern?
- The number of complaints was needed, not just those escalated. How did this compare with other authorities?

In relation to net zero, the Chair advised that a climate summit comprising a number of sessions had been held 9 months into the new council.



The Executive Director Place confirmed that trees removed at Harlestone Firs had been part of a commercial crop on the Althorp estate. Althorp's strategy was that every tree cut down would be replaced within the estate.

Councillor Golby advised that moving to the ICS framework would result in changes to some of the health measures.

Councillor Brown made the following comments:

- There would always be friction between housebuilding and green spaces.
- The vast majority of those requiring housing were waiting for internal moves and were not currently homeless.
- More social housing was needed and a meeting was being held to progress this.
- Since 2017 WNC had not paid the government more than necessary on right to buy receipts. There was a 25% treasury share due on any right to buy sale, but the council were entitled to retain the rest if it was spent on more housing within 5 years.
- The demand for housing was largely due to financial problems. The Ukrainian situation had been well managed and was not a core source of demand.

Councillor Larratt made the following comments:

- Trees were not removed in spring and summer because of wildlife, so the figures were higher during winter.
- The Tree Policy had unfortunately been delayed with costings, but had now been approved by the spending panel. A consultant was being procured to write the policy.
- The weather in December had been unusual in temperature variance which had an adverse effect on potholes. Better equipment was being investigated which would deliver more repairs.

Councillor Longley advised that most debts were collected but WNC had a write off policy. Most of the overdue debt related to adult care.

Councillor Baker made the following points:

- Those missing from NEET figures were complicated. Some had moved to other areas but still had to be reported by WNC because they were registered here.
- The Assistant Director Safeguarding and Wellbeing was investigating the number of referrals with a decision within 2 working days. All those affected had oversight by team leaders so were safe.
- The relationship with academies was based on trust. It was improving and needed to be stronger.
- There had previously been more detail provided in relation to school attainment and this would be investigated.

The Chief Executive made the following comments:

- Covid was still a live issue and accounted for 13% of staff absences; reporting was therefore still relevant.
- Hospital data was already regularly published by other organisations and was in the public domain.

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- Detailed work was being undertaken regarding 2 day referrals – red referrals had a target of 2 days, amber 7 days and green could be for information only.
- Although the aim was to ensure those discharged from hospital were placed with access to family this had not always been possible due to the need to reduce backlogs.

RESOLVED: That Cabinet

Noted the content of the appendix covering the third quarter of 2022-23.

The meeting closed at 7.35 pm

Chair: \_\_\_\_\_

Date: \_\_\_\_\_



# WEST NORTHAMPTONSHIRE COUNCIL CABINET

11<sup>th</sup> April 2023

**Councillor Rebecca Breese  
Portfolio Holder for Planning**

<b>Report Title</b>	<b>Planning Advisory Service – Planning Peer Review West Northamptonshire Council</b>
<b>Report Author</b>	<b>Stephanie Gibrat, Assistant Director – Planning and Development</b>  <b>stephanie.gibrat@westnorthants.gov.uk</b>

## List of Approvers

<b>Monitoring Officer</b>	<b>Catherine Whitehead</b>	<b>15 March 2023</b>
<b>Chief Finance Officer (S.151)</b>	<b>Martin Henry</b>	<b>15 March 2023</b>
<b>Other Director</b>	<b>Stuart Timmiss, Executive Director for Place, Economy and Environment</b>	<b>15 March 2023</b>
<b>Communications Lead/Head of Communications</b>	<b>Bethany Longhurst/ Becky Hutson</b>	<b>15 March 2023</b>

## List of Appendices

**Appendix A – ‘Planning Peer Review Report, West Northamptonshire Council’, November 2022.  
Planning Advisory Service**

**Appendix B – Planning Service Action Plan, March 2023. West Northamptonshire Council**

## **1. Purpose of Report**

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- 1.1. To share the findings and recommendations of the Planning Advisory Service (PAS) Peer Review and to provide an update on the resulting Action Plan and next steps for the Planning Service.

## **2. Executive Summary**

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- 2.1 Local Government Review required the amalgamation of four councils, namely Daventry District, Northampton Borough, South Northamptonshire District and Northamptonshire County Council, into one new unitary authority (West Northamptonshire Council or WNC). In bringing together the Planning Service it has been clear that, whilst there are a number of strengths, there have been weaknesses across the four authorities which do need to be resolved to ensure that the best service is developed and delivered for West Northamptonshire's residents and customers.
- 2.2 The key issues identified when bringing the legacy councils together revolved around the differing processes in place, the inconsistent use of IT and variation in technology, a significant lack of resources, staff retention difficulties alongside the challenge of differing organisational cultures. To ensure the implementation of best practice early on in the development of the Planning Service, WNC asked the Planning Advisory Service (PAS), a government funded organisation, to assist and provide peer support.
- 2.3 The report details the background to the PAS Peer Review and its main findings and recommendations. It provides an update on West Northamptonshire Council's response to the Review, proposes an Action Plan for implementation and details the next steps for the transformation of the Planning Service. The report concludes with a proposed mechanism for monitoring and reporting progress on the transformation programme.

## **3. Recommendations**

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- 3.1 It is recommended that Cabinet:
- a) Notes the finding and recommendations of the PAS Peer Review (Appendix A)
  - b) Endorses the Action Plan and the next steps for the Planning Service (Appendix B) and;
  - c) Agrees the proposed mechanism for monitoring and reporting progress on the Action Plan and transformation programme.

## **4. Reason for Recommendations**

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The recommendations proposed:

- Align with those proposed by the PAS Peer Review.
- Ensure corporate support to drive positive change and will ensure the proposed measures are embedded within the Planning Service in the short, medium and long term.
- Ensure accountability and ownership for the implementation of the Action Plan and transformation programme and;
- Represent a positive opportunity to shape a new, fit for purpose unitary planning service for West Northamptonshire.

## 5. Report Background

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- 5.1 The Planning Advisory Service provides consultancy advice, peer support and training on planning and service delivery to local authorities and is directly funded by central government. Peer Reviews are delivered by experienced councillor and officer peers, and they are tailored to meet individual Council needs. The Reviews are designed to complement and add value to a Council's own performance and improvement focus.
- 5.2 At the invitation of the respective Councils, PAS has carried out a Planning Peer Review in both North Northamptonshire and West Northamptonshire to support the two new unitary authorities. West Northamptonshire Council's Review was undertaken in November 2022 with the intention to deliver a comprehensive report on the status of the Planning Service and to assist the new permanent Assistant Director on her arrival in January 2023.
- 5.3 The support offered by PAS throughout the review process and the peer recommendations are welcomed. A copy of the full report is tabled at Appendix A and West Northamptonshire Council's responding Action Plan is shown in Appendix B.

## 6. Issues and Choices

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- 6.1 The PAS Peer Review assessed the Council's Planning Service against the following framework:
- **Vision and Leadership:** the council's leadership and corporate engagement of the planning service in this.
  - **Performance Management:** effective use of skills and resources to achieve value for money and continuous improvement of the planning service, including in decision making on proposals, and whether the service is adequately resourced.
  - **Community engagement:** how the authority understands its community leadership role, especially in terms of accessibility, customer focus and transparency of the planning process.
  - **Partnership engagement:** how the service works in partnership with other stakeholders to balance priorities and resources, address differing views and deliver shared ambitions.
  - **Achieving outcomes:** the achievements of the planning service within the available resources and the planning service's role as a facilitator to change in the area.
- 6.2 Several strengths were identified during the Peer Review. These included:
- Very strong-buy-in from senior and officer leadership across the council for significant improvements to the planning service.
  - An emerging vision for the service.
  - A good understanding of what needs to change to move from the existing predecessor council services to one new planning service for the new unitary council.
  - Six improvement workstreams already are established and these are supported by corporate transformation resource as well as resource within the planning service.
  - Strategic partners and the development sector are broadly supportive and understanding of the challenges faced by the service.

6.3 In addition, it was reported that the council is in a strong position to deliver housing, has a healthy 5-year supply and its predecessor councils have a track record of delivery. In addition, West Northamptonshire is attractive to investment and planning income is high, covering the cost of the planning service.

6.4 The Peer Review acknowledges that West Northamptonshire Council has faced significant challenges dealing with local government reorganisation and the Covid pandemic at the same time. Consequently, the reorganisation of the Planning Service has been delayed and there are several resulting weaknesses and areas for improvement. The Peer Review highlighted the following areas requiring intervention:

#### **Vision and Leadership**

- The planning service is in the midst of significant internal change and staff have felt unsupported and uninvolved.
- Whilst there was an emerging vision there was no sense of ownership for delivery.
- The review found a disconnect and lack of visibility between senior leaders and the teams in the planning service.

#### **Performance Management**

- Planning performance is not strong, appeared to be deteriorating and there was an increasing backlog of undetermined planning applications.
- Despite some strong officer- member working relationships being evident, there was some conduct of concern observed.
- There is not enough business to warrant three area planning committees and their operation varies sending poor signals regarding a single unitary council. In addition, there were concerns raised with the Monitoring Officer regarding the culture and practice observed at one of the planning committees attended.

#### **Community and Partnership Engagement**

- The service remains partially inward looking.
- The review found a lack of customer focus and poor communication from parts of the planning service.
- Town and parish councils are unhappy with the planning service.

#### **Achieving Outcomes**

- Planning services are delivered broadly in the same way as they were prior to local government reorganisation rather than as one unitary council.
- Whilst work has started on producing a single local plan for the area, the planning service has not taken full advantage of place shaping in West Northamptonshire and there is a lack of focus on development schemes that are important corporately.
- There are four legacy systems in place to manage and access data in relation to S106 and CIL which is significant for communities seeking infrastructure improvements.

6.5 As a result of the findings above, the Review team has included a table of recommendations in Section 2, page 5, of the Planning Peer Review. This can be viewed in Appendix A of the Cabinet Report.

- 6.6 West Northamptonshire Council welcomes the support provided by the PAS Peer Review and the recommendations proposed. In response the Council has produced an Action Plan for the Planning Service which is tabled in Appendix B of the Cabinet Report.

### **Actions taken and next steps**

- 6.7 Since the Peer Review, the new permanent Assistant Director has started in post and the restructure of the Planning Service is underway. This exercise, alongside a dedicated recruitment and retention campaign, is expected to complete by the end of June 2023. Engagement with staff is underway in order to shape and create one vision, one culture and one Planning Service for West Northamptonshire. An interim Planning Leadership Team has been established and this tier of management will be the first to be permanently recruited to in order to drive forward the required changes.
- 6.8 A productive meeting was held between Senior Officers and officials at DLUHC in February 2023 to discuss the service's development management performance, to provide detail of the service's transformation workstreams and to share good practice. It is proposed to provide a further progress update to DLUHC in 3-4 months' time. The Assistant Director, working with the Corporate Performance team, is reviewing the corporate performance indicators to ensure they are fit for purpose. Progress against these will be monitored weekly by Planning Leadership Team and monthly by Place DMT to ensure a consistent improvement.
- 6.9 A dedicated 'focus week' was held between 20<sup>th</sup> – 24<sup>th</sup> February 2023 to address the application backlog. During this period the Development Management Team worked closely together to process new planning applications and to determine existing cases. 125 applications were determined which equates to around twice the average number of decisions usually made in a week. This methodology will be used at intervals should a backlog build up in Technical Support, Development Management or Enforcement.
- 6.10 The Transformation Team continues to support the Planning Service with the identified workstreams needed to facilitate the new structure, embed the one team vision and improve processes. The delivery of a single planning software system across West Northamptonshire Council's administrative area will greatly support the team and the speed, consistency and efficiency of its operation. This will go live on 3<sup>rd</sup> April 2023.
- 6.11 A review of the structure of West Northamptonshire Council's Planning Committees has commenced in partnership with the Monitoring Officer and the Democracy and Standards Committee. Following the proposal of the Committee to reduce the number of Planning Committees, a paper proposing the new format and frequency was agreed by Full Council on 23<sup>rd</sup> March 2023.
- 6.12 A dedicated Communications Strategy has been drafted for the Planning Service and this will be implemented by the Planning Leadership Team in partnership with the Communications Team to improve the internal and external communications and profile of the service. As well as re-establishing West Northamptonshire Council's Agents and Developers Forum, this will be complemented by a proactive Continuing Professional Development programme for staff, Members and Parish Council Representatives.

6.13 PAS has been invited by the Assistant Director to support the service further with a detailed review of S106/CIL over a six-week period. This work is expected to complete in April 2023 and the constructive input of PAS is welcomed. A further piece of follow up work will be undertaken with the Planning Policy team to support the delivery of the Local Plan and the commissioning of its key evidence base.

### **Accountability and Monitoring**

6.14 Going forward it will be important for the Planning Service to report progress on its performance and the key milestones of the transformation programme. To ensure accountability and an embedded culture of good performance it is proposed to introduce a regular monitoring regime. This will include:

- A weekly review of performance against national targets by the Planning Leadership Team, with a monthly summary provided to Place DMT.
- A monthly progress update to the Leader, Deputy Leader and Portfolio Holder by the Assistant Director.
- A monthly update to Transformation Board by the Assistant Director and the Transformation Team and;
- A quarterly update to Cabinet and Full Council by the Portfolio Holder.

6.15 The above will be accompanied by regular, informal updates to key partners, stakeholders and service users and in accordance with the Planning Service's Communications Strategy.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

7.1.1 The PAS Peer Review was funded by the Planning Service's revenue budget and is to be reimbursed by corporate transformation funding. The proposed follow up support work, relating to S106/ CIL and the Local Plan, will be of no charge to West Northamptonshire Council and is to be funded by central Government via PAS.

7.1.2 There is provision within the Planning Service's existing budget to meet the requirements of the proposed restructure and to fund the implementation of the Action Plan.

7.1.3 Should any additional funding be required in the future, this will be subject to consultation with the Chief Financial Officer and the necessary corporate approvals will be sought.

### **7.2 Legal**

7.2.1 There are no specific legal implications arising from the proposals at this stage, however the actions relating to the future structure of West Northamptonshire Council's Planning Committees and any proposed amendments to the constitution and scheme of delegation will need to be considered fully and in consultation with Legal and Democratic Services before implementation.



### **7.3 Risk**

- 7.3.1 There are a number of potential risks for West Northamptonshire Council and the Planning Service should the recommendations not be agreed by Members. These include a high reputational risk to West Northamptonshire Council.
- 7.3.2 As with all local planning authorities, there is a significant risk that central government (DLUHC) may place the Planning Service into 'special measures' and remove its planning decision making powers if performance remains inconsistent and below national targets. Furthermore, it is critical that key stakeholders and users of the Planning Service receive a consistently good service which demonstrates clear progression towards excellence over the course of the Action Plan.
- 7.3.3 Without a clear vision, leadership and accountability for the delivery of the Action Plan there is a risk of poor staff morale, low retention and an inability to attract new talent to Planning Service.
- 7.3.4 Ultimately, the Planning Service has an instrumental role in shaping the future of West Northamptonshire, its housing delivery, economic growth and inward investment and sustainable place making. Without a proactive and fully functioning Planning Service there is a risk to delivery and the Council's ability to address local needs and achieve wider corporate aspirations.

### **7.4 Consultation and Communications**

- 7.4.1 Internal and external consultation was undertaken by PAS during the Peer Review in order to prepare the recommendations detailed in the report. This included consultation with staff within the Planning Service, senior officers, Councillors, agents and developers and Parish Council representatives.
- 7.4.2 As mentioned in the main body of the report, a dedicated Communications and Engagement Strategy has been drafted and this will be implemented by the Planning Leadership Team in partnership with the Communications Team to improve the internal and external communications and profile of the service. As well as re-establishing West Northamptonshire Council's Agents and Developers Forum, this will be complemented by a proactive Continuing Professional Development programme for staff, Members and Parish Council Representatives.

### **7.5 Consideration by Overview and Scrutiny**

- 7.5.1 No comments have been sought or received by the Overview and Scrutiny Committee in relation to this report and its recommendations to date.

### **7.6 Climate Impact**

- 7.6.1 There is no direct climate impact associated with the Planning Peer Review and West Northamptonshire Council's proposed Action Plan.

### **7.7 Community Impact**

7.7.1 There is a clear community impact associated with quality of the Council's Planning Service. The Planning Service is a front facing service and its decision making directly affects local communities. Therefore, as mentioned above, it is critical that key stakeholders and users of the Planning Service receive a consistently good service which demonstrates clear progression towards excellence over the course of the Action Plan.

7.7.2 In addition, building reputation and increasing community confidence in the service is paramount. The additional support work programmed with PAS and relating to S106/CIL, the proposed Communications Strategy and the Continuing Professional Development programme for the team, Members and Parish Councils will seek to address this.

## **8. Background Papers**

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8.1 The relevant background papers are tabled in Appendices A and B of this report.

# Planning Peer Review

West Northamptonshire Council

Final feedback report

November 2022

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# 1. Executive summary

1. This report summarises the findings of a Planning Service peer review of West Northamptonshire Council, organised by the Local Government Association (LGA) with the Planning Advisory Service (PAS) and carried out by its trained peers.
2. West Northamptonshire has faced significant challenges dealing with local government reorganisation and the Covid pandemic at the same time. Reorganisation has been delayed and the service remains partially inward looking, waiting to find out what happens next. The planning service is in the midst of significant internal change. Staff we met feel unsupported and the service is not focussed on its customers or on the outcomes it wants to deliver. We understand that a new permanent Assistant Director for Planning will be joining the council in January and will be a useful catalyst to shape a new, fit for purpose, unitary planning service.
3. Planning services are delivered in broadly the same way as they were before local government reorganisation. This continued legacy working doesn't provide a good message for residents, employees or stakeholders about now being part of one council. Work is underway to harmonise the service.
4. Whilst we found some strong working relationships between officers and councillors, we also found some worrying officer member relationships and have raised concerns about some conduct we observed.
5. We found very strong buy-in from senior political and officer leadership across the council for significant improvements to the planning service. There is an emerging vision for the service but there is no sense of ownership for its delivery. We found a disconnect and lack of visibility between senior leaders and teams in the planning service.
6. A joint plan alongside three local plans from the predecessor councils sets the spatial policy direction for the council. Work has started on producing a single local plan for the area and there is some recent discussion about a change in policy approach. But the planning service fails to take full advantage of place shaping in West Northamptonshire and there is a lack of focus on schemes that are important corporately.
7. We found a good understanding of what needs to change to move from the existing predecessor council planning services into one new planning service for the new unitary council, and six improvement workstreams (supported by corporate transformation resources as well as planning team resources) have been set up. We didn't hear much about involving, developing and supporting people and we think this is an opportunity for some quick wins that could be addressed through the people and culture workstream.
8. Three area planning committees consider planning applications that are not delegated to officers to determine. Our analysis shows that there is not enough business to warrant three area committees. The way the committees operate varies, and are not always welcoming again sending poor signals about a single new unitary council. We observed some worrying culture and practice in one of the committees that we attended which we have referred to the council's Monitoring Officer for consideration. The practice that we saw we consider could potentially pose a significant risk to the council in terms of reputation, and also in terms of potential financial costs.
9. Whilst the service has some understanding of performance, it is not comprehensive enough to be relied on nor to inform what appropriate resourcing levels for the service should be.
10. We found a lack of customer focus and poor communication from parts of the planning service. Town and parish councils are extremely unhappy with the planning service. However, strategic partners and the development sector are broadly supportive and understanding of the challenges currently facing the planning service.

11. The council is in a strong position to demonstrable ability to deliver housing (as measured by a healthy 5-year land supply). Predecessor councils have a track record of delivery and the area is attractive to investment. But planning performance is not strong, is deteriorating and the backlog of underdetermined applications is increasing.
12. Planning income is high and appears to cover the costs of the planning service but information and data related to this from the predecessor councils is inconsistent resulting meaning that West Northamptonshire Council doesn't have an overall picture of financial contributions through the community infrastructure levy (CIL) and S106. This is significant for communities that may be missing out on infrastructure improvements and creates risk.

## 2. Recommendations

13. The following table summarises the key recommendations from the peer review team:

1	<p>Improve the way the planning teams are managed and led to build a stronger sense of shared purpose and start to agree and develop good:</p> <ul style="list-style-type: none"> <li>• people management practices;</li> <li>• customer focus; and</li> <li>• behaviours and culture</li> </ul> <p>for the new planning service.</p>
2	<p>Analyse existing committee decisions and activity to inform a review the scheme of delegation and the number of committees to provide a committee structure and process fit for a unitary council to:</p> <ul style="list-style-type: none"> <li>• improve culture and practice of planning committees to reduce the risk to the council including eliminating the use of substitute members on planning committees</li> <li>• ensure that householder and minor applications only go to committee in exceptional circumstances</li> <li>• trial a significantly reduced number of committees with a proportionate geographical spread (based on workload)</li> </ul>
3	<p>Implement the planning service restructure as quickly as possible after the new Director is in post.</p>
4	<p>Develop a workforce development plan for the service to include succession planning, training programmes for “growing your own” and introduce linked career grade role.</p>
5	<p>Implement a robust service performance management framework to provide the data and information necessary to understand how the service is performing and inform what resources are needed.</p>
6	<p>Consider opportunities for more planning training and development for town and parish councils, in conjunction with West Northamptonshire members and officers to include:</p> <ul style="list-style-type: none"> <li>• how the planning system works;</li> <li>• some illustrative specific planning applications with explanations around reasons for decisions;</li> <li>• some illustrative specific enforcement cases with explanations around reasons for action or not; and</li> <li>• some assessment of overturns and appeals showing lessons learnt.</li> </ul>
7	<p>Develop a comprehensive approach, capitalising on the opportunities of a new unitary council, to involving and engaging involve internal and external stakeholders to work together to develop the new local plan.</p>
8	<p>Introduce a forum that engages with agents and customers to help shape the service and hear and address concerns.</p>
9	<p>Carry out process “quick wins” including:</p> <ul style="list-style-type: none"> <li>• validation –guidance to staff on acceptable technical support documents</li> <li>• consultation – reduce unnecessary consultation with internal and external stakeholders</li> <li>• triage incoming applications for quick decisions</li> </ul>
10	<p>Carry out management “quick wins” including:</p> <ul style="list-style-type: none"> <li>• senior manager attending team meetings to agreed frequency;</li> <li>• introduction of regular planning service newsletters/emails; and</li> <li>• regular one to ones for all staff</li> </ul>

	<ul style="list-style-type: none"><li>• prepare and implement an action plan to address staff survey results in consultation with staff.</li></ul>
11	Engage with PAS to benefit from their current support offer on improving the governance of developer contributions.
12	Consider working with PAS to establish realistic project management arrangements for progressing the council's new local plan.



### 3. Background and scope of the peer review

14. Peer reviews are managed and delivered by the sector for the sector. They are tailored to meet the individual council's needs and designed to complement and add value to a council's own performance and improvement focus. They help planning services review what they are trying to achieve; how they are going about it; what they are achieving; and what they need to improve.
15. West Northamptonshire is a new unitary council, formed in April 2021, serving residents and businesses in the areas of Daventry, Northampton and South Northamptonshire. It has replaced Daventry District Council, Northampton Borough Council and South Northamptonshire Council, and now delivers all the services which were previously provided by these councils as well as the services previously provided by Northamptonshire County Council in the area.
16. PAS has carried out a planning peer review in both North Northamptonshire and West Northamptonshire – the two new unitary councils covering the previous Northamptonshire area.
17. An over-arching objective of the peer review at West Northamptonshire is to support the council to deliver a comprehensive report of the current status of the planning service to assist the new permanent manager when they arrive in January 2023.
18. The peer review involved an assessment of the council's planning function against a framework which explores five main themes. These are:
  - **Vision and leadership:** the council's leadership and corporate engagement of the planning service in this.
  - **Performance management:** effective use of skills and resources to achieve value for money and continuous improvement of the planning service, including in decision making on proposals, and whether the service is adequately resourced.
  - **Community engagement:** how the authority understands its community leadership role, especially in terms of the accessibility, customer focus and transparency of the planning process
  - **Partnership engagement:** how the service works in partnership with other stakeholders to balance priorities and resources, address differing views and deliver shared ambitions.
  - **Achieving outcomes:** the achievements of the planning service within the available resources and the planning services role as a facilitator to change in the area.
19. Peer reviews are delivered by experienced elected councillor and officer peers. The make-up of the peer team reflected the focus of the peer review and peers were selected based on their relevant expertise. The peers were:
  - **Conservative peer:** Philip Broadhead (Deputy leader and portfolio holder for growth & regeneration BCP)
  - **Labour peer:** Labour peer: Bryony Rudkin (Deputy leader Ipswich Borough Council)
  - **Lead officer:** Tracy Darke (Shropshire)
  - **Officer:** Liz Hobden (Brighton and Hove)
  - **Peer review manager:** Bridget Downton

## 4. Context and overarching messages

20. West Northamptonshire Council was formed in April 2021 following a reorganisation of four councils in the area. This is a significant change and was happening at the time that the Covid Pandemic struck. This was an incredibly challenging time for the council – dealing with not one, but two, major changes at once.
21. Planning services are still delivered in broadly the same way as they were before local government reorganisation but with the introduction of a strategic planning committee and a policy committee in addition to the three area planning committees that operate in each of the former district / borough council areas. Working practices and cultures in the three predecessor geographies are very different. This continued legacy working is impacting on performance and it doesn't provide a good message for residents, employees or stakeholders about now being part of one council. Work is underway to harmonise the service, but progress has been slow.
22. In May 2022 a consultation exercise was launched relating to the restructure and relocation of the planning service. The restructure was not progressed and the intention is to consult on another restructure at the end of November 2022. Because of this protracted restructure period, we found that morale was very low with the majority of staff that we met at the time of our visit. Employees that we met, whilst very aware for the need for change were feeling unsupported and “done to”.
23. The combination of dealing with local government reorganisation and Covid at the same time, along with where the service is in relation to its restructure and relocation, has resulted in a planning service that is very inward looking. It is not currently influential in shaping a sense of place in West Northamptonshire. The service is not focussed on its customers or on outcomes for local people. Communications are weak for colleagues, customers and stakeholders.
24. We understand that a new, permanent, Assistant Director for Planning will be joining the council in January and an early priority will be to build a strong planning leadership team. They will be a useful catalyst to shape a new, fit for purpose, unitary planning service.
25. Whilst we found some strong working relationships between officers and councillors, we also found some worrying officer member relationships and have raised concerns about some conduct we observed.

## 5. Vision and leadership

26. We found very strong buy in from senior political and officer leadership across the council for the need for significant improvements to the planning service. It appears to be an organisation that is open, honest and self-aware. Everyone we met at West Northamptonshire Council recognised the need for changes and improvements in the planning service.
27. At the beginning of our visit, the interim Assistant Director shared a presentation with us that included a slide setting out the planning service vision. This had been shared with all planning employees in a presentation a couple of weeks before we arrived. We found that some colleagues recognise that there is a vision for the planning service from some senior leaders, but this was not universal. This is not surprising given that it was so recent and teams had not been extensively involved in developing the vision. We found a lack of buy in from staff in relation to the deliverability of the vision, particularly in relation to pace and where they fitted.
28. Senior officer leadership in planning is not as visible as it could be. Changes in senior roles in the planning service, including interim managers in senior roles have contributed to a lack of a sense of belonging and ownership across the people in the teams that we met. We found some strong support for colleagues within teams but there was a disconnect between senior management and the teams. We also found a lack of support for team members from senior managers. For example, there were no managers from the planning service at one of the planning committees that we attended. Had there been some senior representation at that particular meeting, it may have prevented a conflict arising between councillors and an officer. We have raised these concerns with the Monitoring Officer.
29. Whilst we found a universal recognition of the need for improvement, we did not find any shared sense of ownership for the delivery of these improvements. We found a willingness to be involved in change and there is some employee involvement in the current service improvement work. But we found some employees, including relatively senior professional officers, who felt it wasn't their job to deliver the necessary changes. We also heard from senior managers that they recognised the need for change but felt that it was difficult to get buy in from across the service in the current circumstances. This disconnect and lack of ownership will hamper delivery of the change that is needed unless a more united sense of purpose is nurtured.
30. There was a lack of clarity about some significant decisions for staff which left people feeling unsupported. For example, planning staff are due to be relocated to a single location in Towcester. The portfolio holder for planning very clearly articulated a compelling rationale and told us that she had shared this with staff. But it was shared some time ago at a meeting where the initial restructure proposals were rolled out so it is likely that the planning teams would not have been focussed on it at the time.
31. In terms of the spatial vision for the area, this is set out in a joint plan, developed before local government reorganisation, alongside three local plans from the predecessor councils that remain extant. Some other policies have been aligned such as the enforcement policy and the scheme of delegation.
32. Work has started on producing a single local plan for the area including some very recent suggestions about a change in policy approach. We were told about an opportunity the council is exploring to reconsider the approach to the local plan to place stronger emphasis on developing and rejuvenating the existing town centres and surrounding urban areas. This is in its infancy and has yet to be discussed broadly across the council. There is a real opportunity now to start to better engage right across the council and with external stakeholders in the development of a new local plan for West Northamptonshire. Internal and external partners are keen to collaborate on this work. One of the advantages of being a new

unitary council is that it should be easier for that cross-service collaboration to deliver a spatial plan that properly reflects and contributes to the council's corporate priorities.

33. Whilst on site, we attended each of the three area planning committees and found a wide variety of approaches – some good and some bad. We found some very poor practice which we reported to the council's head of legal services who has a role in ensuring good governance and conduct. This included potential breaches of both the member code of conduct and the member / officer Protocol which governs the relationship between officers and members and works on the basis of mutual trust and respect. These concerns have been referred to the Monitoring Officer. Councillors on planning committees must come to committee with an open mind on each application, listen to the presentation and debates and then come to a view before taking part in a vote. If they are unable to do this and have a very strong view, from which they know they will not be swayed, ahead of the meeting, then they should not take part in the decision making for that application. Since our site visit, further evidence has come to light to indicate significant culture and practice issues related to this particular committee. We have raised these issues with the council's Monitoring Officer for consideration and investigation of any potential breaches of the members code of conduct.
34. We also heard about instances of officers discussing issues with councillors that are not appropriate. The relationship between councillors and officers should be a professional, mutually respectful one but it is not a friendship. We heard about officers discussing matters with councillors that should have been discussed with either their own line manager, human resources, or via formal processes such as grievance, whistleblowing or an exit interview process.

## 6. Performance and management

35. We found a good understanding of what needs to change to deliver one planning service and arrangements have been put in place to deliver this. Six improvement streams have been set up covering process harmonisation and planning application workflow; information technology (IT) system harmonisation; Section 106 / community infrastructure levy (CIL) contributions; customer service and communications; people, performance and culture; and local plan. These workstreams are all resourced although not all yet have a senior manager lead. Employees from across the service are involved in the workstreams although we heard some reticence to get involved from some people because of existing work pressures. The workstreams are also supported by resource from the council's transformation team. A governance process is in place to oversee the work.
36. The Covid pandemic meant that resources, understandably, were diverted. So some of the improvement work has been slower than anticipated. But the pandemic has also accelerated progress in some areas such as use of IT. The process harmonisation and IT workstreams are progressing well and the council is on track to have a single planning processing system in place by the middle of 2023. This will provide a really helpful base to bring the 3 existing different services together. The new IT system will be key as existing working practices and systems vary hugely with one area still operating a predominantly manual planning processing function.
37. We didn't hear much about involving, developing and supporting people and we think this is an opportunity for some quick wins that could be addressed through the people and culture workstream. There is a recognition of the value and indeed necessity to "grow your own" talent from within. But we didn't see any significant plans in place to deliver this. We found a lack of attention to people management generally with inconsistent application of things like one-to-one meetings, supervision and the approach to hybrid working. We heard about the team charters which will help teams to agree how best to work together in a hybrid way that meets as many people's needs as possible but this is in its infancy and we were not convinced that this has the priority which it might need. We saw comprehensive results from a staff survey that was carried out in October 2021 by an external organisation. The results were not positive, which is not surprising given where the organisation was in its change journey.
38. In May 2022 a consultation exercise started including proposals for a restructure, but these were not progressed and we found a lack of clarity among employees about the reasons for this. The intention had been to consult on new proposals in September 2022 but, because of imminent office moves, we were told that this was postponed until the end of November 2022. During our site visit at the beginning of November, the detail had yet to be worked up. Some appointments have been made ahead of the broader restructure. An Enforcement Manager has been appointed who manages the joint enforcement and a Technical Support Manager has been appointed to manage all of the support staff. Understandably, a number of staff contacted us about their concerns about the potential new staffing structures and whether they would be adequate to deliver the service in its entirety. We are unable to comment on this as the detail had yet to be worked up at the time of our visit.
39. Three area planning committees consider planning applications that are not delegated to officers to determine. Our analysis shows that there is not enough business to warrant three area committees. One of the advantages of local government reorganisation is the opportunity to streamline activities that in the predecessor councils were, necessarily, duplicated. This has not yet happened and so resources are being wasted servicing more committees than necessary. In addition, the scheme of delegation (which sets out which planning applications will be delegated to officers and which will be determined by committee) allows for referral to committee by a single councillor. This has resulted in a number of applications that should have been delegated going to planning committee.

40. We heard concerns from some councillors that they are not receiving appropriate advice at committee. There is a perception among some councillors of high success rate of overturns and appeals feeding views about poor officer advice. It would be beneficial for the council to carry out some analysis of the facts and then to share that information with councillors including town and parish councillors via some training or briefing sessions.
41. The service does not have a comprehensive performance system to help understand and manage performance. We consistently heard that the service is under-resourced. Lots of people have left, as often happens in a period of change. We heard from staff, councillors and partners that there are capacity issues due to vacancies. But we did not see clear performance data to substantiate these claims such as on hand work loads for case officers. Some vacancies are currently filled with agency staff but vacancies remain. The council needs to get a handle on this as a matter of urgency to understand what resource requirements are for the planning service. A comprehensive performance management system would also be very useful for officers and managers to manage workload together.



## 7. Community and partnership engagement

42. We found a lack of customer focus and poor communication from parts of the planning service. This was felt particularly keenly from backbench West Northamptonshire councillors and from town and parish councils. We heard from lots of people that it is very difficult to get responses to phone calls and emails. This may be exacerbated at the moment with very low staff morale, concerns about workloads and uncertainty around future job prospects.
43. The town and parish councils we heard from are incandescent with the planning service. Representatives told us that they were happy with the support that West Northamptonshire Council had given them in relation to producing neighbourhood plans. But the rest of the feedback from town and parish councils was very negative. They were extremely angry with a perceived lack of transparency and unwillingness to engage. They recognised that they will not always get the planning decisions they want but they found that the council was unwilling to provide adequate responses and explanations about this. We heard that town and parish councils would welcome support and training and we think that this is another quick win. Taking some time out to spend with town and parish councils going through some specific planning and enforcement cases is time well spent. It helps to improve understanding of the “art of the possible“ in planning terms and also helps town and parish councils to feel heard.
44. We were encouraged to see that, despite their reservations about being listened to, parish councils do still take the time to attend planning committees and make representations to the committee. Although, we heard that some are becoming so disillusioned with the service that they are considering withdrawing from responding to planning applications – clearly not a good thing.
45. The way customers experience the planning service is not consistent across West Northamptonshire. Not only are the services delivered in different ways but the customer experience is also very different. For example, there is variation in the degree to which area teams do or don’t engage in negotiation with applicants to improve the quality of development. The planning service also operates three separate planning web pages both for planning application searches (which is governed by the back-office system used to process applications) and also for planning policy. This will be addressed by one of the service improvement workstreams.
46. The three planning committees vary hugely as well. When we visited the Daventry area committee the building was locked and we were not welcomed into the building by members of staff. A member of the committee also made the point the following day to us that had we been “on time” we would have known who was who. We found the other two planning committees to be welcoming and well organised, on the whole. Planning meetings are public meetings and people must be able to come and go at any time during the meeting. Most people only want to attend for one particular planning application. It can be a nerve-wracking experience, particularly for people who are not regular users of the planning system but who may wish to attend to speak in support or objection of a particular application. We recognise that some people are feeling disenchanting and disenfranchised by the ongoing uncertainty around office closures and staff restructures, but the council must ensure that the public have access to public meetings and are treated courteously, otherwise it impacts on reputation.
47. Many stakeholders, including town and parish councils are unhappy about a perceived lack of planning enforcement progress and retrospective applications. This is another area where training would be beneficial. There is often a misconception about what councils can and can’t do in relation to planning enforcement and they feel that retrospective planning applications should be treated more harshly. It is understandable that people find this frustrating and it can be useful to take some time to explain it.
48. Strategic partners and the development sector are broadly supportive and understanding of the challenges currently facing the planning service. But some of the smaller developers we

spoke to are still unhappy and find it difficult to manage their own teams, for example delivering construction work, in the absence of any information about timelines for when their planning application of discharge of planning conditions applications will be dealt with. External stakeholders feel broadly engaged in the planning process and the one developer of larger sites that we managed to speak to (others were invited to meet us but declined to do so) told us that they had received a good service with a consistent approach from the same case officer for a number of years.



## 8. Achieving outcomes

49. The council is in a strong position to demonstrate ability to deliver housing (as evidenced by a healthy 5-year land supply). It has allocated and approved a number of sustainable urban extension sites and the predecessor councils have a track record of delivering large developments. The area appears to be very attractive for investment. A well-functioning and responsive planning service is key to ensure this is maintained.
50. Planning income is high and appears to cover the costs of the planning service. When it is operating, the council receives good income for its pre-application advice service. However, the council is not prioritising the use of planning performance agreements. These can bring in valuable income to pay for the significant assessment needed for some large applications, as well as helping to reach agreement about realistic timescales to determine more complicated applications.
51. There is a lack of management oversight that is impacting on service delivery. Planning performance is not strong, is deteriorating and the backlog of underdetermined applications is increasing. We heard about the lack of case officer input into validation resulting in poor quality planning applications. We also heard that planning applications in one area were being validated by support teams but that no-one was available to allocate these to case officers. Many of these applications were exceeding the target determination date before being allocated to a case officer. Clearly, this will have a detrimental impact on service performance and, more importantly is impacting on the livelihoods of local developers and construction firms. The council has recently appointed an interim operations manager who has started to address these issues.
52. In response to capacity issues, the planning service suspended its pre-application advice service in early 2022. But this has not had a significant impact on capacity. It will have impacted on revenue income. But it seems that the work may still be being picked up to some extent by case officers getting involved in more negotiation to make proposed schemes acceptable. Other colleagues elsewhere in the council also reported that applicants were seeking advice from them. Inevitably, stopping the pre-application advice service also impacts on the quality of submitted applications, which may result in them taking longer to deal with.
53. West Northamptonshire Council has inherited a legacy of complex and in some cases, poorly documented S106s from the previous councils. The council is working hard to resolve this and bring the information together into a useable format. A lot of information is involved and so this is a time-consuming process. As a result of this legacy, the council does not have a consistent, clear way of reporting developer contributions nor chasing amounts due. This impacts on its ability to deliver infrastructure and the mitigation necessary to accommodate development. It also means that it cannot easily, clearly communicate with other interested parties what the financial situation is in relation to contributions available, spent and potential money. In the mean-time, the council continues to work hard to respond to individual queries about this, particularly from town and parish councils.
54. The peer review team were not confident that the planning service recognises or focuses on its role in delivering council priorities. It is not prioritising applications and schemes that relate to its own activity such as town centre regeneration schemes.
55. Opportunities have been missed to roll out some quick wins from predecessor council activity which could help with some of the current capacity issues and help to deliver better outcomes for customers. For example, the planning application negotiation protocol from South Northamptonshire and using standard advice from internal consultees for certain types of applications.

## 9. Implementation, next steps and further support

56. It is recognised that senior political and managerial leadership will want to consider and reflect on these findings.
57. We are keen to work with you to discuss how we might help the council to consider how to respond to the recommendations in this report. We would like to support the new incoming Assistant Director in working up an action plan, working with others in the council to develop the support and ownership to deliver a single planning function fit for a new unitary council of this size and complexity.
58. To support openness and transparency, we recommend that the council share this report with officers and that they publish it for information for wider stakeholders. There is also an expectation that the council will develop an action plan to be published alongside the report.
59. Both the peer team, PAS and the LGA are keen to build on the relationships and the peer review process includes a six-month check-in meeting to take place in April 2023. This will be a facilitated session which creates space for the council's senior leadership to update peers on its progress against the action plan and discuss next steps and any further support required.
60. A range of support from the LGA and PAS is available on their websites. This includes:
  - local plan project management
  - helping with options for planning committee changes
  - pre-app and PPAs
  - training and development for members, town and parish councils and officers
  - more detailed work around enforcement
  - advice and support around approach to developer contributions (S106 and CIL)
61. For more information about planning advice and support, please contact [richard.crawley@local.gov.uk](mailto:richard.crawley@local.gov.uk)
62. The LGA has a range of practical support available. The range of tools and support available have been shaped by what councils have told LGA that they need and would be most helpful to them. This includes support of a corporate nature such as political leadership programmes, peer review, LG Inform (our benchmarking service) and more tailored bespoke programmes.
63. Mark Edgell, Principal Adviser is the LGA's focal point for discussion about your wider improvement needs and ongoing support and can be contacted at [mark.edgell@local.gov.uk](mailto:mark.edgell@local.gov.uk)

West Northamptonshire Council

Planning Service Transformation – Action Plan

	PAS Recommendation	WNC Transformation workstream	WNC Actions	Accountability	Timescale for Implementation	Progress
1	<p>Improve the way the planning teams are managed and led to build a stronger sense of shared purpose and start to agree and develop good:</p> <ul style="list-style-type: none"> <li>• people management practices;</li> <li>• customer focus; and</li> <li>• behaviours and culture</li> </ul> <p>for the new planning service.</p>	Vision and Leadership	<p><b>Recruitment to permanent AD position.*</b></p> <p>Recruitment to permanent Planning Leadership Team and Team Leader positions.</p> <p>Introduction of Leadership Training programme.</p> <p>Introduction of WNC line management training for Principal Planning Officers and above.</p> <p>Introduction of pilot WNC talent management and succession planning programme.</p> <p>WNC Corporate Induction for all new starters to embed our WNC culture and behaviours.</p> <p>Dedicated Customer Experience training for full Planning Service.</p>	Assistant Director and Planning Leadership Team	2023 Q1, Q2, Q3 and Q4	Underway and commenced in January 2023

2	<p>Analyse existing committee decisions and activity to inform a review the scheme of delegation and the number of committees to provide a committee structure and process fit for a unitary council to:</p> <ul style="list-style-type: none"> <li>improve culture and practice of planning committees to reduce the risk to the council including eliminating the use of substitute members on planning committees</li> <li>ensure that householder and minor applications only go to committee in exceptional circumstances</li> </ul> <p>trial a significantly reduced number of committees with a proportionate geographical spread (based on workload)</p>	Performance Management	<p>Conduct an evidence-based review and make recommendations to rationalise the number, structure and format of all WNC Planning Committees to ensure they are fit for purpose and represent a unitary council.</p> <p>Review and make recommendations regarding the governance and remit for the Planning Policy Committee.</p> <p>Provide an ongoing dedicated Member Training programme to ensure robust decision making and continuous learning alongside consistent excellent conduct.</p>	<p>Director of Legal, Democratic Services and Monitoring Officer supported by:</p> <ul style="list-style-type: none"> <li>Executive Director, Place</li> <li>Assistant Director, Planning</li> <li>Democratic and Standards Committee</li> <li>Leader and Portfolio Holder</li> </ul>	2023 Q2	<p>To be commenced April 2023 and implemented in May 2023</p> <p>Review in 2024 Q2.</p>
3	<p>Implement the planning service restructure as quickly as possible after the new Director is in post.</p>	Vision and Leadership	<p>Restructure the full planning service under the ethos of 'one service, one team' ensuring it is fit for purpose for a unitary authority.</p>	Assistant Director	2023 Q1 and Q2	<p>Underway and commenced in January 2023</p>

4	Develop a workforce development plan for the service to include succession planning, training programmes for “growing your own” and introduce linked career grade role.	Vision and Leadership	<p><b>Continuation of the existing career grade planner roles in the new structure.</b></p> <p>Introduction of Apprenticeships alongside the existing Graduate programme.</p> <p>Introduction of formal APC mentoring programme.</p> <p>Adoption of WNC corporate mentoring once pilot complete.</p> <p>Introduction of pilot WNC talent management and succession planning programme.</p> <p>Introduction of the Planning Service ‘Future Leaders’ programme of CPD and networking events.</p> <p>Continued development of the Planning Service CPD Hub.</p>	<p>Assistant Director supported by:</p> <ul style="list-style-type: none"> <li>• Assistant Director HR</li> <li>• WNC Learning and Development leads</li> </ul>	2023 Q3 and Q4	To be commenced in June 2023
5	Implement a robust service performance management framework to provide the data and information necessary to understand how the service is	Performance Management	<p><b>Ensure regular meetings with DLUHC to maintain support and the sharing of best practice.</b></p>	<p>Assistant Director supported by:</p> <ul style="list-style-type: none"> <li>• Corporate Performance Team</li> <li>• Head of Technical Support</li> </ul>	2023 Q1, Q2 and Q3	Underway and commenced in February 2023

	performing and inform what resources are needed.		<p><b>Update corporate performance indicators to continually reflect statutory national targets.</b></p> <p><b>Embed a culture of performance management via weekly performance reports, fortnightly Planning LT and monthly Place DMT.</b></p> <p>Ensure supportive performance management throughout the entire Planning Service via regular 1-2-1s, team meetings and Appraisals.</p> <p>Introduce the Planning Performance Agreement Service for large schemes.</p>			
6	<p>Consider opportunities for more planning training and development for town and parish councils, in conjunction with West Northamptonshire members and officers to include:</p> <ul style="list-style-type: none"> <li>• how the planning system works;</li> <li>• some illustrative specific planning applications with</li> </ul>	Community and Partnership Engagement	<p>Utilise the platform of NCALC's existing training programme to reach Parish and Town Councils and provide bespoke training.</p> <p>Improve regular communication links with local councils via the Parish Briefing and a pilot Operation Focus Group.</p> <p>Undertake a regular satisfaction and feedback survey with the support of NCALC to inform and</p>	<p>Assistant Director supported by:</p> <ul style="list-style-type: none"> <li>• Planning Leadership Team</li> <li>• Head of Communications</li> <li>• WNC Parish Liaison Officer</li> <li>• NCALC</li> </ul>	2023 Q3 and Q4	To be commenced July 2023

	<p>explanations around reasons for decisions;</p> <ul style="list-style-type: none"> <li>• some illustrative specific enforcement cases with explanations around reasons for action or not; and</li> </ul> <p>some assessment of overturns and appeals showing lessons learnt.</p>		improve our customer experience on an ongoing basis.			
7	Develop a comprehensive approach, capitalising on the opportunities of a new unitary council, to involving and engaging involve internal and external stakeholders to work together to develop the new local plan.	Achieving Outcomes	<p><b>Continuation of the production of the single Local Plan for West Northamptonshire.</b></p> <p>Undertake a proactive consultation and engagement programme on the Local Plan.</p> <p>Update the Local Development Scheme (LDS) to ensure the milestones for the single Local Plan are refreshed and fit for purpose.</p>	Head of Planning Policy	2023 and 2024 in line with the new milestones specified in the LDS.	Underway
8	Introduce a forum that engages with agents and customers to help shape the service and hear and address concerns.	Community and Partnership Engagement	<p><b>Introduce an Agents and Developers Forum for West Northamptonshire, linking with Inward Investment and Regeneration networks as appropriate.</b></p>	Assistant Director and Planning Leadership Team	2023 Q2 and Q3	Underway and first Forum scheduled for April 2023

			<p><b>Continue positive enabling relationships with strategic stakeholders and delivery partners, such as Homes England and key infrastructure providers.</b></p> <p>Embed a culture of customer satisfaction and continuous learning/improvement in the Planning Service for example, on 'project closure' ensure a customer satisfaction survey is issued and received to inform future practice and processes.</p>			
9	<p>Carry out process “quick wins” including:</p> <ul style="list-style-type: none"> <li>validation –guidance to staff on acceptable technical support documents</li> <li>consultation – reduce unnecessary consultation with internal and external stakeholders</li> </ul> <p>triage incoming applications for quick decisions</p>	Achieving outcomes	<p>Complete legacy process mapping exercise.</p> <p>Complete onboarding of DEF, WNC’s single software system for the Planning Service.</p> <p>Test temporary WNC processes and templates for a six-month period before a full review during 2024 to embed optimum unitary processes.</p>	<p>Head of Development Management supported by:</p> <ul style="list-style-type: none"> <li>Head of Technical Support</li> </ul>	<p>2023 Q1, Q2 and Q3</p> <p>2024 full review</p>	Underway and DEF system ‘go live’ on 3 <sup>rd</sup> April 2023.
10	Carry out management “quick wins” including:	Vision and Leadership	<b>Introduction of a monthly full WNC Planning Service team</b>	Assistant Director and Planning Leadership Team supported by:	2023 Q1, Q2 and Q3	Underway and commenced January 2023.



	<ul style="list-style-type: none"> <li>• senior manager attending team meetings to agreed frequency;</li> <li>• introduction of regular planning service newsletters/emails; and</li> <li>• regular one to ones for all staff</li> </ul> <p>prepare and implement an action plan to address staff survey results in consultation with staff.</p>		<p><b>meeting led by Assistant Director.</b></p> <p><b>Introduction of monthly WNC Team meetings for functional areas (Policy and Specialist Services, Development Management, Enforcement, Technical Support).</b></p> <p><b>Establish single WNC communication channels for the Planning Service on Outlook and Teams.</b></p> <p>Ensure a supportive culture throughout the entire Planning Service via regular 1-2-1s for all staff using the existing WNC 'VIP' mechanism.</p> <p>Adoption and ongoing implementation of the Planning Service Communications Strategy.</p>	<ul style="list-style-type: none"> <li>• Head of Communications</li> <li>• Assistant Director HR</li> <li>• Learning and Development leads</li> </ul>		
11	Engage with PAS to benefit from their current support offer on improving the governance of developer contributions.	Achieving Outcomes	Undertake a DLUHC funded six-week review with PAS and Inner Circle Consulting to identify recommendations for a single	Assistant Director supported by:	2023 Q1, Q2 and Q3	Underway and commenced in March 2023

			<p>process and governance framework for WNC.</p> <p>Provide and update ELT and Members on the project programme and resource plan for corporate implementation.</p> <p>Ensure adequate resourcing corporately to deliver the project programme.</p> <p>Work with PAS to deliver Member training on S106/CIL.</p>	<ul style="list-style-type: none"> <li>• Head of Enforcement and Monitoring</li> <li>• S106/CIL Team Leader and team</li> <li>• Corporate Finance</li> <li>• Legal Services</li> <li>• Internal Audit</li> </ul>		
12	Consider working with PAS to establish realistic project management arrangements for progressing the council's new local plan.	Achieving Outcomes	<p>Work with PAS to review the revised draft LDS and project programme before presenting to Planning Policy Committee.</p> <p>Work with PAS to review existing Local Plan evidence base, identify gaps and produce robust standard briefs for procurement.</p>	Head of Planning Policy	2023 Q1 and Q2	Underway and commenced in March 2023

\*WNC Actions highlighted in bold have been achieved.

Key:

	Underway in line with timescale
	Not yet commenced



# WEST NORTHAMPTONSHIRE COUNCIL CABINET

11 April 2023

CLlr David Smith, Community Safety & Engagement, and Regulatory Services

<b>Report Title</b>	<b>Community Funding Grants Framework</b>
<b>Report Author</b>	<p>Joanne Barrett, Assistant Director Housing &amp; Communities, joanne.barrett@westnorthants.gov.uk</p> <p>Vicki Rockall, Head of Community Safety, Engagement &amp; Resettlement, victoria.rockall@westnorthants.gov.uk</p> <p>Peter Worth, Community Funding Officer, peter.worth@westnorthants.gov.uk</p>

## Contributors/Checkers/Approvers

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## List of Appendices

Appendix A - Community Funding Grants Framework

Appendix B - Terms of Reference for the Community Funding Panel

## 1. Purpose of Report

- 1.1 The report sets out the proposed principles and criteria that will inform how the Council will award community funding grants from 2023/24 to the Voluntary and Community Sector.
- 1.2 The report sets out the proposed framework for how the Council will determine who is eligible to apply for community funding and the standards that will be applied to all grant schemes administered by the Council under a single community funding grants banner.
- 1.3 The report seeks the approval of Cabinet Members for the proposed Community Funding Grants Framework.

## **2. Executive Summary**

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- 2.1 The report outlines the reasons for moving to a Community Funding Grants Framework for 2023/24.
- 2.2 The report sets out the recommended funding principles and standards that will be applied to determine all future community funding grant awards made by the Council to the Voluntary and Community Sector.

## **3. Recommendations**

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- 3.1 It is recommended that the Cabinet:
  - a) Approve the proposed Community Funding Grants Framework for West Northamptonshire Council for implementation from 2023/24.
  - b) Approve the composition of the Community Funding Panel and the role of the Cross-party Advisory Group.

## **4. Reason for Recommendations**

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- Following Vesting Day, the Council has had in place an interim Community Funding Grants Policy approved by Cabinet for use until March 2023. This Policy was for the operation of a single grant scheme that combined the district and borough councils' legacy community funding grants and budgets into a single WNC Community Funding Grant Scheme.
- Over the past two years, it has become apparent that our Voluntary and Community Sector (VCS) have had different expectations and understandings of the use and purpose of this now single grant. There has also been other funding made available to these voluntary and community organisations, which while a welcome investment in prevention, has been aligned to the interim Community Funding Grant Policy without a clear remit from Cabinet.
- There is now the opportunity to align all community funding into a single framework that will embrace current and future community funding grant awards. This will standardise the approach across the Council and ensure a fair, accessible, open and transparent process. Therefore, Cabinet approval is sought to enable Officers to launch the Community Funding

Grants Framework and for this to be applied to community funding that voluntary and community organisations can apply for going forward.

- The recommendation to implement a Community Funding Grants Framework will provide a consistent approach to the grant awards made by the Council and make it clear what the expectations of the Council are for projects to be considered for funding via a set of principles and standards. These principles and standards apply to both the VCS and to any Officers considering funding requests.
- The Community Funding Grants Framework will enable the Council to take a more strategic and targeted approach to grant funding investment into the VCS , ensuring that all awards are aligned to meet identified needs and the Councils corporate priorities.
- The level of grants to a voluntary or community organisation under this proposal will fall below the Council’s Scheme of Delegation limits for Officers No grant award will therefore be classified as a Key Decision of the Council.
- The Cabinet, on approval of the Community Funding Grants Framework, will have determined the strategic direction of all community funding to the VCS which will be tracked and reported to members periodically to ensure transparency for all stakeholders.
- The recommendation to approve the composition and ongoing role of the Cross-party Advisory Group extends their advisory role into all future Community Funding Grant Schemes.

## **5. Report Background**

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- 5.1 Community funding is a mechanism for the Council to support local voluntary and community organisations with grant awards that enable them to deliver important services and activities to our communities. The Community Funding Grants Framework, and the funding principles and standards that apply, are aligned to the Council’s corporate priorities, and through awarding community funding grants the Council benefits by means of adding additional resources (through local partner organisations) and the ability to reach those residents most in need.
- 5.2 The decision to recommend a new Community Funding Grants Framework for West Northamptonshire Council will provide better consistency of decision making for VCS grant awards and avoid grant awards being made without a governing framework aligned to the Council’s priorities. Without a Cabinet approved framework there is a potential risk to the Council of challenge from unsuccessful applicants.
- 5.3 A single transparent framework approach will provide an improved offer to the VCS by defining a single Directorate Departmental point of contact, a clear timescale for applications and categories for bids. It will also ensure consistency across the Council of funding principles, standards and determination criteria.

- 5.4 The Community Funding Grants Framework would mean that that new Council VCS grants offered by the Council would be made under the Community Funding Grants Framework from 2023/24.
- 5.5 This Community Funding Grants Framework will be reviewed at least once a year. This can be reviewed more frequently, if necessary, to ensure that the Council's corporate plan, strategic aims, objectives and priorities are appropriately reflected within the assessment criteria.
- 5.6 The new framework defines the characteristics that a voluntary or community organisation must have to be eligible to apply for a Community Funding Grant and sets out the funding principles, which include an assessment of:
- need;
  - reach;
  - outcome;
  - sustainability;
  - value for money;
  - other sources of funding / match funding; and
  - levels of monitoring and evaluation required to demonstrate the grant has been spent in the right way, value for money has been achieved, and the required results have been delivered.
- 5.7 It also defines the funding standards that all community funding grants will adhere to. These standards cover the following areas:
- promotion;
  - the Council's priorities (corporate plan, strategic aims, objectives and priorities);
  - evaluation criteria;
  - due diligence levels;
  - determination process;
  - what will and will not be funded; and
  - application processes.
- 5.8 The proposed Community Funding Grant Framework's sets a determination process where all grants will be determined by a Community Funding Panel. The membership of the Panel will consist of Officers (including the Community Funding Officer and / or the Lead Officer), Sector Specialists (as required), and a Cross-party Advisory Group.
- 5.9 Officers will make recommendations to award a grant to the Community Funding Panel Chair supported by a clear rationale as defined by the Framework. This also avoids any perceived concern about any political favouritism or bias in making recommendations related to an area or VCS offer.
- 5.10 The role of the Sector Specialists will be to support or discount approval to fund an application based on the knowledge of their respective areas and the criteria defined in the Community Funding Grants Framework.
- 5.11 The Community Funding Officer (or Lead Officer) will present the recommendations to award grant funding to the Panel Chair. The decision to agree a recommendation to award grant

funding is made by the Panel Chair. The Panel Chair will be a Head of Service (or equivalent) or higher grade.

- 5.12 Cabinet will set the strategic direction of these Community Funding Grants through its decision to approve the proposed Community Funding Grants Framework, which is aligned to the Council's corporate priorities and has been supported by the cross-party members group.
- 5.13 The role of the Cross-party Advisory Group going forward is to ensure adherence to the Framework and that the grants awarded are distributed in a fair and equitable manner. The Chair of the Community Funding Panel is responsible for making the decision to award a grant, in full or in part, following the recommendation of the Community Funding Officer (or Lead Officer), the views of the Sectors Specialists, and the view of the Cross-party Advisory Group.
- 5.14 The proposal is that the Community Funding Grants Framework will be reviewed at least once a year to ensure it remains fit for purpose. It can be reviewed more frequently, if necessary, for example, to ensure that the Council's, strategic aims, objectives and priorities are appropriately reflected in the Community Funding Grants assessment criteria.

## 6. Issues and Choices

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- 6.1 **Continuing without a Community Funding Grants Framework.** This model would see decision making and awarding of community funding implemented on a Directorate / Departmental basis across the Council with little coordination. This option is not recommended for reasons including:
- there will be different funding policies, principles and standards applied to these grants;
  - there will be an increased risk of challenge due to inconsistencies of officer decision making without a framework being in place;
  - risk of duplicating funding to organisations and/or projects; and
  - inconsistency for ensuring these grants address the Council's corporate plan, strategic aims, objectives and priorities.
- 6.2 **Not to approve the proposed Community Funding Grants Framework.** This would lead to the Council having no mechanism to guide community funding grant awards, therefore having a detrimental effect on the consistency and quality of our decision making which is likely to be detrimental to the VCS and residents of West Northamptonshire.
- 6.3 **Equalities Impact Assessment.** An Equalities Impact Assessment screening form has been completed to assess the impact of the Community Funding Grants Framework.

## 7. Implications (including financial implications)

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### 7.1 Resources and Financial

- 7.1.1 There are no direct financial implications as a result of this report. By reallocating the administrative resources to carry out this function from other Directorates within the Council, like Public Health and Wellbeing and Health and Integrated Care, the financial impact will be cost neutral. Any additional resources that might be needed will be met within existing salary budgets.

## 7.2 **Legal**

Community Funding Grants will be considered in the context of the proposed Community Funding Grants Framework, the terms and conditions of the grants scheme, and the budgetary control processes and approval limits under the Scheme of Delegation. Officers can approve Community Funding Grants under the delegation limits within the Constitution to the value of £1 million.

## 7.3 **Risk**

7.3.1 Should the proposed Community Funding Grants Framework not be approved by Cabinet there will remain no mechanism to deliver community funding grant awards to the VCS in West Northamptonshire.

7.3.2 Reputational risk for the Council in being seen as not sufficiently supporting the work of the VCS by not providing financial support through grant awards.

7.3.3 Reputational risk for the Council as it will be seen as having removed a source of funding that the previous sovereign councils provided to the VCS and the Council provided under the interim Community Funding Grants Policy until March 2023.

7.3.4 Long term sustainability of the VCS and their ability to remain operational. The closure of voluntary and community organisations would impact on the Council by increasing demand on essential community, health and wellbeing services.

## 7.4 **Consultation and communication**

7.4.1 There is no requirement to carry out statutory consultation for the proposed approach to community funding. Community Funding Grants are discretionary grant awards made at the discretion of the Council.

7.4.2 The Community Funding Grants Frameworks has been discussed with our Local Infrastructure Organisations, who provide support to our voluntary and community sector.

7.4.3 The Council will promote the aims, outcomes and benefits of the proposed Community Funding Grants Framework, and continue to publicise to all stakeholders when grants become available. It will also work with recipients to help them communicate the outcomes and benefits of grant awards within their local communities.

## 7.5 **Consideration by Overview and Scrutiny**

7.5.1 None.

## 7.6 **Climate Impact**

7.6.1 Dependant on the grant awards made, but all grant awards will be aligned to the Council's corporate priorities.



7.6.2 The criteria used to assess applications will consider the contribution towards the Council's Corporate Plan priorities:

- Green and Clean;
- Improved Life Chances;
- Connected Communities;
- Thriving Towns and Villages; and
- Economic Development.

## 7.7 **Community Impact**

7.7.1 Dependant on the grant awards made, but all grant awards will be aligned to the Council's corporate priorities and have a strong focus / impact on building community resilience and sustainability.

7.7.2 The criteria used to assess applications will consider the contribution towards the Council's Corporate Plan priorities and the:

- Health and Wellbeing Strategy;
- Community Safety Strategy; and
- Anti-Poverty Strategy.

7.7.3 It will also consider the Integrated Care partnership's ten 'Live Your Best Life' ambitions and the Council's Procurement's Grant Guidance.

## 8. **Background Papers**

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8.1 Appendix A - Community Funding Grants Framework

8.2 Appendix B - Terms of Reference for the Community Funding Panel

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West  
Northamptonshire  
Council

# Community Funding Grants Framework

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## 1 Framework Statement

- 1.1 The purpose of this Community Funding Grants Framework is to set out the principles and criteria that govern how West Northamptonshire Council (the Council) will award Community Funding to the Voluntary and Community Sector (VCS) within the geographical area of the Council.
- 1.2 These Community Funding awards will be known as Community Funding Grants.
- 1.3 They will be made available to voluntary and community organisations who deliver important services to the residents of West Northamptonshire.
- 1.4 For Community Funding Grants purposes, the Council's definition of a voluntary or community organisation is defined as any organisation that has the following characteristics:
- **formal** - having a constituted character and having a United Kingdom bank account in the name of the organisation that accepts Bankers' Automated Clearing System (BACS) payments;
  - **private** - is not a local or central government body, organisation, or department;
  - **self-governing** - makes its own decisions in a formal way with procedures for accountability to a Board, Trustees or constituents;
  - **not-for-profit** - does not have the ability to distribute any surpluses to owners or members but spends them on serving its basic purpose;
  - **non-political** - not engaged in supporting political candidates, parties, or political campaigns;
  - **non-religious** - not primarily engaged in religious activities or purposes, or seeking funding to maintain religious buildings, facilities or assets. However, religious bodies will be defined as a voluntary or community organisation, where the Community Funding Grant will be used for the benefit of the wider community and is open to all faiths and agnostics; and
  - **not in an excluded area or group** - see the terms and conditions of the particular Community Funding Grant Scheme. Excluded areas, for example, non-priority areas of West Northamptonshire Council, or excluded organisations, for example, individuals, government bodies (such as Town and Parish Councils), and other bodies are not eligible to apply for a Community Funding Grant unless defined in a particular Community Funding Grant Scheme's terms and conditions.
- 1.5 The Council is committed to distributing available funding fairly, efficiently and effectively. This Community Funding Grants Framework outlines the Council's approach to Community Funding in relation to resourcing external bodies via Community Funding Grants to assist in the delivery of the Council's corporate plan, strategic aims, objectives and priorities.

## 2 Scope

- 2.1 Community Funding Grants are defined as a financial award the Council makes from its funds, or the funds being administered on behalf of an external body, to support the Council's communities. These Community Funding Grants will be made to voluntary or community organisations as defined by this Community Funding Grants Framework, and

sometimes to other bodies or to individuals subject to the terms and conditions of a particular Community Funding Grant Scheme.

- 2.2 This Community Funding Grants Framework, approved by Cabinet, is written for the Council and any who enquire about the Community Funding Grants Framework or obtaining a Community Funding Grant.

### **3 Community Funding Principles**

- 3.1 This Community Funding Grants Framework is built on a set of agreed principles and an understanding that:
- Community Funding Grant awards are made at the discretion of the Council and are dependent on the availability of the budget which is determined by the Council's budget setting and approval processes;
  - activities funded must be consistent with the corporate plan, strategic aims, objectives and priorities of the Council as approved by Cabinet, or any terms and conditions imposed on the Council where the budget is obtained from an external body;
  - to be eligible for a Community Funding Grant, that has not been funded by an external body, the application must be clearly aligned to the Council's corporate plan, strategic aims, objectives and priorities, and the application must be evaluated and recommended for funding, in full or in part, by the Council's Sector Specialists';
  - all Community Funding Grant applications will be determined on their merit. No organisation is entitled to funding because it may have been granted a Community Funding Grant in the past or for any other reason;
  - other sources of appropriate funding held or to be held by the Council, will be considered as an alternative to a Community Funding Grant (for example, Section 106, Community Infrastructure Levy, Community Benefit Funds). This will enable the Council to take into consideration the availability of all sources of funding for community investment and utilise accordingly; and
  - the Council must ensure proper, prudent and effective use of public money for the award of all Community Funding Grants.
- 3.2 In order to achieve the above, this Community Funding Grants Framework has been approved by Cabinet. Each Community Funding Grant Scheme will adhere to the following Community Funding Grants Standards. These can be changed subject to the terms and conditions of the particular Community Funding Grant Scheme and on approval of the Head of Service (or equivalent), or where the budget has been obtained from an external body that places its own requirements and restrictions on the use of that budget.

### **4 Community Funding Grants Standards**

- 4.1 **Standard 1: promotion** - in order to give all potential applicants equal access to a Community Funding Grant Scheme, all Community Funding Grant Schemes will be promoted as they open, with a clear outline of the Community Funding Grant eligibility criteria, on a single Community Funding Grants webpage on the Council's website, in addition to the normal communications undertaken by the Communications and Marketing Directorate.

- 4.2 This will enable any organisation seeking funding to be confident they are looking in the right place for the available Community Funding Grants, ensuring a fair, accessible, open and transparent process.
- 4.3 **Standard 2: Council's priorities** - all Community Funding Grant Schemes must be mindful of the Council's priorities and therefore be consistent with the corporate plan, strategic aims, objectives and priorities of the Council. As part of the application design and evaluation process, all Community Funding Grant Schemes must require the applicant to demonstrate how they will assist the Council in achieving the corporate plan, strategic aims, objectives and priorities of the Council. This will form part of the evaluation process for the decision to fund, part fund or not to fund. The only exception will be where the budget has been obtained from an external body that places its own requirements and restrictions on the use of that budget.
- 4.4 **Standard 3: evaluation criteria** - in addition to the Council's priorities (Standard 2) all Community Funding Grant Scheme applications will be evaluated for the decision to fund, part fund or not to fund via the following criteria:
- **need** - that there are identified local needs for this project / service within the population or local community;
  - **reach** - that the project / service will:
    - benefit a defined group or groups of the community or existing users; and
    - have a clearly defined issue or issues that the Community Funding Grant will address;
  - **outcomes** - benefit outcomes can be clearly established and realised from the award of a Community Funding Grant that impacts on those within or outside the immediate vicinity of the project / service. And these outcomes can be measured and reported to the Council via an agreed monitoring process, return, business plan / delivery plan or Service Level Agreement as determined by the Council;
  - **sustainable** - where applicable, the project / service has in place:
    - future funding arrangements (short, medium and long-term) to sustain the Council's Community Funding Grant investment; and
    - where applicable, all consents are in place before the Community Funding Grant funding agreement is made (for example, planning approval, landlord consent, the right to occupy buildings or land for the expected useful life of the Community Funding Grant funded item or items);
  - **value for money** - applicants are required to demonstrate value for money in terms of economy, efficiency and effectiveness for the:
    - award of the Community Funding Grant (for example, quotes and tenders have been obtained, that no other organisation operating locally provides a similar service); and
    - added value has been obtained from the use of the Community Funding Grant (for example, increased engagement / impact, reductions in antisocial behaviour);
  - **other sources of funding and match funding** - where applicable, applicants are required to demonstrate that other sources of funding have been considered, and, if appropriate, applied for. Where appropriate, the organisation will self-fund some of the costs towards the project / service or other grant funding bodies can match fund with any Community Funding Grant contribution; and
  - **monitoring and evaluation** - the Council recognises that it is important to demonstrate that public money is spent in the right way, achieves value for money and delivers the required results. On the award of a Community Funding Grant, a degree of Council monitoring and evaluation will need to be undertaken. This

monitoring and evaluation will:

- be proportionate to the funding awarded;
- require the organisation to demonstrate that the Community Funding Grant has been spent, the objectives have been met, and the terms and conditions of the Community Funding Grant have been achieved; and
- that this monitoring is kept as simple as possible to reduce the burden of administration for the organisation funded. This may range from the requirement to demonstrate costs have been incurred and paid for, to progress reporting, monitoring returns, service / performance indicators, or Service Level Agreements.

4.5 **Standard 4: due diligence** - the Council will carry out due diligence on Community Funding Grant Scheme applications in accordance with the following:

<b>Community Funding Grant value:</b>	<b>Due diligence levels (pre and post grant award):</b>
£0 up to and including £5,000	<ul style="list-style-type: none"> <li>• bank statement to confirm confirmation of payee, sort code and bank account number, and that a UK bank account is held in the organisation's name or individual's name*;</li> <li>• evidence of grant defrayment – invoices, bill, receipts or bank statement; and</li> <li>• where appropriate, Equality and Diversity Policy / Statement / Commitment, Safeguarding Policy, compliance with Health and Safety.</li> </ul>
£5,000.01 up to and including £20,000	<ul style="list-style-type: none"> <li>• bank statement to confirm confirmation of payee, sort code and bank account number, and that a UK bank account is held in the organisation's name or individual's name*;</li> <li>• Companies House / Charities Commission website checks;</li> <li>• letter from Finance Officer, Treasurer, Director of Finance, or equivalent confirming funds held for all bank / investment account balances, including current, general, investment, reserves, earmarked reserves and other accounts at a recent date. Where an account balance includes a material reserve or balance held an explanation from the above will be obtained and considered as part of the grant determination process;</li> <li>• evidence of grant defrayment – invoices, bill, receipts and bank statements; and</li> <li>• where appropriate, Equality and Diversity Policy / Statement / Commitment, Safeguarding Policy, compliance with Health and Safety.</li> </ul>
£20,000.01 plus	<ul style="list-style-type: none"> <li>• bank statement to confirm confirmation of payee, sort code and bank account number, and that a UK bank account is held in the</li> </ul>



	<p>organisation's name or individual's name*;</p> <ul style="list-style-type: none"> <li>• Companies House / Charities Commission website checks;</li> <li>• letter from Finance Officer, Treasurer, Director of Finance, or equivalent confirming funds held for all bank / investment account balances, including current, general, investment, reserves, earmarked reserves and other accounts at a recent date. Where an account balance includes a material reserve or balance held an explanation from the above will be obtained and considered as part of the grant determination process;</li> <li>• Statement of Accounts checks;</li> <li>• evidence of grant defrayment – invoices, bill, receipts and bank statements;</li> <li>• where appropriate, Equality and Diversity Policy / Statement / Commitment, Safeguarding Policy, compliance with Health and Safety; and</li> <li>• post grant utilisation statement detailing grant outcomes.</li> </ul>
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\*Community Funding Grants will only be paid to individuals under the terms and conditions of the particular Community Funding Grant Scheme and where the individual is applying as an individual and not representing a voluntary or community organisation. Unless a specific term and condition of a Community Funding Grant Scheme, Community Funding Grants are not paid to individuals or into third party bank accounts.

- 4.6 **Standard 5: determination process** - complete applications, and the pre grant award due diligence results (Standard 4), will then be assessed by the Community Funding Officer, and / or the Lead Officer, and an assigned group of the Council's Sector Specialists' against the community funding principles contained in this Community Funding Grants Framework. The Community Funding Panel members will then meet to determine each Community Funding Grant application.
- 4.7 The membership of the Community Funding Panel will consist of Officers (including the Community Funding Officer and / or Lead Officer, Sector Specialists (as required), and a Cross-party Advisory Group.
- 4.8 The Officers will make recommendations to award a grant to the appropriate Community Funding Panel Chair. The role of the Sector Specialists is to support or discount approval to fund an application based on knowledge of their respective areas and the criteria defined in the Community Funding Grants Framework.
- 4.9 The Community Funding Officer and / or Lead Officer will present the recommendations to award grant funding to the Panel Chair. The decision to agree a recommendation to award grant funding is made by the Panel Chair. The Panel Chair will be a Head of Service (or equivalent) or higher grade.
- 4.10 The role of the Cross-party Advisory Group is to ensure adherence to the Framework and that the grants awarded are distributed in a fair and equitable manner. The Chair of

the Community Funding Panel is responsible for making the decision to award a grant, in full or in part, following the recommendation of the Community Funding Officer and / or Lead Officer, the views of the Sectors Specialists, and the view of the Cross-party Advisory Group.

- 4.11 A Community Funding Panel will not be required where the terms and conditions of the Community Funding Grant Scheme negates this function, for example, community participation grant awards.
- 4.12 **Standard 6: what the Council will fund** - due to the nature of Community Funding Grants there will be specific eligibility criteria applying to each Community Funding Grant Scheme and the list below only includes those elements which may be common to all.
- 4.13 The Council can fund:
- core running costs (for example, heat and light, insurance rent or premises costs, office costs);
  - programme or activity costs which are directly relevant to the Community Funding Grant application;
  - travel and transport costs;
  - hire or purchase of equipment for meeting project needs;
  - venue hire (excluding hire of own premises);
  - technical assistance;
  - training that will benefit the function or operation of the eligible organisation (for example, first aid, youth worker, wellbeing and mental health training);
  - festivals and events;
  - capital / revenue costs;
  - publicity, marketing, website design; and
  - salaries of staff and service providers.
- 4.14 **Standard 7: what the Council will not fund** - due to the nature of Community Funding Grants there will be specific eligibility criteria applying to each Community Funding Grant Scheme and the list below only includes those elements which may be common to all.
- 4.15 The exclusions that apply include:
- projects or activities which are delivered outside of the Council's geographical area and do not meet the needs of residents within the Council's area;
  - organisations with material income or reserves held without a clear needs / risk based reserves policy;
  - costs that are not auditable, for example, cash payments;
  - costs that can be claimed back from elsewhere, for example, Value Added Tax (VAT);
  - costs towards banking charges or the repayment of debt;
  - direct payments made to individual members of the applicant group or organisation;
  - existing or operational costs that are not core activities or do not broaden the reach of the organisation into the community;
  - programmes or activities which are considered the core activity of national, regional or local government, government departments or arms-length bodies, such as

health, education, social care, maintenance and repair of the highway, public footpaths, bridleways, streetlighting;

- assets that do not enhance an existing project / service or have a measurable community function or use;
- land or building refurbishment or maintenance for which the applicant does not have a right to occupy for the useful life of the grant funded revenue or capital items;
- activities which are discriminatory, political, or could be classed as religious conversion in nature;
- gifts and prizes;
- alcohol purchases; and
- retrospective costs: activities completed, or costs incurred before the Community Funding Grant offer has been made and the signed acceptance form, where applicable, has been returned to the Council.

4.16 **Standard 8: application form** - all Community Funding Grants will be awarded on completion of an application form accompanied by comprehensive guidance notes. The contact details for the Community Funding Officer, and / or the Lead Officer, will be available on the Community Funding Grants promotional webpage (see Standard 1) and in the guidance notes.

4.17 **Standard 9: incomplete applications, applications received outside the application process, and applications received after the closing date** - to be fair to all Community Funding Grant applicants, the Council will not accept or consider incomplete applications, applications received outside the application process, or applications received after the closing date. These will require a new submission when the next appropriate funding round opens.

4.18 **Standard 10: keeping the applicant informed and assessment decisions** - once a Community Funding Grant application has been received the Community Funding Officer, or the Lead Officer, will acknowledge this within 14 working days. As part of this acknowledgment process the applicant will be informed:

- if the application is classified as complete or incomplete;
- what mandatory information is missing; and
- if any additional information is required.

4.19 Complete applications will then be assessed by the Community Funding Officer, and / or the Lead Officer, and an assigned group of the Council's Sector Specialists' against the community funding principles contained in this Community Funding Grants Framework and the terms and conditions of the particular Community Funding Grant Scheme. The Community Funding Officer, and / or the Lead Officer, and Sector Specialists' will then meet as a Community Funding Panel. The Community Funding Panel will be Chaired by the appropriate Officer (see Standard 5) and will include a Cross-party Advisory Group. The Community Funding Officer, and / or the Lead Officer, and Sector Specialists' will present recommendations to award a Community Funding Grant to the Community Funding Panel Chair for an approval decision.

4.20 **Standard 11: unsuccessful applications and resubmissions** - if a Community Funding Grant application is refused the reasons for the refusal will be contained within a notification letter.

- 4.21 There is no right of appeal.
- 4.22 Applicants cannot reapply for a Community Funding Grant for the same project / service if the initial complete Community Funding Grant application has been refused and they are not asked to resubmit by the Council in writing. Any subsequent Community Funding Grant applications for the project / service will only be accepted, for a following appropriate grant round, if there has been a material change to the application or the amount of funding being requested. Or they are applying under a different Community Funding Grant Scheme.
- 4.23 **Standard 12: framework review** - the Community Funding Grants Framework will be reviewed at least once a year. This can be reviewed more frequently, if necessary, for example, to ensure that the Council's corporate plan, strategic aims, objectives and priorities are appropriately reflected within the assessment criteria.

## **5 Related Procedures, strategies and adopted guidance**

- 5.1 The Community Funding Grants Framework will be supported with working procedures, guidance notes and application forms for each Community Funding Grant Scheme. All Community Funding Grant Schemes will be aligned to the Community Funding Grants Framework to ensure that applying for a Community Funding Grant is easy, transparent and straight forward for the applicant.
- 5.2 The criteria used to assess grant applications will also take into consideration the following Council strategies:
- Health and Wellbeing Strategy;
  - Community Safety Strategy; and
  - Anti-Poverty Strategy.
- 5.3 It will also consider the Integrated Care partnership's ten 'Live Your Best Life' ambitions and the Council's Procurement's Grant Guidance.

## **6 Contact Details**

If you have any questions relating to this Community Funding Grants Framework they can be addressed to:

**Peter Worth**  
**Community Funding Officer**

West Northamptonshire Council  
Email: [communitygrants@westnorthants.gov.uk](mailto:communitygrants@westnorthants.gov.uk)  
Telephone: 01327 322227

## Community Funding Panel – Terms of Reference

### 1. Purpose

- 1.1 The Community Funding Panel (CFP) is an advisory group to the Community Funding Panel Chair (Chair).
- 1.2 The purpose of the CFP is:
  - for the Community Funding Officer (or Lead Officer) and an assigned group of Sector Specialists', where applicable, to present recommendations to award, part award or not to award a Community Funding Grant (CFG) to the Chair;
  - for the Chair to make an approval decision on each CGF application; and
  - for a Cross-party Member Advisory Group to ensure adherence to the Community Funding Grants Framework (CFGF), that grant awards are allocated to meet identified local needs, and that community funding is distributed in a fair and equitable manner.
- 1.3 Applications will be assessed against the CFGF, which covers three main criteria:
  - to what extent does this project / service support the Council's Corporate Plan;
  - to what extent does this project / service meet the strategic aims, objectives and priorities of the Council; and
  - to what extent does this project / service meet the Council's CFGF (link to be added when published) and the community funding principles:
    - need;
    - reach;
    - outcome;
    - sustainability;
    - value for money;
    - other sources of funding / match funding; and
    - levels of monitoring and evaluation required to demonstrate the grant has been spent in the right way, value for money has been achieved, and the required results have been delivered.
- 1.4 The Chair will take into consideration Section 106 and Community Infrastructure Levy Funding that has been secured from developments across the Council when assessing a CFG application.

### 2. Authority

- 1.1 Applications for a CFG will be consider by the CFP. This is in accordance with the CFGF, approved by Cabinet on 11<sup>th</sup> April 2022.
- 1.2 These CFG applications must meet the requirements of the CFGF to be presented and

considered by the CFP.

### **3. Composition of the Community Funding Panel and decision-making**

1.3 The CFP will consist of:

- the Chair, a Head of Service (or equivalent) or higher grade;
- the Community Funding Officer and / or Lead Officer;
- an assigned group of Sector Specialists' (as required);
- a Cross-party Advisory Group; and
- Portfolio Holder (optional).

1.4 Substitutes may be appointed as necessary in accordance with usual governance procedures.

1.5 The quorum of the CFP shall be the Chair, Community Funding Officer (or Lead Officer) and one member of the Cross-party Advisory Group and / or the Portfolio Holder.

1.6 All approval decisions will be made by the Chair. No voting will take place as the Chair is the approval decision maker under the CFGF.

### **4. Conflicts of Interest**

1.7 Any member or officer who belongs to, or, has an interest in an organisation whose application for a CFG is before the CFP, shall declare their connection and withdraw from the meeting for the consideration of that application. A Cross-party Advisory Group member and the Portfolio Holder will also be deemed to have a conflict of interest where the grant application is from his / her electoral ward.

1.8 If the Chair has a conflict of interest with a CFG application, the Community Funding Officer (or Lead Officer) will take on the role of the Chair for the approval decision of that CFG application.

1.9 In the unlikely event that the Chair and Community Funding Officer (or Lead Officer) has a conflict of interest with the same CFG application. A substitute Head of Service (or equivalent) or higher grade will take on the role of the Chair for the approval decision of that CFG application.

### **5. Support**

1.10 Relevant officers / Sector Specialists can attend the CFP at the request of the Chair to report on an application to be approved by the Chair and other items on the agenda or matters of interest to the CFP.

1.11 A report showing the budget, expenditure, commitment and balance remaining will be submitted to each meeting of the CFP. This will be compiled by the Community

Funding Officer (or Lead Officer).

## **6. Community Funding Panel Meetings**

1.12 The CFP will meet up to 12 times a year, with the precise dates, times and venues to be agreed by mutual consent in advance of each meeting. The CFP may choose to hold additional meetings to deal with matters of urgent business.

## **7. Review**

1.13 The CFP will review the Terms and Conditions of the CFP and make any recommendation for change to Cabinet on an annual basis.

## **Membership (2023/24)**

- Chair – Vicki Rockall (or equivalent) or higher grade
- Community Funding Officer - Peter Worth and / or Lead Officer
- Sector Specialists' - WNC officers as required
- Portfolio Holder - (optional)
- Councillor TBC
- Councillor TBC
- Councillor TBC
- Councillor TBC

## **8. Contact Information**

**Peter Worth**  
**Community Funding Officer**

West Northamptonshire Council  
Email: [communitygrants@westnorthants.gov.uk](mailto:communitygrants@westnorthants.gov.uk)  
Telephone: 01327 322227

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# WEST NORTHAMPTONSHIRE COUNCIL

## CABINET

11<sup>th</sup> April 2023

**Cllr Adam Brown, Deputy Leader of the Council and Portfolio Holder for Housing, Culture & Leisure**

<b>Report Title</b>	<b>Private Sector Housing Enforcement and Civil Penalties Policy v2</b>
<b>Report Author</b>	<b>Chris Stopford – Head of Private Sector Housing <a href="mailto:chris.stopford@westnorthants.gov.uk">chris.stopford@westnorthants.gov.uk</a></b>

### List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	15/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Director</b>	Jane Carr	8th March 2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	16 <sup>th</sup> March 2023

### List of Appendices

#### **Appendix A –Private Sector Housing Enforcement and Civil Penalties Policy v2**

##### **1. Purpose of Report**

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- 1.1. The purpose of this report is to ask the Cabinet to approve an updated Private Sector Housing Enforcement Policy which takes into account the new Council Fees and Charges regime approved at Council in February 2023, government guidance, case law, the introduction of new legislation and changes to existing legislation.

##### **2. Executive Summary**

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- 2.1. The Council, in undertaking its regulatory functions in relation of Private Sector Housing, is required to publish a policy outlining how it will approach its statutory duties. The attached

report, and its Appendix, outlines for our residents and businesses the approaches that the Council will take in seeking to ensure all private rented secure tenants have safe, secure and well maintained homes.

### **3. Recommendations**

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It is recommended that the Cabinet:

Approve the Private Sector Housing Enforcement and Civil Penalties Policy v2 (attached to this report as Appendix A)

Delegate to the Head of Private Sector Housing, in consultation with the Portfolio Holder for Housing, Culture and Leisure; the responsibility to maintain the policy and make any minor amendments in light of legislative changes, Court or Tribunal decision, or identified typographic error

### **4. Reason for Recommendations**

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The decision is recommended for the following reasons:

- The recommended course of action is the most cost-effective
- To support compliance with legislation and Council policy.
- To support consistency with previous decisions of the Council in adopting the Private Sector Housing Enforcement and Civil Penalties Policy v1 in April 2021, as part of the vesting day activities of West Northamptonshire Council
- To ensure that the Council maintains its policies in line with legislative, Court or Tribunal decisions

### **5. Report Background**

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- 5.1. In West Northamptonshire, the private rented sector has doubled in size during the past ten years and there are now more people living in the area's private rented sector than are living in social rented housing.
- 5.2. The shortage of social rented housing, together with the difficulty that many people are experiencing in buying a home of their own, has increased the number of people who are seeking private rented accommodation in the District
- 5.3. Although West Northamptonshire has some excellent landlords and letting agents, it also has a significant number of criminal, rogue and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe.

#### Housing enforcement powers

- 5.4. The Council has statutory powers and duties to regulate private sector housing and these are assisted by the Housing Health and Safety Rating System (HHSRS), the Mandatory Licensing of Houses in Multiple Occupation and, in designated parts of the District, the Additional Licensing of Houses in Multiple Occupation.

- 5.5. The Government has pledged to crack down on rogue landlords and has introduced a number of measures, under the Housing and Planning Act 2016, to help local authorities deal more robustly with criminal, rogue and irresponsible landlords:
- Introduction of civil penalties as an alternative to prosecution for certain offences (these came into force on 6 April 2017);
  - Extension of rent repayment orders to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other offences (these came into force on 6 April 2017);
  - Introduction of a database of rogue landlords and property agents who have been convicted of certain offences or received multiple civil penalties (this came into force in April 2018); and
  - Introduction of banning orders for the most serious and prolific offenders (these came into force in April 2018).
- 5.6. The Government has also provided local housing authorities with the power to impose financial penalties on landlords and/or managing agents who:
- Undertake lettings agency / property management work, but fail to become a member of a Redress Scheme;
  - Fail to comply with a remedial notice requiring them to install appropriate smoke and/or carbon monoxide detection;
  - Fail to comply with the ban on tenants' fees and/or the rules affecting the holding of deposits;
  - Fail to belong to a client money protection scheme; and/or
  - Fail to undertake the necessary inspections and/or repairs in relation to the electrical system.

#### The Council's approach to housing enforcement

- 5.7. The Council's approach to housing enforcement is intelligence-led, risk-based and targeted, and based on the principle that it should be the offender (rather than good landlords or council tax payers) who pays for enforcement and no-one who breaks the law should gain a financial advantage over someone who complies with the law.
- 5.8. This approach – which enjoys widespread support from local landlords who want the Council to create a level playing field for all landlords by dealing robustly with offenders – is reflected in the existing Private Sector Housing Enforcement and Civil Penalty Policy v1 (April 2020)
- 5.9. The Housing Enforcement Policy has been reviewed and updated (see Appendix A) to reflect the new Council Fees and Charges regime, government guidance, case law and changes to legislation.

## **6. Issues and Choices**

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### **Issues**

- 6.1. The purpose of the Private Sector Housing Enforcement and Civil Penalties Policy is to provide transparency and ensure that everyone who is affected by the Council's housing enforcement process understands what action the Council will take and when.
- 6.2. Most importantly, the Policy will also ensure that:
- Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety;
  - All Houses in Multiple Occupation are safe and well managed and all relevant Management Regulations are adhered to;
  - All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met;
  - Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties;
  - Privately owned property and land does not present a statutory nuisance to other land owners, and does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and
  - The Council meets its statutory obligations in relation to private housing.

#### Principles underpinning enforcement action

- 6.3. The Housing Enforcement Team's enforcement activity will be:
- **Targeted** – Enforcement action will target the properties and people that pose the greatest risk, including the owners and landlords that evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
  - **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
  - **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.
  - **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
  - **Consistent** – Enforcement action will be undertaken by well-trained investigators, and the Housing Enforcement Team will ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and share and develop good practice.
  - **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Housing Enforcement Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.

## **7. Choices (Options)**

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### Option 1 (recommended)

- 7.1. Cabinet can choose to approve the updated Private Sector Housing Enforcement and Civil Penalties Policy (Appendix A). This option is recommended because the Policy needs to take into account recent case law and changes in legislation and complement the Council's approach to fees and charges as approved by Council, February 2023.
- 7.2. Approval of the updated, overarching Policy will make it clear that the Council will impose civil penalties on landlords who are in breach of their legal obligations in relation to the redress schemes, smoke and carbon monoxide alarms, client money protection, electrical safety and the Tenants Fees Act 2019.

### Option 2 (not recommended)

- 7.3. Cabinet can choose not to approve the updated Private Sector Housing Enforcement and Civil Penalties Policy (Appendix A). This option is not recommended because the existing Policy was approved in April 2020 and requires updating as a result of changes to the Council's approach to fees and charges, updated legislation, case law and government guidance.
- 7.4. The absence of an up to date Policy will hamper the Council's efforts to improve everyone's understanding of its housing enforcement process and what action the Council will take and when.

## **8. Implications**

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### **Resources and Financial**

- 8.1. The current Private Sector Housing Enforcement and Civil Penalties Policy was produced in 2020. It was based on the best available advice and guidance from central government at the time.
- 8.2. A potential risk, at the time, concerned the lack of certainty around the decisions that will be made by the First Tier Tribunal when it considers an appeal against the imposition of a civil penalty. The updated Policy, which comes into effect on 12<sup>th</sup> April 2023, has taken into account recent published decisions of the Tribunals and is designed, as far as possible, to mitigate the risks of a successful challenge

### **Legal**

- 8.3. Section 126 and Schedule 9 of the Housing and Planning Act 2016 inserted section 249A and Schedule 13A into the Housing Act 2004 and amended sections 30, 72, 95, 139 and 234 to allow for the imposition of a financial / civil penalty as an alternative to prosecution for offences created by those provisions.
- 8.4. The amended Private Sector Housing Enforcement and Civil Penalties Policy at Appendix A makes it clear that the standard of proof that the Council must satisfy in order to be able to propose financial penalties for relevant housing offences is "beyond reasonable doubt". As First-Tier Tribunals must now give appropriate weight and consideration to the Council's Civil Penalties and Housing Enforcement Policies in any future appeals against the imposition of

financial penalties by it, tightening up the phrasing used in the new Policy to better reflect the legislatively mandated standard of proof ought to reduce the risk of Tribunals granting appeals on spurious and insubstantial grounds.

- 8.5. There is no statutory requirement to conduct a consultation exercise when amending a Private Sector Housing Enforcement and Civil Penalties Policy. Case law makes it clear that there is no legitimate expectation that the public will be consulted about policy proposals for the exercise of local authority regulatory enforcement functions. Accordingly, there is a low risk that the amended policy could be successfully challenged by way of judicial review on the ground of a lack of public consultation if approved.

### **Consultation and communications**

- 8.6. There is no statutory requirement for any consultation associated with the development, and implementation of the Private Sector Housing Enforcement and Civil Penalties Policy.
- 8.7. Engagement on the Policy has taken place with the Deputy Leader / Cabinet Member for Housing etc and with the key managers within the Private Sector Housing Team
- 8.8. The new policy, once approved, will be published on the Council website and will replace the existing 2021 approved Policy

### **Risk**

- 8.9. In the absence of a policy the Council faces risks of challenge by recipients of Council enforcement action. The publication of the policy will provide clear information to all residents and businesses of the approach that the Council will take to ensuring that tenants of the private rented sector are afforded.
- 8.10. The First Tier Tribunal, in considering any appeal against enforcement action, but give appropriate weight and consideration of the Council's Civil penalties and Housing Enforcement Policies, in this case the combined Private Sector Housing Enforcement and Civil Penalties Policy. In the absence of a policy the First Tier Tribunal will have no local policy on which to base their consideration. This may negatively impact on the outcome of any considerations of the First Tier Tribunal.

## **9. Background Papers**

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- 9.1. None



West  
Northamptonshire  
Council

# **Private Sector Housing Enforcement and Civil Penalties Policy v2.0**

## **for the Regulation of Housing Standards**

Date

[www.westnorthants.gov.uk](http://www.westnorthants.gov.uk)

# Document Version Control

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## Change History

Issue	Date	Comments
1.0	1 <sup>st</sup> April 2021	Approved by Shadow Executive, 23 <sup>rd</sup> March 2021 – for implementation from 1 <sup>st</sup> April 2021
1.1	9 <sup>th</sup> February 2022	Minor amendments made to Appendix 1 – Civil Penalty Scoring Matrix
2.0	11 <sup>th</sup> April 2023	Approved by West Northamptonshire Council Cabinet – for implementation from

## Consultees

Internal	External
Sovereign Councils prior to Local Government Reorganisation for Northamptonshire	

## Distribution List

Internal	External
Private Sector Housing Team	Council Website

## Links to other documents

Document	Link



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# 1. Introduction

- 1.1 West Northamptonshire Council is committed to improving standards in private sector housing, bringing empty homes back into use and ensuring that all private rented accommodation is well managed, properly maintained, energy efficient and safe.
- 1.2 In order to improve standards in private sector housing, the Council's Private Sector Housing Service will request information, carry out inspections, process licence applications, provide owners and landlords with advice and information, encourage and promote good practice, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders or issue financial penalties.
- 1.3 The Council has statutory powers and duties to regulate private sector housing and these are assisted by the Housing Health and Safety Rating System (HHSRS), the Mandatory Licensing of Houses in Multiple Occupation and, in designated parts of the district, the Additional Licensing of Houses in Multiple Occupation.
- 1.4 Although West Northamptonshire has many excellent landlords, it also has a significant number of criminal and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe.
- 1.5 The Council regards managing and letting rented housing as a business and expects everyone involved in it to be familiar with their legal obligations. It also believes that it should be the offender (rather than good, responsible landlords or the local council taxpayers) who pays for the cost of housing enforcement, and that no-one who breaks the law should gain a financial advantage over someone who does not.
- 1.6 This approach enjoys widespread support from local landlords who want the Council to create a level playing field for all landlords by dealing robustly with criminal and irresponsible landlords who flout the law and try to profit from their non-compliance.
- 1.7 The Council welcomes the action that the Government is taking to crack down on criminal and irresponsible landlords and it is committed to making full use of its powers to improve standards in West Northamptonshire's private rented sector.
- 1.8 The Council's intelligence-led, targeted approach to housing enforcement, together with its expectation that all members of its Private Sector Housing Team will maintain their professional competencies, means that the Council is well placed to detect and investigate possible offences and, where appropriate, to impose a civil penalty as an alternative to prosecution.
- 1.9 This Private Sector Housing Enforcement and Civil Penalties Policy describes the Council's approach to enforcement, including serving statutory notices, making orders, issuing financial penalties, carrying out works in default and pursuing enforced sales, compulsory purchase and prosecution.
- 1.10 Note – In this Policy, the term "landlords" also includes "property agents", "managing agents" and "letting agents" unless otherwise specified

## **2. Guidance and Legislation**

- 2.1 A wide range of guidance on enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant statutory guidance when reviewing its policies and procedures and updating as appropriate.
- 2.2 This Private Sector Housing Enforcement and Civil Penalties Policy has been developed with specific regard to:
- The Housing Act 2004
  - The Housing and Planning Act 2016
  - Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities - Department for Communities and Local Government published April 2017
  - Statutory guidance that has been issued by the Government under Schedule 13A of the Housing Act 2004 and Schedule 9 of the Housing and Planning Act 2016

## **3. Private Sector Housing Team**

- 3.1 The Private Sector Housing Team's multi-agency approach to housing enforcement is intelligence-led, risk-based and targeted.
- 3.2 Working closely with other local authorities, HMRC and a diverse range of regulatory and law enforcement services – including the Police, Trading Standards, the Gangmasters & Labour Abuse Authority and the Fire & Rescue Service – the Private Sector Housing Team strives to improve landlords' awareness of their duties and is responsible for the administration and enforcement of HMO licensing, and ensuring that individuals, businesses and organisations comply with their legal obligations in relation to housing conditions, overcrowding, energy efficiency, illegal eviction, harassment and aspects of public health.
- 3.3 All the Officers in the Private Sector Housing Team will be fully trained, competent and authorised by West Northamptonshire Council. Authorised Officers will carry an Identity Card (displaying their name and photograph) and, where appropriate, a Warrant Card (displaying their name, job title and a list of the legislation in respect of which they are authorised to act).
- 3.4 The Private Sector Housing Team may use all available powers to achieve its objectives, including powers of entry, the power to require a person to produce documents and/or information about their identify and interest in property or land, and the power to require certificates regarding gas and electrical safety. This list is not exhaustive and other powers may be utilised where appropriate.
- 3.5 Although the Private Sector Housing Team will work with owner-occupiers and registered social landlords to ensure that their homes meet minimum standards and are not causing a danger or statutory nuisance to other households in the area, it will prioritise and target resources to raise standards in the private rented sector.

## **4. Purpose of this Housing Enforcement and Civil Penalties Policy**

- 4.1 The purpose of the Private Sector Housing Enforcement and Civil Penalties Policy is to provide transparency and ensure that everyone who is affected by the Council's housing enforcement and civil penalties process understands what action the Council may take and when.
- 4.2 Most importantly, this Policy also aims to ensure that:
- Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety and landlords comply with their duties in relation to gas, electrics and energy performance certificates, etc.
  - All Houses in Multiple Occupation are safe and well managed, and all relevant Management Regulations are adhered to;
  - All licensable Houses in Multiple Occupation are licensed, and all licensing conditions are met;
  - Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties;
  - Privately owned property and land does not present a statutory nuisance to other landowners, and does not directly or indirectly present an unacceptable risk to the occupier, public health, safety or the environment;
  - Lettings and property management businesses are registered with a government-approved redress scheme and comply with relevant legislation and codes of practice; and
  - The Council meets its statutory obligations in relation to private housing.
- 4.3 The Private Sector Housing Enforcement and Civil Penalties Policy is designed to ensure transparency, consistency and fairness in the way in which decisions are made on whether to prosecute or impose a civil penalty and, if a civil penalty is to be imposed, how it will determine the size of each civil penalty.
- 4.4 Further information about the Council's approach to civil penalties – including its 9-stage assessment process which strikes the balance between harm, culpability, punishment and deterrent – is provided in Sections 10 – 18 of this Policy.

# **PRIVATE SECTOR HOUSING ENFORCEMENT**

## **5. Principles of Good Enforcement**

5.1 When discharging its duties in relation to private sector housing, the Council will take into account the principles of good enforcement set out in:

- Part 2 of the Legislative and Regulatory Reform Act 2006; and
- The Regulators' Code

5.2 Although the list is not exhaustive and the Council may consider other relevant legislation and any updates of the legislation listed, the Council will have regard to the following when exercising its enforcement powers:

- The Human Rights Act 1998
- The Equality Act 2010
- The Police and Criminal Evidence Act 1984 and the Codes of Practice issued under sections 60, 60A and 66.
- The Criminal Procedure and Investigations Act 1996
- The Regulation of Investigatory Powers Act 2000
- The Code for Crown Prosecutors
- Civil Penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities
- Housing Health and Safety Rating System (HHSRS) - Enforcement Guidance Housing Act 2004

5.3 The Private Sector Housing Team will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners and occupiers and will take into account the impact on tenants. In doing so, it will have regard to the role of inspections, compliance visits and advice and guidance, and the principles underpinning its advisory and regulatory activities.

### **Benefits to the Local Economy**

5.4 West Northamptonshire Council aims to create neighbourhoods of choice: areas where people want to live, bring up their children and work. Maintaining healthy housing and attractive neighbourhoods will benefit the local economy.

### **Property Inspections and Compliance Visits**

5.5 The Private Sector Housing Team will undertake proactive property inspections, based on risk and intelligence, and ensure that its resources are targeted at the worst properties first including, for example, licensable Houses in Multiple Occupation that are operating without a licence.

- 5.6 Officers will target empty properties in order to end the blight that those properties have on neighbourhoods and increase the supply of good quality, affordable housing that meets the needs of local people.
- 5.7 The Private Sector Housing Team will respond to residents' complaints on a risk assessed basis about substandard, unsafe and problematic private housing and adopt an escalating regulatory approach to enforcement.

### **Advice and Guidance**

- 5.8 Wherever possible, the Private Sector Housing Team will work with landlords to resolve problems before escalating the situation to more formal enforcement action. This may not be possible in the more extreme circumstances and where progression to enforcement cannot be avoided.
- 5.9 The Council will provide clear, accessible advice and guidance to make it easier for landlords and agents to understand and meet their responsibilities.
- 5.10 Although the Council's website [www.westnorthants.gov.uk](http://www.westnorthants.gov.uk) contains key information about private rented housing, the Council will also continue to liaise with landlords and agents through the landlord forum, emails and social media etc.

### **Principles underpinning Enforcement Action**

- 5.11 The Private Sector Housing Team's enforcement activity will be:
- **Targeted** – Enforcement action will target the properties and people that pose the greatest risk, including the owners and landlords that evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
  - **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
  - **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.
  - **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
  - **Consistent** – Enforcement action will be undertaken by well-trained investigators, and the Private Sector Housing Team will ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and share and develop good practice.
  - **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Private Sector Housing Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.



## 6. Regulation of Private Sector Housing

### Dealing with Complaints

- 6.1 The Private Sector Housing Team will respond to complaints from tenants and other residents about private housing, prioritising the complaints on the basis of an assessment of the risk and seriousness. If enforcement action is necessary, a variety of regulatory powers may be used to address and resolve the problem.

### Housing, Health and Safety Rating System (HHSRS)

- 6.2 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a risk-based assessment that is used to determine the level of risk (from 29 defined hazards) that residential property poses to the health and safety of the occupants and visitors.
- 6.3 There are two categories of possible hazards:
- **Category 1 hazards** represent a serious risk to health and safety. The Council has a legal duty to take appropriate action to deal with these.
  - **Category 2 hazards** represent a lesser risk and, although it has no legal duty to take action, the Council will exercise its power to reduce category 2 hazards where appropriate.
- 6.4 In most cases, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. However, it may be necessary for the Council to instigate immediate formal action in the event of imminent risks of severe harm or death. Nothing in this policy prevents the Council's decision regarding the use of informal or formal actions. The Council will avoid actions that may encourage owners, landlords and agents to be non-compliant, such as carrying out costly works in default where it may be difficult for the Council to recover its costs.
- 6.5 When considering what action should be taken in relation to Category 2 hazards, the Council will have regard to national guidance and take into account whether or not there are also any Category 1 hazards present. It will also consider the presence of two or more Category 2 hazards which, when taken together, amount to neglect of the property or disregard for the tenant's health, safety and wellbeing.
- 6.6 Where the responsible person has a history of disregarding previous enforcement advice or action, this will be taken into account when determining an appropriate course of action.
- 6.7 Reasonable charges will be made for any formal enforcement action that the Council takes under Part 1 of the Housing Act 2004, as provided for by section 49 of that Act. (see separate West Northamptonshire Council Fees and Charges Scheme for further information (<https://www.westnorthants.gov.uk/budget-and-charges/fees-and-charges>)).

### Houses in Multiple Occupation (HMOs)

- 6.8 In West Northamptonshire, there are many hundreds of Houses in Multiple Occupation: properties that are occupied by more than one household that share facilities.
- 6.9 As HMOs are higher risk than single family homes, the conditions, facilities and management

are regulated. Some HMOs are subject to licensing:

- **Mandatory HMO Licensing** – An HMO licence is required for HMOs that are occupied by 5 or more persons where there is some sharing of facilities and comprise 2 or more households.
- **Additional HMO Licensing** – An HMO licence is required for HMOs that are situated in the Additional HMO area, are occupied by at least 3 persons who are sharing facilities and comprise 2 or more households or are self-contained units that are not compliant with Building Regulations 1991 or later.

- 6.10 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.
- 6.11 It is a criminal offence if a person controlling or managing a licensable HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 6.12 We aim to issue a new licence within 26 weeks from the date of application. Issuing a licence within this time frame is dependent on the landlord supplying the required information and payment within timescales and that no representations are made. Where information or payments are late, or representations made, then the processing time will be longer. Tacit consent does not apply given that we have to check the HMO meets the prescribed standards including whether we need to inspect the property to confirm it is suitable for licensing. In the interest of public safety, each licence application will be given full consideration by the council before it is approved or rejected. If you have not heard from us within 20 weeks, then please contact us

#### Licensable HMOs operating without a licence

- 6.13 The Council has an intelligence-led, targeted approach to housing enforcement and the identification of licensable HMOs that are operating without a licence. It will work to safeguard and improve the living conditions of the occupiers and ensure that properties are appropriately licensed and that the conditions are suitable. It will also pursue anyone who is controlling or managing a licensable HMO without a licence and, where appropriate, it will prosecute them or impose a civil penalty.
- 6.14 Consideration will be given to any representations that are received from landlords in relation to exceptional circumstances that may have resulted in a 'duly made' HMO licence application not being submitted on time.
- 6.15 If a landlord responds quickly to the Council's notification that an HMO requires an HMO licence and they co-operate fully with the Council to ensure that the HMO is licensed as soon as practicable, the Council may decide (at its sole discretion) not to prosecute the landlord or impose a civil penalty. Each case will be determined on its individual merits and circumstances.

- 6.16 Where a licensable HMO is operating without a licence, any eviction notice that is served on the tenants under Section 21 of the Housing Act 1988 will be invalid. Such notices will continue to be invalid for as long as the HMO remains unlicensed.
- 6.17 The Council will provide tenants with information and advice on how and when they can apply to the First Tier Tribunal for a rent repayment order.

#### Renewal of HMO licences

- 6.18 It is the responsibility of the landlord to ensure that their HMO licence is renewed on time. Failure to do so may result in prosecution or the imposition of a civil penalty.
- 6.19 As part of the renewal process for HMO licences, and in addition to its routine inspection programme, the Council may undertake further inspections of the property. Where changes to legislation, or the Council's amenity standards have changed you may be asked to carry out additional works or reduce the occupancy numbers. The existence of a HMO licence does not guarantee the renewal of the licence on identical terms.
- 6.20 The Council will provide tenants with information and advice on how and when they can apply to the First Tier Tribunal for a rent repayment order.

#### HMO licence fees

- 6.21 The Council charges fees for licensing HMOs.
- 6.22 The HMO licence fees cover the administration and enforcement of the licensing schemes and are subject to regular review. For further information, please refer to the West Northamptonshire Council Fees and Charges Scheme (<https://www.westnorthants.gov.uk/budget-and-charges/fees-and-charges>).

#### Duration of HMO licences

- 6.23 HMO licences will normally be granted for the full 5-year period.
- 6.24 The length of the HMO licence may be reduced, from 5 years to an appropriate lesser period, where any of the following apply:
- To allow time for the owner to resolve outstanding planning or building control matters before the property can be used as an HMO;
  - Where there are concerns that the proposed management arrangements may not be satisfactory, and evidence is required to show that management is satisfactory before a longer licence period can be agreed;
  - Where it is necessary to remove any advantage that the applicant might gain over those licence holders who applied at the appropriate time.
  - Where a scheme, for example, an additional or selective HMO licensing requirement, is time limited by law.
- 6.25 Following the expiry of an HMO licence, a new application and fee will be required.

## The 'fit and proper person' test

- 6.26 In deciding to grant an HMO licence, the Council must be satisfied that the proposed licence holder is a 'fit and proper person' to be the licence holder, the proposed manager of the HMO is a 'fit and proper person' to be the manager of the HMO, and everyone involved in the management of the property are 'fit and proper persons' to be involved in its management.
- 6.27 This requirement is to ensure that those responsible for operating the licence and managing the HMO are of sufficient integrity and good character to be involved in the management of the residential property and as such they do not pose a risk to the welfare or safety of persons occupying the property. The Council would expect that property managers are resident of the UK.
- 6.28 The licence holder and the manager can be two different people. Where this is the case, a decision must be made for each individual about whether they are a 'fit and proper person'. When making this decision, the Council will take into account their fitness to hold the licence or to manage the property.
- 6.29 When considering whether a person is 'fit and proper', the Council will consider each case on its merits and must have regard to whether the applicant has:
- Previous convictions involving fraud or other dishonesty, violence, drugs or sexual offences;
  - Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying out of any business;
  - Been served with a Banning Order in accordance with Part 2, Chapter 2 of the Housing and Planning Act 2016, or any amendment thereof;
  - Contravened any provision of housing or landlord and tenant law; and
  - Acted otherwise than in accordance with an approved code of practice with regard to the management of HMOs or of excepted accommodation.
- 6.30 When considering whether a person is 'fit and proper', the Council must also have regard (among other things) to the following:
- The nature of any convictions and the relevance of those convictions to the management of the HMO. (Convictions relating to fraud, running unlicensed HMOs or violence, for example, may affect someone's 'fit and proper' status, and a conviction based on the existence of a Category 1 hazard would give an indication of an applicant's approach to health and safety in a property).
  - The weight of any convictions. (An administrative breach of the HMO Management Regulations, such as not displaying the Code of Good Management Practice, is unlikely to affect a person's 'fit and proper' status).
- 6.31 When considering whether a person is 'fit and proper' the Council may also take into account whether any person associated or formerly associated with the applicant, licence holder or manager has done any of the things identified in 5.27 and 5.28, if it considers this information relevant.

- 6.32 The Council is entitled to take into account other factors in so far as they are relevant to the fitness and propriety of the relevant person. It would not normally consider a landlord with a criminal record for unlawful evictions and harassment of tenants to be ‘fit and proper person’.
- 6.33 Although discretion may be appropriate if an offence is isolated and there are mitigating circumstances, multiple offences – or a series of offences over a period of time – are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which should be taken into account. A particularly serious view may be taken where the victim is vulnerable.
- 6.34 A person’s ‘fit and proper’ status may be reviewed at any time. Removal of the status, by the Council or any other relevant authority may lead to a refusal and/or revocation of the HMO licence(s).
- 6.35 The Council will also share information with other authorities in making a determination regarding the ‘fit and proper’ status of licence holders and managers or allowing other authorities to make such a determination.

### HMO Management Regulations

- 6.36 The HMO Management Regulations place obligations on landlords and managers of HMOs to maintain and manage the HMOs they run.
- 6.37 The Regulations also place obligations on occupiers of HMOs to not obstruct or interfere with the management and maintenance of the HMO.
- 6.38 There are two sets of Regulations:
- The Management of Houses in Multiple Occupation (England) Regulations 2006
  - The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007.
- 6.39 Although both sets cover the same requirements, they relate to different types of HMOs. The Regulations cover the following:
- Duty of the manager to provide information to occupier.
  - Duty of the manager to take safety measures.
  - Duty of the manager to maintain water supply and drainage.
  - Duty of the manager to supply and maintain gas and electricity.
  - Duty of the manager to maintain common parts, fixtures, fittings and appliances.
  - Duty of the manager to maintain living accommodation.
  - Duty to provide waste disposal facilities.
  - Duties of occupiers of HMOs.
- 6.40 Breaching any of the Regulations is an offence under section 234 of the Housing Act 2004,

which carries an unlimited fine or the imposition of a civil penalty of up to £30,000 for each breach.

- 6.41 If the HMO is licensed, the Council will inform the landlord and/or manager of the breaches of the HMO Management Regulations and provide them with a reasonable amount of time to remedy the breaches, having regards to the risk to the tenants. Formal enforcement action will then be considered if the breaches are not remedied.
- 6.42 If the HMO is unlicensed, or there is an imminent risk to the occupiers formal enforcement action may be considered immediately.

#### Overcrowding

- 6.43 Overcrowding is a difficult issue to deal with because, unlike other hazards, there is often very little that the landlord can do to resolve the problem unless the tenant has moved other people into the accommodation since the start of the tenancy.
- 6.44 In cases of severe overcrowding, the Council will explore the housing options available to the tenants, including a move to alternative accommodation.
- 6.45 When a tenancy expires, the Private Sector Housing Team may require the landlord to reduce or limit the number of people living in the property when it is re-let.

#### **Empty Properties**

- 6.46 There is a high demand for accommodation in West Northamptonshire. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.
- 6.47 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including enforced sales and compulsory purchase) to bring them back into use.

#### **Illegal eviction and harassment**

- 6.48 The Council is committed to enforcing tenants' rights under the Protection from Eviction Act 1977, and it will work proactively to prevent illegal evictions and harassment, assist in reinstating tenants who have been evicted illegally and, where tenants are unable to return, investigate alleged offences.
- 6.49 Depending on their tenant's security of tenure, most landlords are normally required to give notice and obtain a court order for possession after the notice has expired.
- 6.50 Illegal eviction occurs when the tenant is unlawfully prevented from entering all or part of their accommodation. Examples include:
- The use of violence (or threats of violence) to force the tenant to leave;
  - Preventing the tenant from entering accommodation they have the right to occupy;
  - Changing the locks while the tenant is out; and

- Evicting a tenant before the proper legal procedures have been followed.

6.51 Harassment occurs when a landlord (or someone acting on their behalf) does something that is likely to interfere with the tenant's peace and enjoyment or persistently withdraws or withholds services that the tenant reasonably requires for the occupation of the premises in the knowledge that this is likely to cause them to leave the property or refrain from exercising their tenancy rights. Examples include:

- Forcing the tenant to sign agreements which take away their legal rights;
- Removing or restricting essential services such as hot water or heating, or failing to pay bills in order that these services are cut off;
- Constant visits to the property (especially if late at night or without sufficient or reasonable notice);
- Entering the accommodation when the tenant is not there, or without the tenant's permission; and
- The use of violence or threats of violence.

6.52 The Council will work closely with the Police to investigate and prosecute offences of illegal eviction and harassment. They will also provide tenants with support in applying for injunctions, compensation and rent repayment orders.

### **Charging for Enforcement**

6.53 The Housing Act 2004 allows local housing authorities to make a reasonable charge to recover administrative and other expenses incurred when taking certain enforcement action. Other legislation allows them to recover the cost of Officers' time and expenses incurred when determining what works need to be carried out as works in default.

6.54 The Private Sector Housing Team will recover all costs and fees when formal action is taken, and it is satisfied that it is reasonable for the responsible person to bear the cost. The full costs (Officers' time, expert reports and overheads, etc) will be charged and, in some cases – where it is reasonable and proportionate – the enforced sale of the property will be considered in order to recover costs.

### **Deciding on an Appropriate Sanction**

6.55 The criminal standard of proof is required to be met in order to justify either the imposition of a civil penalty or a prosecution in the Magistrates' Court for a relevant housing offence. This means that, before taking formal action, the Council needs to satisfy itself beyond reasonable doubt that, if the case were to be prosecuted in the Magistrates' Court, a person's conduct amounted to a relevant housing offence.

6.56 To achieve a conviction in' Court, the Council must be able to prove beyond reasonable doubt that a relevant housing offence has been committed by the accused. The same principle applies in respect of civil penalties issued in accordance with section 249A and Schedule 13A of the Housing Act 2004 so, where a civil penalty is imposed and an appeal is subsequently made to the First-Tier Tribunal Property Chamber, the Council will need to be able to prove to the Tribunal that the relevant housing offence has been committed beyond

a reasonable doubt.

6.57 Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean that civil penalties may not be issued in cases where serious offences may have been committed and the Council believes that the most disruptive sanction to impose on a criminal, rogue or irresponsible landlord is a financial penalty (or penalties if there have been several breaches) rather than prosecution.

## 7. Options to Regulate and Ensure Compliance

7.1 The following table contains some examples of situations where different types of action may be taken. Decisions are made, however, on a case-by-case basis.

ACTION	GENERAL CIRCUMSTANCES
<b>No Action</b>	Where formal action may not be appropriate. In such cases, customers may be directed to other sources of advice and support.
<b>Informal Action and Advice</b> includes verbal advice and advisory letters	Where it may be appropriate to deal with the issues through informal action and advice. In such cases, the pre-formal stage of the HHSRS may be followed, with the Council working collaboratively with responsible landlords and owners to address and resolve any problems.
<b>Hazard Awareness Notice</b>	Where a landlord or owner has agreed to take remedial actions and the Council is satisfied that the work will be completed within a reasonable time, where the Council considers this to be a reasonable response to less serious hazards, or where improvement or prohibition of use may not be practicable or reasonable in the circumstances These notices are advisory only, but do not prevent the Council from taking further action later if an unacceptable hazard remains
<b>Service of Enforcement Notices</b> informing of or requiring repairs or specific legal requirements	Where a person refuses or fails to carry out works through the pre-formal HHSRS process; Where there is a lack of confidence or there is positive intelligence that the responsible individual or company will not respond to a pre-formal approach; Where there is risk to the health, safety and wellbeing of a household or a member of the public (dangerous gas or electrical services; no heating in the winter; no hot water for personal hygiene or to wash and prepare food safely; etc); Where standards are extremely poor, and the responsible individual or company shows little or no awareness of the management regulations or statutory requirements; Where the person has a history of non-compliance with the Council and/or other relevant regulators; Where the person has a record of criminal convictions for



	<p>failure to comply with the housing requirements (which may include housing management);</p> <p>Where it is necessary to safeguard and protect the occupiers' future health and safety; and/or</p> <p>Where it is necessary to bring an empty property back into use and informal requests either fail or are not appropriate.</p>
<p><b>Powers of Entry</b> (for more information, see Paragraphs 7.2 - 7.5 below)</p>	<p>Where it is necessary to carry out a statutory duty or power;</p> <p>Where it is necessary to investigate an offence;</p> <p>Where it is necessary to prevent the obstruction of Officers; and/or</p> <p>Where it is necessary to protect the health and safety of any person, or to protect the environment, without delay.</p>
<p><b>Powers to Require Information and/or Documents</b></p>	<p>Where it is necessary for information to be provided to enable Officers to carry out their powers and duties;</p> <p>Where it is necessary for documents to be provided to enable Officers to carry out their powers and duties under the Housing Act 2004;</p> <p>Where it is necessary to prove the tenancy of a property, for example, assured shorthold tenancies, bank statements, rent books or equivalent; or where it is necessary to determine the relationships of tenants, for example, birth certificates, passports, marriage certificates etc.</p> <p>Where it is necessary for, for example, electrical certificates, gas safety certificates, fire risk assessments and fire detection certificates to be provided in relation to HMOs;</p> <p>Where it is necessary for insurance documents and energy performance certificates to be provided in relation to privately rented properties; and/or</p> <p>Where it is necessary for any person with an interest in a property to provide details about its ownership, management and occupation, etc.</p>
<p><b>Emergency Remedial Action / Emergency Prohibition Order</b></p>	<p>Where there is an imminent risk of serious harm to the health and safety of any occupiers of the premises or any other residential premises</p>
<p><b>Works in Default for failing to comply with a Notice</b> (for more information, see Paragraphs 7.6 - 7.9 below)</p>	<p>Where works are required – in accordance with a Notice – to address a serious hazard, but these are not carried out within the permitted time.</p> <p>In such cases, these works may be carried out by the Council, as works in default, independently to the consideration of any other action, such as civil penalties or prosecution.</p>

<p><b>Injunctive Action</b> (for more information, see Paragraph 7.10 below)</p>	<p>Where the situation is dangerous and/or there is significant public detriment, and the offenders have repeatedly been found guilty of similar offences; and/or Where it is necessary to prevent further offences and/or the harassment of tenants, witnesses or other people.</p>
<p><b>Revocation of HMO Licenses and Approvals</b> (for more information, see Paragraph 7.11 below)</p>	<p>Where the Licence Holder, or the named Property Manager is not a "fit and proper person"; and/or Where there are serious breaches of the licensing conditions and/or serious management offences.</p>
<p><b>Civil Penalties</b> (for more information, see paragraphs 7.12 – 7.19 below)</p>	<p>Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public; Where an individual or company has deliberately, negligently or persistently breached their legal obligations, especially where the economic advantages of breaking the law are substantial and, compared to them, those businesses that comply with the law are disadvantaged; Where an individual or company has deliberately or persistently ignored written warnings or formal notices / orders, or no reasonable progress has been made in relation to the carrying out of the requirements; Where the alternative means of achieving compliance (works in default, for example) are considered inappropriate; Where the defendant has assaulted or obstructed an Officer in the course of their duties or provided false information.</p>
<p><b>Simple Caution</b> (for more information, see Paragraphs 7.20 - 7.22 below)</p>	<p>Where an offence is less serious and the person who has committed the offence has admitted their guilt. In such cases, a Simple Caution may be offered (as an alternative to Court or Civil Penalty action, and on the understanding that the Council's costs will be paid by the offender) where it is likely that they will heed a warning about their behaviour and the legal consequences if they commit further offences.</p>

<p><b>Prosecution</b> (for more information, see Paragraphs 7.23 – 7.26 below)</p>	<p>Where the offence is not covered by applying a Civil Penalty.</p> <p>Where the case also involves offences applied by other agencies i.e. Trading Standards, Northamptonshire Fire and Rescue Service etc. as well as Private Sector Housing Offences and the case is multi agency set of prosecutions heard on the same day.</p> <p>Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public.</p> <p>Where an individual or company has deliberately, negligently or persistently breached their legal obligations, especially where the economic advantages of breaking the law are substantial and, compared to them, those businesses that comply with the law are disadvantaged.</p> <p>Where an individual or company has deliberately or persistently ignored written warnings or formal notices / orders, or no reasonable progress has been made in relation to the carrying out of the requirements;</p> <p>Where a simple caution is considered inappropriate or the defendant has refused to accept a simple caution; and/or</p> <p>Where the defendant has assaulted or obstructed an Officer in the course of their duties or provided false information.</p>
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## **Powers of Entry**

- 7.2 In certain circumstances, Powers of Entry into a property are provided to authorised Officers in accordance with the legislation. In general, the powers will allow an Officer at any reasonable time to:
- Enter a property to carry out an inspection
  - Take any other persons with them (generally to assist the officer during their visit)
  - Take equipment or materials with them (generally to assist the officer during their visit)
  - Take measurements, photographs or make recordings
  - To leave recording equipment on the premises for later collection
  - Take samples of articles or substances found on the premises
  - Sometimes carry out works, or to facilitate works undertaken by contractors working for the Officer, for example, fitting smoke alarms, or arranging specialist inspections and works to electrical installations
- 7.3 In many cases, prior notice will be given to owners and to occupiers. Although the notice will normally be given in writing or by e-mail, it may sometimes be given verbally, depending on the relevant statutory notice. The amount of notice given will depend on the specific requirements of the legislation being enforced. There are circumstances where the Council is not required to provide prior notification of entry, these include but not exclusively the licensing and management of houses in multiple occupation.
- 7.4 Powers of Entry can (and, in some circumstances, will) be enforced with a Warrant, obtained from a Magistrate. Police and/or other regulatory agencies – including but not limited to Planning Enforcement, the Immigration Service, the Fire Service, the Gangmasters & Labour Abuse Authority and Trading Standards – will often accompany Council Officers when they enforce Power of Entry.
- 7.5 It is an offence to obstruct an Officer in the course of their duty. Officers exercising their Power of Entry will carry identification and details of their authorisation to carry out their action.

## **Carrying out Works in Default**

- 7.6 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so, or carry out emergency remedial action where there is imminent risk to occupants.
- 7.7 In most circumstances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.
- 7.8 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued if timely

payment is not made. If interest can be charged while the debt remains unpaid, this will be added to the debt. (For further information, see the Private Sector Housing Fees & Charges Policy).

7.9 The Council is not obliged to carry out the works and reserves the right not to do so in certain circumstances.

### **Revocation of HMO Licences and Approvals**

7.10 The Council may revoke an HMO licence or the approval of an HMO licence in the following circumstances:

- Breach(es) of licence condition(s), or that the structure of the HMO is such that a new or renewal application would not be granted on similar terms as the existing licence.
- Where the licence holder and/or the manager are no longer considered 'fit and proper' person(s).
- By agreement with the license holder because, for example, they have disposed of their interest in the property.
- Where the property licensed ceases to be a HMO

### **Civil Penalties**

7.11 The power given to local authorities to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.

7.12 The Council's use and calculation of civil penalties is described in Sections 10 – 18 of this Housing Enforcement and Civil Penalties Policy.

### **Simple Cautions**

7.13 Where someone has committed an offence or offences and fully accepts responsibility for the offence(s), Officers may offer a Simple Caution where the circumstances suit a Simple Caution rather than a prosecution or civil penalty.

7.14 Simple Cautions will be considered where:

- The defendant has admitted their guilt; and
- The defendant is aged 18 or over; and
- The defendant agrees to be given a Simple Caution; and
- Civil Penalties are not appropriate or cannot be applied

7.15 If the defendant agrees to receive a Simple Caution, the Council will seek to recover the costs of the investigation as part of the Simple Caution process. If they do not agree to receive a Simple Caution, they will be prosecuted.

## **Prosecution**

- 7.16 When deciding whether to prosecute, the Council must take account of the Code for Crown Prosecutors and be satisfied that there is sufficient, admissible and reliable evidence beyond all reasonable doubt that an offence has been committed by an identifiable individual company or representative of that company. It must also be satisfied that there is a realistic prospect of conviction.
- 7.17 The Code also requires that a decision must also be made as to whether a prosecution would be in the public interest. Where there is evidence, Officers will consider prosecution and, as part of their investigation, they will take into account, amongst other things, the following:
- Any reasonable explanation provided by the individual or company.
  - Evidence that the individual or company intends to prevent any recurrence of the problem.
  - An individual's state of health.
  - The offender's attitude to the offence.
  - The interactions between the Council and the offender during the investigation of the offence
- 7.18 Any decision to prosecute will initially be considered at a case conference attended by the Officers and relevant senior officers from Private Sector Housing. If a prosecution is deemed appropriate, then the case will be fully prepared and referred to the Council's legal service for consideration of the evidence with a view to prosecuting.
- 7.19 Prosecutions will be brought without unavoidable delay and generally there is a requirement to lay an Information for summary only offences at the Magistrates' Court within six months of the offence being committed. To ensure fair and consistent decisions in relation to prosecutions, any decision to prosecute will take into account the Code for Crown Prosecutors.

## **8. Management Orders**

### **Interim Management Orders**

- 8.1 If the Council is satisfied that there is no reasonable prospect of a licensable HMO being licensed (with appropriate conditions) in the near future, or if it is necessary to take immediate steps to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity, it must make an Interim Management Order in respect of the HMO. These Orders also enable the Council to take any other appropriate steps to ensure the management of a licensable HMO.
- 8.2 The Council must also make an Interim Order if it has revoked an HMO licence, but that revocation has been appealed or not yet come into force and, if it were in force, there will be no reasonable prospect of the house being licensed in the near future or if it would necessary to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity if it were in force.

- 8.3 Although the Council may delegate the management of the HMO to another agency or partner – and there are provisions to vary, revoke and appeal against an Interim Management Order – an Interim Management Order will be in force for 12 months or until an HMO licence is granted if this happens within 12 months.
- 8.4 An Interim Management Order allows the Council to manage the property with many of the rights of a landlord, including the right to collect rent and to use that rent to pay for work to the property.

### **Special Interim Management Orders (All privately rented dwellings including HMOs)**

- 8.5 Where the Council is satisfied that a significant and persistent problem of anti-social behaviour in an area is attributable, in full or in part, to the anti-social behaviour of an occupier of an HMO or other privately rented dwelling and that the landlord is failing to take appropriate action to combat the problem and the making of a Special Interim Order will lead to its reduction or elimination, it can apply to the First Tier Tribunal for a Special Interim Management Order for that dwelling.
- 8.6 The Council must also be satisfied that a Special Interim Order is necessary for protecting the health and safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house before making an application to the Tribunal.
- 8.7 These Orders operate in the same way as Interim Management Orders (see Paragraphs 7.1 – 7.4).

### **Final Management Orders**

- 8.8 If the Council is satisfied (on the expiry of any Interim Management or Special Management Order) that the HMO still requires a licence but it is still not able to grant the HMO a licence, it must make a Final Management Order in order to secure the proper management of the house on a long term basis in accordance with a management scheme.
- 8.9 A Final Management Order is similar to an Interim Management Order in that there are provisions to vary, revoke and appeal against a Final Management Order, the Council may delegate the Management of the HMO to another agency or partner, and the Council continues to manage the property with many of the rights of the landlord. However, it must review the arrangements from time to time, but Final Orders may last up to 5 years. If the conditions that led to it being made still apply, then the Council may have to make a new Final Order for another maximum period of 5 years.

## **9. Rent Repayment Orders**

- 9.1 A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent.
- 9.2 The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically the offences in relation to licensing of HMOs.
- 9.3 The Housing and Planning Act 2016 extended rent repayment orders to cover a much wider range of offences, described below:

- Failure to comply with an Improvement Notice (under section 30 of the Housing Act 2004)
- Failure to comply with a Prohibition Order (under section 32 of the Housing Act 2004)
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property (under section 6 of the Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (under section 1 of the Protection from Eviction Act 1977)

9.4 Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis

9.5 A rent repayment order can be made against a landlord who has received a civil penalty in respect of an offence, but only at a time when there is no prospect of the landlord appealing against that penalty.

9.6 The Council will consider a rent repayment order after a person is the subject of a successful civil penalty and in most cases the Council will subsequently make an application for a rent repayment order to recover monies paid through Housing Benefit or through the housing element of Universal Credit.

9.7 The Council will also offer advice, guidance and support to assist tenants to apply for a rent repayment order if the tenant has paid the rent themselves.

## **PRIVATE SECTOR HOUSING CIVIL PENALTIES**

### **10. The Government's Intentions and Expectations**

10.1 The Government has said that it wants to support good landlords who provide decent, well-maintained homes, and avoid unnecessary regulation which increases costs for landlords and pushes up rents for tenants.

10.2 However, it has also pledged to crack down on criminal and irresponsible landlords who flout the law and knowingly rent out unsafe and substandard accommodation.

10.3 The Housing and Planning Act 2016 introduced a number of measures to help local authorities deal more robustly with criminal, rogue and irresponsible landlords:

- **Civil penalties of up to £30,000** as an alternative to prosecution for certain specified offences;



- **Extension of rent repayment orders** to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other specified offences;
- **Database of rogue landlords and property agents** who have been convicted of certain offences or received multiple civil penalties;
- **Banning orders** for the most serious and prolific offenders.

10.4 When introducing civil penalties through the Housing and Planning Act 2016, Government Ministers made it very clear that they expect local housing authorities to use their new powers robustly as a way of clamping down on rogue landlords.

10.5 In the House of Commons, Marcus Jones MP (Parliamentary Under Secretary of State at the DCLG) explained why the maximum penalty is £30,000:

**“ [it is necessary to] clamp down on rogue landlords, so the civil penalty [has been increased] up to a maximum of £30,000”.**

**“ It is important [to] raise the level of civil penalty to £30,000, because a smaller fine may not be significant enough for landlords who flout the law to think seriously about their behaviour and provide good quality, private sector rented accommodation for their tenants”.**

10.6 Although the Government states (in its guidance) that, generally, it would expect the maximum civil penalty of £30,000 to be “reserved for the very worst offenders”, it recommends that the actual amount imposed in any case should reflect the severity of the offence and take into account the landlord’s previous record of offending.

10.7 The Government recommends that, in order to ensure that the civil penalty is set at an appropriate level, local housing authorities should consider the following factors:

**1** The severity of the offence

The more serious the offence, the higher the civil penalty should be.

**2** The culpability and track record of the offender

A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

**3** The harm caused to the tenant

This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when the local housing authority imposes a civil penalty.

#### ④ The punishment of the offender

A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.

#### ⑤ Whether it will deter the offender from repeating the offence

The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

#### ⑥ Whether it will deter others from committing the offence

While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

#### ⑦ Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence

The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

- 10.8 The Government's practice of empowering local authorities to impose financial penalties on offenders is reflected in other legislation and regulations as detailed in Section 11
- 10.9 This Private Sector Housing Enforcement and Civil Penalties Policy describes West Northamptonshire Council's approach to the imposition of financial penalties in respect of all regulatory matters relating to private sector housing.

## **11. Offences Covered by Civil Penalties**

### **Housing Act 2004**

- 11.1 The power given to local authorities to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.
- 11.2 Civil penalties are intended to be used against landlords who are in breach of one or more of the sections of the Housing Act 2004 listed below ("relevant offences" for the purposes of the Housing Act 2004):

- **Section 30** Failure to comply with an Improvement Notice
- **Section 72** Offences in relation to licensing of Houses in Multiple Occupation
- **Section 95** Offences in relation to licensing of houses under Part 3 of the Act
- **Section 139** Offences of contravention of an overcrowding notice
- **Section 234** Failure to comply with management regulations in respect of Houses in Multiple Occupation

### **The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014**

- 11.3 Civil penalties are intended to be used against landlords who are required to belong to a Redress Scheme and are in breach of Article 3 and/or Article 5 of the above Order:
- **Article 3** Failure of the requirement to be a member of a Redress Scheme if undertaking lettings agency work.
  - **Article 5** Failure of the requirement to be a member of a Redress Scheme if undertaking property management work.
- 11.4 Failure to comply with the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 could result in the Council imposing a civil penalty of up to £5,000 for each offence.
- 11.5 In 2015, the Department for Communities and Local Government, published 'Improving the Private Rented Sector and Tackling Bad Practice'. In this they stated that with regards to the penalty for breach of a requirement to belong to a redress scheme 'the expectation is that a £5,000 fine should be considered the none and that a lower fine should only be charged if the enforcing authority is satisfied that there are extenuating circumstances.'

### **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (as amended)**

- 11.6 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces the following requirements that all landlords must on and after 1<sup>st</sup> October 2015. The legislation was amended in 2022
- Provide and install a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation (this includes bathrooms and lavatories)
  - Provide and install a carbon monoxide alarm in any room which is used wholly or partly as living accommodation and contains a fixed combustion appliance (excluding gas cookers)
  - After 1<sup>st</sup> October 2022, where a report is made by a tenant or their nominated representative to the landlord that a prescribed alarm is now working, then the alarm is repaired or replaced as soon as is reasonably practicable

- 11.7 Civil penalties are intended to be used against landlords who fail to comply with a remedial notice requiring them to install appropriate smoke and/or carbon monoxide detection under the 2015 Regulations.
- 11.8 Failure to comply with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 will result in the Council imposing a financial penalty (or more than one penalty if there is a continuing failure) and, if necessary, the Council will undertake the installation of appropriate smoke and/or carbon monoxide detection as 'works in default'.
- 11.9 Although it is for the Council to determine the size of the financial penalty imposed, the penalty must not exceed £5,000. The size of the financial penalty will be calculated having regards to the table in Appendix 3.
- 11.10 The Regulations require the Council to issue a statement of principles regarding the determination of the financial penalty value. For the avoidance of doubt, this Private Sector Housing Civil Penalties Policy is the Council's statement of principles.

### **The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015**

- 11.11 Civil penalties are intended to be used against landlord who let or continue to let properties covered by the Regulations if they have an Energy Performance Certificate (EPC) EPC rating below E, without a valid exemption being in place.
- **Regulation 23** Renting a domestic property that fails to meet the minimum energy efficiency standard, and the breach at the time of the penalty notice being served is less than three months. The penalty must not exceed £2,000, in addition to any publication penalty.
  - **Regulation 23** Renting a domestic property that fails to meet the minimum energy efficiency standard, and the breach at the time of the penalty notice being served is more than three months. The penalty must not exceed £4,000, in addition to any publication penalty.
  - **Regulation 36** The registration of false or misleading information regarding the energy efficiency standard for a domestic property. The penalty must not exceed £1,000, in addition to any publication penalty.
  - **Regulation 37** The failure to comply with the requirements of a compliance notice served on a domestic property. The penalty must not exceed £2,000, in addition to any publication penalty

Notwithstanding at any financial penalties imposed on a landlord, relating to a single offence, under Regulation 23 and Regulation 36 or 37 must not exceed a cumulative value of £5,000

- 11.12 The size of the financial penalty will be calculated having regards to the table in Appendix 4.

## **Tenant Fees Act 2019**

11.13 Civil penalties are intended to be used against landlords who are in breach of Section 8 and/or Section 12 of the Tenants Fees Act 2019:

- **Section 8** Failure to comply with Section 1 (prohibitions of landlords), Section 2 (prohibitions of letting agents) or Schedule 2 (the holding of deposits). The penalty must not exceed £5,000.
- **Section 12** A further breach of Section 1 (prohibitions of landlords), Section 2 (prohibitions of letting agents) or Schedule 2 (the holding of deposits) within five years. The penalty may exceed £5,000 but must not exceed £30,000.

## **The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019**

11.14 Civil penalties are intended to be used against landlords who are in breach of the requirement to belong to a Client Money Protection Scheme and/or ensure that information about the scheme is available to tenants and at properties:

- **Regulation 6** Failure of a property agent to belong to a Client Money Protection Scheme (regulation 3). The penalty must not exceed £30,000.
- **Regulation 7** Failure of a property agent to comply with requirements to ensure information regarding client money protection is available at private rented properties and made available to tenants (regulation 4). The penalty must not exceed £5,000.

## **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020**

11.15 Civil penalties are intended to be used against landlords who fail to undertake the necessary inspections and repairs in relation to the electrical system in private rented accommodation.

11.16 Although it is for the Council to determine the size of the financial penalty imposed, the penalty must not exceed £30,000. More than one penalty can be imposed in the event of a continuing failure. Any financial penalty is in addition to the costs that the Council is entitled to recover in relation to the remedial action it has carried out.

## **12. The Council's Use of Civil Penalties**

12.1 West Northamptonshire Council will continue to take robust action against those landlords that flout the law, and it will ensure that its use of civil penalties is consistent, appropriate, proportionate and fair.

12.2 Civil penalties can only be used as an alternative to prosecution. This means that, if a civil penalty has already been imposed, the offender cannot be prosecuted for the same offence. Likewise, a person who has been (or is being) prosecuted for a particular offence cannot be

issued with a civil penalty for the same offence.

- 12.3 Where the Council is in a position to prosecute a letting / managing agent and/or landlord for a relevant housing offence, it has the option of imposing a civil penalty on them as an alternative to prosecution.
- 12.4 Where a letting / managing agent and landlord have committed the same offence, the Council can impose a civil penalty on both of them, as an alternative to prosecution. The level of the civil penalty imposed on each offender may differ, depending on the circumstances of the case.

### **13. Consideration of a Civil Penalty**

- 13.1 The criminal standard of proof is required to be met in order to justify either the imposition of a civil penalty or a prosecution in the Magistrates' Court for a relevant housing offence (see paragraph 11.2).
- 13.2 This means that, before taking formal action, the Council needs to satisfy itself beyond reasonable doubt that, if the case were to be prosecuted in the Magistrates' Court, a person's conduct amounted to a relevant housing offence for the purposes of the Housing Act 2004 or legislation identified in sections 11.3 – 11.10 of this Private Sector Housing Enforcement and Civil Penalties Policy.
- 13.3 To achieve a conviction in the Magistrates' Court, the Council must be able to prove beyond reasonable doubt that a relevant housing offence has been committed by the accused. The same principle applies in respect of civil penalties issued in accordance with section 249A and Schedule 13A of the Housing Act 2004 so, where a civil penalty is imposed and an appeal is subsequently made to the First-Tier Tribunal Property Chamber, the Council will need to be able to prove to the Tribunal that the relevant housing offence has been committed beyond a reasonable doubt.
- 13.4 Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean that civil penalties may not be issued in cases where serious offences may have been committed and the Council believes that the most disruptive sanction to impose on a criminal, rogue or irresponsible landlord is a financial penalty (or penalties if there have been several breaches) rather than prosecution.
- 13.5 Any decision to impose a civil penalty will be fully considered at a case conference attended by the relevant Officers and either the Housing Enforcement Manager or the Private Sector Housing Manager. Legal advice regarding the sufficiency of the evidence against an individual will also be sought from the Council's in-house legal service prior to a decision being made whether to issue a penalty. If a civil penalty is deemed appropriate, the Council will adhere fully to the process as set out in section 249A and Schedule 13 of the Housing Act 2004.
- 13.6 Generally, the maximum civil penalties will be reserved for the very worst offenders. The actual amount levied in any particular case will reflect the severity of the offence and take account of any previous relevant housing offences committed by the landlord or letting / managing agent.

- 13.7 In order to ensure that the civil penalty is set at an appropriate level, the Council will consider the following factors (described in more detail in Paragraph 10.7 above) that the Government has identified, in its statutory guidance, as being pertinent:
- ① The severity of the offence
  - ② The culpability and track record of the offender
  - ③ The harm caused to the tenant
  - ④ The punishment of the offender
  - ⑤ Whether it will deter the offender from repeating the offence
  - ⑥ Whether it will deter others from committing the offence
  - ⑦ Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence
- 13.8 The final factor is an overarching one and, after all the other factors have been considered and applied, the Council will need to ensure that the civil penalty that is set removes the financial benefit that has been gained from committing the offence and risking the safety of tenants.
- 13.9 The guiding principle will be to ensure that the offender does not benefit as a result of committing an offence: it should not be cheaper to offend than to ensure that a property is well maintained and properly managed.
- 13.10 In deciding the level of civil penalty that will be applied, the Council will use its 9-stage Civil Penalty Scoring Matrix which will take into account any reasonable adjustments for aggravating or mitigating factors.
- 13.11 Income received from civil penalties will be retained by the Council to support its statutory enforcement activities, and its efforts to raise standards, in West Northamptonshire's private rented sector.

## 14. West Northamptonshire's 9-Stage Process

- 14.1 After having regard to the Government's guidance on the methodology to use in setting the level of civil penalty, West Northamptonshire Council has devised its own 9-stage process for determining the level of civil penalty to impose.
- 14.2 The first seven stages in the Council's 9-stage process are included in a '**Civil Penalty Scoring Matrix**' (see Pages 34 - 37) and the last two stages relate to the handling of multiple offences and the checks that will be carried out before the 'Notice of Intent' is issued:

## STAGE ONE – Culpability of the offender

When assessing the culpability of the offender, the Council will consider a range of matters, including (but not limited to) whether or not the evidence shows that the offence was committed deliberately, how long the offence continued, whether or not the offence was repeated and whether or not the offence was premeditated.

The Council will also take into account the fact that letting accommodation is a business activity that is designed to make a profit and it should therefore be treated like any other business. Ignorance of the law is not an excuse for non-compliance with statutory requirements and duties.

Letting / managing agents and landlords with large property portfolios – together with those who are accredited and/or are members of professional associations – will be expected to have more knowledge and experience, so will be considered to be more culpable. For this part of the 'Scoring Matrix', the Council will apply a double weighting for Stage One where the offence is committed by a letting agent, a managing agent or a portfolio landlord who has a portfolio of more than five properties.

As a successful prosecution of an offender who breaches a Banning Order can result in the most severe punishment, the offender's score for Stage One will also be increased by 10 if the offender has breached a Banning Order.

## STAGE TWO – Seriousness of the offence and the level of harm caused

When assessing the seriousness of the offence and the level of harm it has caused, the Council will consider the following:

- The number of people affected;
- The nature and extent of the actual or potential impact on the victim(s) and whether or not it is serious, long-term, life-changing or potentially fatal;
- The vulnerability of the victim(s): children, vulnerable adults and people with protected characteristics under the Equalities Act 2010);
- The actual or potential harm to the surrounding area or community; and
- The level of punishment that can be imposed under the law. All of the offences carry a potentially unlimited (maximum) fine and breaching a Banning Order may result in a prison sentence of up to 51 weeks.

As the Council considers this aspect of the assessment to be particularly significant, it has doubled the weighting for Stage Two in order to reflect its seriousness.



### STAGE THREE – Punishment of the offender

When considering the punishment that should be imposed on the offender, the Council will take the following into account:

- Any attempts that have been made to cover up evidence of the offence, mislead Officers or harass occupants and witnesses.
- The landlord and/or letting / managing agent's refusal to accept and/or act on the advice and recommendations of the Council or another enforcement agency in relation to their responsibilities as a landlord / agent; and
- The relationship between the offence and other crime (such as illegal eviction, harassment, environmental crimes, modern slavery, prostitution and the production and distribution of illegal drugs).

### STAGE FOUR – Removal of any financial benefit gained from committing the offence(s)

When assessing the financial benefit that the landlord and/or letting / managing agent has gained from committing the offence(s), the Council will take into account any financial benefit arising from the commission of the offence(s).

Subject to the maximum level of £30,000 per offence and providing there is evidence of such financial benefit, the Council will consider whether it would be appropriate to impose a level of civil penalty which would be greater than the financial benefit gained from committing the offence.

As the Council considers this aspect of the assessment to be particularly significant, it has doubled the weighting for Stage Four in order to reflect its significance.

### STAGE FIVE - Deterring the offender from repeating the offence and others from committing similar offences

When determining the level of the civil penalty, the Council will give consideration to whether or not the level of civil penalty that is imposed will act as a deterrent to the offender and others.

Where this is unlikely, the Council will consider whether it would be more appropriate to prosecute the offender instead.

### STAGE SIX – Assessment of assets and income

When determining the level of the civil penalty, the Council will take into account any

representations made by the offender regarding their income, assets and ability to pay, adjusting the level of the penalty accordingly where appropriate.

However, where such representations are made, the penalty will not automatically be revised downwards simply because an offender has (or claims to have) a low income. The value of an offender's assets (including their full rental portfolio) and income will be considered when determining an appropriate level of civil penalty.

A landlord who has a large property portfolio and a low income, for example, may initially be assessed as being able to afford to pay only a low level civil penalty. However, after taking into account the value of their assets, their civil penalty may be adjusted upwards.

### STAGE SEVEN – Mitigation

When determining the level of the civil penalty, the Council will consider any mitigating factors during the assessment process. Examples may include the following:

- The offender acts voluntarily to remedy the problem
- The offender co-operates fully with the investigation
- The offenders had a good track record of maintaining property and complying with legislation and statutory standards prior to the offence(s)
- The offender self-reports (for failing to license their HMO, for example), co-operates with the Council and accepts responsibility for the offence
- The offender has a mental disorder or learning disability, and this is linked to the offence that has been committed
- The offender has a serious medical condition(s) that requires urgent, intensive or long-term treatment and this is linked to the offence that has been committed.
- The offender is young and lacks maturity
- Any other mitigating factors that the offender wants the Council to take into account when determining the level of civil penalty.

The offender will also have the opportunity to inform the Council (during the 'Notice of Intent' stage) of any other mitigating factors they believe are relevant. The Council expects all requests for mitigation to be accompanied by supporting evidence.

### STAGE EIGHT – Totality principle

When determining the level of the civil penalty, the Council will apply the principle of totality if there is a possibility that more than one civil penalty will be imposed.

Where there are multiple offences resulting from the same incident or conduct, the Council

will assess each offence, using the 'Scoring Matrix'. After aggregating the penalties, the Council may decide that it is appropriate in the circumstances to issue one civil penalty that reflects the most serious of the offences relating to the incident or conduct. Where the aggregate total exceeds the maximum civil penalty that can be imposed, the Council may find it appropriate to consider prosecution rather than issue a civil penalty.

Where there are multiple offences resulting from separate incidents or conduct, the Council will assess each offence individually, using the 'Scoring Matrix', and apply separate civil penalties where it is proportionate to do so.

#### STAGE NINE – Review and check

Before a 'Notice of Intent' is issued, the process and level of civil penalty will be reviewed and checked with the Council's in-house Legal Services team and the Housing Enforcement Manager.

The purpose of this review is to ensure that the process has been applied correctly and the level of civil penalty is reasonable and proportionate.

## Relationship between 'Scoring Matrix' and the level of Civil Penalty

- 14.3 Each offence will be assessed and the totality principle will then be applied.
- 14.4 An assessment will be carried out before the Notice of Intent is issued, and a reassessment will then be carried out following receipt of any representations.
- 14.5 The starting point for determining the civil penalty will be the scores from the Civil Penalty Scoring Matrix (see Appendix 1):

<b>Score range</b>	<b>Size of the civil penalty (where the penalty must not exceed £5,000)</b>	<b>Size of the civil penalty (where the penalty must not exceed £30,000)</b>
0 – 10	£40	£250
11 – 20	£80	£500
21 – 40	£125	£750
41 – 60	£160	£1,000
61 – 80	£400	£2,500
81 – 100	£800	£5,000
101 – 120	£1,600	£10,000
121 – 140	£2,500	£15,000
141 – 160	£3,300	£20,000
161 – 180	£4,100	£25,000
181 – 200	£5,000	£30,000

## 15. Financial Means to Pay a Civil Penalty

- 15.1 In setting a civil penalty, the Council should assume that the offender is able to pay any financial penalty imposed, unless the offender has supplied suitable and sufficient financial information to the contrary.
- 15.2 It is for the offender to disclose to the Council such data relevant to their financial position as will enable the Council to assess what s/he can reasonably afford to pay.
- 15.3 Where the Council is not satisfied that it has been given sufficient reliable information, it will be entitled to draw reasonable inferences as to the offender's financial means from the evidence it holds and from all of the circumstances of the case which may infer that the offender can afford to pay any financial penalty.
- 15.4 As many offenders may own one or more properties in West Northamptonshire, it is likely that they could have assets that they can sell or borrow against. After taking into account any mortgages on such properties, the Council may find it appropriate in the circumstances of the case to determine the amount of equity that could potentially be released from the property if it were to be sold on the open market. If an offender to whom this applies claims that they are unable to pay a financial penalty and demonstrates that they have only a low income, consideration will be given to the likely amount of equity that could be released, if any of the properties were to be sold or refinanced, when deciding upon an appropriate level of civil penalty.

## **16. Other Consequences of Imposing a Civil Penalty**

- 16.1 Where a civil penalty has been imposed on a landlord or agent, this will form part of the Council's consideration when it reviews the HMO licence applications relating to properties in which that person has had some involvement.
- 16.2 Although the imposition of a civil penalty will not automatically preclude the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered when deciding whether or not to grant an HMO licence.
- 16.3 Where a landlord has two civil penalties imposed on them within a period of 12 months and each relates to a Banning Order offence for the purposes of the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018, the Council will register the landlord's details on the nationwide Database of Rogue Landlords and Property Agents.

## **17. Collection of Unpaid Civil Penalties**

- 17.1 It is the policy of West Northamptonshire Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the County Court.
- 17.2 Some of the Orders available to the Council through the County Court are as follows:
- A Warrant of Control for amounts up to £5,000;
  - A Third-Party Debt Order;
  - A Charging Order, and;
  - Bankruptcy or insolvency.
- 17.3 Where a Charging Order has been made, and the amount of the Order is more than £1,000, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the landlord and not just the property to which the offence relates.
- 17.4 Where the civil penalty is appealed and the First Tier Tribunal confirms or varies the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines when it is accepted by the County Court. Inclusion on the Register may make it more difficult for the Landlord to obtain financial credit.

## **PRIVATE SECTOR HOUSING FEES AND CHARGES**

### **18. Purpose of Private Sector Housing Fees & Charges**

- 18.1 The law allows Councils to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing.

- 18.2 Although the Council values the very important role that the private rented sector plays in meeting the high demand for housing in West Northamptonshire, it also recognises the need to take robust action against those landlords whose selfish, anti-social and unlawful behaviour is putting tenants' health and wellbeing at risk, spoiling local neighbourhoods and placing an additional financial burden on public services.
- 18.3 The fees and charges reflect the current cost of enforcement actions and processes, and it sets out an approach that is designed to ensure transparency, consistency and fairness in how fees and charges are applied.
- 18.4 The details of the fees and charges are outlined in the West Northamptonshire Council Fees and Charges Scheme (<https://www.westnorthants.gov.uk/budget-and-charges/fees-and-charges>)

## **19. Principles underpinning the Charges**

- 19.1 West Northamptonshire's Private Sector Housing Fees & Charges are based on the following principles:
- The Council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners, landlords and occupiers;
  - All fees and charges will be calculated on the basis of what it costs the Council to license HMOs, take enforcement action, carry out works in default and provide advice and written reports;
  - All licensable HMOs will be subject to the same fees and charges arrangements, irrespective of whether they are affected by the Mandatory HMO Licensing regime or the Additional HMO Licensing regime;
  - Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, when they are eventually issued with an HMO licence, the Council is likely to issue them with a shorter licence that lasts less than the standard term;
  - Persons responsible for housing enforcement activities (including the owners of long-term and problematic empty properties) who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement in line with this Policy;
  - Where it is necessary for the Council to carry out works in default, the Council will seek to recover all of its costs (including the cost of the works) from the person responsible at the earliest opportunity.

## **20. Calculating the Fees & Charges**

- 20.1 The Council will carry out an annual review of its fees and charges for Private Sector Housing to ensure they reflect the true cost of the work. Any changes will come into effect in the subsequent municipal year.
- 20.2 The revised fees and charges reflect the true cost of the work involved and have been calculated by determining all costs involved the licencing or enforcement activities.

- 20.3 The costs associated with maintaining the mandatory and additional House in Multiple Occupation licensing schemes, together with the ongoing staff costs in relation to administration and enforcement and the projected inflation over the 5-year licensing period have also been included in the calculations.

## **21. Licensing of Houses in Multiple Occupation**

- 21.1 Although a large proportion of licensable Mandatory and Additional HMOs are licensed, the Council is continually uncovering Mandatory and Additional HMOs that are being operated, unlawfully, without an HMO licence.
- 21.2 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 21.3 If a licensable HMO does not have a licence, any Section 21 Notice (a notice seeking possession) that the landlord serves on the tenants is likely to be invalid. Identifying and targeting licensable HMOs that are operating without a licence, therefore, will not only help the Council to tackle criminal and irresponsible landlords, but it also aims prevent homelessness.
- 21.4 Although enforcement action has an important role to play in ensuring that HMOs are properly managed and meet the required standards – and the Council is firmly committed to ensuring that the cost of such action is borne by the offenders
- 21.5 All licensable HMOs (Mandatory and Additional) will be subject to the same fees and charges arrangements, and penalties;
- 21.6 Owners and landlords who fail to submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner when they are issued with an HMO licence, they may be issued with a shorter licence lasting less than 5 years.

### **Cost of the initial HMO Licence**

- 21.7 The cost of the initial licence fee will depend on the number of people that the HMO can accommodate and when the licence application is received by the Council.
- 21.8 A bigger licence fee will be charged if the HMO is able to accommodate more than 5 persons,.
- 21.9 A HMO licence fee comprises a first payment for the processing of the licence application and a second payment of for the administration and enforcement of the licensing scheme
- 21.10 If the HMO can accommodate more than 5 persons, the size of the second payment (for the administration and enforcement of the licensing scheme) will be increased for each additional person (above 5 persons) that the HMO can accommodate. This reflects the increased time necessary for the effective inspection, administration and enforcement relating to these larger properties.

## **Length of the initial HMO Licence**

21.11 The length of the initial licence will depend on when the completed licence application (including the licence fee) is received by the Council.

21.12 A licence of up to 5 years – which, in the case of an Additional HMO licence, shall expire no later than the end of the Additional Licensing Scheme approval – will be issued if the completed licence application is received:

- within 13 weeks of the HMO becoming licensable; or
- within 13 weeks of the owner completing the purchase of an existing, licensable HMO

21.13 If a licence application is submitted more than 13 weeks after becoming licensable and the Housing Enforcement Team is not satisfied that the delay is justified, a housing enforcement report will be produced and the Council will consider its various options, including prosecution and the imposition of a civil penalty.

## **Cost of renewing an HMO Licence**

21.14 The cost of renewing an HMO licence will depend on the number of people that the HMO can accommodate and when the licence application is submitted.

21.15 HMO licence renewal fees comprises a first payment for the processing of the licence application and a second payment of for the administration and enforcement of the licensing scheme.

21.16 If the HMO can accommodate more than 5 persons, the size of the second payment (for the administration and enforcement of the licensing scheme) will be increased for each additional person (above 5 persons) that the HMO can accommodate. This reflects the increased time necessary for the effective inspection, administration and enforcement relating to these larger properties.

## **Licence Fee Refunds**

21.17 You will only be entitled to a refund if:

- Your property does not need a licence at the time of application, for example it falls under one of the exemptions, and an inspection of the property as part of the application process has not been completed, or
- You make a duplicate application

21.18 You're not entitled to a refund if:

- Your property needs to be licensed at the time of application, or



- You subsequently sell the property, both whilst the application is being processed or during the licence term

### **Additional charges**

- 21.19 In order to improve efficiency and keep its HMO fees and charges as low as possible, the Council require all HMO licence applications (including licence renewals) and payments to be made online.
- 21.20 Where it is necessary for an Officer to sit with the applicant to complete their licence application online or where, at its discretion the Council accepts a paper application the Council will normally charge an additional processing fee as detailed in the West Northamptonshire Council Fees and Charges scheme (<https://www.westnorthants.gov.uk/budget-and-charges/fees-and-charges>).
- 21.21 A charge of will normally be made if the landlord / owner / applicant fails to attend an arranged inspection or cancels it with less than 24 hours' notice.

## **22. Housing Enforcement**

### **Formal Enforcement Notices**

- 22.1 The Council's Private Sector Housing Team will respond to complaints from tenants and other residents about private housing and it will prioritise the complaints on the basis of an assessment of the risk and seriousness.
- 22.2 The Housing, Health and Safety Rating System (HHSRS), set out in Part 1 of the Housing Act 2004, is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s) of the property or neighbouring properties.
- 22.3 Where enforcement action is necessary, the Council will use a variety of regulatory powers and will normally charge offenders for the cost of preparing and serving Statutory Notices. The amount charged reflects the true cost of the work and takes into account the average number of hours taken to complete the task, the hourly rate of the Officers involved and the service on-costs.
- 22.4 In exceptional circumstances, the Council may exercise its discretion and decide not to charge for the cost of enforcement. Such decisions will be made by the Council's Assistant Director Housing & Communities or their authorised nominee and will be based on the individual circumstances and merits of each case.

### **Carrying out Works in Default**

- 22.5 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so.
- 22.6 In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.

- 22.7 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.
- 22.8 In order to encourage owners and landlords to undertake the work themselves, the Council's charges for arranging works in default reflect the true cost of organising and paying for the work.
- 22.9 The Council is not obliged to carry out the works and reserves the right not to do so where the cost of the works is likely to be high or there may be difficulties recovering the costs. Works may be considered to remove serious hazards only.

## **23. Discretionary Services**

- 23.1 Where the Council is asked to provide a discretionary service in relation to private sector housing – such as an Immigration Compliance Visit & Report – it will make a reasonable charge that reflects the true cost of the work.
- 23.2 Although the Council will continue to provide owners and landlords with advice and guidance, this will be provided mainly through the Council's website.

## **24. Debt Recovery**

- 24.1 Where a charge is made for enforcement action, the debt will be registered as a local land charge against the property. This means that, when the property is sold, the whole debt (including the interest that has accrued) will have to be repaid.
- 24.2 The Council will not, as a matter of course, allow a land charge to sit against a property until it is sold. It will vigorously pursue all debts that are owed to it in relation to its enforcement activity, works in default and other charges.
- 24.3 In order to recover outstanding debts, the Council may:
- Use databases and tracing agencies to track down debtors with a view to securing money judgments against them and appointing court bailiffs to recover the debt.
  - Demand that rents are paid to the Council, rather than the landlord, where the law allows, and it is appropriate to do so
  - Use the enforced sale procedure under the Law of Property Act 1925, where appropriate, to force the sale of the property in order to recover the money that is owed.

## **25. Guidance**

- 25.1 A wide range of guidance on licensing and enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant guidance when formulating its policies and procedures.

**APPENDIX 1 - CIVIL PENALTY SCORING MATRIX**

**STAGE ONE – CULPABILITY OF THE OFFENDER**  
 (Double the score if the offender is a letting agent, managing agent or a portfolio landlord with more than 5 properties. Add 10 if the offender has breached a Banning Order)

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
<ul style="list-style-type: none"> <li>• Short term offence.</li> <li>• And/Or, no premeditation.</li> <li>• And/Or, no previous history.</li> </ul>	<ul style="list-style-type: none"> <li>• The offence has been ongoing for a short time.</li> <li>• And/Or, minor prior infractions.</li> <li>• And/Or, multiple offences identified (between 2-5) which may include a repeat of the current offence</li> </ul>	<ul style="list-style-type: none"> <li>• The offence has been ongoing for a moderate period of time.</li> <li>• And/Or no premeditation</li> <li>• And/Or, there are multiple offences identified (between 6-10).</li> <li>• And/Or, a case history of non-cooperation</li> <li>• And/Or relevant prior offending which may include a repeat of the current offence</li> </ul>	<ul style="list-style-type: none"> <li>• The offence has been ongoing for a significant period of time</li> <li>• And/Or some premeditation,</li> <li>• And/Or, there are multiple offences identified (between 11-20).</li> <li>• And/Or, a case history of non-cooperation</li> <li>• And/Or relevant prior offending including a repeat of this offence.</li> </ul>	<ul style="list-style-type: none"> <li>• The offence has been ongoing for a significant period of time</li> <li>• And/Or premeditation,</li> <li>• And/Or, there are multiple offences (21+).</li> <li>• And/Or, a case history of non-cooperation</li> <li>• And/Or relevant prior offending including a repeat of this offence.</li> </ul>	
Breach of Banning Order?					
TOTAL					

**STAGE TWO – SERIOUSNESS OF THE OFFENCE AND THE LEVEL OF HARM CAUSED**

Not applicable (Score = 0)	Minor (Score = 10)	Moderate (Score = 20)	Serious (Score = 30)	Severe (Score = 40)	TOTAL
<ul style="list-style-type: none"> <li>• Very little or no harm caused.</li> <li>• And/Or One victim household.</li> <li>• And/Or No vulnerable occupants.</li> </ul>	<ul style="list-style-type: none"> <li>• Low-level health risk(s) / harm(s) identified.</li> <li>• And/Or One victim household.</li> <li>• And/Or No vulnerable occupants.</li> </ul>	<ul style="list-style-type: none"> <li>• Moderate-level health risk(s) / harms(s) identified.</li> <li>• And/Or Two to four victim households.</li> <li>• And/Or Vulnerable occupants potentially exposed.</li> </ul>	<ul style="list-style-type: none"> <li>• Severe level health risk(s) / harm(s) identified.</li> <li>• And/Or Two to four victim households.</li> </ul>	<ul style="list-style-type: none"> <li>• Severe level – health risk(s) identified.</li> <li>• And/Or Five or more victim households.</li> </ul>	

**STAGE THREE – PUNISHMENT OF THE OFFENDER**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
<ul style="list-style-type: none"> <li>• No other crime,</li> <li>• And/Or no attempt to pervert the course of justice,</li> <li>• And/Or a willingness to adhere to advice.</li> </ul>	<ul style="list-style-type: none"> <li>• Minor previous breaches,</li> <li>• And/Or no attempt to pervert the course of justice,</li> <li>• And/Or a willingness to adhere to advice.</li> </ul>	<ul style="list-style-type: none"> <li>• Minor previous breaches.</li> <li>• And/Or Offender made attempt(s) to pervert the course of justice</li> <li>• And/Or unwilling to cooperate.</li> </ul>	<ul style="list-style-type: none"> <li>• Significant other crime.</li> <li>• And/Or Offender made attempts to pervert the course of justice</li> <li>• And/Or hostile to cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• Severe harm resulting from other crime.</li> <li>• And/Or Offender made attempts to pervert the course of justice,</li> <li>• And/Or is hostile to Council and others.</li> </ul>	

**STAGE FOUR – REMOVAL OF ANY FINANCIAL BENEFIT GAINED FROM COMMITTING THE OFFENCE(S)**

Not applicable (Score = 0)	Minor (Score = 10)	Moderate (Score = 20)	Serious (Score = 30)	Severe (Score = 40)	TOTAL
<ul style="list-style-type: none"> <li>Negligible financial impact.</li> </ul>	<ul style="list-style-type: none"> <li>Low to moderate financial impact.</li> </ul>	<ul style="list-style-type: none"> <li>Medium level financial impact.</li> </ul>	<ul style="list-style-type: none"> <li>Large financial impact.</li> </ul>	<ul style="list-style-type: none"> <li>Maximum financial impact available.</li> </ul>	

**STAGE FIVE – DETERRING THE OFFENDER FROM REPEATING THE OFFENCE AND OTHERS FROM COMMITTING SIMILAR OFFENCES**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
<ul style="list-style-type: none"> <li>• Little or no deterrence likely.</li> <li>• And/Or unlikely Repeat offending</li> </ul>	<ul style="list-style-type: none"> <li>• Low level offence,</li> <li>• And/Or unlikely to be reported on.</li> <li>• And/Or Mild deterrence.</li> </ul>	<ul style="list-style-type: none"> <li>• Some publicity may result.</li> <li>• And/Or Will act as a deterrent from repeating offence(s).</li> </ul>	<ul style="list-style-type: none"> <li>• Publicity will be sought.</li> <li>• And/Or Large deterrence to offender and landlord community.</li> </ul>	<ul style="list-style-type: none"> <li>• Publicity inevitable via numerous methods.</li> <li>• And/Or Massive deterrence to re-offending and to wider landlord community.</li> </ul>	

**STAGE SIX – ASSESSMENT OF ASSETS AND INCOME**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
<ul style="list-style-type: none"> <li>• No demonstrable or significant assets.</li> <li>• Does not apply to agents.</li> </ul>	<ul style="list-style-type: none"> <li>• Low asset value (single property landlord, for example).</li> <li>• Does not apply to agents.</li> </ul>	<ul style="list-style-type: none"> <li>• Small portfolio / agent (5 properties or less)</li> <li>• And/Or moderate assets / income.</li> </ul>	<ul style="list-style-type: none"> <li>• Small / medium portfolio landlord / agent (5-10 properties)</li> <li>• And/Or with other assets / income.</li> </ul>	<ul style="list-style-type: none"> <li>• Large portfolio landlord / agent (10+ properties).</li> <li>• And/Or Wider assets / income considered.</li> </ul>	



**STAGE SEVEN – MITIGATION**  
 (This score will be subtracted from the overall matrix score)

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
<ul style="list-style-type: none"> <li>• None.</li> </ul>	<ul style="list-style-type: none"> <li>• Minor mitigating factors.</li> </ul>	<ul style="list-style-type: none"> <li>• One major mitigating factor or multiple minor mitigating factors.</li> </ul>	<ul style="list-style-type: none"> <li>• Two or major mitigating factors.</li> </ul>	<ul style="list-style-type: none"> <li>• Multiple major mitigating factors.</li> </ul>	

## APPENDIX 2 - CIVIL PENALTY FINANCIAL STARTING POINTS

Where a Civil Penalty is being proposed, the maximum value is provided in the relevant statutory provisions, but the table below will be used to convert the score from the assessment (Appendix 1) to a financial value for the civil penalty.

<b>Score range</b>	<b>Size of the civil penalty</b> (where the penalty must not exceed £1,000)	<b>Size of the civil penalty</b> (where the penalty must not exceed £2,000)	<b>Size of the civil penalty</b> (where the penalty must not exceed £4,000)	<b>Size of the civil penalty</b> (where the penalty must not exceed £5,000)	<b>Size of the civil penalty</b> (where the penalty must not exceed £30,000)
0 – 10	£10	£20	£35	£40	£250
11 – 20	£20	£35	£70	£80	£500
21 – 40	£25	£50	£100	£125	£750
41 – 60	£35	£65	£135	£160	£1,000
61 – 80	£85	£165	£332	£400	£2,500
81 – 100	£170	£335	£670	£800	£5,000
101 – 120	£335	£670	£1350	£1,600	£10,000
121 – 140	£500	£1000	£2000	£2,500	£15,000
141 – 160	£670	£1350	£2700	£3,300	£20,000
161 – 180	£840	£1700	£3400	£4,100	£25,000
181 – 200	£1000	£2000	£4000	£5,000	£30,000

### APPENDIX 3 - CIVIL PENALTY FINANCIAL STARTING POINTS

Where a Civil Penalty is being proposed under the Smoke and Carbon Monoxide Alarm Regulations 2015, as amended, the maximum value is provided in the relevant statutory provisions, but the table below will be used in consideration of the value of the financial penalty.

Property type	1 <sup>st</sup> contravention lack of /defective smoke alarms	1 <sup>st</sup> contravention Lack of/defective Carbon Monoxide detector(s)	2 <sup>nd</sup> contravention of either Smoke or Carbon Monoxide detector(s)
Single house without inner room*	£2,000	£2,000	£5,000
Single house with inner room**	£3,000	£2,000	£5,000
Shared house or flat in multiple occupation ***	£3,000	£2,000	£5,000
Poorly converted blocks of flats****	£4,000	£2,000	£5,000
Bedsits*****	£4,000	£2,000	£5,000

\*The means of escape from a habitable room such as a living room or sleeping room is not through another habitable room such as a kitchen or living room.

\*\* The means of escape from a habitable room such as a living room or sleeping room is through another habitable room such as a kitchen or living room.

\*\*\*The property is let on a single tenancy agreement to a group of sharers.

\*\*\*\*The property was converted in to flats prior to the introduction of the 1991 Building Regulations or was converted after the introduction of the 1991 Building Regulations and does not meet them.

\*\*\*\*\*The rooms within the property are let to separate individuals on individual tenancy agreements.

## APPENDIX 4 - CIVIL PENALTY FINANCIAL STARTING POINTS

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (MEES) Regulations are enforced by local authorities, who have powers to check and ensure compliance within the Private Rented Sector (PRS). – where a breach of these regulations has been identified the local authority have powers to issue financial penalties up to £5000, the table below will be used in consideration of the value of the financial penalty.

Property type	Max penalty	Mitigation
Regulation 38 (1) (c) – non compliance with regulation 37	£2000	Have produced an EPC which is an E or above after service of notice reduce by 50%
Regulation 38 (1) (a) Let for less than 3 months	£2000	Have produced an EPC which is an E or above after service of notice reduce by 25%
Regulation 38 (1) (a) Let 3 months or more	£4000	Have produced an EPC which is an E or above after service of notice reduce by 15%
Regulation 40 Providing false or misleading information	£1000	No mitigation
Total	£5000	



# WEST NORTHAMPTONSHIRE COUNCIL

## CABINET

11th April 2023

**CLlr Mike Hallam - Cabinet Member for HR & Corporate Services**

<b>Report Title</b>	<b>Approval needed for sign-off on new contract for our existing housing management system – Capita OpenHousing</b>
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<b>Report Author</b>	<b>Francis Hutchings, Business Relationship Manager WNC DTI Francis.Hutchings@westnorthants.gov.uk</b>
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### List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	22/03/2023
<b>Chief Finance Officer (S.151)</b>	Matin Henry	28/03/2023
<b>Other Director</b>	Sarah Reed	22/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	15/03/2023

### List of Appendices

None

#### 1. Purpose of Report

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- 1.1 To seek approval to enter into a new multi-year contract with Capita for the continued use of the OpenHousing housing management system.

#### 2. Executive Summary

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- 2.1 OpenHousing by Capita is the primary system used for managing housing stock in Northampton by the Council and its arm's length management organisation (ALMO) Northamptonshire

Partnership Homes (NPH). The system allows our staff to manage maintenance and repairs, allocations, waiting lists and other aspects of housing. The system was purchased by Northampton Borough Council in 2006 and ownership was subsequently transferred to West Northamptonshire Council (WNC) on April 1<sup>st</sup>, 2021.

- 2.2 Due to the system reaching end-of-life in April 2026 the Council will need to replace it, and a project will begin imminently to undertake the identification, procurement and implementation of a new system. This will be a major system implementation project with significant business impacts and is therefore expected to take around two years to complete. It is in the Council's best interests to ensure the above process is as thorough as possible and we are fully confident in our new product.
- 2.3 We are therefore entering into a contract on a short-term basis to maintain utilising the KCS framework which enables us to use the providers on the framework including Capita. This will enable continuity of service whilst the project to deliver a replacement system is undertaken. This offer includes 3 years (starting April 2023) with the option to extend for an additional year if required by the council. This will give our project teams time to assess requirements and user needs, identify, procure and implement a new system over the intervening period.

### **3. Recommendations**

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- 3.1 It is recommended that Cabinet:
- 3.1.1 Authorise the Chief Information Officer to award a contract to Capita for the use of the OpenHousing housing management system, via the KCS framework (Y20023), for three years with the option of extension for a single year.

### **4. Reason for Recommendations**

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- 4.1 To ensure continuity of service to the delivery of the Council's housing service
- 4.2 To enable the Council to conduct a comprehensive contracting process for a replacement system within the life of the proposed contract.

### **5. Report Background**

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- 5.1 In 2006, Northampton Borough Council (NBC) purchased the OpenHousing housing management system from IBS OPENSsystems (then acquired by Capita in 2008/09). This system was bought to assist housing teams within the council to manage their housing stock. It is a tool that allows the Council and its partner NPH to successfully manage allocations and lettings, repairs, and maintenance of properties among other housing functions.
- 5.2 In 2013/14 as part of a strategic business decision, Northampton Partnership Homes (NPH) was established as an arm's-length management organisation for housing stock under NBC. As NPH took on responsibility for managing housing stock an attempt was made to novate the contract to NPH as they had the largest user base. However due to the cost quoted by Capita to do this being unacceptably high, the decision was taken not to proceed.

- 5.3 The contract for the OpenHousing system held by NBC therefore remained under the ownership of NBC until April 1st 2021. As with any contracts held by previous district and borough Councils, the agreement transferred to West Northamptonshire Council on vesting day.
- 5.4 The Council needs to provide continuity of service for the housing function and is therefore proposing to enter into a new contract with Capita for OpenHousing through the KCS framework Y20023, for a period of three years whilst a replacement is procured and implemented.
- 5.5 Approval is sought from Cabinet to enter into the new contract due to the value of the contract.

## **6. Issues and Choices**

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- 6.1 The requirement to maintain service and have a system in place has resulted in very limited options available to the Council.
- 6.2 **Option 1: Enter into a new contract with Capita for the existing system (recommended)**
  - 6.2.1 This option is to accept Capita's new contract offer for an initial period up to April 2026, with an option to extend by a year if needed whilst a new system is in place which staff and colleagues at Northamptonshire Partnership Homes can adopt and use for continued housing stock management. This contract will be directly awarded through the KCS framework.
  - 6.2.2 This option ensures continuity of service.
- 6.3 **Option 2: End the contract with Capita or extend it for a shorter period and immediately procure an alternative system**
  - 6.3.1 This option will mean that the Council is unable to deliver its core statutory functions. Capita has made it clear that it will not agree to a shorter contract. This means that the Council has no option at this stage but to accept the terms and conditions available which requires to enter into a contract with Capita.

## **7. Implications (including financial implications)**

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- 7.1 **Resources and Financial**
  - 7.1.1 The annual cost of the new contract is £270k, an uplift on the current annual charge of around £40k. There will also be one-off implementation costs of £59k.
  - 7.1.2 The contract will be managed within the council's Digital, Technology & Innovation division, with the costs recharged through the Housing Revenue Account (HRA). The one-off implementation costs will be funded through the HRA Service Improvement Reserve.
- 7.2 **Legal**

7.2.1 The Council must enter into a contract or the contractor will withdraw the service. There is a framework available, however the framework does not allow the contractor to dictate the terms including the length of the contract. The Council is unable to reject Capita's conditions because of the dependence on the system for continuity of service. The Council has no alternative but to accept the contract terms demanded by Capita. The proposed solution will however enable the Council to consider procurement of an alternative system or specify the contract terms in future.

### 7.3 Risk

7.3.1 The main risk associated with this proposal is impact to the service if the contract for the existing management system is not renewed. There are governance and legal issues associated with the procurement of the new contract and the term of the contract but the risk is considered to be low.

### 7.4 Consultation and Communication

7.4.1 No statutory consultation is required and there are no communications implications relating to this report.

### 7.5 Consideration by Overview and Scrutiny

7.5.1 Overview and Scrutiny have not considered this issue.

### 7.6 Climate Impact

7.6.1 Not applicable.

### 7.7 Community Impact

7.7.1 The renewal of our contract with Capita for the OpenHousing suite of products will allow the Council and Northamptonshire Partnership Homes to continue serving tenants effectively, assisted by what is an established system that has been in place for the past 16 years.

## 8. Background Papers

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8.1 None





# WEST NORTHAMPTONSHIRE COUNCIL CABINET

11 April 2023

**Councillor Phil Larratt, Cabinet Member for Environment, Transport,  
Highways and Waste**

**Report Title** A43 Northampton -Kettering Improvements Phase 3

**Report Author** James Povey, Transport Strategy and Development Manager,  
[james.povey@westnorthants.gov.uk](mailto:james.povey@westnorthants.gov.uk)

## List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	15/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Director</b>	Stuart Timmiss	15/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	15/03/2023

## List of Appendices

**Appendix A – Map/Location Plan**

**Appendix B – Draft Heads of Terms between WNC and NNC**

### 1. Purpose of Report

- 1.1. To update Cabinet on the progress to date with the A43 Northampton – Kettering Improvements Phase 3 and agree to delegate authority to the Director of Place and Economy to agree the joint working arrangements with North Northamptonshire Council for this cross-border major highway scheme.

## **2. Executive Summary**

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- 2.1 Following on from initial phases of improvement at the Northampton end of the route, it is proposed to progress Phase 3 by extending the dualling from the Overstone Gate roundabout to the Holcot/Sywell roundabout. This will tackle existing congestion at the Holcot/Sywell roundabout, and also provide additional capacity for the planned Overstone Grange development.
- 2.2 The scheme forms part of the Department for Transport's Major Road Network programme. A Strategic Outline Business Case was submitted in May 2022, and an Outline Business Case is currently being prepared.
- 2.3 Because the scheme crosses the boundary between West Northamptonshire and North Northamptonshire, arrangements for joint working are necessary between the two Councils and the draft Heads of Terms for a proposed Memorandum of Understanding is included as Appendix B. Delegated authority is requested for the Director of Place and Economy to agree the joint working arrangements with North Northamptonshire Council.
- 2.4 Subject to completion of the various process, it is currently forecast that construction would begin in February 2026, with completion in April 2027.

## **3. Recommendations**

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- 3.1 It is recommended that the Cabinet:
- a) Notes the progress made to date in undertaking improvements to the A43 between Northampton and Kettering.
  - b) Agrees to delegate authority to the Director of Place and Economy to agree the joint working arrangements with North Northamptonshire Council, in consultation with the Portfolio Holder for Environment, Transport, Highways and Waste, the S151 Officer, the Monitoring Officer and the Portfolio Holder for Finance.

## **4. Recommendations**

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- 4.1 The proposed option for a Memorandum of Understanding ensures that the two Councils share the governance of the scheme and a fair distribution of the costs of developing this cross-border highway scheme.

## **5. Report Background**

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### A43 Northampton – Kettering Improvements

- 5.1 As local highway and transport authority, the Council is responsible for progressing any improvement schemes it wishes to see on its road network. Prior to the formation of the new Council in April 2021, that responsibility lay with the former Northamptonshire County Council.

- 5.2 One of the County Council's priorities for major highway improvements, was the A43 corridor between the A45 at Northampton and the A14 at Kettering. Owing to the size of the scheme, and the levels of available funding, the County Council decided to tackle the scheme in phases. Journey time surveys showed that congestion on the corridor was concentrated at the Northampton end of the route, with similar levels of delay being encountered in both directions in both peak periods.
- 5.3 The following phases of the A43 Northampton to Kettering Improvements scheme, all located within West Northamptonshire, have been delivered to date:
- Phase 1a – additional lanes at the Round Spinney roundabout, completed in 2015.
  - Phase 1b – a dual-carriageway Moulton Bypass, completed in June 2020.
  - Phase 2 – dualling from the north end of the Moulton Bypass to a new roundabout at the entrance to the Overstone Gate roundabout, completed in early 2018.
- 5.4 Phase 3 of the scheme will extend the dualling northwards from the end of Phase 2 at Overstone Gate through to the Holcot/Sywell roundabout, and cross the border between West Northamptonshire and North Northamptonshire. It will relieve traffic congestion at the Holcot/Sywell roundabout (in North Northamptonshire), which is increasingly becoming a bottle-neck as constraints further south are removed; and provide additional highway capacity to accommodate the traffic impacts of the Overstone Grange development, for which a planning application is currently being considered by West Northamptonshire Council.
- 5.5 The location of these phases is shown in Appendix A.
- 5.6 As the remainder of the route, north of the proposed Phase 3, is within North Northamptonshire, it will be for North Northamptonshire Council to determine whether any further phases of improvement should be progressed in future.

### Progress on Phase 3

- 5.7 Government funding for major road schemes can be sought through the Department for Transport, although a local funding contribution is usually required. These programmes require the submission of a series of business cases:
- Strategic Outline Business Case – submitted when the scheme is at an early stage of development
  - Outline Business Case – submitted when the design of the scheme is well developed, and usually just after submission of a planning application
  - Full Business Case – submitted when planning permission and all other statutory powers (such as compulsory land purchase) have been obtained, and tender prices have been received from the construction contractor.
- 5.8 A bid for inclusion of Phase 3 in the Department for Transport's Major Road Network funding programme was submitted in August 2019. Following acceptance of the scheme as part of the Major Road Network programme, a Strategic Outline Business Case was developed and submitted to the Department for Transport in May 2022. Work is now under way to further develop the design of the scheme and prepare an Outline Business Case. Discussions are also underway with the planning departments of the two Councils to determine whether a planning application is required, or whether (as an improvement of an existing highway), the improvement can be progressed under permitted development rights.

## **6. Issues and Choices**

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- 6.1 Because the scheme crosses the boundary between West and North Northamptonshire, it is proposed that it is advanced jointly by the two Councils, despite the wider separation of their highway and transport functions.
- 6.2 Such a joint arrangement is usual where a scheme crosses the boundary between two (or more) authorities. However, it is necessary for one authority to be the lead authority, responsible for funding submissions to the Department for Transport, employment of consultants to work on the scheme and, in due course, the employment of the construction contractor.
- 6.3 As the majority of the scheme lies within West Northamptonshire, it is sensible for West Northamptonshire Council to be the lead authority for this scheme. However, arrangements are needed to ensure that North Northamptonshire Council is properly involved in the governance of the scheme and makes an appropriate contribution to the funding.
- 6.4 The draft Heads of Terms for a Memorandum of Understanding between the two Councils has been prepared and is contained at Appendix B. The Memorandum of Understanding will cover the following topics:
- Purpose and extent of scheme
  - Project Governance
  - Project Management
  - Distribution of costs between the Councils
  - Arrangements for re-charging of costs
  - Arrangements for reviewing the Memorandum of Understanding
- 6.5 Alternative options which have been considered include:
- For one Council to construct the project completely at its cost. It is unlikely that either Council would wish to spend its funds on an improvement in the other Council's area in this way.
  - For each Council to construct its section of the road separately. This would not be efficient and would create a risk that the timescales did not align at the point where the road crossed the boundary. Such lack of co-operation would also be unlikely to secure funding from the Department for Transport.
  - To construct the road only in one Council's area or to not progress the scheme at all. Neither of these options would address the dual problems of increasing road capacity to accommodate development in West Northamptonshire and existing capacity problem at the Holcot/Sywell roundabout in North Northamptonshire.
- None of these options is recommended.
- 6.6 An Equality Screening Assessment of the Phase 3 scheme has been undertaken (appendix C) and concluded the scheme has no overall impact on the protected groups.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

7.1.1 The scheme forms part of the Department for Transport’s Major Roads Network funding process. The key gateways for obtaining Department for Transport approval are as follows:

Strategic Outline Business Case (SOBC)	wholly funded by promoting local authority (s)
Outline Business Case (OBC)	DfT will provide up to two-thirds of the costs, remainder from local authority
Final Business Case (FBC) Construction	DfT will provide majority of funding, local authority will provide at least 15% of total scheme costs.

7.1.2 In March 2020, the County Council committed £0.500m of surplus fee income received under Section 278 of the Highways Act 1980 towards the development of the SOBC. Of that funding, £0.349m was used to develop the SOBC, leaving £0.151m available for the OBC.

7.1.3 The forecast cost of developing the OBC is £2.034m. £1.356m (64%) of this cost has been sought from the Department for Transport, with a response awaited. The remaining funding will be found as follows:

Source	Stage	Spend to Date		Future Spend	
		Rev	Cap	Rev	Cap
NCC S278 Surplus fee income	SOBC	349,000*			
	SOBC Sub-total	349,000			
NCC S278 Surplus fee income	OBC	35,000		116,000	
NNC (17% of the OBC contribution from both councils)	OBC			89,000	
WNC 'Developing pipeline highway schemes	OBC	278,000			
WNC S278 surplus to examine old Brackmills rail line	OBC			80,000	
DfT (TBC) (64% of OBC total)	OBC			1,356,000	
WNC S278 surplus	OBC			80,000	
	OBC sub-total (estimate)			2,034,000	
DfT (TBC)	Detailed Design/FBC			1,300,000	
WNC & NNC (budgets TBC)	Detailed Design/FBC			500,000	
	Detailed Design /FBC sub-total (estimate)			1,800,000	

DfT (TBC)	Construction				20,400,000
S106 (Overstone Grange)	Construction				8,000,000
	Construction sub-total (estimate)				28,400,000

\* Includes spend of £213k in 2020/21 by NCC, with remaining spend since by WNC and NNC

7.1.4 West Northamptonshire Council has allocated £0.438m of funding as follows:

- £0.278m from the revenue budget for developing 'pipeline' highway schemes
- £0.080m of Section 278 funding surplus from work to examine the old Brackmills rail line (work was completed without using all the funding)

£0.080m of Section 278 funding surplus

7.1.5 North Northamptonshire Council has allocated £0.089m of its Integrated Transport Block capital funding allocation for 2021/2 to be its local contribution to the scheme.

7.1.6 A further £1.8m will be needed to complete detailed design, land acquisition negotiations/compulsory purchase and the Full Business Case. The expectation is that £1.3m of this would come from the Department for Transport and £0.5m from the Councils.

7.1.7 The forecast construction cost is currently £28.4m. To provide the local contribution towards construction a Section 106 funding contribution of £8m has been agreed in principle by West Northampton Council with the developers of Overstone Grange. It is likely that the Councils would need to forward fund this contribution in advance of its receipt.

## 7.2 Legal

7.2.1 As mentioned in section 5.7 above it is possible that a Compulsory Purchase Order will be required in due course. This Order requires significant work and time to be undertaken (especially if a public inquiry is required) and this has been taken into account when considering the timescales for scheme delivery.

7.2.2 While a Memorandum of Understanding is considered sufficient to agree the working relationships between the two Councils at this stage, it is likely that a formal agreement under section 8 of the Highways Act 1980 will be required to permit construction of the scheme.

## 7.3 Risk

7.3.1 The principal risk associated with the project at this stage, as with all such major highway schemes, is that funding is being committed 'at risk' with no certainty that it will be constructed, if either the necessary approvals are not secured or funding for construction is not secured.

7.3.2 However, this risk is considered to be low, as the project has strong justification and represents 'high' value for money under the Department for Transport's appraisal techniques.

## 7.4 Consultation and Communications

7.4.1 Consultation with stakeholders along the A43 corridor between Northampton was undertaken in 2008, at an early stage of the development of the proposals, which identified that dualling of the existing road, together with a Moulton Bypass was the most appropriate solution for the current and future problems along the route.

7.4.2 Public consultation and communication on the Phase 3 proposals will be undertaken when the proposals are sufficiently developed, and in advance of any planning application being submitted.

## 7.5 **Consideration by Overview and Scrutiny**

7.5.1 N/A

## 7.6 **Climate Impact**

7.6.1 The carbon impact of the scheme will be considered in more depth at future stages of the business case, and additional work will be commissioned to confirm the scale of the impact by a quantitative assessment as part of the Environmental Impact Assessment. The SOBC concludes that with the scheme, emissions will continue to be prevalent, albeit at a more efficient level due to reduced congestion on the route. The improved provision for active modes will also deliver carbon savings.

## 7.7 **Community Impact**

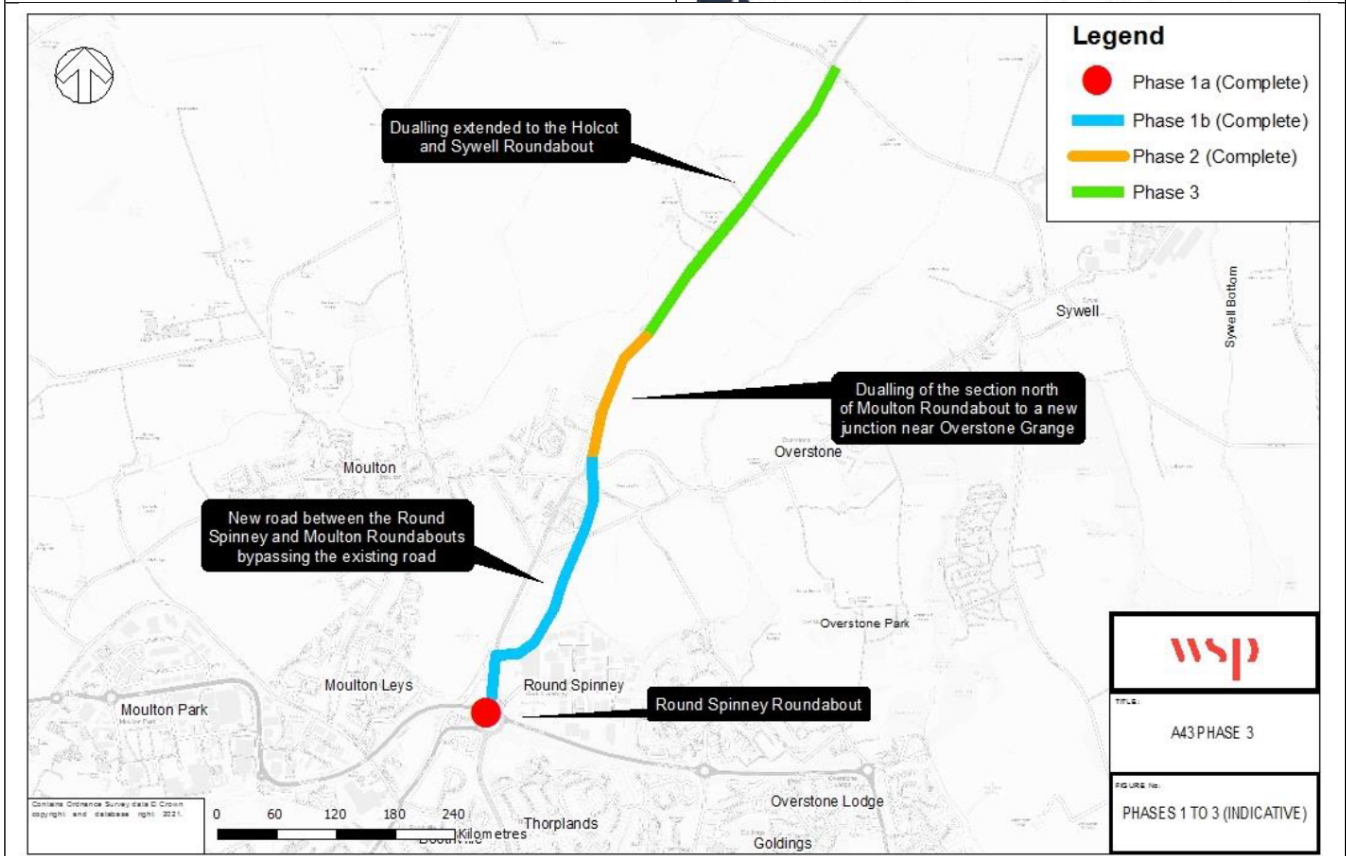
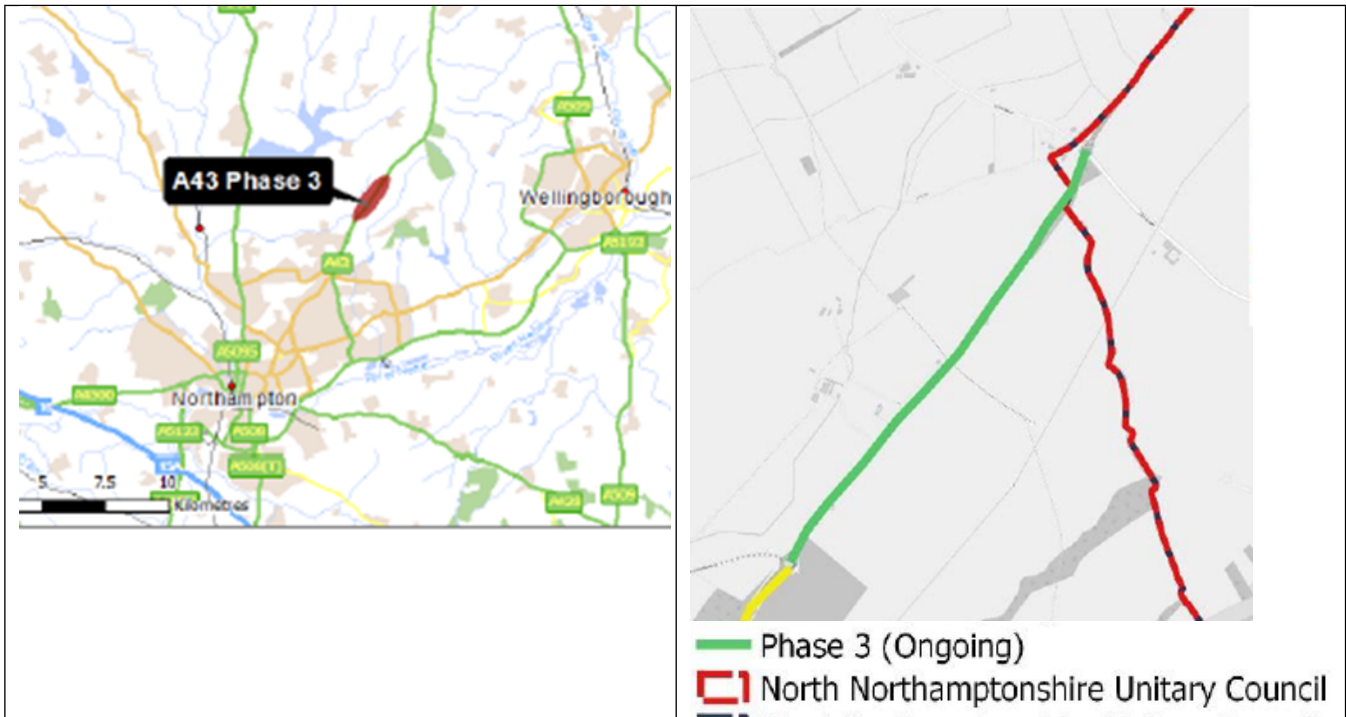
7.7.1 Given the catchment of A43 users, the benefits will be widespread, most notably in terms of journey time, reliability, quality and safety. This will benefit cars, freight public transport users of the corridor. In the vicinity of the scheme where there is existing congestion there will be air quality benefits. Local communities will benefit from the improve walking and cycling connections, in terms of accessibility and health.

## 8. **Background Papers**

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8.1 None

# Appendix A: Location Plan





## Appendix B:

### A43 NORTHAMPTON – KETTERING IMPROVEMENTS PHASE 3 DRAFT HEADS OF TERMS

1. NNC and WNC have jointly agreed to progress improvements to the A43 between the current end of the dualling at the new roundabout at Overstone Gate and the Holcot/Sywell (Holcot Lane) roundabout, known as A43 Northampton – Kettering Improvements Phase 3.
2. The improvements are being jointly promoted as a scheme through the Department for Transport Major Road Network programme, with the intention of securing funding by that route to deliver the improvements.
3. The Councils agree to share the costs of the scheme. The current agreed split of costs is on the basis of the area of road surface within the scheme, which is 83% WNC/17% NNC. Any future changes to this cost-allocation shall be agreed by the Councils.
4. A planning obligation under Section 106 of the Town & Country Planning Act 1990 towards the scheme (A43 Upgrade Works) has been secured by WNC from the Overstone Green development. Subject to the scheme progressing as planned, WNC will pay 17% (or such amended figure as shall be agreed under (3) above) of the receipts from this obligation to NNC.
5. Both Councils will participate in regular project meetings to progress the scheme, and shall appoint a Senior Responsible Owner and Project Lead.
6. Except where otherwise agreed, WNC shall appoint a Project Manager and procure consultants and contractors to progress/deliver the scheme.
7. WNC will invoice NNC on a quarterly basis for their share of scheme costs as in (3 and 5) above, and where appropriate NNC will similarly invoice WNC.
8. The costs of SROs and Project Leads will not be recharged.
9. Progress will be governed by Gateways linked to submission of Business Case to the Department for Transport and Executive/Cabinet decisions?
10. These heads of terms do not have any implications in terms of the determination of any planning application(s) for the scheme by the Councils
11. The Councils will determine the responsibility for any necessary statutory orders in due course.
12. The allocation/recharge of costs above shall be reviewed if DfT allocate all the capital funding to one authority.

13. In the event of the MRN bid being unsuccessful, it is anticipated that the authorities would concentrate on a smaller scheme focusing on smaller-scale improvements including capacity improvements to the Holcot/Sywell roundabout.
14. The Councils may decide to withdraw from the scheme at any time, but should they do so agree to jointly meet costs incurred or committed up to that date.
15. This MoU shall be reviewed and updated as necessary at key stages during the project, and particularly before proceeding to construction.



# WEST NORTHAMPTONSHIRE COUNCIL CABINET

11 April 2023

**Councillor Phil Larratt, Cabinet Member for Environment, Transport,  
Highways and Waste**

<b>Report Title</b>	2023/24 Bus Subsidy Budget
<b>Report Author</b>	James Povey, Transport Strategy and Development Manager, <a href="mailto:james.povey@westnorthants.gov.uk">james.povey@westnorthants.gov.uk</a>

## List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	15/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Director</b>	Stuart Timmiss	21/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	15/03/2023

## List of Appendices

None

### 1. Purpose of Report

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- 1.1. For Cabinet to agree the use of £215k from the contingency fund in 2023/24 to provide continuing support for non-commercially viable bus services.

### 2. Executive Summary

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- 2.1 The agreed 2022/23 budget included £315k for implementation of the Bus Service Improvement Plan (including subsidised bus services), however, this funding was due to reduce to £100k per annum from 2023/24 onwards.
- 2.2 The council has a statutory duty to secure the provision of such passenger transport services it considers appropriate to secure to meet any public transport requirements within its area which in their view would not be met. The £100k budget would be insufficient to cover the range of bus services currently supported by the council, meaning a number are likely to be fully withdrawn.
- 2.3 A motion was passed at Full Council on 22<sup>nd</sup> February 2023 proposing that the budget for 2023/24 should include the retention of the £215k budget that was due to be removed from the Bus Subsidy Budget so that existing supported bus services could continue, ahead of a future decision on the council's longer-term approach to public transport service support. This future decision would be informed by the bus service review study currently underway, impact assessments and consultation activity.

### **3. Recommendations**

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- 3.1 It is recommended that the Cabinet:
  - a) Agree the use of £215k from the contingency fund in 2023/24 to provide continuing support for non-commercially viable bus services.
  - b) Note that this will be used to continue to support the services currently receiving financial support.

### **4. Reason for Recommendations**

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- 4.1 The proposed option ensures the Council is fulfilling its statutory duty to secure provision of appropriate services to meet public transport requirements, and enables the council to take more time to evaluate these requirements in advance of a longer term recommendation being made.

### **5. Report Background**

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- 5.1 The majority of bus services in England, outside London, are provided commercially. That means the operator can introduce, withdraw or change the service as they wish subject to giving appropriate notice to first the Local Transport Authority and then the Traffic Commissioner. In West Northamptonshire, the commercial operators are Stagecoach, Unobus, Britannia Bus, Arriva and a number of community transport providers.
- 5.2 As the Local Transport Authority, the council has a statutory duty under the Transport Act 1985 to secure the provision of such passenger transport services as it considers appropriate within its area which otherwise would not be met; and to formulate from time to time policies as to the descriptions of services which they wish to secure. In considering which services should be secured the council has a duty to identify the public transport requirements which would otherwise not be met (i.e. by commercial bus operations). Given this it is important that details

on the level of passenger transport service support is guided by an understanding of need, and not solely determined by the budget available.

- 5.3 Northamptonshire County Council removed its subsidised services budget in 2018, and deleted its policies for which services which should be supported. However, it continued to support services using a small amount of government grant, together with funding from town and parish councils, and section 106 developer funding. However, as some of this funding ran out, it was only possible to maintain the services which were being supported in 2021/22 through the use of one-off Government grant.
- 5.4 In line with the Corporate Plan ambition to improve rural connectivity, WNC included £315k for implementation of the Bus Service Improvement Plan (including subsidised bus services) in the budget for 2022/23. However, this funding was due to reduce to £100k per annum from 2023/24 onwards.
- 5.5 A motion was passed at Full Council on 22<sup>nd</sup> February 2023 proposing that the budget for 2023/24 should include the retention of the £215k budget that was due to be removed so that existing supported bus services could continue, ahead of a future decision on the Council's longer term approach to public transport service support. This future decision would be informed by the bus service review study currently underway, impact assessments and consultation activity.

## **6. Issues and Choices**

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- 6.1 In recent years public transport use has been in decline and as the country emerges from the pandemic, it appears that resident's travel patterns may have permanently changed and regular bus use has significantly reduced, particularly among concessionary pass holders. In addition, there has been a significant rise in fuel costs and a shortage of bus drivers. Although the Government is offering additional support to the bus industry until July 2023, there is a risk that in future commercial services could be further scaled back which would place extra demands on council support for services.
- 6.2 In 2022/23 the combination of council budget and government grant was able to support bus services costing £428k. The £100k base budget and government grant funding expected to be available in 2023/24 would be insufficient to cover the costs of the existing subsidised services, let alone the replacement of any further commercial services.
- 6.3 Mindful of its statutory duty and given the impact on the Council's residents, the connectivity of local communities, and the imperative to support more sustainable forms of transport with reduced carbon emissions, the Council should seek to influence and help shape a solution which enables effective and financially sustainable passenger transport services.
- 6.4 The Council has commissioned a review of bus services in West Northamptonshire from a sector expert who can help the Council learn from best practice elsewhere and develop a new, sustainable solution for how passenger transport support is provided. The review will report back to the Council over the summer and it is likely that from the recommendations the Council will develop a new policy for supporting bus services. This policy will need to be consulted on

and agreed through the democratic process before it is implemented. Therefore, this is not an immediate solution, but it will provide a long-term approach for the Council.

- 6.5 It should be noted that if a supported service is withdrawn and then reinstated after a period of non-operation it will result in medium/long-term reduction of patronage/revenue which will increase the net cost which the Council needs to meet.
- 6.6 An Equality Screening Assessment of the budget proposal has been undertaken (Appendix A) and concluded the scheme has a positive overall impact on the protected groups.
- 6.7 Alternative options which have been considered include:
- Retaining just the base budget and cutting the subsidised services to fit the available budget. It is important that the Council assesses the impact of any withdrawal of funding support on service levels, as this could leave some communities with an established public transport requirement without any service at all.
  - Agreeing a permanent uplift to the base budget. Any decision on the longer term budget allocation should be informed by bus service review currently underway, with a decision taken on a budget allocation to deliver the preferred service delivery option guided by a fuller impact assessment. Furthermore, continuing to simply support existing bus services which are in financial difficulty only provides a short-term solution and it is difficult to identify which services to prioritise for support.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 The proposal will be funded by £215k from the contingency fund in 2023/24.

### **7.2 Legal**

- 7.2.1 As mentioned in section 5.2, as the Local Transport Authority the Council has a statutory duty under the Transport Act 1985 to secure the provision of such passenger transport services it considers appropriate to secure to meet any public transport requirements within its area which in their view would not be met and to formulate policies for which services it will secure. The Act also requires consultation and publicity with respect to such policies. By maintaining the 22/23 budget allocation, in combination with other grant funding, the 22/23 supported bus services can be retained into 23/24, meeting these public transport requirements.

### **7.3 Risk**

- 7.3.1 The principal risk is the retained budget level from 22/23 proves insufficient to fully cover the costs of the existing supported services, following any cost increases the operator is contractually entitled to. This will be managed by considering the merits and impact of any cost increase claim, and working closely with the operators to meet the service requirements in line with the available budget.

## 7.4 Consultation and Communications

7.4.1 Consultation and communications activity will be undertaken with all relevant stakeholders ahead of any decision informed by the bus service review on the future of public transport support by the Council.

## 7.5 Consideration by Overview and Scrutiny

7.5.1 N/A

## 7.6 Climate Impact

7.6.1 The support for public transport services that would otherwise not operate, is likely to reduce levels of private car use and so be beneficial for carbon reduction. This impact is however difficult to quantify without more data on the service users and the alternative modes of transport available to them.

## 7.7 Community Impact

7.7.1 The following services are those that are currently supported by the Council's bus subsidy base budget:

- 59/60 Northampton – Welford – Market Harborough (partly funded by Parish Councils)
- 87 Northampton – Rothersthorpe – Towcester – Brackley (partly funded by S106)
- X91 Silverstone – Towcester – Milton Keynes
- 200 Daventry – Banbury (jointly with Oxfordshire CC)
- 500 Brackley – Banbury (Sundays only, jointly with Oxfordshire CC)

Reductions to the budget would impact these services and likely result in some of them being withdrawn. Communities served by these routes would then have reduced accessibility, potentially causing economic, health and wellbeing impacts.

## 8. Background Papers

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8.1 None

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# WEST NORTHAMPTONSHIRE COUNCIL CABINET

11<sup>th</sup> of April 2023

**Councillor Mike Hallam, Cabinet Member for HR and Corporate  
Councillor Fiona Baker, Cabinet Member for Children, Families and  
Education**

<b>Report Title</b>	<b>Local Government and Social Care Ombudsman Report</b>
<b>Report Author</b>	<b>Luiza Morris-Warren, Assistant Director for Customer and Corporate Services, on behalf of Catherine Whitehead, Monitoring Officer</b>

## List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	15/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Director</b>	Ben Pearson, Children, Education and Families	15/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	14/03/23

## List of Appendices

**Copy of Public Report Ref: 21018799 30<sup>th</sup> of March 2023**

### 1. Purpose of Report

- 1.1 This report informs Cabinet of the Local Government and Social Care Ombudsman's (LGSCO) published findings in relation to a complaint about Education and Children's Services - Special Educational Needs (SEN) provision and Education, Health and Care (EHC) plans.

- 1.2 A Public report is issued by the Local Government and Social Care Ombudsman's office when it is considered that it is in the public interest to highlight a particular issue or problem that may affect more than one person/ family.

## **2. Executive Summary**

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- 2.1 Mr and Mrs X complained the Council failed to support their child, J's, special educational needs and did not provide them with an appropriate educational placement for two years. The findings were related to the Authority's failures to:
- review and amend J's Education, Health and Care plan since 2018;
  - provide a suitable educational provision for J since March 2020;
  - identify and provide an appropriate school place for J;
  - provide an appropriate remedy or make the change it identified after it upheld Mr and Mrs X's complaint about the same.
- 2.2 Mr and Mrs X stated this caused J significant physical and mental distress and they missed two years of education. It also caused J's sibling and Mr and Mrs X distress and frustration.
- 2.3 The LGSCO found fault against the Council causing injustice to the Complainants and specific recommendations have been made.

## **3. Recommendations**

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- 3.1 The Council has fully accepted the recommendations identified to remedy the complaint. Cabinet is asked to note the findings of the report and consider the public interest that may be generated by the publication of the report.

## **4. Reason for Recommendations**

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- 4.1 The Council is required to consider the report and confirm within three months the action it has taken to respond to the findings and recommendations.
- 4.2 Under the *Local Government Act 1974, section 31(2), as amended*, the Council is required to share the report at its full Council, Cabinet or other appropriately delegated committee of elected members and evidence this to the Local Government and Social Care Ombudsman.
- 4.3 In addition, Local Government and Housing Act 1989, Section 5 requires that the Monitoring Officer of a Local Authority prepares a report to the Authority with respect to any cases where maladministration or failure has been found.

## **5. Report Background**

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- 5.1 Section 30(3) of the Local Government Act 1974 requires the Ombudsman to report, without naming or identifying the complainant or other individuals, where findings of maladministration have been made.

- 5.2 The LGSCO will publish the report on their website on or after 30 March. The Authority should not discuss the report in public or comment on its content in publicly available papers before that date. The LGSCO may distribute copies of the report and a press release in advance of the publishing date, under an embargo. This means the media could have sight of the report and make enquiries before the publishing date, but are expected to withhold publishing anything until after the 30<sup>th</sup> of March when the report will be published.
- 5.3 Section 30 of the 1974 Act requires the Council to place two public notices in local newspapers and/ or newspaper websites. These announcements will be issued within two weeks of the report. We will also make copies of the report available free of charge at one or more of our offices.
- 5.4 Under s5A Local Government and Housing Act 1989 the monitoring officer has a duty to report maladministration mentioned in Part III of the Local Government Act 1974 to Cabinet.

## **6. Issues and Choices**

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- 6.1 Cabinet is asked to note the timing of the report and the embargo placed on the Authority until the publication by the LGSCO.
- 6.2 This report will also be presented at the Audit and Governance Committee in June, in line with regulations.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 In SEN complaints the, LGSCO are usually seeking to remedy a shortfall in the provision specified in the child's statement of SEN, or an injustice caused by the delay in completing the assessment and statementing process.
- 7.1.2 In this instance, a financial remedy totalling £7,125 has been identified by the Ombudsman to acknowledge the injustice caused to the family.
- 7.1.3 The Council has been asked to:
- pay Mr and Mrs X £5,125 to be used for J's benefit to recognise the impact of the lost education on J and the effect on J's wellbeing
  - pay Mr and Mrs X £1,000 to recognise the distress and harm caused to J by the Council's failure to provide an appropriate school; and
  - pay Mr and Mrs X a further £1,000 to recognise the frustration, distress, uncertainty and eroded trust in the Council caused to them.
- 7.1.4 Additionally, to ensure that the Council puts things right for others identified to have experienced injustice because of the findings of this complaint, it is recommended that the Council reference the LGSCO guidance on remedies and make payments as appropriate to other families found to be in a similar situation.

7.1.5 Where fault has resulted in a loss of educational provision, the Ombudsman's guidance recommends a remedy payment of between £200 and £600 a month to acknowledge the impact of that loss. The figure should be based on the impact on the child and take account of factors such as:

- the severity of the child's SEN;
- any educational provision – full-time or part-time, without some or all of the specified support – that was made during the period;
- whether additional provision now can remedy some or all of the loss;
- whether the period affected was a significant one in a child's school career – for example, the first year of compulsory education, the transfer to secondary school, or the period preparing for public exams

7.1.6 A further 8 complaints have been identified as qualifying for the above, and the Education service are currently working through assessing the financial impact of remedying these.

## 7.2 Legal

7.2.1 The Council has a statutory duty under S19 of the Education Act 1996 to provide full-time education where a child cannot attend school because of exclusion, medical reasons, or 'otherwise'. Councils usually expect schools to arrange off-site provision in the first instance, but the duty to provide full-time education remains with the Council. There may be an overlap between SEN, admissions and S19 requirements in some cases, and for this, departments within the Authority are expected to work together.

## 7.3 Risk

7.3.1 There is a risk with the publication of any public report identifying maladministration that there is an increase in the number of complaints received from other families in similar situations. The service is proactively addressing similar cases, as outlined above. There isn't however an option to not publish this report, so mitigations will be put in place should these additional complaints materialise.

## 7.4 Consultation and Communications

7.4.1 A communications plan is in place to accompany the publication of the report by the LGSCO. At time of publication of this report, the LGSCO was due to make its report public, with the Council taking steps to support this by informing the public of its outcome in line with prescribed requirements, including:

- Issuing letters to the identified families
- Informing colleagues and stakeholders of the recommendations and actions being taken
- Adding information onto the WNC website including a proactive news article
- Placing public notices in the local media within two weeks of publication
- Post report publication to Cabinet meeting on 11 April (this report).

7.4.2 In addition to these steps, the Council will continue to inform and engage the public on the objectives and outcomes of its SEND improvement plan, which aims to further develop provision of places for children with special educational needs and disabilities in West Northamptonshire.

**7.5 Consideration by Overview and Scrutiny**

The Audit and Governance Committee will receive a copy of the report for consideration in June 2023.

**7.6 Climate Impact**

There are no climate implications in the reporting of the findings.

**7.7 Community Impact**

The findings of the LGSCO report have no direct implications on the community.

**8. Background Papers**

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*Report by the Local Government and Social Care Ombudsman Investigation into a complaint about West Northamptonshire Council (reference number: 21 018 799)*

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**Report by the Local Government and Social Care  
Ombudsman**

**Investigation into a complaint about  
West Northamptonshire Council  
(reference number: 21 018 799)**

**15 February 2023**

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## The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

### Key to names used

Mr and Mrs X	The complainants
J	Mr and Mrs X's child
S	J's sibling



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## Report summary

### **Education and Children's Services - Special educational needs (SEN) provision and education, health and care (EHC) plans**

Mr and Mrs X complained the Council failed to support their child, J's, special educational needs and did not provide them with an appropriate educational placement for two years.

### **Finding**

Fault found causing injustice and recommendations made.

### **Recommendations**

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

To remedy the injustice caused to J and Mr and Mrs X we recommend the Council:

- pay Mr and Mrs X £5,125 to be used for J's benefit to recognise the impact of the lost education on J and the effect on J's wellbeing;
- pay Mr and Mrs X £1,000 to recognise the distress and harm caused to J by the Council's failure to provide an appropriate school; and
- pay Mr and Mrs X a further £1,000 to recognise the frustration, distress, uncertainty and eroded trust in the Council caused to them.

To ensure the same faults do not happen again we recommend the Council:

- provide us with the confirmation of the approved budget for the specialist units and special school it has planned, to meet its sufficiency duty to provide educational provision for children with SEN;
- share the learning from this complaint with all staff members who are responsible for reviewing, amending, finalising and issuing EHC plans;
- remind relevant staff of the Council's powers and responsibility to name an appropriate school, or parental preference school in a child's EHC plan – especially where drift and delay is likely in finding an appropriate school placement; and
- remind relevant staff of the Council's duty to ensure special educational provision is being provided where it has delegated the provision to another body.

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To put things right for others affected by the same issues we recommend the Council:

- review the consultation process for each of the eight children who are without an appropriate school placement and ensure the Council has taken all available action to secure an appropriate placement for each child. If the Council identifies any fault in its actions leading to injustice it should remedy it in line with our [guidance on remedies](#); and
- write to each of the eight children's parents or guardians. It should inform them that our investigation into a complaint from another family identified fault by the Council for failing to provide an appropriate school placement for a child. It identified their child may also have been affected by the fault and therefore it has reviewed their child's case to see if they were similarly affected. It should tell them the finding of that review and signpost the parent or guardian to us if they remain dissatisfied.

The Council has accepted our recommendations to remedy the complaint.

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## The complaint

1. Mr and Mrs X complained about the way the Council supported their child, J's, special educational needs. Mr and Mrs X complained the Council failed to:
  - review and amend J's Education, Health and Care plan since 2018;
  - provide a suitable educational provision for J since March 2020;
  - identify and provide an appropriate school place for J; and
  - provide an appropriate remedy or make the change it identified after it upheld Mr and Mrs X's complaint about the same.
2. Mr and Mrs X stated this caused J significant physical and mental distress and they missed two years of education. It also caused J's sibling and Mr and Mrs X distress and frustration.

## What we have and have not investigated

3. We investigated matters from March 2019 until the end of July 2022.
4. We have not investigated events after July 2022. This is because Mr and Mrs X had the right to appeal to the special educational needs and disability (SEND) tribunal about J's EHC plan from July 2022. The law says we cannot normally investigate a complaint when someone can appeal to a tribunal about the same matter. (*Local Government Act 1974, section 26(6)(a), as amended*)
5. Mr and Mrs X started court action in relation to J's education from September 2022. The courts have said that where someone has used their right of appeal, reference or review or remedy by way of proceedings in any court of law, the Ombudsman has no jurisdiction to investigate. (*Local Government Act 1974, section 26(6)(a), as amended*)

## Legal and administrative background

### The Ombudsman's role and powers

6. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
7. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E, as amended*)
8. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this decision with Ofsted.

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## Education, Health and Care plans

9. A child with special educational needs (SEN) may have an Education, Health and Care (EHC) plan. This sets out the child's needs and what arrangements should be made to meet them. The EHC plan is set out in sections. We cannot direct changes to the sections about education, or name a different school. Only the tribunal can do this.
10. The child's parent can request a particular school to be named on the EHC plan. The council must name that school in the plan unless:
  - it would be unsuitable for the age, ability, aptitude or SEN of the child; or
  - the child's attendance there would be incompatible with the efficient education of others, or the efficient use of resources.
11. A council can name a maintained school in a child's EHC plan if it believes it is an appropriate placement for that child. The school must admit a child if it is named on their EHC plan.
12. EHC plans must be reviewed every twelve months. Within four weeks of a review meeting, a council must notify the child's parent of its decision to maintain, amend or discontinue the EHC plan. If it decides to amend the plan, it should start the process of amendment '*without delay*'.
13. Following comments from the child's parent or the young person, if the council decides to continue to make amendments, it must issue the amended EHC plan as soon as practicable and within eight weeks of the date it sent the EHC plan and proposed amendments to the parents.

## The SEND Tribunal

14. There is a right of appeal to the Special Educational Needs and Disability (SEND) Tribunal if a parent disagrees with the special educational provision or the school, or type of school named in their child's EHC plan. The right of appeal is only engaged when the final amended plan is issued.

## Duty to secure provision

15. The council has a duty to secure the specified special educational provision in an EHC plan for the child or young person. (*Children and Families Act 2014, Section 42*) The courts have said this duty to arrange provision is owed personally to the child and is non-delegable. This means if a council asks another organisation to make the provision and that organisation fails to do so, the council remains responsible. (*R v London Borough of Harrow ex parte M [1997] ELR 62, R v North Tyneside Borough Council [2010] EWCA Civ 135*)
16. We recognise it is not practical for councils to keep a '*watching brief*' on whether schools are providing all the special educational provision for every pupil with an EHC plan. Councils should be able to demonstrate due diligence in discharging this important legal duty and as a minimum have systems in place to:
  - check the provision at least annually via the review process; and
  - investigate complaints or concerns that provision is not in place at any time.
17. Councils have a duty to keep under review whether the educational provision it makes for children with special educational needs in its area is sufficient. (*Children and Families Act 2014, Section 27*)

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## **COVID-19 impact**

18. In March 2020 the country was impacted by the COVID-19 pandemic and all schools closed to pupils, except the children of key workers and certain other groups of children. The government advised councils to complete a risk assessment in conjunction with the school to establish if a child with an EHC plan would be safer in a school setting than not. This measure was about safety rather than education. (*Coronavirus (COVID-19): guidance on vulnerable children and young people*)

## **How we considered this complaint**

19. We produced this report after examining relevant documents.
20. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

## **What we found**

### **What happened**

21. J is a child of primary school age who lives at home with their sibling, S, and their parents Mr and Mrs X. J has Autism Spectrum Disorder and significant difficulty in communicating their wishes and needs.
22. The Council produced an EHC plan in March 2018 in preparation for J beginning primary school. The EHC plan set out what provision J needed to meet their needs and named the school they would attend. J began attending that school (School A) in September 2018.
23. School A held an annual review of the EHC plan in October 2019 and submitted the paperwork to the Council. It recommended the EHC plan should be maintained. The Council did not respond.
24. School A conducted another annual review meeting in January 2020. It told the Council J still needed an EHC plan but recommended some amendments to the outcomes J was aiming to achieve. The Council did not respond.
25. In March 2020 the country was impacted by COVID-19 and all schools closed to most pupils. Mrs X states School A did not allow J to attend. The Council did not complete a risk assessment with School A to consider if J should continue to attend during the COVID-19 lockdown.
26. The Council wrote to Mr and Mrs X in May 2020, referencing the January 2020 annual review meeting and said it would maintain the EHC plan.
27. In May 2020 the Council received two safeguarding referrals for J and their family. The concerns related to J's behaviour at home and the impact on their mental health and their sibling. A Council social worker contacted School A and requested J be allowed to return to school despite the lockdown. J returned for three days a week at the end of May. Both School A and Mrs X stated J had made good progress before lockdown and the lack of routine had a huge impact on J's wellbeing.
28. J returned to school full time in September 2020.
29. School A was concerned about J's needs and wellbeing and commissioned an independent educational psychologist's (EP) report. In April 2021 the report said J showed clear signs of distress when they were upset that made them particularly vulnerable, and so was often isolated in a separate room at school and therefore

- 
- was not learning. It stated J self-harmed at school when upset. The EP found J needed one-to-one support in a small, quiet room with no other children or a couple of quiet peers.
30. School A conducted an annual review meeting of J's EHC plan in June 2021. The review recorded J was injuring themselves daily while attending school through self-harm. It stated J was struggling to access any learning and had regressed in their personal care. School A said it could not provide the support J needed and recommended the Council offer an alternative provision. It sent the review and the EP report to the Council.
31. The Council sent Mrs X a draft amended EHC plan in September 2021. It added to the provision J required to meet their SEN. It stated *'both parents feel that reduced class size and more focused one to one support would allow [J] to take more part in [their] learning, however, both fully understand this is not possible for [School A] and as a result this is having a profound impact on [J]'s mental health, driving [them] to self-injury on a daily basis at school and [impact on their] ability to grow, develop or access any form of sustained education.'* The EHC plan still named School A as the educational placement.
32. The Council asked Mrs X to provide her comments on the draft within 15 days. Mrs X responded the following day and asked for a meeting to discuss the amendments.
33. School A met with the Council and Mr and Mrs X to discuss their concerns for J. School A reported J was spending all day in a room alone in school because they were distressed. It did not have enough staff members to work with J on a one-to-one basis. School A said it was not meeting J's needs *'in any way, shape or form'*. School A requested additional funding from the Council to employ a support assistant to work with J on a one-to-one basis while a suitable alternative was found. The Council agreed. The Council did not finalise the amended draft plan.
34. Mrs X complained to the Council in September 2021. She said the Council had failed to:
- provide the EHC plan in line with the timescales set out in the guidance;
  - respond to School A not being able to meet J's needs; and
  - respond to J self-harming as a result.
35. The Council responded to Mrs X's complaint in October 2021. It said:
- it had not met the deadline for issuing an amended EHC plan for J after the annual review and apologised;
  - its communication to Mrs X had been insufficient and apologised; and
  - the EHC officer would contact Mrs X on a weekly basis to update her on the progress in securing a school place for J.
36. The Council told us that between September 2021 and February 2022 it did not provide weekly updates to Mr and Mrs X, but made contact when there was information to share. Despite our requests the Council did not provide documentary evidence to support this.
37. The Council met with Mrs X and School A in February 2022. School A reported J was not accessing the curriculum and was not meeting the targets set in their EHC plan. The Council provided an update on the consultation process with other schools and said it was waiting for responses.

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38. In March 2022 School A held an annual review meeting for J's EHC plan. It referred to the amendments it suggested in May 2021. It stated a support assistant had started working with J, but J still struggled to access the classroom.
39. Mrs X complained to the Council again in March 2022. She said:
- the Council had not, and was not providing weekly updates as it stated it would in its earlier complaint response; and
  - J still did not have an appropriate school placement and had not received an education since April 2021.
40. The Council replied to Mrs X's complaint in April 2022. The Council:
- apologised it had not maintained weekly contact as agreed but stated it had provided regular updates by email; and
  - apologised that J was still without an appropriate school placement and stated it continued to look for one.
41. Mrs X's solicitor wrote to the Council in April 2022. They said there was no support assistant in place for J at school and asked the Council to:
- name School B on a temporary basis in J's EHC plan; and
  - confirm how it intended to meet J's needs by the end of April; or
  - decide not to amend the EHC plan and provide the appeal rights to the SEND tribunal.
42. The Council responded in May 2022. It stated School A was an appropriate placement and could meet J's SEN as they were '*receiving learning on a 1:1 basis*'.
43. The Council wrote to Mrs X in May 2022 and proposed changes to J's EHC plan. It asked Mrs X to tell it if she disagreed with the suggested changes or wanted to name a school in the EHC plan.
44. School A wrote to the Council again and reiterated it could not meet J's needs. It stated that J still spent most of their school day in a room alone.
45. After receiving a consultation request in March 2022 School C offered J a place in June 2022. School C was an independent special school in a different council area. Mrs X asked the Council to name School C on J's EHC plan.
46. The Council issued a final amended EHC plan for J at the end of July 2022. It did not name School C and named a type of school J should attend. The Council informed Mrs X of her right to appeal to the SEND tribunal.

### **School consultations**

47. The records show the Council consulted 23 schools about J's placement between September 2021 and July 2022.
48. Of the nineteen schools consulted before August 2022, three did not respond. Fifteen schools said they could either not meet J's needs or they had no space. The only school that offered J a placement was School C in June 2022. The Council consulted four other schools after June 2022, but none offered J a place.

### **Further information**

49. In response to our enquiries the Council did not explain why it did not name School C, but stated that it had since agreed to do so.

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50. The Council stated it worked closely with all professionals involved to ensure that J's needs were being met whilst it consulted for a more appropriate setting. It stated it held regular updates with School A to assist it with any further concerns or needs that were raised. Despite our requests the Council did not provide any documentary evidence to support this.
  51. During our investigation the Council told us in August 2022 there were eight children and young people with EHC plans who had been without an appropriate school place for over six months. It said it recognised it had a shortage of special school places and had committed to opening several specialist units and a new special school to meet SEN needs. The Council's actions may have caused an injustice to this group of children and so we decided to investigate further, using our powers under Section 26D of the Local Government Act 1974.
  52. Mrs X stated that J will attend School C, but cannot do so until 2023 due to a lack of space.
  53. Mr and Mrs X instigated court action against the Council in relation to J's education from September 2022.
  54. We issued an earlier draft decision in relation to this investigation to the Council with our draft views and recommendations. Despite repeated requests for its comment, the Council failed to respond until we began the report process. It is disappointing the Council did not take the earliest opportunity to comment on our draft decision or to agree to the recommendations we made.

## **Conclusions**

### **J's Education, Health and Care plan**

55. J's EHC plan was finalised in March 2018. The Council should have reviewed it and decided whether to maintain, amend or cease the plan by March 2019. The Council did not do so until May 2020. The delay was not in line with the legislation and was fault. However, we do not find this caused an injustice, this is because when it reviewed it in 2020 the Council decided to maintain the plan. Mr and Mrs X did not suggest that the EHC plan and provision at that time was not appropriate.
56. School A conducted an annual review in June 2021 and March 2022. The Council issued a draft amended plan in September 2021 but did not finalise it. It issued a final amended plan for J in July 2022. The legislation states the amended final plan should be issued without delay after the annual review. It took the Council 13 months to do so.
57. The Council did not follow the set procedure or timelines for reviewing and amending the EHC plan. That was fault and meant J did not have an EHC plan that appropriately identified their needs between May 2021, when the review should have been completed, and July 2022 when the amended final plan was issued. On the balance of probabilities, this caused J distress and a loss of 14 months of education and personal development. The faults prevented Mr and Mrs X from accessing their appeal rights to the SEND tribunal and caused them frustration and distress.



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### **Suitable educational provision**

58. In March 2020 J had an EHC plan when the country went into lockdown. The Council should have worked with School A to establish if J should have stayed in school, in line with government guidance. There is no evidence the Council did so, and this was fault. There were two safeguarding referrals about J's safety and wellbeing while at home in May 2020 which resulted in J returning to school. Both Mrs X and School A stated not attending school had a detrimental impact on J's wellbeing. The Council's failure to consider if J should have remained in school leaves uncertainty about whether they should have been at school continuously from March 2020.
59. School A then stated it could not meet J's needs, and as a result they were isolated, not learning, regressing in their personal development and self-harming. School A told the Council this five times between June 2021 and May 2022, and provided an EP report stating the same.
60. The Council was aware School A was not delivering the provisions in the EHC plan from June 2021, and the Council failed to secure the special education provision. This fault had a significant impact on J's wellbeing and meant that they lost out on education, personal development and spent a significant proportion of their time in a room on their own. This also caused Mr and Mrs X distress.

### **Identifying an appropriate school place**

61. The Council told Mrs X in May 2022 that School A was an appropriate placement and could meet J's needs. The month before it had apologised to Mrs X that J was not in an appropriate school placement. The Council told us it worked closely with School A to ensure J's needs were being met. Despite this, it did not provide any evidence to show:
- the placement was suitable;
  - that it took any action to assure itself J was receiving the provision outlined in their EHC plan; or
  - that it worked closely with School A to ensure J's needs were met.

While it agreed to fund additional one-to-one support, it did not review this to ensure it was effective, even when the School stated it was not. This was fault.

62. The Council consulted with 19 schools between September 2021 and April 2022 and did not receive a positive response until June 2022. Once it knew J needed a different placement in June 2021 the Council had three options:
- it had the power to name an 'appropriate' school in J's EHC plan, and the school would have had a duty to admit them;
  - it could have named School C in J's EHC plan in June 2022 as it had offered a place and Mrs X named it as parental preference; or
  - it could have taken any other action to work creatively with any maintained consulted school to make an 'appropriate' placement for J.
63. The Council did not take any of those actions which led to drift and delay which was further fault. It prevented J from being in an appropriate placement sooner.

### **Complaint response**

64. The Council apologised to Mrs X that it failed to meet the EHC plan deadlines and to communicate with her properly in October 2021. It stated it would improve its communication with Mrs X. In April 2022 it acknowledged it had not improved its

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communication as it said it would do. It also acknowledged J was without an appropriate school placement. The Council accepted it was at fault but failed to identify or remedy the injustices arising from those faults. It also failed to implement the improvements in communication it said it would. That was fault and caused Mr and Mrs X further frustration and eroded their confidence in the Council.

### **Council's response to our recommendations**

65. In January 2023 the Council said it was actively working with the eight children it identified who had EHC plans, who had been without a school place for over six months in August 2022. It said the children were not yet in school, but they were receiving alternative educational provision. It said for each child there were a different set of circumstances that led to them being without a school place and it did not believe it was necessarily the reason as we identified in this case. As part of our recommendations, we asked it to carry out a review of those eight cases. The Council said it would identify if any injustice had been caused to those children and offer an appropriate remedy.

### **Recommendations**

66. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
67. Mrs X stated she did not want and would not accept an apology from the Council about the matters investigated. We have therefore not recommended the Council apologise for the injustices caused by its faults.
68. To remedy the injustice caused to J and Mr and Mrs X we recommend the Council:
- pay Mr and Mrs X £5,125 to be used for J's benefit to recognise the impact of the lost education on J and the effect on J's wellbeing;
  - pay Mr and Mrs X £1,000 to recognise the distress and harm caused to J by the Council's failure to provide an appropriate school; and
  - pay Mr and Mrs X a further £1,000 to recognise the frustration, distress, uncertainty and eroded trust in the Council caused to them.
69. To ensure the same faults do not happen again we recommend the Council:
- provide us with the confirmation of the approved budget for the specialist units and special school it has planned, to meet its sufficiency duty to provide educational provision for children with SEN;
  - share the learning from this complaint with all staff members who are responsible for reviewing, amending, finalising and issuing EHC plans;
  - remind relevant staff of the Council's powers and responsibility to name an appropriate school, or parental preference school in a child's EHC plan – especially where drift and delay is likely in finding an appropriate school placement; and
  - remind relevant staff of the Council's duty to ensure special educational provision is being provided where it has delegated the provision to another body.

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70. To put things right for others affected by the same issues we recommend the Council:
- review the consultation process for each of the eight children who are without an appropriate school placement and ensure the Council has taken all available action to secure an appropriate placement for each child. If the Council identifies any fault in its actions leading to injustice it should remedy it in line with our [guidance on remedies](#); and
  - write to each of the eight children’s parents or guardians. It should inform them that our investigation into a complaint from another family identified fault by the Council for failing to provide an appropriate school placement for a child. It identified their child may also have been affected by the fault and therefore it has reviewed their child’s case to see if they were similarly affected. It should tell them the finding of that review and signpost the parent or guardian to us if they remain dissatisfied.
71. The Council has accepted our recommendations to remedy the complaint.

## **Decision**

72. We have completed our investigation into this complaint. We found there was fault by the Council causing injustice to J and Mr and Mrs X, and possibly eight other children. The Council should take the action identified in paragraphs 68 to 70 to remedy the injustice caused to J, Mr and Mrs X and the eight other children, and to prevent the same faults occurring in the future.

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# WEST NORTHAMPTONSHIRE COUNCIL

## CABINET

11th April 2023

**Fiona Baker, Cabinet Member for Children and Families and Education**

<b>Report Title</b>	<b>The Standing Advisory Council for Religious Education (SACRE) Annual Report</b>
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<b>Report Author</b>	<b>Morcea Walker (Chair of SACRE)</b>
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### List of Approvers

<b>Monitoring Officer</b>	<b>Catherine Whitehead</b>	15/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Directors</b>	Stuart Lackenby and Ben Pearson	15/03/2023
<b>Comms</b>	Becky Hutson	15/03/2023

### List of Appendices

#### **Appendix A – Standing Advisory Council for Religious Education (SACRE) Annual Report**

#### **1. Purpose of Report**

- 1.1. Local Authorities have a duty to establish a permanent body known as the Standing Advisory Council on Religious Education (“SACRE”) in accordance with the Education Act 1996. The broad role of the SACRE is to support the effective provision of Religious Education (RE) and collective worship in schools and to enrich the experience of RE and collective worship for all pupils. Further information about SACRE is set out in the appendix to this report.
- 1.2. The SACRE’s terms of reference require that an annual report on the work of SACRE is produced annually. It is considered best practice for the report to be received by the Council.

## **2. Executive Summary**

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- 2.1 This report covers the period 2021/2022. During this period SACRE was still without an Adviser. No RE data was collected or subsequently monitored from schools but the Committee met three times this year and were available to respond to any requests/complaints (none received). There have been limited opportunities for training but members have responded when possible. Relationships with community organisations remains a strength.

## **3. Recommendations**

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- 3.1 It is recommended that the Cabinet receives and approves the SACRE annual report.

## **4. Reason for Recommendations**

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- 4.1 After being accepted by the Council the report will be published to schools. Schools will take note of the advice given in the report and act on it in order to improve the quality of provision for RE and collective worship.

## **5. Report Background**

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- 5.1 Section 390 of the Education Act 1996 states that it is the statutory duty of the Council to establish a permanent body called a Standing Advisory Council for Religious Education (SACRE) to advise the Council on matters concerned with Religious Education and Collective Worship.
- 5.2 Councils must appoint representatives to each of four committees, representing respectively:
- Group A: Christian denominations and such other religions and religious denominations as, in the authority's opinion, will appropriately reflect the principal religious traditions in the area;
  - Group B: the Church of England;
  - Group C: teacher associations;
  - Group D: the LA.
- 5.3 The broad role of the SACRE is to support the effective provision of RE and collective worship by:
- Giving advice on methods of teaching the Agreed Syllabus for RE;
  - Advising the Council on the provision of training for teachers;
  - Monitoring inspection reports on RE, collective worship and Spiritual, Moral, Social and Cultural Development (SMSC);
  - Considering complaints about the provision and delivery of RE and collective worship referred to it by the LA.
- 5.4 Section 391 (6) and (7), Education Act 1996 states: "Each SACRE must publish an annual report on its work and on actions taken by its representative groups, specifying any matters on which it has advised the Local Authority, broadly describe the nature of that advice and set out reasons for offering advice not referred to the Local Authority".

## **6. Issues and Choices**

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6.1 The full SACRE annual report is attached.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

7.1.1 There are no resources or financial implications arising from the proposals.

### **7.2 Legal**

7.2.1 There are no specific legal implications arising from the proposals.

### **7.3 Risk**

7.3.1 There are no significant risks arising from the proposed recommendations in this report.

### **7.4 Consultation and Communications**

7.4.1 Before the final report was agreed, there was discussion and consultation within the SACRE. The SACRE comprises four groups: the Church of England, other Christian denominations and the major faiths represented in Northamptonshire, teachers and the Council. All groups have voted in support of the final version of the report.

### **7.5 Consideration by Overview and Scrutiny**

7.5.1 The report has not formed part of the work programme of the Council's Overview and Scrutiny function.

### **7.6 Climate Impact**

7.6.1 There is no direct climate impact arising from the proposals.

### **7.7 Community Impact**

7.7.1 There is no distinct community impact arising from the proposals.

## **8. Background Papers**

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8.1. None.

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**THE ANNUAL REPORT OF THE  
WEST NORTHAMPTONSHIRE STANDING ADVISORY  
COUNCIL FOR RELIGIOUS EDUCATION (SACRE)**

**2021-2022**

***September 2021– August 31<sup>st</sup> 2022***



**West  
Northamptonshire  
Council**

**This Information can be made available in other languages and formats on request, such as large print, Braille and audio cassette. Please contact Jane Hall, Clerk to SACRE email: [jane.hall@westnorthants.gov.uk](mailto:jane.hall@westnorthants.gov.uk)**

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**Northamptonshire Standing Advisory Council  
on Religious Education:  
Annual Report 2021 -2022**

**Foreword by Morcea Walker - Chair of the Northamptonshire SACRE 2021-2022**

The impact of the COVID pandemic continued into the period of this Annual Report. Its impact on Education, schools and other educational establishments did not diminish. However people working in this field were able to find creative ways of teaching students whilst catering for their wellbeing.

In 2021 – 2022 “Hybrid” teaching still continued for a while until schools were able to bring students back full time. This enabled quality teaching to take place through both methods.

SACRE has not had an Adviser since 2019 and this continues to be the case. Therefore it has been difficult to obtain information about the teaching of RE and the progress of worship in our schools/educational establishments. Some online training has been provided by SACRE members and a few visits to places of worship and other buildings have used the same method.

SACRE meetings followed Government guidelines and were held via Teams. This proved very valuable. The lifting of certain COVID restrictions meant that students were able to sit GCSEs and A levels in 2022.

Northamptonshire is settling into having two unitary authorities – West Northamptonshire and North Northamptonshire. SACRE has been fortunate to have the support, at meetings, of the Heads of School Effectiveness for each Unitary Authority. SACRE works in both areas made easier by having joint meetings. SACRE members reflect the diverse community that is Northamptonshire.

We have now come out of the shadow of COVID so the role of SACRE will be to look at the best way to engage with schools in the North and West Northamptonshire Councils. This will include revisiting the Agreed Syllabus and training needs.

SACRE members continue to look forward to good working relationships with a range of Agencies and the wider community.

Morcea Walker MBE, VLL  
Chair Northamptonshire SACRE

## 1. OVERVIEW

Every Local Authority has to convene a Standing Advisory Council on Religious Education (SACRE). Northamptonshire SACRE, which has met three times this year, comprises four statutory groups. Attendance at meetings has been good. SACRE continues to ensure the membership reflects the demographic.

The four groups that make up SACRE are as follows:

- Committee A - representatives of non-Anglican Christian denominations, other religions, and world-view communities;
- Committee B - representatives of the Church of England;
- Committee C - representatives of the teachers' associations; Teachers, Teaching Assistants and High Level Teaching Assistants
- Committee D – Representatives of the Local Authority

The Committee have met 3 times via Zoom.

Details of the agenda items, attendance at the meetings and minutes of the meetings can be found on the West Northamptonshire and North Northamptonshire County Council SACRE website at:

[Religious education - Schools and education \(northamptonshire.gov.uk\)](https://www.northamptonshire.gov.uk/religious-education-schools-and-education)

## 2. RELIGIOUS EDUCATION (STATUTORY RESPONSIBILITIES)

- **Local Agreed Syllabus** - This can be found on the SACRE website above.
- **Standards and monitoring of Religious Education** - No data was collected for the period 2021/2022 due to the on-going disruption of schools because of the COVID pandemic
- **Teacher training** - Due to the lack of an advisor and uncertainty around the funding available, no training was able to be offered during this period. Church Schools have been able to access training through the diocese and other schools may have made their own arrangements.

## 3. COLLECTIVE WORSHIP

The SACRE has not received any complaints about Collective Worship

### **Determinations**

There have been no determination requests in regard to Collective Worship made to SACRE.

#### **4. LINKS WITH OTHER BODIES**

We are a member of NASACRE.

We communicate with the Peterborough Diocese Education Team.

We have regular reports from local interfaith groups.

Community organisations are well represented on SACRE and keep members updated. We have experienced some difficulties communicating this out more widely to schools and teachers.

We are affiliated to Holocaust Educational Trust

#### **5. SACRE INVOLVEMENT LOCALLY**

- **Governor training**
- **Advice on issues within the community**

The impact of COVID and the restrictions on schools and face to face meetings has resulted in great reduction in training. Members have delivered some, mainly online. Members have responded and offered advice when requested from the community. Community events and festivals have been promoted and supported by SACRE members.

#### **6. SECTION ON SACRE'S OWN ARRANGEMENTS**

##### **(a) Professional and administrative support and how LA supports the SACRE (clerking, adviser, links to council initiatives)**

Clerking has been consistent and professional which has supported SACRE. This service has been greatly valued.

##### **(b) Membership**

Please see Annex A

##### **(c) Training for SACRE**

NASACRE Conference – 23 May 2022 – 1 person

NASACRE Training – “Where now with worldwide views?” – 1 person

##### **(d) Finance given to SACRE for its work**

The Financial status was unclear

##### **(e) Liaison with other local SACRES**

Church of England Members (Committee Group B)

#### **Appendix A: Membership of SACRE**

## **Membership 1 September 2021 – 31 August 2022**

<b>Name</b>	<b>Organisation</b>
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### **Committee A – Representatives of non-Anglican Christian denominations, other religions and world-view communities**

Farnush Tanhai	Bahai Faith
Mr Arthur Newbury	The Church of Jesus Christ of Latter-Days Saints
Chris Paddock	Humanist
Robert Farmer	Humanist
Mr Bhupesh Parekh	Hinduism
Mr Saifullah Nassir	Islam
Avnish Thackrar	Hinduism
Mr Daniel Tabor	Judaism
Mr Harkirat Singh	Sikh Faith
Mrs Morcea Walker	United Reform Church
Mr John Flory	Religious Society of Friends

### **Committee B – Representative of the Church of England**

Oliver Coss	Rector of all Saints Church, Northampton
Mrs Julie Barke	Church of England
Val Griffiths	Church of England

### **Committee C – Representatives of the Teacher Associations, Teachers, Teaching Assistants and High Level TAs**

Mrs Jenny Dixon	Primary Teacher Representative (NEU)
Sylvia Erskine	NEU
Will Kneeshaw,	Secondary representative (NASUWT)

### **Committee D – Representatives of the Local Authority**

Cllr Chris-Smith-Haynes	LA Representative North Northamptonshire
Cllr Keith Holland-Delamere	LA Representative West Northamptonshire
Cllr Tom Partridge-Underwood	LA Representative North Northamptonshire
Cllr Imran Choudhury	LA Representative West Northamptonshire

### **LA Representatives**

Katie Morlidge - West Northamptonshire  
Jo Hutchinson - North Northamptonshire

**Clerk to SACRE:** Mrs Jane Hall



# WEST NORTHAMPTONSHIRE COUNCIL CABINET

Tuesday 11<sup>th</sup> April 2023

**Councillor Mike Hallam - Cabinet Member for Corporate Services**

<b>Report Title</b>	<b>Consolidating printers into a single contract</b>
<b>Report Author</b>	<b>Rob Ferrari</b> Head of IT Operations <a href="mailto:Rob.Ferrari@westnorthants.gov.uk">Rob.Ferrari@westnorthants.gov.uk</a>

## List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	29/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	28/03/2023
<b>Other Director</b>	Sarah Reed	15/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	15/03/2023

## List of Appendices

None

### 1. Purpose of Report

- 1.1. To seek approval to procure a new single contract for the council's Multi-Functional Devices (MFDs – printing, scanning and photocopying) of approximately 31 desktop devices and 158 floor standing devices, 189 in total.

### 2. Executive Summary

- 2.1 West Northamptonshire Council (WNC) currently has a fleet of 162 office printers, known as Multi-Functional Devices (MFDs) as they can also scan and copy documents. They are largely 7-

8 years old and spread between three suppliers used by the predecessor councils: Konica Minolta (ex DDC); Ricoh (ex NBC); and Canon (ex SNC & NCC).

- 2.2 Current total spend on MFDs is £194k revenue per year (across WNC and on behalf of partners it serves) as the current fleet of machines are old and don't carry any capital costs.
- 2.3 A new contract is likely to be in the region of £44k per year (if the MFDs are bought outright at a cost of £228 k) or £95k per year if leased. The differential between existing costs and the costs of a new contract is due to economies of scale and the cost of MFDs reducing.
- 2.4 It is proposed that the Executive Director of Corporate Services is granted delegated authority to enter into a single contract through a competitive procedure within a procurement framework contract such as one offered by Crown Commercial Services (2) that the new service is structured as bought outright with click costs dependent on usage, to reduce the overall costs of the contract.

### **3. Recommendations**

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- 3.1 It is recommended that Cabinet:
  - 3.1.1 Delegate authority to the Executive Director – Corporate Services in consultation with the portfolio holder for Corporate Services to progress and enter into a single contract for the provision of multi functional devices.

### **4. Reason for Recommendations**

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- 4.1 Contracts inherited by WNC from its predecessor councils are expiring and so need to be renewed to enable continued provision and support of MFDs in its offices.
- 4.2 Current providers will ultimately cease support for our existing MFD machines, so replacements must be sought and in-place before this support ceases to ensure service continuity.
- 4.3 Re-procuring as a single contract will be key to enabling printing to be made seamless across any location in the Council area, creating the ability for any worker to print anywhere at any machine.
- 4.4 A framework contract is proposed for the contract re-procurement as it offers a more efficient and cost-effective process.
- 4.5 New MFDs typically have a six-month lead time and so awarding the contract promptly will provide the council with maximum flexibility in transitioning from current contract arrangements.

### **5. Report Background**

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- 5.1 Printing, copying and scanning facilities are required by some WNC departments e.g. Legal, Planning, Libraries (for general public use) etc in order for them to fulfil their role. Whilst there is a desire to reduce volumes and move to paperless operations, there is still a requirement for printing.
- 5.2 MFDs remove the requirement to have individual devices for each separate function and, as the current fleet of devices is aging, there is a requirement to replace the existing set of MFDs with new ones.
- 5.3 The three current suppliers are all providing surprisingly good services given the age of the machines and the maintained relatively high usage of some of them.
- 5.4 Costs used in this report are from a pre-tendered framework and so the council would expect to negotiate further on these for a fleet of our size.
- 5.5 Our current suppliers are keen to maintain their relationship with WNC and have expressed their interest in being part of an open tendering procedure within a framework.
- 5.6 An open tender in a framework gives us the best of both worlds. The framework pre-qualifies providers to be fit for Public Sector contracting which means that we can complete a tender quickly with the leading companies in the market and do this in a competitive manner, based on our own specifications, scale and timescales.
- 5.7 Tendering could take as little as 2-3 weeks from advert to award after cabinet decision is granted. Following this, as there are long lead-in periods for new machines, there will be plenty of time post-award to audit usage, work with internal customers and get the new provision optimised for the Council. This will be a vital period to make sure that high-usage machines are replaced with like-for-like or better machines, as well as take the opportunity to downsize some machines, such as those in the Community Libraries, to make sure that new machines are a perfect match for their location and potential usage.
- 5.8 All the new machines will be managed by one universal print solution. This will help overcome the issue of roaming workers not being able to print in every location. For mobile teams this is a significant issue as some statutory forms must be printed and signed in person by residents meaning access to a printer is a must and can cause some operational difficulties (staff having to travel between buildings to get something printed in advance of an appointment).

## **6. Issues and Choices**

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- 6.1 There are two main issues outstanding regarding MFDs, these are ease and availability of printing and the age of the existing machines.
- 6.2 The ease and availability of printing is a significant issue for some teams. With different groups of staff working from different office locations, there currently isn't an easy way to print when in offices with different MFD suppliers. This procurement will help alleviate this issue and form the basis for printing from any location.

- 6.3 The availability of a service contract for the existing machines inherited by WNC is at this time not an issue, but the likelihood is that at the next renewal period, there will be a withdrawal of the servicing element. This will in effect disable any machines linked to those contracts and leave the authority with no printing options.
- 6.4 Payment for new machines can take a few different routes: the main two being Lease Hire or purchase with a service package.
- 6.5 The most common method for organisations is to Lease-Hire the machines. This would mean a tie-in to pay the awarded company the value of the machines over a typical five-year period. The only draw-back here is that this approach raises demand on the revenue cost and the organisation will not own the machines at the end of the contract.
- 6.6 As an alternative, outright purchasing the machines at the beginning of the contract reduces the long-term revenue commitment and, as these are long-term assets, the funding to purchase outright can be via capital funds. This approach is recommended.
- 6.7 With this purchase, the same level of service and warranties are still in place whilst the revenue cost over a five or more-year contract length is reduced.
- 6.8 An Equalities Screening Assessment (ESA) form has been completed and submitted for consideration. No negative impacts were identified – so no requirement to complete a full Equality Impacts Assessment, as the completed ESA is sufficient.

## **7. Implications (including financial implications)**

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### **7.1 Resources and Financial**

- 7.1.1 The combined annual costs of the current MFD contracts is £194k, which excludes the original capital costs of the machines. This is part of the council's revenue budget and is included as part of onward charging arrangements for the partner organisations who also use these contracts as part of their agreed sharing arrangements, including North Northamptonshire Council (NNC) and Northamptonshire Children's Trust (NCT).
- 7.1.2 The preferred option is for the machines to be purchased outright in order to maximise the revenue savings and it is anticipated that if the devices are purchased outright there will be revenue savings of £56,200 per annum for West Northants Council.
- 7.1.3 To achieve this WNC would need to contribute £85,455 to purchase the equipment. Establishing a capital budget up to £100,000 is within the delegated powers of the Executive Director of Finance who would be able to authorise such funding in order to deliver the annual savings referred to in the previous paragraph.
- 7.1.4 There are also savings which could be made on behalf of other partners (NNC and NCT) if they are prepared to commit to the total capital costs for replacement of the machines they primarily utilise. These contributions have not been secured yet which is the reason why delegated

authority is requested so they can be included in the project subject to them agreeing the capital contributions required.

7.1.5 There will be set-up and install costs added to year one. However, these are unquantified at this tender stage and are likely to be more than adequately covered by the anticipated annual savings.

7.1.6 Any savings will not be delivered in full in 2023/24 as there are long lead-in times. We assume the new devices are likely to start arriving from December 2023 into spring 2024, and so the whole year saving will be achieved in the 2024/25 budget year.

## 7.2 Legal

7.2.1 Procuring via a framework is lawful if carried out in accordance with the terms of the framework. The contract will need to be on the relevant terms.

7.2.2 This report seeks delegation to the Executive Director to be able to make the award decision.

## 7.3 Risk

7.3.1 If a new contract is not in place, there is a risk that the current service may cease due to the age of the stock. This risk would be removed following a re-procurement.

7.3.2 There is a risk that mobile teams and teams that have moved from an existing office hub to a new hub would not be able to operate effectively without the proposed re-procurement and new print anywhere solution in-place. This risk would be removed with a new contract in place.

7.3.3 The risk of re-procurement would be two-fold, that lead-in times would be longer than expected and that prices are higher than expected. If lead-in times are longer than expected, then it is better to be in the queue for new machines. Prices quoted in this report are published following a recent Crown Commercial Services framework tender and can be relied-upon, the expectation is that we would be likely to secure prices below this level.

## 7.4 Consultation and Communications

7.4.1 Following Cabinet approval and award to a new provider, the in-depth consultation can begin with the main stakeholders underpinned by clear and timely communications.

7.4.2 These will include Northampton Partnership Homes, Northampton Children's Trust, Northampton Leisure Trust, the Libraries Service and Community Libraries groups, and North Northamptonshire Council.

7.4.3 It will be part of the new contract, that the new provider will have to be open to novating parts of the contract into smaller elements of the current make-up if that should be needed.

## 7.5 Consideration by Overview and Scrutiny

7.5.1 Overview and Scrutiny Committee have not considered this issue.

## 7.6 **Climate Impact**

7.6.1 Modern MFDs use less energy than the ones in place currently. This will have a positive impact by reducing the overall energy used within the lifetime of the contract.

## 7.7 **Community Impact**

7.7.1 With printing made easier and more accessible to mobile workers, it is likely that those services can operate more effectively and meet community needs more easily with 'print anywhere' services in place.

7.7.2 Charges for MFDs to community libraries will be able to reduce both in lease and energy costs if newer, smaller, more energy efficient MFDs are in-place.

## 8. **Background Papers**

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8.1 None



# WEST NORTHAMPTONSHIRE COUNCIL

## CABINET

Tuesday 11<sup>th</sup> April 2023

**Councillor Mike Hallam - Cabinet Member for Corporate Services**

**Report Title** Consolidating phone lines into a single contract

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### List of Approvers

<b>Monitoring Officer</b>	Catherine Whitehead	29/03/2023
<b>Chief Finance Officer (S.151)</b>	Martin Henry	15/03/2023
<b>Other Director</b>	Sarah Reed	15/03/2023
<b>Communications Lead/Head of Communications</b>	Becky Hutson	15/03/2023

### List of Appendices

None

### 1. Purpose of Report

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- 1.1. To seek approval for consolidation of our existing telephone landline provision from four sets of inherited arrangements into a single manageable contract.
- 1.2. To seek approval to recontract our telephone lines as digital lines, ensuring the Council is ready for the UK cessation of analogue phone lines in 2025.

### 2. Executive Summary

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- 2.1 This report proposes that West Northamptonshire Council (WNC) consolidate all its phone lines into a single contract, delivering cost savings and reduced management overheads. It also covers the need to ensure all landlines are migrated to digital versions ahead of the UK cessation of analogue phone lines in 2025.
- 2.2 It is expected that procuring a single contract will reduce annual costs by around 15% against the current set of inherited contracts (currently £150k per annum). The costs are shared between WNC and its partners, but WNC expects to a saving of £10.5k per annum once implemented.

### **3. Recommendations**

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- 3.1 It is recommended that Cabinet:
  - 3.1.1 Agree to the Chief Information Officer carrying out a procurement process to select a new provider; and
  - 3.1.2 Authorise the Chief Information Officer to award the contract for a period of up to 5 years to the successful bidder on completion of the procurement process.

### **4. Reason for Recommendations**

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- 4.1 Consolidation of the Council's landline infrastructure into a single contract will lead to budget savings as we leverage economies of scale.
- 4.2 The UK is shutting down analogue phone services by 2025, known as the "Big Analogue Switch Off". The Council currently has many analogue telephone lines that will need to be migrated to a digital service to maintain business requirements, rendering existing contracts inappropriate.
- 4.3 Consolidation of contracts simplifies administration and account management, reducing staff time and overheads in managing our telephony and is also expected to lead to a reduction in the number of landlines.

### **5. Report Background**

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- 5.1 As part of the justification for the creation of a unitary council, it is expected that budget savings (from operating at scale) and reduced overheads (from standardisation and simplification) are found by rationalising and consolidating software and systems.
- 5.2 The Council has multiple contracts for telephony "land lines" inherited from its four predecessor authorities including (but not limited to) major industry suppliers Virgin Media, Nasstar, BT, Gamma and Daisy.
- 5.3 There are currently 570 land lines used to manage various requirements, including:

- Main phone system/customer contact lines
- Intruder alarms

- Fire alarms
- Lift emergency lines
- Broadband /ADSL
- Emergency planning resilient lines
- EPOS payment solutions
- Payphones
- Car parking payment machines
- CCTV
- Air quality monitors
- Call Care services
- Solar power monitoring

Breakdown of lines per organisation - further detailed audit required to confirm.

	WNC	NNC	NCT-WNC	NCT-NNC
Line breakdown per organisation	351	97	90	32

- 5.4 Telecoms companies in the UK are replacing the technology they use to provide fixed telephone networks (land lines). In November 2017, the telecoms industry announced its intention to retire analogue telephone networks such as the Public Switched Telephone Network (PSTN) by the end of 2025. The industry will upgrade landline services to new digital technology using an internet connection.
- 5.5 As with other UK organisations, West Northamptonshire Council needs to seek alternative methods of provision for systems or technology which rely on analogue phone lines.

## 6. Issues and Choices

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- 6.1 There are multiple telecoms suppliers providing landline services to the Council which is inefficient from a cost perspective and adds an administrative overhead for staff in terms of management as well as processing invoices and purchase orders.
- 6.2 A project to consolidate all the landlines with one supplier would drive cost savings through economies of scale, significantly reduce the administrative burden and ensure full alignment of contract dates. It is also expected that through the consolidation work a rationalisation, resulting in the number of landlines, would take place. For the reasons above, the option to consolidate landlines is the preferred choice.
- 6.3 Existing running costs are a combined cost (rental and call charges) of £150k per year and it is expected that this will reduce by 15% to a cost of £127.5k per year following migration.
- 6.4 Consideration has been given to the impacts of the proposed changes on those with protected characteristics and to do so an Equalities Screening Assessment (ESA) form has been completed to support the consideration. No negative impacts have been identified.

## 7. Implications (including financial implications)

### 7.1 Resources and Financial

7.2 The migration of landlines to a consolidated supplier and migration to digital lines sits within allocated revenue budgets and will not require further investment. It is expected that the council will see a decrease in spending of circa 15% after the project is completed (depending on the exact outcome of any procurement exercise).

7.3 Existing staff members will be used to manage the procurement and any necessary migration work, with no external resources required.

7.4 The below expenditure is expected for the duration of the contract 3+1+1 years, based on a migration timeline of one year. Costs show breakdown of organisation share and estimated 15% reduction in costs from year 2, following migration

Description	Year 1	Year 2	Year 3	Year 4	Year 5	Total (five years)	WNC Total	NNC Total	NCT Total
Landline Rental	99,855	84,877	84,877	84,877	84,877	439,363			
call cost estimation	50,145	42,623	42,623	42,623	42,623	220,637	309,503	210,298	140,199
<b>Total</b>	150,000	127,500	127,500	127,500	127,500	<b>660,000</b>			
<b>Savings</b>	-	22,500	22,500	22,500	22,500	<b>90,000</b>	33,750	33,750	22,500

### 7.5 Legal

7.6 The proposed contract length as detailed in the financial information is 5 years which results in a total value of over £500k. The report therefore seeks authority from Cabinet to commence the procurement.

### 7.7 Risk

There is a risk during the migration process of service interruptions, as the cutover from one supplier to another takes place, or indeed a failed migration. These risks will be closely managed by WNC and the new supplier to minimise any service impacts.

### 7.8 Consultation and Communications

7.8.1 There is no requirement for formal consultation or communications with the public arising from this approach.



## 7.9 **Consideration by Overview and Scrutiny**

7.9.1 None.

## 7.10 **Climate Impact**

7.10.1 A reduction in the number of landlines used by WNC will result in a lower carbon footprint due to the reduced use of electricity.

## 7.11 **Community Impact**

7.11.1 If West Northamptonshire Council fails to react to the analogue shut-off, 662 lines will eventually be ceased and rendered inoperable. This would impact the services the council provides to the community.

## 8. **Background Papers**

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None

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