



Agenda

Meeting: **Overview and Scrutiny Committee**
Date: **15 October 2019**
Time: **7.00 pm**
Place: **Council Chamber - Civic Centre, Folkestone**

To: **All members of the Overview and Scrutiny Committee**

The committee will consider the matters, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>. Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 5 - 6)**

Members of the Committee should declare any discloseable pecuniary interest or any other significant interests in any item/s on this agenda.

3. **Minutes (Pages 7 - 22)**

To consider and approve, as a correct record, the minutes of the meeting held on 10 September 2019.

4. **East Kent Housing - Housing Management: future options appraisal**

Queries about the agenda? Need a different format?

Contact: Kate Clark –Tel: 01303 853267
Email: committee@folkestone-hythe.gov.uk or download from our website
www.folkestone-hythe.gov.uk

(Pages 23 - 74)

Report C/19/29 sets out a headline options appraisal of future housing management options, taking into consideration the current arrangements between the four councils (Canterbury City Council, Dover District Council, Folkestone & Hythe District Council, Thanet District) and East Kent Housing.

5. **East Kent Housing - Electrical Testing and Water Risk Assessments (Pages 75 - 82)**

Report C/09/31 has been prepared in response to the safety compliance issues identified in respect of East Kent Housing's management of the housing tenanted properties. The report reviews the current position with EICR compliance and makes recommendations on a new inspection regime. The report further updates the position with regards to water risk assessments and the budget provisions needed for completion of these works. The report ends with a summary of year to date additional costs for compliance improvements mainly related to additional EKH staff.

6. **Flytipping (Pages 83 - 88)**

OS/19/05 is a briefing note on flytipping in Folkestone. It is an item that is part of the Annual Scrutiny Programme 2019/20 for the committee's information.

7. **Medium Term Financial Strategy 20/21 to 22/24 (Pages 89 - 112)**

The Medium Term Financial Strategy (MTFS) is the Council's key financial planning document. It puts the financial perspective on the council's Corporate Plan priorities, expressing the aims and objectives of various plans and strategies in financial terms over the four year period ending 31st March 2024. It covers both revenue and capital for the General Fund and the Housing Revenue Account. Also included are the Council's reserves policies. The MTFS is a key element of sound corporate governance and financial management.

8. **Refresh of the Council's Children, Young People and Vulnerable Adults Safeguarding Policy 2019 (Pages 113 - 146)**

The Council is part of the statutory safeguarding role within the wider public sector, with responsibilities to children, young people and vulnerable adults. The safeguarding policy of the Council has been updated and is attached at Appendix 1. A review of safeguarding activity and current status is presented in Appendix 2.

9. **Treasury Management mid-year monitoring report 2019/20 (Pages 147 - 162)**

Report C/19/27 provides an update on the Council's treasury management activities that have taken place during 2019/20 against the agreed strategy

for the year. The report also provides an update on the treasury management indicators approved by Cabinet earlier this year.

10. **Land at Ship Street, Folkestone (Pages 163 - 170)**

Report C/19/30 seeks authority to acquire the former gasworks site in Ship Street, Folkestone (East Folkestone Ward).

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Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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Minutes

Overview and Scrutiny Committee

Held at:	Council Chamber - Civic Centre, Folkestone		
Date	Tuesday, 10 September 2019		
Present	Councillors	Miss Susan Carey, Michelle Dorrell Terence Mullard, Rebecca Shoob (Chairman) and Lesley Whybrow	Laura Davison, (Vice-Chair), Peter Gane, Patricia Rolfe, Tim Prater,
Apologies for Absence	None		
Officers Present:	Andy Blaszkowicz (Assistant Director), Kate Clark (Committee Services Officer), Mark Damiral (Housing Options Manager), Adrian Hammond (Housing Strategy Manager), Graham Hammond (Senior Economic Development Officer), Katharine Harvey (Chief Economic Development Officer), John Bunnett (Corporate Director - Place and Commercial Services), Amandeep Khroud (Assistant Director), Llywelyn Lloyd (Chief Planning Officer), Tim Madden (Corporate Director - Customer, Support and Specialist Services), Susan Priest (Head of Paid Service), Andrew Rush (Corporate Contracts Manager), Andrina Smith (Chief HR Officer), Charlotte Spendley (Assistant Director) and David Whittington (Planning Policy Team Leader)		
Others Present:	Deborah Upton (Chief Executive, East Kent Housing), Councillor David Godfrey		

17. Declarations of Interest

Councillor Patricia Rolfe made a voluntary declaration with regard to Agenda items 5 and 6 as she owns a business in New Romney town and is Chair of the New Romney Coastal Community Team. She remained in the meeting and took part in discussions and voting.

Councillor Tim Prater made a voluntary declaration with regard to Agenda item 6 as he lives and works in Sandgate High Street. He remained in the meeting and took part in discussions and voting.

18. Minutes

The minutes of the meeting dated 16 July 2019 were approved subject to an amendment to Minute Item 16:

Proposed by Councillor Lesley Whybrow
Seconded by Councillor Laura Davison and

RESOLVED:

That Minute item 16 dated 16 July 2019 is amended to reflect the resolution below:

***Proposed by Councillor Lesley Whybrow
Seconded by Councillor Laura Davison and***

RESOLVED:

A very risk project, more information needs to come back to the Overview & Scrutiny Committee so that an opinion can be given in public.

(Voting: For 7; Against 1; Abstentions 1)

19. Key Performance Indicators Review 2019-20

Report C/19/20 sets out a proposed list of Key Performance Indicators (KPIs) to be monitored during 2019/20 in line with the Council's Corporate Plan strategic priorities and objectives.

Comments from members as follows:

- Litter picks - officers advised that the removal of this KPI from "Health Matters" reflected changes to the team this service falls within, with the data now being captured under the Community environmental events as part of the "Appearance Matters" targets managed by the Area Officers team.
- Unauthorised encampments - a target of one is shown but the officer agreed that this should be 100% removal of unauthorised encampments.
- Flyposting - It was queried why no Flyposting KPI had been set as it was felt paramount that unauthorised posters are taken down quickly, officers advised this data is contained within the Fixed Penalty Notice KPI.
- More Homes - it was suggested that we look to strengthen the information particularly regarding the effects on children in temporary accommodation. Members were advised that homelessness prevention is the main priority.
- Housing Waiting List - It was suggested that this is part of the KPIs, officers advised this was possible, although it is a constantly fluctuating figure.
- FOI - members were advised the target of 90% is in line with KCC guidelines.

- Website/social media – is used as part of the Corporate Plan in Delivering Excellence. It is seen as an important communication method.
- Street Cleansing - Detritus KPI has been removed but officers advised that monitoring of street cleansing would continue with more emphasis on litter.
- Delivering Excellence - the KPI for customers seen within 10 minutes has been removed, officers advised this was due to there being no electronic queuing system available to capture this data.
- Benefit claims - days to process while monitored as an operational measure (PI), members suggested it would be useful for it to be part of the KPI.
- Caravan site inspections - officers advised this is covered under Licensed premises KPI now.
- Number of days to remove fly-tipping - officers advised this shows a maximum target and depending on the size & complexity of the fly-tipping will depend on the time to remove it.

Proposed by Councillor Rebecca Shoob
Seconded by Councillor Susan Carey and

RESOLVED:

1. To receive and note report C/19/20.

(Voting: For 5; Against 0; Abstentions 4)

20. Romney Marsh Employment Hub (Land at Mountfield Road Industrial Estate, New Romney)

Report C/19/19 seeks Cabinet agreement to a financial contribution from Folkestone & Hythe District Council towards the development of a new business centre at Mountfield Road Industrial Estate, New Romney and delegated authority to the Corporate Director for Place and Commercial to finalise the terms of the legal agreements with co-funders.

Members showed strong support for this project and were appreciative of the background information given. It will be a good boost for the Romney Marsh and a key project for various bodies including the Romney Marsh Partnership and New Romney Coastal Community Team.

With regard to the grant funding to be sought from Magnox, members were interested to know what would happen if this funding did not materialise. The project would struggle to happen if alternative funding was not available. However, commitment from all parties is key and members were informed that East Kent Spatial Development Company had earlier that day agreed to co-fund in principle.

Members were informed that as part of the Masterplanning process, consideration had been given to components of BREEAM although this had not proceeded to a formal pre-assessment required at the design stage. The

location of the proposed building and the poorer access to public transport than in urban areas meant some credits would be difficult to achieve. Members were advised the development will be considered with regard to the Climate Change motion.

It is important to consider that as the businesses and start-ups grow that there will be opportunity to expand within the overall development.

Members felt job creation is extremely important to the area. It was noted that there is land for sale in the development and any expressions of interest received need to be carefully considered and a broad approach taken.

Proposed by Councillor Peter Gane
Seconded by Councillor Michelle Dorrell and

RESOLVED:

- 1. To strongly support, receive and note report C/19/19.**
- 2. To recommend to Cabinet to add a resolution that if Magnox funding is not forthcoming then this proposal returns to Council for further discussion.**

(Voting: For 9; Against 0; Abstentions 0)

21. Folkestone & Hythe District High Streets Fund

Report C/19/21 sets out proposals for investing and managing the Council's £3 million High Streets Regeneration Fund that has been established to support and help high streets in the district adapt for the future.

Dr Katharine Harvey, Chief Economic Development Officer, presented this report and advised members that it is proposed to earmark £2.5 million of the funding for Folkestone with the remainder for the High Streets across the District.

Members commented that there should be more funds for the more rural High Streets rather than concentrating on Folkestone High Street.

Members were advised that the split was based on Folkestone being the main town in the district, so the majority of the funding is proposed for Folkestone which is the most important town in the district and whose success will impact on the whole of the district. However, the split will also depend on the quality of the bids received for the funding and the applicants will normally have to 50% match fund

Members also queried the proposed decision making process and the appropriateness of funding decisions on schemes taken forward by FHDC in Folkestone being made by a smaller group - the Leader and the Corporate Director for Place and Commercial. Decisions on external applications for all other areas are to be taken by a wider group – the Leader, Cabinet lead member for the District Economy and a ward councillor for the area relating to

the application. Concerns were expressed about the decision-making group for the council-led investments in Folkestone. It was suggested that a cross party Folkestone Town Centre working group of councillors is proposed and that they would be consulted about any major capital investments in Folkestone.

The evaluation of externally proposed projects across the district needs to be fair and a consistent approach adopted. Therefore the membership of the wider decision-making group needs to be consistent in assessing all projects.

Dr Harvey confirmed that it is not proposed for these funds to support sub high streets, such as Golden Valley and Dover Road, and maps will be available to show the properties and areas within the named high streets that will be eligible for grant funding.

The assessment of projects should consider the wider impact with projects that improve the environment supported. Dr Harvey pointed to the assessment criteria shown in Appendix 2 which includes this.

Proposed by Councillor Tim Prater
Seconded by Councillor Laura Davison and

RESOLVED:

- 1. That Cabinet are requested to include in the recommendations that Sub Shopping areas are involved in the application process.**
- 2. That Cabinet are requested to consider altering the decision making process for the council-led investment proposed in Folkestone.**

(Voting: For 7; Against 1; Abstentions 1)

Further comments were made with regard to the split of funds but members were reminded that any monies are welcomed where investment for the future can be made.

Proposed by Councillor Michelle Dorrell
Seconded by Councillor Terry Mullard and

RESOLVED:

- 1. That Cabinet consider amending the split of funds for this proposal to £2 million for Folkestone Town and £1 million for remaining High Streets in the District.**

(Voting: For 7; Against 1; Abstentions 1)

Proposed by Councillor Peter Gane
Seconded by Councillor Miss Susan Carey and

RESOLVED:

- 1. To receive and note report C/19/21.**

(Voting: For 9; Against 0; Abstentions 0)

22. East Kent Housing Update

Report C/19/03 provided members of the Overview and Scrutiny Committee with an update on the performance of East Kent Housing (EKH) during the first quarter of 2019/20. Deborah Upton, Chief Executive of EKH, was in attendance to address questions and points of interest raised by members.

Dr Susan Priest, Head of Paid Service, explained to members the reasons for the exempt items on this agenda item.

The exempt items make reference to a separate entity and refers to properties outside the District which are yet to be considered by other Local Authorities. The EKH item will be coming back to the Committee in October for further updates.

The report made reference to complaints received from April 2019 and members asked for complaints prior to this. Ms Upton, Chief Executive of East Kent Housing, explained that complaint numbers are similar in 2018/19, but she asked that members bear in mind the thousands of repairs made.

Cllr Davison was concerned about the complaints policy version provided to members as this differs from the policy that is shown online. Ms Upton will check this and would be happy to meet Cllr Davison to discuss any further concerns.

Ms Upton went on to explain to members the reporting problems and inconsistency of data which has led to the problems at East Kent Housing. Spreadsheets have now been recreated and locked to prevent any erroneous deleting or additions. Contractors have been asked to feed into these and weekly reports are provided to the four Local Authorities.

Questions arose about the exempt items and when the documents can be made public. It was suggested that the reports could be made public in a co-ordinated way with the other three Local Authorities. Report OS/19/04 which is exempt relates to this district only and members believed this should not be exempt.

In making the exempt reports public members felt this may give a clearer, less concerning, picture to tenants and an opportunity to come forward with concise and informed comments. The Local Tenants Group are aware of the issues raised in the internal audit.

Turning to finances, Ms Upton confirmed that rent collection targets have been met and this is due to staff helping residents especially through their transition to Universal Credit.

Proposed by Councillor Tim Prater
Seconded by Councillor Michelle Dorrell and

RESOLVED:

- 1. To release exempt papers Appendix 3 and Appendix 3 (2) of report OS/19/03 to the public.**
- 2. To release exempt report OS/19/04 and East Kent Housing Compliance Report (4 Sept 2019) to the public.**
- 3. To invite tenants to make representations to this Committee with regard to their experiences with East Kent Housing.**

(Voting: For 6; Against 3; Abstentions 0)

Members agreed, that in making all exempt papers public that all tenants are aware of this information as soon as possible. Ms Upton advised that tenants are actively being contacted to discuss various health and safety items on a regular basis.

Looking at Appendix 3, members raised concerns with regard to the gas and other safety issues which has been a problem for some time. Members agreed that there are actions and remedies being taken and Ms Upton assured members that she is working closely with the four Local Authorities and the East Kent Housing Board.

Actions taken:

- Data gathering
- Procedure manuals
- Random checking by management
- QA by Compliance managers
- For future, it is planned that further Internal Audits are used to carry out checks.

Members suggested that maybe tenants could be more involved, i.e. with checking and signing safety certificates.

Other reports and audit responses are being carried out including a HQN report, also a four way Council led investigation and this report will be ready in November 2019. There is also an options report with regard to the future management of EKH which will come to this Committee initially. This report will include a consultation report which will be sent to every tenant.

Dr Priest advised that a full time secondee from the Council has been placed at East Kent Housing along with additional funding from the HRA to help resolve issues in Folkestone & Hythe Council properties. Stock condition surveys have been carried out but high, second and low priority issues do still need to be dealt with.

Further question received from members with regard to legal action against East Kent Housing, it was confirmed that legal advice has been sought however no further details could be given.

Members requested that all reports are shared with the Committee in a timely way which would give a clear indication of the progress being made with health

and safety issues, management and funding issues. Dr Priest explained that funding is available to EKH however in the past, capital investment budgets have typically underspent. Only recently funding to support an Improvement Plan had been made available for EKH, and subsequently health and safety compliance issues have come to light requiring further investment from the HRA. She explained that a review of the HRA business plan and budgets was ongoing and would be presented to members in due course.

Proposed by Councillor Peter Gane
Seconded by Councillor Patricia Rolfe and

RESOLVED:

- 1. To receive and note report OS/19/03.**
- 2. To ensure all points raised by members of the Overview & Scrutiny Committee are actioned.**
- 3. To contact all EKH tenants to update with current information surrounding the health and safety issues.**
- 4. HRA funding to be reported to this Committee.**
- 5. To scrutinise the contents of the reports provided by EKH, attached as Appendices 1, 2, 3 and 4.**

(Voting: For 9; Against 0; Abstentions 0)

ROMNEY MARSH EMPLOYMENT HUB

Mountfield Road Industrial Estate, New Romney – Phase 4

Briefing for Overview & Scrutiny Committee
10 September 2019

AIM OF PRESENTATION

- To recap on the case for bringing forward the development at Mountfield Road Industrial Estate
- To provide an update on progress to date and proposed way forward
- To seek FHDC investment contribution to bring forward the scheme

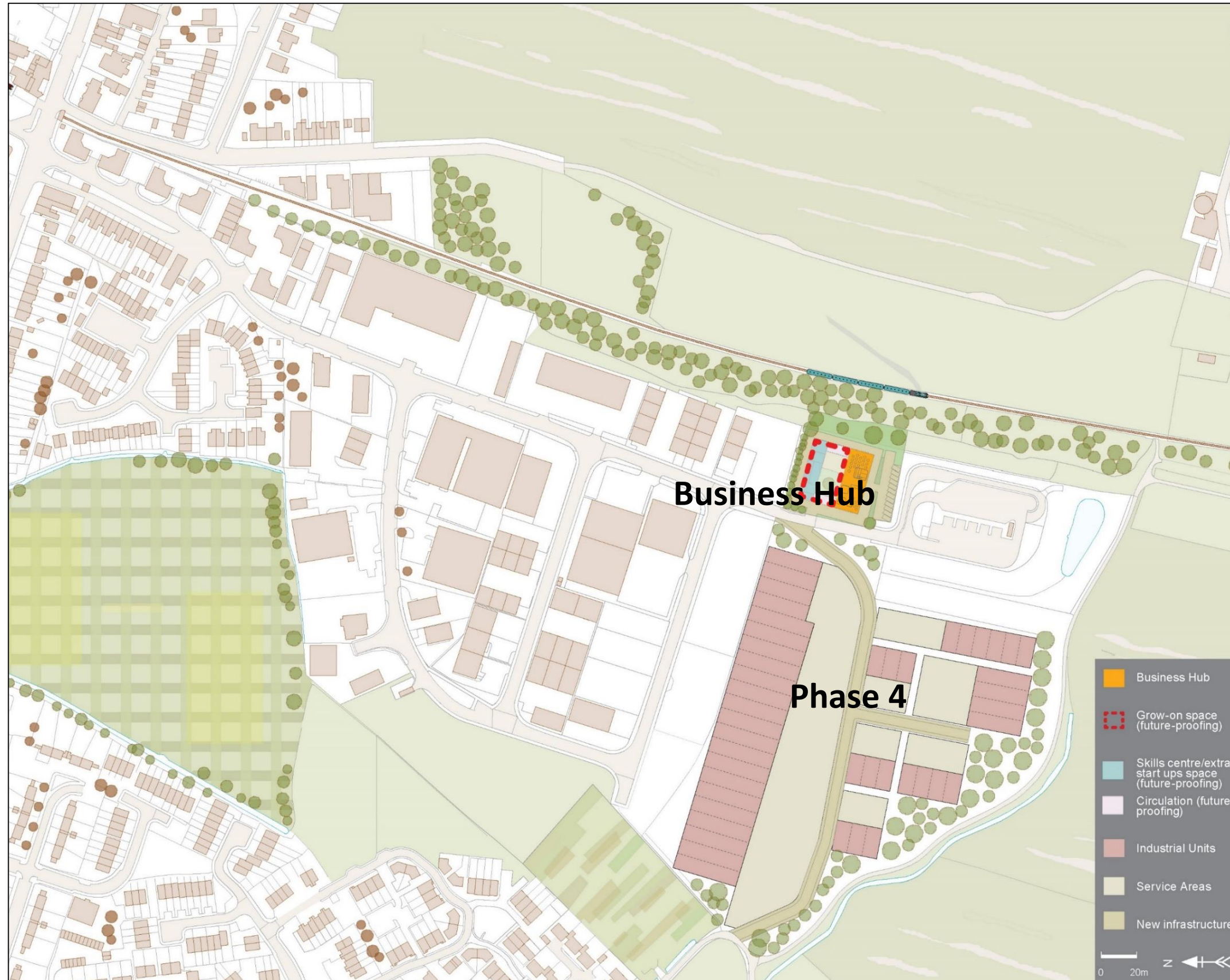
CASE FOR INVESTMENT

Need	<ul style="list-style-type: none">• Loss of 1000+ jobs and local contracts from closure of Dungeness A and closure of Dungeness B in 2028• Need to diversify the economy from reliance on nuclear sector
Opportunity	<ul style="list-style-type: none">• Identified in the RMP Delivery Plan as the key opportunity site for diversifying the Romney Marsh economy• RMP is campaigning for ‘game-changer’ projects• Will increase the provision of good quality business space• Could create up to 700 jobs over 10 years.• The 6 hectare site is allocated in 2013 Local Plan for employment
Deliverability	<ul style="list-style-type: none">• Planning is in place for business centre & servicing the land• Once funding in place, construction could commence within 6months
Demand	<ul style="list-style-type: none">• Demand for grow-on flexible workspace for fledgling enterprises• BBP report identified demand for modern business space in 2015• Recent advice from Savills suggests demand and rent levels of about £14 per sq.ft• Flexibility for training space within building and potential extension
Viability	<ul style="list-style-type: none">• Unviable commercially owing to low market values compared to servicing costs.• Cost of servicing land twice the resulting market value• Grant funding required.

Progress to Date

- Feasibility and Masterplan completed with Magnox funding contribution in April 2018
- Cabinet reviewed site options for Business Centre and agreed to selected site in July 2018
- Business centre and infrastructure for Phase 4 land designed and planning consent gained
- Grant application to CCF shortlisted but unsuccessful
- Grant application to SELEP's LGF Round 3b is scored highly but funding unlikely to become available in the short-medium term
- Positive indications from Magnox and NDA towards a funding contribution
- EKSDC Board have agreed the principle of joint-funding with FHDC

Proposed Scheme at Mountfield Road



- Business Centre (red)
- Phase 4 – road infrastructure and services to unlock employment plots

Mountfield Road Business Centre



- 751 sq.m GEA
- 12-14 offices/rooms
- Potential for additional 427 sq.m extension

Business Centre: Costs and Proposed Funding

Partners	Contribution	Total £
East Kent Spatial Development Company	Finance of £735,000	735,000
FHDC	Finance of £570,500*	735,000
	Land value of £164,500	
Magnox Socio-economic programme	Grant funding of £500,000	500,000
TOTAL		1,970,000

* FHDC Capital Programme expenditure to be funded from the Kent 100% business rate retention pilot 2018/19 (total of £1m for economic development purposes).

Proposed Way Forward

- A phased approach is taken to developing out the scheme
- To prioritise bringing forward the construction of the business centre
- To bring forward the business centre (£1.97m) through:
 - FHDC agreeing to contribute the land value and £570,500
 - Taking forward joint investment agreement between EKSDC and FHDC
 - Applying to Magnox for a £500,000 grant contribution
- Invite expressions of interest to sell the remaining land for employment purposes without the infrastructure investment

This Report will be made public on 8 October 2019



Report Number **C/19/29**

To: Cabinet
Date: 16 October 2019
Status: Non-key decision
Responsible Officer: Susan Priest, Head of Paid Service
Cabinet Member: Councillor David Godfrey, Cabinet Member for Housing, Transport and Special Projects

SUBJECT: East Kent Housing
Housing management: future options appraisal

SUMMARY: This report set out a headline options appraisal of future housing management options, taking into consideration the current arrangements between the four councils (Canterbury City Council, Dover District Council, Folkestone & Hythe District Council, Thanet District) and East Kent Housing.

REASONS FOR RECOMMENDATIONS:

There have been concerns regarding the performance of East Kent Housing in terms of asset management, procurement and the delivery of the capital programme for some time and more recently these concerns have been heightened by the apparent deterioration in tenant health and safety compliance. In July 2019, Cabinet agreed for an options appraisal to be undertaken regarding the future delivery of housing management in the district.

RECOMMENDATIONS:

1. To receive and note report C/19/29.
2. To approve the recommendation that the council's preferred option is to withdrawal from EKH and return housing management services back in-house under direct management of the council, subject to formal consultation with all tenants (and leaseholders) to satisfy the requirements of Section 105 of the Housing Act 1985.
3. To approve that council makes available up to £250,000 from the HRA in 2019/20 and 2020/21 (split to be determined) to support interim transition management costs, subject to option 2 being supported.
4. To approve for any minor amendments to the options and consultation documents to be delegated to the Head of Paid Service in consultation with the Cabinet Member for Housing, Transport and Special Projects.
5. To approve for the consultation results to be presented to Overview and Scrutiny Committee and Cabinet for consideration in early 2020.

1. BACKGROUND

- 1.1 The four councils of Canterbury City Council, Dover District Council, Folkestone and Hythe District Council and Thanet District Council are neighbouring district councils located in East Kent. They collectively own over 17,000 dwellings, which are managed by East Kent Housing (EKH). EKH is an Arms-Length Management Organisation (ALMO), jointly owned, in equal share, by the four councils. EKH was established on 1 April 2011 and is managed by an independent board.
- 1.2 EKH is responsible for the management of the councils' housing stock (with landlord and freeholder responsibilities for leasehold stock), by way of a management agreement held separately with each council. In addition, an owners agreement sets out the relationship between the four councils, including arrangements for varying the terms of the management agreement or terminating the arrangements.
- 1.3 Each council holds its own separate Housing Revenue Account, providing both capital and revenue budgets covering the investment needs of their respective housing stock. EKH has input into the budget setting process and is responsible for managing these budgets and approving expenditure on stock investment, repairs and maintenance and health and safety, within the budget limits agreed by the councils. In addition, each council provides EKH with an annual management fee for the provision of the services.

2. INTRODUCTION

- 2.1 The four client councils have raised concerns about a number of key areas of the services provided by EKH in relation to asset management, procurement and delivery of the capital programme. As a result, an Improvement Plan was developed in response to these areas of weakness that EKH have been unable to resolve. Additional investment has been provided by the four councils to EKH to improve performance in these areas and early indication is that significant improvement in some areas remains necessary.
- 2.2 Council concerns have been further exacerbated by serious health and safety compliance failings by EKH uncovered in May of this year in relation to Landlord Gas Safety Records (LGSRs). A backlog of gas safety certificates came to light when EKH received notice from its gas safety contractor that it was terminating its contract. This led to all four councils completing Section 5 monitoring officer reports due to non-compliance with legislation relating to tenant health and safety. By June 2019, the position in relation to LGSRs was recovered and the four councils had no properties with an outstanding LGSR. Gas safety inspections continue to remain up to date across all four areas.
- 2.3 East Kent Audit Partnership (EKAP) undertook a review of services for resident health and safety across all four council areas. This work formed part of the planned forward audit programme agreed by the councils for the

2019/20 year, with the specific work commissioned by EKH. EKAP's initial findings (in June 2019) raised major failings by EKH in relation to the internal control of health and safety (including faulty emergency lighting, carrying out electrical safety checks, fixing faults found in lift inspections and taking action following regular legionella risk assessments). EKAP recommended urgent management intervention in all key areas tested in their final report dated 19 July 2019. Immediate actions were undertaken by EKH to address high risk recommendations. A further audit opinion was sought by EKH and was provided by EKAP in August 2019, with both reports being formally considered by EKH Board on 22 August 2019. The EKAP opinion reported positive progress had been made on addressing a range of performance and health and safety problems affecting council housing across east Kent, for example, gas safety has now been given substantial assurance, with robust plans in place to tackle those that remain with additional budget demands being presented to address the necessary works.

- 2.4 Members of F&H DC received monthly updates relating to these matters through June, July and September, and full reports were made available to OSC on 10th September 2019 and to Audit & Governance on 18th September 2019, following consideration by EKH Board.
- 2.5 The four councils agreed to self-refer to the Regulator for Social Housing (RSH) on these matters. The RSH regulates registered providers of social housing to promote an efficient and well-governed social housing sector able to deliver homes that meet a range of needs. The councils have cooperated fully with the RSH investigation and continue to keep them fully informed on progress. In September, the RSH's investigation concluded that the four councils (under their statutory landlord responsibilities) were non-compliant, resulting in a Regulatory Notice being issued. The notice remains 'live' for 12 months or until full compliance is achieved.
- 2.6 As a result, EKH commissioned a review by the Housing Quality Network (HQN). The councils have raised areas of concern regarding the accuracy of some of the findings within the report, which EKH is currently reviewing. Similarly, the four councils have appointed Pennington Choices housing consultancy service and the resulting report and findings are due to be completed by late November 2019. It is important to understand what went wrong and lessons to be learnt in order to mitigate against any future risk and ensure those tenants living in council housing properties are safe and receive the best possible service.
- 2.7 In light of the above, over recent months each of the four councils has presented reports to their various governance groups explaining why they have concerns about the way in which EKH has been managing council owned homes. The recommendations flowing from each of these reports has been to review the potential future options for the management of the housing stock and to commence consultation with council tenants and other key stakeholders as soon as is practicable on these options. Ultimately, safeguarding the health and safety of its tenants is at the forefront of any future decision.

- 2.8 This report set out a high-level options appraisal of future housing management options, taking into consideration the current arrangements between the four councils and East Kent Housing. The appraisal highlights the advantages and disadvantages of the current management arrangements and provides the four councils with an opportunity to consider the implications of other business model options available to them.
- 2.9 The appraisal includes:
- a. A headline overview of the ALMO as a housing manager.
 - b. A headline overview of potential future housing management options.
- 2.10 The review will consider each option taking into account the following factors and issues:
- Quality and safety of the service to tenants and leaseholders
 - Contractual obligations
 - Financial implications
 - Legal implications
 - Resources (staffing, TUPE issues etc.)
 - Performance
 - Governance
 - Clienting / corporate interface with the Council
- c. Recommendation – the appraisal provides a headline set of conclusions to allow the four councils to make an in principle decision on the future model for delivering housing management.

A high level analysis has been undertaken via a SWOT (strengths weaknesses, opportunities and threats) review of each of the potential future housing management options. However, this report proposes that the four councils may wish for a financial appraisal and risk analysis to be undertaken against any new service delivery model.

- 2.11 This report is the result of the work completed in respect of the above and has been a team effort involving a number of officers, including the four council client leads and EKH's Interim Director and Head of Finance, and in consultation with the council and EKH chief executives.

3. THE ALMO MODEL

- 3.1 The Decent Homes programme of the 2000s saw the introduction of Arm's Length Management Organisations (ALMOs). When government first introduced ALMOs there were financial incentives for stock retaining councils to set them up. However, these incentives have not been in place for some years. At their peak in 2009/10 there were 70 ALMOs managing approximately one million homes. Since then, this number has reduced by more than half to 31 (as at December 2018).

- 3.2 Periodic reviews of ALMOs at appropriate contract break points are usually a trigger for bringing an ALMO in-house, although some authorities have taken the opportunity to retain or expand their ALMO at these points. Anecdotal evidence suggests that while perceived poor performance may be a catalyst for bringing services in house, political will and the relationship between the Council and the ALMO are also a factor.
- 3.3 Those councils that have taken back direct control of their housing have highlighted a desire to bring the service closer to democracy, provide clearer accountability and a strong customer focus to drive improvements and investment. Direct control of housing management ensures direct council accountability for tenants and leaseholders, helping to accelerate the speed of decisions and improvement where needed and more joined up services.

4. OPERATING CONTEXT

- 4.1 The four councils and EKH operate within an increasingly challenging environment, driven by recent and planned legislation, the roll-out of Universal Credit and the fundamental rethink of housing provision nationally and London-wide following the Grenfell fire. The Grenfell fire necessitated a nationwide response to fire safety, building design and management. The Hackitt report - Building a Safer Future - is a call to action for the whole housing industry to implement a universal shift in culture, with:
- Clear roles and responsibilities across the whole life-cycle of a building;
 - A golden thread of compliance, with raised levels of competence in the inspection and maintenance of high-rise residential buildings and complexes, backed by stronger and more effective enforcement activity; and
 - The residents' voice centre stage, to ensure a clear, quick and effective route for residents' concerns to be addressed, and they have assurance that effective systems are in place to maintain safety in their homes.

5. EAST KENT HOUSING – BASELINE ASSESSMENT

- 5.1 In 2011, the four councils established EKH under section 27 of the Housing Act 1985, delegating the management of its housing stock of approximately 17,000 homes. The precise scope of the relationship is defined through a Management Agreement.
- 5.2 The key features of the Management Agreement are:
- A high level list of functions to be delegated to, and carried out by EKH (are set out in Appendix 1)
 - Arrangements for reporting on and monitoring performance
 - Requirements for the involvement of residents in decision making
 - Staff to be transferred under the TUPE Regulations
 - The financial relationship and obligations of each party
 - Arrangements for liaison and consultation between the council and EKH

- EKH's role in helping deliver the authority's housing strategy
 - The length of the agreement, which it is proposed be a 30 year period with five yearly break clauses
 - Actions to be taken where there is non-compliance or failure
- 5.3 Each Management Agreement was originally built around a Delivery Plan, (later replaced by the EKH Business Plan) and sets out EKH's responsibilities under the Management Agreement and its agreed performance priorities and targets.
- 5.4 Regardless of who delivers the service, as the landlord, the four councils are ultimately responsible for compliance with all statutory requirements. Tenants' rights and responsibilities are unchanged as they remain tenants and leaseholders of the council.
- 5.5 Estate profile: Canterbury City Council¹
As at 31 March 2019, the council owns 5,461 homes; mostly houses (45%), low-rise flats (44%) and bungalows (10%) across the area, with around 5,093 tenants and 388 leaseholders. This includes 1,017 sheltered or semi-sheltered accommodation properties. EKH also manages 38 Hostels on behalf of the Council. Around 36% of tenants are aged 60 or over and it is estimated that approximately 43% may have a disability or a vulnerability of some kind (based on the most recent resident survey).
- 5.6 Estate profile: Dover District Council
As at 31 March 2019, the council owns 4,785 homes; mostly houses (48%), low to medium-rise flats (38%) and bungalows (13%) across the area, with around 4,298 tenants and 487 leaseholders. This includes 549 sheltered or semi-sheltered accommodation properties. Around 40% of tenants are aged 60 or over, and it is estimated that approximately 52% may have a disability or a vulnerability of some kind (based on the most recent resident survey).
- 5.7 Estate profile: Folkestone & Hythe District Council
As at 31 March 2019, the council owns 3,619 homes; mostly low to medium-rise flats (44%), houses (43%) and bungalows (12%) across the area, with around 3,381 tenants and 238 leaseholders. This includes 1,021 sheltered or semi-sheltered accommodation properties. Around 48% of tenants are aged 60 or over, and it is estimated that approximately 56% may have a disability or a vulnerability of some kind (based on the most recent resident survey).
- 5.8 Estate profile: Thanet District Council
As at 31 March 2019, the council owns 3,426 homes, mostly houses (51%), medium to high-rise flats (42%) and low-rise flats (7%) across the area, with around 3,033 tenants and 393 leaseholders. Around 26% of tenants are aged 60 or over, and it is estimated that approximately 47% may have a

¹ Source: East Kent Housing. Stock data source taken from end of year (2018/19) financial accounts; the breakdown by property type is calculated from Northgate's 'all area property report'. Age data is taken from Northgate for all tenants where date of birth is known (14,375 or 95% of 15,188 total records). Disability data is taken from 2017 resident survey (1,609 respondents) and is therefore an approximation.

disability or a vulnerability of some kind (based on the most recent resident survey).

5.9 Operating and governance model

The ALMO model creates an 'arms-length' and separate, sovereign body over which the four councils have very little direct control. However, the councils are ultimately responsible for the housing stock and the services provided to tenants.

EKH has to satisfy a number of stakeholders at the same time, including; tenants and leaseholders, EKH Board, the four councils, portfolio holders and the Owners Committee. It can therefore be difficult to achieve swift or any immediate consensus in decision making.

The EKH Board is made up of 12 members which includes four council members to represent each local authority, four independent members and four residents. The Board meets monthly and has responsibility for the governance of the organisation.

Reporting to the Board are a number of other committees including the local Tenant and Leaseholder Boards, Residents Panel, Service Improvement and Performance and Audit committees.

The EKH Board is led by a Chair and the company is managed by an executive team overseen by the EKH Chief Executive.

5.10 Vision and Strategy

In 2015, EKH undertook a consultation to renew its 2020 vision, priorities and commitments to residents, involving staff, tenants, leaseholders, councillors and council colleagues.

EKH's 2020 vision is to be; *'Trusted by our residents, the councils and our staff to deliver a reliable service.'*

EKH's Business Plan sets out the organisation's strategic priorities under three overarching objectives to:

- Places people want to live
- Working in partnership with the councils
- Valuing and enabling staff and residents

5.10 EKH staffing

When EKH was established in 2011, existing staff transferred from the four councils to EKH under TUPE with their employment rights protected. Formal consultation was undertaken with Unions and all affected staff. Staff transferred with their existing council terms and conditions including pay structures. EKH staff are currently dispersed across the four council areas with office space in all four councils and the main EKH Garrity House headquarters.

At the time of establishment in 2011, EKH staffing establishment was 204 FTE (equating to 243 staff members) at an annual cost of £6.182m.

Although over time some posts were lost (for example, the restructuring of the sheltered plus service in Canterbury meant that a large number of part-time staff were removed from the structure), others were created. The net effect of the establishment of EKH was expected to be a reduction in the region of 23 FTE (full-time equivalent) posts. As ever, the objective was to avoid compulsory redundancy and to redeploy and train staff to take on any new roles and responsibilities.

In 2017, EKH introduced a new operating model, aiming to provide improved service resilience covering the four council areas, alongside more localised area teams.

As at 31 August 2019, EKH's current staffing establishment is 179 FTE (equating to 198 staff members). 165 are permanent, with 33 being employed on a temporary/interim basis. Of the current 33 agency workers 5 are consultants on the IT single system project and 3 on fire risk work. As at 31 August 2019, the annual budgeted cost of the staffing establishment is £6.481m.

The figures above include further investment into EKH's income collection team by 12 FTE posts and extra resources to address recent compliance issues, agreed by the four councils in April and July 2019 respectively. EKH is current seeking a further £873,075 to support an additional 20.6 FTE posts for compliance and estate services. The current East Kent Housing organisation structure is attached as Appendix 2.

5.11 Pension arrangements

East Kent Housing is treated as a separate employer for the purposes of the Kent Pension Fund and was granted admitted body status into the scheme. All staff were transferred to the pension fund as "fully funded" so that EKH would not commence trading with a pension deficit.

5.12 Financial arrangements

The four councils retain responsibility for the strategic management of the Housing Revenue Account (HRA) and business plan and for the completion of annual returns. The councils also retain responsibility for undertaking new building and acquisitions under the HRA, as well as defining the housing allocations strategy and policy.

The overarching financial framework for East Kent Housing and the financial arrangements between the councils and EKH are set out in Schedule 6 of the Management Agreement (annexed as Appendix 3). This includes key issues such as pension arrangements, the mechanisms for the calculation of the management fee and for its payment, the treatment of surpluses on the management fee, the division of responsibilities for different transaction types, and the monitoring and reporting mechanisms that will apply.

The annual management fee for each local authority since 2011/12 is shown in the table below.

Table 1: Annual Management Fee²

	CCC	DDC	FHDC	TDC	TOTAL
2011/12	£2.945m	£2.309m	£1.785m	£1.589m	£8.628m
2012/13	£2.880m	£2.036m	£1.874m	£1.369m	£8.159m
2013/14	£2.888m	£2.104m	£1.844m	£1.302m	£8.138m
2014/15	£2.953m	£2.186m	£1.880m	£1.305m	£8.324m
2015/16	£3.073m	£2.249m	£1.917m	£1.323m	£8.562m
2016/17	£3.026m	£2.252m	£1.931m	£1.323m	£8.532m
2017/18	£3.027m	£2.197m	£1.931m	£1.324m	£8.479m
2018/19	£2.910m	£2.197m	£1.931m	£1.324m	£8.362m
2019/20	£3.094m	£2.359m	£1.949m	£1.506m	£8.908m

Detailed work was undertaken by the four councils in setting the original management fee based on original council staffing costs prior to the transition. Area based costing methodology has since been considered, but not progressed.

The 2016/17 Housemark³ benchmarking data showed that East Kent Housing continue to provide their services at a comparatively lower cost than all others in their peer group.

As Table 1 demonstrates, East Kent Housing has not benefited from substantial increases in the management fee, for example, increases in line with inflation measures such as the Consumer Price Index (CPI). For a number of years, staff cost increases or pay awards were directly absorbed by EKH and this has been addressed recently with a proportion of the additional funding made available for the Improvement Plan for this purpose.

Any proposed future operating model, should be considered against each council's HRA Business Plan in terms of viability and sustainability.

5.13 Performance - overview

In response to a number of significant performance concerns, in early 2019, an Improvement Plan was proposed by EKH and approved by the four councils. The plan reflects arrangements and issues that have changed or come into being over the life of the existing contract. As a result, the four councils collectively agreed to further investment (£800k in total across all four councils) to be reviewed in September 2020.

The improvement plan identified key areas of concern related to:

² Source: Local Authority HRA Business Plans

³ Source: <https://www.housemark.co.uk/media/1580/customer-excellence-benchmarking-report.pdf>

- Procurement of key contracts for the delivery of the council's planned maintenance and capital improvement programmes
- Contract management of a number of key contracts
- Rent collection, particularly in relation to tenants in receipt of Universal Credit
- Single System implementation
- Organisational health and sustainability

Whilst progress has been made in several areas, some important and serious concerns remain. A key concern was the performance of the planned maintenance programme, which remains substantially under-delivered. Significant contract management weaknesses were also highlighted through EKAP's recent audit investigation, including failure to detect and challenge poor performance by contracts, a failure to challenge potential overcharging by contractors and a failure to detect and challenge a pattern of charging that may suggest potential fraud.

EKH has received additional funding from the councils by way of an increase in the management fee to improve its procurement performance. However, at present, EKH remain heavily reliant on the councils for procurement support and guidance.

The single IT system project is considered to be critical to the long-term delivery of the services provided by EKH. The system will enable more flexible working, enhance online services for residents and unlock efficiency savings. The single system includes modules for rents and voids; planned maintenance and repairs; and leasehold and service charges.

The single system project complexity was grossly underestimated by EKH, due to the bespoke nature of each of the 12 modules to cater for different output requirements. This has resulted in a final estimated expenditure of £2.3m, compared to the original budget of £1,113,333. The second phase of the project (repairs and maintenance/invoicing) is still to be completed, with EKH suggesting a target delivery of November 2019, bringing the project delay to two years in total.

Of the £2.3m total expenditure, EKH has delivered organisational efficiencies to fund £1m from its own resources and borrowed £1.3m from the councils. The loans are scheduled to be repaid from EKH budgets, which include the transfer of £147k of existing council systems budgets by April 2026. A further £370k above the original budget was requested by EKH and approved by the four councils in 2017.

It should be noted that the single system was set up with four separate data areas for each council, future proofing any council's move to a different operational model going forward and protecting any GDPR implications (e.g. tenant records). EKH is current procuring a new document management system to support the single system. This would need to be carefully looked at as part of any transition plan to a new model of housing stock management before it is progressed further.

As reported earlier, in May & June 2019, significant performance issues were reported by EKH to the four councils in relation to Landlord Gas Safety Records (LGSRs). The position in relation to LGSRs has now been recovered, ensuring the councils have no properties with an outstanding LGSR. However, as a result, the councils undertook to self-refer the matter to the Regulator for Social Housing (RSH), resulting in a Regulatory Notice being issued in September, concluding that the councils had been collectively non-compliant with regard to gas safety compliance. EKH has since commissioned the Housing Quality Network (HQN) to undertake an independent investigation into gas safety across its housing stock. The report was presented to the EKH Board on 22 August 2019 and the councils have challenged a number of the findings. The four councils have also commissioned their own independent investigation, with this work due to be completed by late November 2019. The councils continue to work closely with the RSH to ensure continued compliance. The matter has challenged the relationship and trust between council members, officers and EKH as a result of a decreasing standard in contract and performance management and adherence to statutory health and safety compliance.

EKH is working collectively with the four council S151 officers to identify the additional staffing resources required to address these issues. However, initial estimates identifies an initial financial investment in excess of £1m across the councils, which may rise as a result of ongoing compliance works.

EKH continues to perform well in rent and service charge collection and rent arrears for F&H remain comparably low. EKH monitors overall tenant satisfaction levels with its services each year, demonstrating relatively good satisfaction levels being recorded each year. Its local tenants and leaseholder groups and independent living forums are well attended and play an active role in continued tenant and leaseholder engagement.

In conclusion, serious issues regarding performance, compliance and procurement by EKH have had a detrimental impact on the trust in operating the model. This has resulted in a general loss of confidence in EKH by the four authorities, whose priority remains that tenants and leaseholders living in council housing properties are safe and receive the best possible service.

5.14 Capital programme

Despite progress in recent months on a number of procurement projects there remains concern about the speed of delivery of the approved capital programme and EKH are again reporting slippage. It is evident that there have been staffing restructures within the property side of EKH services, with a current reliance on a number of interim appointments. However, the complexity of governance between the four councils and EKH has hindered the speed of progress and change to procurement, with decision-making often a complex and lengthy process due to conflicting views and requirements. It is unclear whether any significant benefit has been delivered through joint procurement as applied in this model.

6. FUTURE OPTIONS ANALYSIS

6.1 Four options have been considered as part of this report's analysis:

Option 1: Retain and refocus the current EKH ALMO arrangement.

Option 2: Withdraw from EKH and return the provision of housing management services back in-house under direct management of each council.

Option 3: Withdraw from EKH and form a new shared housing service with one or more of the other councils (this would not be an ALMO).

Option 4: Withdraw from EKH and outsource the service to one or more external providers.

6.2 Whichever management option each of the four councils chose for the future management of their housing services, the immediate priority for the service remains tenant safety, operational recovery and rebuilding stakeholder confidence, whilst reappraising service goals and delivery mechanisms.

6.3 Option 1: Retain and refocus the current EKH ALMO arrangement

6.3.1 This option involves continuing with the current delivery model and retaining EKH.

6.3.2 A summary of the option is set out below.

Strengths	Weaknesses
<ul style="list-style-type: none">• Lower level of risk as no major change of structure needed and can start refocusing service immediately• Least complex of the options• No requirement to consult with tenants	<ul style="list-style-type: none">• Acceptance that strategic control will be limited to actions agreed in the delivery plan• Loss of trust with council elected Members and officers - the last year has critically damaged EKH's credibility with stakeholders in terms of health and safety non-compliance and poor operational performance• Operations, procurement and contract management arrangements are not deemed robust enough to deliver any improvement plan• Inherent layer of management remains between EKH and four Councils• Complete overhaul of the operating model is probably required• Failure to contribute effectively to delivering the four council's wider corporate and service goals
Opportunities	Threats

<ul style="list-style-type: none"> • Improving governance arrangements for EKH • Strengthened client-side function within the Council • Scope for making performance gains and service innovations (but would require significant council investment) • Reintroduction of a prescriptive delivery plan, setting out Council objectives and targets 	<ul style="list-style-type: none"> • Ongoing and significant council investment required to address poor levels of performance and non-compliance • Levels of performance and compliance may not recover to former levels • Anticipated service/performance may not be delivered
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6.3.3 EKH was established on 1 April 2011 and is now in its 9th year of operation. Whilst EKH has operated effectively at 'arm's-length' within the terms of its original Management Agreement, and has delivered relatively efficiently over the past 9 years, the implementation of a new operating model in 2017 has stretched the trust and belief in the organisation.

Lines of communication have become less clear with shortcomings in governance, compliance, performance, as well as in EKH culture. For EKH to be considered as a fully credible retained delivery vehicle for the housing service moving forward, a significant refocusing of many aspects of the operation would be needed. This would create a 'new deal' for current and future stakeholders of the housing service across the four councils, based upon a clear scope of service and sustainable service specification with refreshed governance and clienting arrangements to provide a more robust level of oversight and challenge, and closer partnership working with the four councils and external delivery partners.

EKH has identified the additional staffing resources required to address recent performance issues, estimating an initial, additional financial investment in excess of £1m across the four councils. However, if it was agreed to refocus the EKH model, this would require development and implementation of a detailed plan, which may incur additional one-off implementation costs and a potential increase in the annual management fee.

For this approach to work, the relationship between the four councils and EKH would need to be reset through the governance and clienting structures. The strength of this option is that it maintains continuity and avoids any possible loss of focus. However, the main risks associated with retaining the ALMO are the very likely additional management cost of the model, the dependency by the four councils upon an effective relationship with EKH to deliver key service objectives, and the lack of control that the authorities can exert upon the model even though they retain overall legal responsibility and accountability for failures to deliver in important areas such as health and safety compliance and procurement.

6.4 Option 2: Withdraw from EKH and return the provision of housing management services back in-house under direct management of each council

6.4.1 This option involves terminating the Management Agreement with EKH, winding up the company, and returning the housing service to direct control and management by each of the four councils.

6.4.2 A summary of the option is set out below.

Strengths	Weaknesses
<ul style="list-style-type: none"> • Direct control and direction of the service sits with each individual council, making it more responsive at a time of considerable operating challenge • Enables faster and more responsive decision-making across all housing services through a single integrated management structure in each council • Clienting and duplicated specialist support posts can be deleted • Service improvements can be shaped and delivered locally • Potential savings can be made in removing a layer of management 	<ul style="list-style-type: none"> • The transition process may deflect management attention • Resident accountability may be weakened, and an alternative engagement structure would be needed
Opportunities	Threats
<ul style="list-style-type: none"> • Opportunity to realign delivery and clienting arrangements more broadly across each council's housing service to achieve service objectives • The service can be aligned to deliver broader corporate service goals and objectives • Opportunity to engage and renegotiate the offer to residents • Opportunity to renegotiate contracts EKH has entered into contracts with other organisations (apart from with the Council itself) for the provision of services or works 	<ul style="list-style-type: none"> • Housing management focus is lost as the service is absorbed into a service with wider spans of control • Performance may dip again as the transition is made • Key staff may decide not to transfer back into the four councils • Single System only partially implemented – would require full implementation and ensure a form of shared management

6.4.3 The aim of returning the housing management service to the four councils would be to achieve more cost-effective and better aligned service delivery with each council. This should ensure that the service could better meet

future challenges of increasing growth, addressing vulnerability, and responding to opportunities. Direct council control and co-ordinated decision-making should assist in addressing broader challenges in a climate of change.

- 6.4.4 Consideration would need to be given to the high level list of functions currently delegated and carried out by EKH as part of the Management Agreement (see Appendix 1) and how these could be configured in-house and aligning to existing functions. The four councils would need to consider other activity to be undertaken to refocus the service and deliver this option. Timing is another consideration, as if any of the four council pulled out of the ALMO early, this would create an additional financial burden on the remaining councils and potentially legal cost liabilities.

6.4.5 Organisational design considerations

If the service is brought back in-house, it will be necessary to decide where it is located and how it would be managed within each of the council's organisational structures. Careful consideration needs to be given to how each council's strategic objectives would be best met; how the proposed new service model would be best implemented, and how broader service alignments would be realised.

6.4.6 Resident engagement considerations

If the councils decide to bring services back in-house, it is recommended it is linked to a clear and coherent 'offer' to residents. A decision to bring back the service into each council ought therefore to be couched strongly in terms of what improvements it will deliver. Such a message can be fashioned, based on positive and strong strategic integration. Council tenants will want to know who is going to be managing and maintaining their homes, and how this is to be delivered.

In summary, Government guidance suggests that when councils with ALMOs are seeking to propose significant change to their housing management arrangements, they are required to carry out a consultation exercise 'proportionate' to that which informed the original decision to establish the ALMOs. This does not necessarily mean a direct recreation of the process. Budgets and communications techniques have both changed considerably in the last decade. Consultation will need to focus on utilising the communication methods which we know generate higher levels of stakeholder involvement, and in particular tenant engagement. This will mean a mix of direct mail, face to face presence and information distributed through traditional web and social media. Tenants and leaseholders will also be supported to engage in the process, and key partner organisations (e.g. Samaritans) will also be advised so they can offer the necessary support should queries be raised.

As part of the consultation process, the councils should commit to giving all tenants a say in how their council homes are managed. This will allow the

councils to test overall opinion on the recommended option. Consultation will ensure tenant:

- Understand why a review has been necessary as a result of poor EKH performance and failures in tenant health and safety compliance.
- Understand the benefits of returning the service back to the direct control of the councils, including more investment, safer homes, greater tenant involvement and more accessible services.
- Provide their views on services currently provided by EKH and make suggestions for improvement.
- Give their opinion on supporting a withdrawal from EKH and reintegrating the housing management service back to each individual council.

The proposed consultation (see Appendix 4) complies with the Social Housing Regulator's 'Tenant Involvement and Empowerment Standard', ensuring tenants are given the opportunity to influence and be involved in the making of decisions about how housing-related services are delivered; and, the management of their homes, where applicable.

As the proposal does not involve the delegation of the council housing management function, no approval from the Secretary of State is required to bring the housing management function back in-house. However, the non-statutory guidance suggests that any council considering taking an options review of its housing management should contact MHCLG as soon as possible in the process.

If Option 2 is formally progressed, more detailed consultation and briefings would need to be worked up with EKH staff, union representatives and elected members.

6.4.7 Financial considerations

EKH is 100% owned by the four councils. Consequently, if the service was transferred back in-house and EKH closed down, the four councils would take on all of the assets and liabilities of EKH. Most of these impacts would be felt directly on the Housing Revenue Account (HRA), but there are broader corporate implications as well. In this event, certain roles and functions would no longer be required, but in transferring the services across, it will be important to distinguish between those functions which are no longer required, and those which the four councils might choose to deliver differently under any internal restructuring.

It is recommended that a financial appraisal is undertaken. The impact on the HRA for bringing the housing management service back in-house would be dependent on approach to the strategic management of the service which would be taken within each council, the rationalisation of support services currently delivered and how any service duplications would be reorganised.

Offset against these efficiencies would be one-off costs associated with the transfer of the service back to each council, including legal fees and the

costs of integration of any additional work needed to assist with the change. Redundancy costs are more difficult to forecast at this stage as it is dependent on the pay, length of service and age of employees subject to redundancy. A more detailed evaluation would be necessary once the revised structures had been considered. These costs could potentially be absorbed by the HRA balances, without having any direct impact on budgets for existing services.

The current charging for services to the HRA, and consequential income to General Fund would need to change to reflect a new way of managing the housing service and revised organisational structure.

6.4.8 Implementation costs

The four councils would incur additional implementation costs if they choose to return EKH services to their direct control. There are a range of redundancy, pension fund, legal and transfer of liability considerations that will require more detailed analysis before proceeding. It is recommended that more rigorous analysis and costings would be required if the four councils were to choose this course of action. However, implementation cost items may include:

- An implementation team to plan and deliver the changes required
- Legal advice and the transfer of any assets (where applicable)
- Pensions and actuarial advice, in connection with the transfer of pensions liabilities
- Allowance for potential redundancy payments
- IT and hardware costs (e.g. software licences, document management, laptops, telephones etc.)
- Impact on existing council resources e.g. HR, client services, procurement, estate management, community safety (ASB) and housing

6.4.9 Legal considerations

On 1 April 2011, each of the four councils entered into a separate Management Agreement with EKH for a period of 30 years. The Management Agreement entitles the councils to end the agreement on the 5th, 10th, 15th and 25th anniversaries of its commencement. This means that the next date that the Council could end the Management Agreement would be 1 April 2021.

However, the councils could seek, unilaterally or collectively, to end the contract based on the grounds of material breach or contractual failure. If acting collectively, the councils could bring about a members voluntary liquidation of EKH, or a voluntary strike-off or dissolution. Further legal advice will be taken as decisions are made.

In returning EKH to the control of each of the four councils the following issues should be considered:

- a. If the councils wish to follow the voluntary dissolution, material breach of contractual failure routes, it will be important to establish this as early as

possible, so that the EKH Board can be advised of their obligations under the chosen process.

- b. The four councils will need to decide how to end the Management Agreement. Much will depend on timing, for instance - will timing work with a natural 'break' in the Management Agreement (the next contract break is 1 April 2021), or will the councils decide to disregard the terms of the Management Agreement and terminate regardless.
- c. Bringing the services currently performed by EKH in-house will trigger the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE), under which all employees who are "wholly or substantially employed" in the undertaking will have their employment transferred.
- d. The councils will have to finalise consultation with their residents on any reintegration proposal. Under section 105 of the Housing Act 1985, the councils will be required to consult where any matters relating to the housing management of properties let by the four councils on secure tenancies. Such matters would include the management, maintenance and provision of services or amenities. The proposed change is likely substantially to affect either all or a distinct group of the four council's secure tenants.
- e. Each council would need to consider the impact on its General Fund of any closure of EKH (and in particular the consideration of central service recharges to EKH and any savings that might be realisable were the housing management service brought back in-house) in that the housing service would remain subject to the statutory 'rules' that apply to the HRA in the Local Government and Housing Act 1989.

6.4.10 Transition process

A robust and appropriately resourced transition plan would be required to manage the transition process. In outline, the principal activities for each of the councils to undertake, if they opt to bring the housing service back in-house, will be as follows:

- a. Determining each council's offer to tenants and leaseholders, in terms of how the services will operate and be delivered, and how these will feel different and better for residents
- b. Planning and conducting resident engagement
- c. Setting up a senior level Project Board drawn from each council with EKH to oversee and direct the transition
- d. Determining the new corporate structure
- e. Reviewing the staffing structure of the service
- f. Reviewing the interface arrangements between relevant EKH systems (e.g. the Single System) and any corresponding council systems
- g. Consulting staff on the proposed TUPE transfer and how this will affect them
- h. Reviewing any pension liabilities
- i. Taking steps to ensure, so far as practicable, that the services of key senior and technical staff of EKH are retained
- j. Planning a phased migration of contract management services to each council, so as not to compromise the recovery in service response times

- k. Making contingency plans to deal with any potential problems or service failure during and following the transition, in respect of the housing management service
- l. Arranging that all works, services and goods contracts with EKH are novated to the four councils
- m. Putting in place a comprehensive communications strategy and plan to ensure that tenants and leaseholders, council Members, officers and external partners are clear on the changes being implemented and their implications for their engagement with the new housing management service
- n. Developing and implementing a new model for resident engagement that enables tenants and leaseholders to help shape and scrutinise service delivery in a meaningful way.

6.4.11 Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE")

The purpose of TUPE regulations is to preserve continuity of employment and to safeguard employment rights of all employees whose employment transfers to a new employer as a result of a relevant transfer. Dismissal of staff that are protected by TUPE will be automatically unfair unless there are valid economic, technical or organisational reasons. Any changes to terms and conditions of employment which are related to the transfer will be invalid unless the changes are made for economic, technical or organisational reasons entailing changes in the workforce.

In brief TUPE will apply where there is a transfer of a business involving the transfer of an "economic entity" that retains its identity upon transfer, or when there is a service provision change under which services are either contracted out or brought back in-house.

There is an obligation under TUPE to inform and consult with trade unions in good time before a transfer takes place.

In reaching decisions on these matters, the four councils are bound by the general principles of administrative law. Lawful discretions must not be abused or fettered and all relevant considerations must be taken into account. No irrelevant considerations may be taken into account, and any decision made must not be such that no reasonable authority, properly directing itself, could have reached.

6.5 **Option 3: Withdraw from EKH and form a new shared housing service with one or more of the other councils (this would not be an ALMO)**

- 6.5.1 Some of the councils may consider a shared service arrangement with a neighbouring authority, in a similar vein to the highly successful shared waste contract between Dover and Folkestone & Hythe councils. A shared service arrangement would support shared management, staffing, systems and commissioning responsibility with a neighbouring authority. The shared

service would be controlled by the participating authorities and have its own identity and governance arrangements.

6.5.2 The majority of the changes are as for the reform of EKH, except that the councils wishing to pursue this option would need to take the steps for dissolution of the ALMO.

6.5.3 A summary of the option is set out below.

Strengths	Weaknesses
<ul style="list-style-type: none"> • Direct strategic and operational control • Improves efficiency and delivers more significant economies of scale • Integration of the housing service with the council and its other services • Governance and accountability would flow through the council's corporate management and committee processes • Greater focus on the housing service and the contribution it can make to the council's wider strategic agenda • Process is not excessively complex • No need for Secretary of State permission to return the service in house 	<ul style="list-style-type: none"> • Possible loss of purchasing flexibility and control on the part of individual local authorities • Unrealistic expectations about what shared posts will deliver, so managing expectations is critical • Perception that councils are not in direct management control
Opportunities	Threats
<ul style="list-style-type: none"> • Potential to minimise duplication of services • Increases purchasing power that results in procurement savings 	<ul style="list-style-type: none"> • Cultural/political differences between management teams and elected members across different local authorities can be a barrier to effective joint working. Any political differences of elected members could prove a potential problem • Where different local authorities are being brought together and terms and conditions are harmonised, there may be equal pay implications

6.5.4 Much of the considerations outlined in section 6.4 of this report (option 2) would need to be considered by the councils in relation to financial, legal, organisational design and transition process implications. Consultation with tenants under S105 Housing Act 1985 would be required.

6.5.5 It is not possible to make a realistic financial assessment of the option at this point, without further work based on the council's potential interest in developing a business case for this model. However, an assessment of the effect of moving to a shared service on the council accounts would need to be undertaken. The legal complexities of adopting a shared service model will naturally require expert advice and guidance beyond the scope of this report. A full assessment would need to consider:

- Formation
- Governance arrangements
- Procurement arrangements
- Assessment of the effect of this upon pension funds
- Staffing and TUPE arrangements
- Clienting arrangements on the council side

6.6 Option 4: Withdraw from EKH and outsource the service to one or more external providers

6.6.1 An effective outsourcing partnership can harness the strategic vision and knowledge of operating context of a service with the commercial skills, delivery focus and performance culture of a partner organisation to deliver economies of scale at a lower cost base, improve consistency and contentment, and to innovate.

6.6.2 A summary of the option is set out below.

Strengths	Weaknesses
<ul style="list-style-type: none"> • Improve efficiency and deliver more significant economies of scale • Provides flexibility of approach and restructuring at a lower cost base • Surpluses generated can be used to deliver other priorities 	<ul style="list-style-type: none"> • The financial model will require considerable development to prove viability • Benefits of initial savings may be offset as arrangement is unable to respond to changes in operating environment • Reliant on maintaining strong partnership and clienting relationships over an extended period of time • Complex option to create and is only described in outline in this report • Handing back control to a third party can be highly problematic (as this report outlines)
Opportunities	Threats
<ul style="list-style-type: none"> • Retain strategic control whilst utilising market skills to drive service forward 	<ul style="list-style-type: none"> • High degree of stakeholder scrutiny and potential challenge to the model

	<ul style="list-style-type: none"> • Financial and reputational risks are the same as those associated with any commercial venture • Potential failure of outsourcing partners • Could expose councils to market risks and corporate frailties
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6.6.3 Much of the considerations outlined in section 6.4 of this report (option 2) would need to be considered by the councils in relation to financial, legal, organisational design and transition process implications. Consultation with tenants under S105 Housing Act 1985 would be required.

6.6.4 Taking forward this option will require a significant level of management input prior to embarking on a formal OJEU tender exercise. A full business case is essential to establish the scope and viability, potential rewards and risks associated with the option, and would need to consider the following:

- a. Definition of the contract strategy:
 - Scope – housing management only or including repairs and maintenance
 - Specific services to be included or excluded
 - Split and number of contract lots (with an assessment of the risks associated with a single or multiple party arrangement)
 - Duration of the contract
 - Profit-sharing and risk-sharing arrangements
- b. Full service specification needed;
- c. Running the contract tendering process, including full market consultation on the contract strategy elements;
- d. TUPE arrangements and contract lead-in time; and
- e. An outline timetable for contract mobilisation.

6.6.5 Financial considerations

It is not possible to make a realistic financial assessment of the option at this point, without further work based on the council's potential interest in developing a business case for this model.

6.6.6 Legal considerations

The legal complexities of establishing an outsourcing partnership will naturally require expert advice and guidance beyond the scope of this report. A full legal assessment would need to consider:

- Procurement arrangements
- Contract arrangements
- Governance arrangements
- Staffing and TUPE arrangements
- Clienting arrangements

7. CONCLUSION AND RECOMMENDATIONS

- 7.1 Following performance concerns in 2018/19, an Improvement Plan was put in place for an 18 month period starting April 2019. In May & June 2019 serious performance and health and safety compliance failings by EKH were uncovered. In view of the ultimate responsibility for tenants and leaseholder properties remaining with the council, it is appropriate to consider future housing management options, reflecting on those that will most effectively deliver an improvement in the council's housing management services.
- 7.2 In deciding the best way forward for providing improved housing management services in the four councils, the operational challenges and local housing needs should be considered against each delivery model option in order to guide the selection of the chosen approach.
- 7.3 Based on the recent failings of EKH, Option 1 would require significant investment to be undertaken by the four councils to address poor levels of performance and non-compliance and to restore confidence in the management service. Analysis of Options 2 and 3 confirms that both are relatively strong potential paths for the four councils to select, but each has its own individual strengths and weaknesses, opportunities and risks associated with it. Option 4 introduces the potential for a much wider restructuring and refocusing of the service, with the realisation of some benefits, but with much greater levels of risk.
- 7.4 Option 2 (the in-house option) offers the best opportunity to take direct control to make improvements and provides each council with the strongest levels of control, removing many vulnerabilities relating to non-performance issues of a third party management arrangement. This option puts the housing management service in a better position in relation to each council's wider corporate plan priorities to secure improved outcomes for residents. It will be necessary to look at how this option will address elected member and resident engagement and there are various options that could be pursued. For example, an elected members and residents committee may overcome / replace the loss of the ALMO Board under the in-house option. However, if the council does agree in principle to progress the in-house option, it is recommended that further exploration should also be given to future shared service opportunities.

- 7.5 The in-house option offers the opportunity to re-position the housing service within the each council with the aim of improving a broad range of outcomes for over 3,000 households. This is not necessarily the lift and shift of a self-contained housing service into each council's structure. This option provides the opportunity to engage the housing service with the council's wider corporate agenda in order to secure improved outcomes for residents. There are two areas of particular further work needed within this high level options appraisal if the in-house option is supported: these are (1) completing a detailed financial analysis of management costs as part of a renewed financial model to provide a greater degree of confidence regarding the HRA Business Plan and the longer-term HRA forecast; and (2) the identification and mitigation of the key risks arising from the new position of the housing management service within the council's wider business. Creating an in-house service is an opportunity to redesign the corporate approach and figure out afresh the opportunities that arise from having the housing management unit under direct council control.
- 7.6 In conclusion, taking into account the recent challenges and high level analysis, it is recommended that the in-house option is agreed as the preferred option. This is proposed as the option which will best serve residents in the four local authority areas. However, it is recommended that EKH tenants and leaseholder views are sought on this proposal before a final decision is made.
- 7.7 Section 105 of the Housing Act (for secure tenants) and Section 137 of the Housing Act 1996 states that there is a legal duty to consult over a specified time period. Tenants must make their views known with representations being taken into consideration.
- 7.8 Therefore, it is proposed that an 8-week consultation will run across the four local authority areas between Tuesday 22 October to Friday 20 December 2019, seeking the views of tenants and leaseholders (and other stakeholders), which will be presented to Overview and Scrutiny Committee and Cabinet in early 2020. The four East Kent council chief executives will review the progress of the consultation and consider extending the consultation timescales if this is necessary to ensure effective resident engagement.
- 7.9 If, in light of the consultation, the four councils proceed with option 2, there will need to be a process to transfer the service to each individual council. A significant level of staff resource has already been deployed in 2019/20 to respond to the matters reported. In moving the work forwards the potential transition back to the council continues to require careful planning and management. It is therefore recommended that the council makes available up to £250,000 from the HRA in 2019/20 and 2020/21 (split to be determined) to support interim transition management costs for Folkestone & Hythe, subject to option 2 being supported.

8. RISK MANAGEMENT ISSUES

Perceived risk	Seriousness	Likelihood	Preventative action
Ensuring that service quality and delivery is not impacted throughout the consultation period.	High	Low	Regular monitoring of performance against the delivery objectives and targets will continue throughout the consultation period.
That tenant engagement and satisfaction drops.	High	Low	It is paramount to ensure that this is a thorough and detailed consultation exercise that allows everyone to have their say.

9. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 9.1 **Legal (NE)** – Section 105 of the Housing Act (for secure tenants) and Section 137 of Housing Act 1996 states that there is a legal duty to consult over a specified time period. Tenants must make their views known and we will consider any representations made. Any consultation on a different delivery model should therefore involve tenants and leaseholders.
- 9.2 **Finance (CP)** - There will be costs involved in the consultation exercise and transition arrangements. There are significant financial implications relating to the future delivery model, but Cabinet are not being asked to agree the implementation of the new model at this stage.
- 9.3 **Human Resources (AS)** - At this stage there are no direct staffing implications, but should the ALMO ultimately return to the council, then TUPE regulations would apply, and staff would be formally consulted in accordance with the council's policies and procedures. EKH staff will be notified of the consultation process prior to the publication of the decision.
- 9.4 **Property (SR)** - Should the ALMO return to the council, then staffing reviews will follow, as will an assessment of the future accommodation requirements. These have not been quantified at this stage.
- 9.5 **Equality (SR)** – An Equality Impact Assessment (EIA) for the future options has not been required at this stage, as no changes to service delivery or staffing are envisaged at this point. However, an EIA has been prepared for the stakeholder consultation.
- 9.6 **Communications (AW)** – This report outlines that good communication, informing and involving tenants and leaseholders on future options will be required. The communications team will lead on the promotion of the consultation survey through a variety of channels.

10. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting:

Sarah Robson
sarah.robson@folkestone-hythe.gov.uk

Adrian Hammond
adrian.hammond@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

East Kent Housing: Agreement for housing management and other services (1 April 2011)
Social Housing Regulator's Tenant Involvement and Empowerment Standard

Appendices

Appendix 1: Housing management delegated functions
Appendix 2: East Kent Housing organisation structure (August 2019)
Appendix 3: East Kent Housing financial arrangements
Appendix 4: Draft tenant and leaseholder consultation documents

Appendix 1:

Delegated functions (Clause 15 of Management Agreement – 1 April 2011)

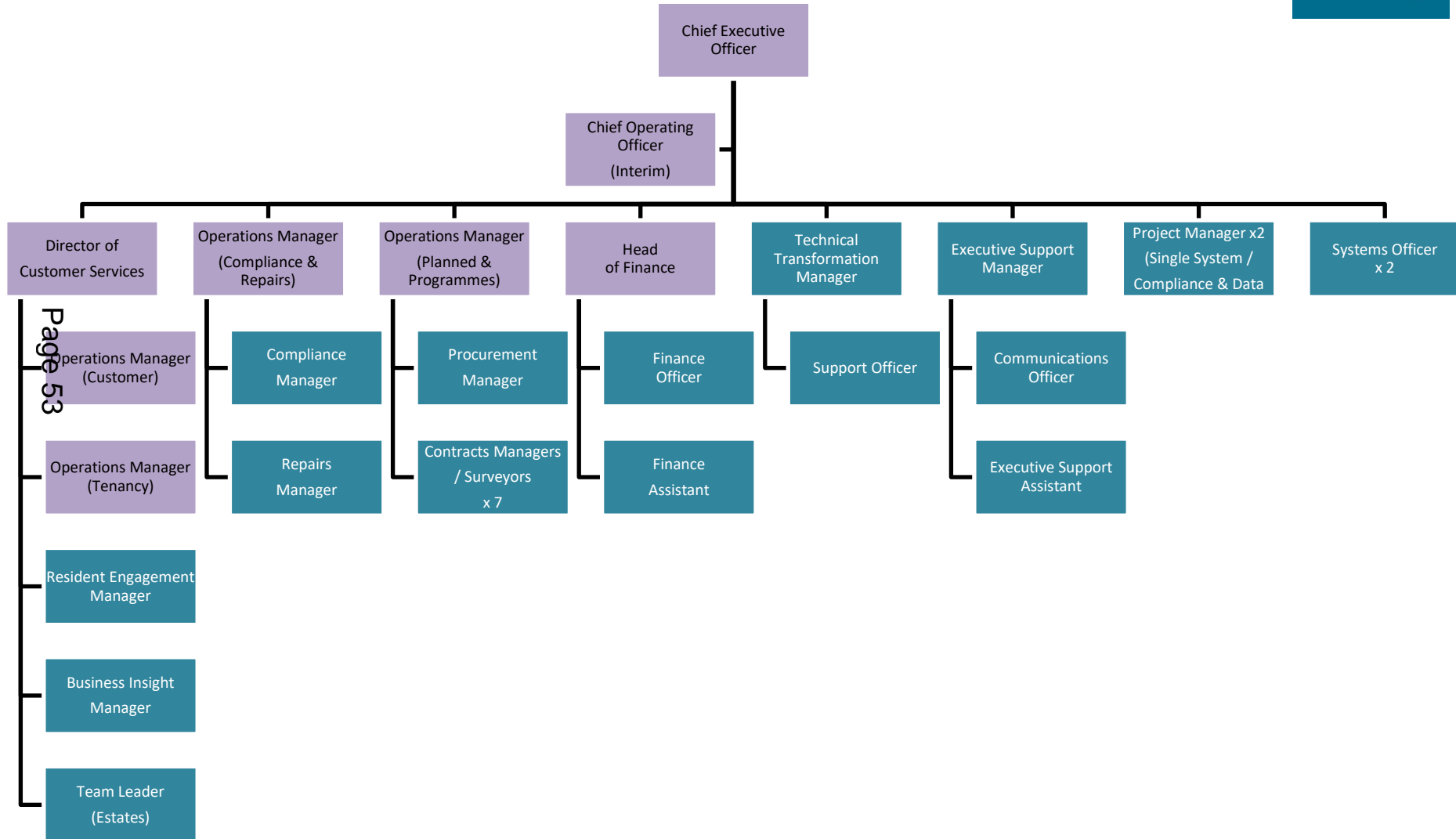
	Council	EKH	Both
Co-ordination with corporate policy in relation to housing element of			
Community safety	X		
Neighbourhood renewal	X		
Regeneration	X		
Housing and health	X		
Supporting people	X		
Sustainable development	X		
Social exclusion	X		
Equalities and diversity	X		
New tenancies			
Administration of Housing Register / Choice Based Lettings	X		
Housing allocations policy for council housing	X		
Selection of tenants for vacant properties	X		
Transfer list management	X		
Granting of new tenancies		X	
Successions		X	
Mutual exchange management		X	
Repairs and maintenance			
Stock condition survey local authority housing		X	
Response repairs		X	
Contract and planned maintenance and refurbishment programmes		X	
Modernisation and improvements		X	
Energy and efficiency		X	
Develops a business plan for investment in housing stock		X	
Implementation of annual investment programme: monitors delivery, manages programme		X	
Void and empty property management			
Terminations		X	
Inspection		X	
Repairs		X	
Sustainable communities			
Neighbourhood and estate management		X	
Enforcement of condition of tenancy		X	
Evictions and court action to support enforcement		X	
Alterations to condition of tenancy		X	
Illegal occupation		X	
Development of ASBO policy	X		
Responsibility for legal process to obtain ASBO	X		
Administering application prior to legal action for ASBO		X	
Regeneration and estate development			X

	Council	EKH	Both
Estate management			
Care taking on housing schemes		X	
Environmental services		X	
Grass cutting/grounds maintenance		X	
Supported housing			
Manage supporting people policy			X
Sheltered housing schemes		X	
Lifelink care line	X		
Supported housing schemes		X	
Refugees	X		
Homelessness accommodation	X		
Temporary accommodation	X		
Gypsy and travellers	X		
Medical adaptations		X	
Right to Buy			
Valuations	X		
Administration and calculation of discount		X	
Approvals	X		
Leasehold management		X	
Finance			
Rent setting/service charges	X		
Rent accounting		X	
Recovery of rent arrears		X	
Recovery of other charges		X	
Financial returns, subsidy returns	X	X	
Insurance of property and land	X	X	
Insurance claims		X	
Management of HRA capital resources			X
Preparation of HRA budgets	X		
Annual determination of management fee			X
Procurement			
Policy	X		
Letting of contracts in relation to delegated activities		X	
Tenant involvement in Housing Strategy			
Tenant participation		X	
Tenant consultation			X
Information to tenants		X	
Reports to tenants		X	
Other assets (including lettings and management)			
Garages		X	
Shops and buildings		X	
Estate offices		X	
Tenant resources centres or tenants offices		X	
Community centres	X		
Clearance and disposal and dwellings			
Sale of dwellings	X		

	Council	EKH	Both
Clearance and disposal of dwellings	X		
Compensation	X		
Decanting tenants			X
Housing benefit and council tax benefit administration	X		
Programme of service reviews	X		
Preparation of business plan for Housing Revenue Account	X		
Preparation of delivery plan		X	
Preparation of service plan		X	
Bidding for capital resources	X		
Monitoring arrangements with EKH			X
Developing and agreeing the annual delivery plan		X	
Monitoring the delivery plan achievement			X
Liaison with EKH on Housing Service Standards and Inspectorate requirements			X

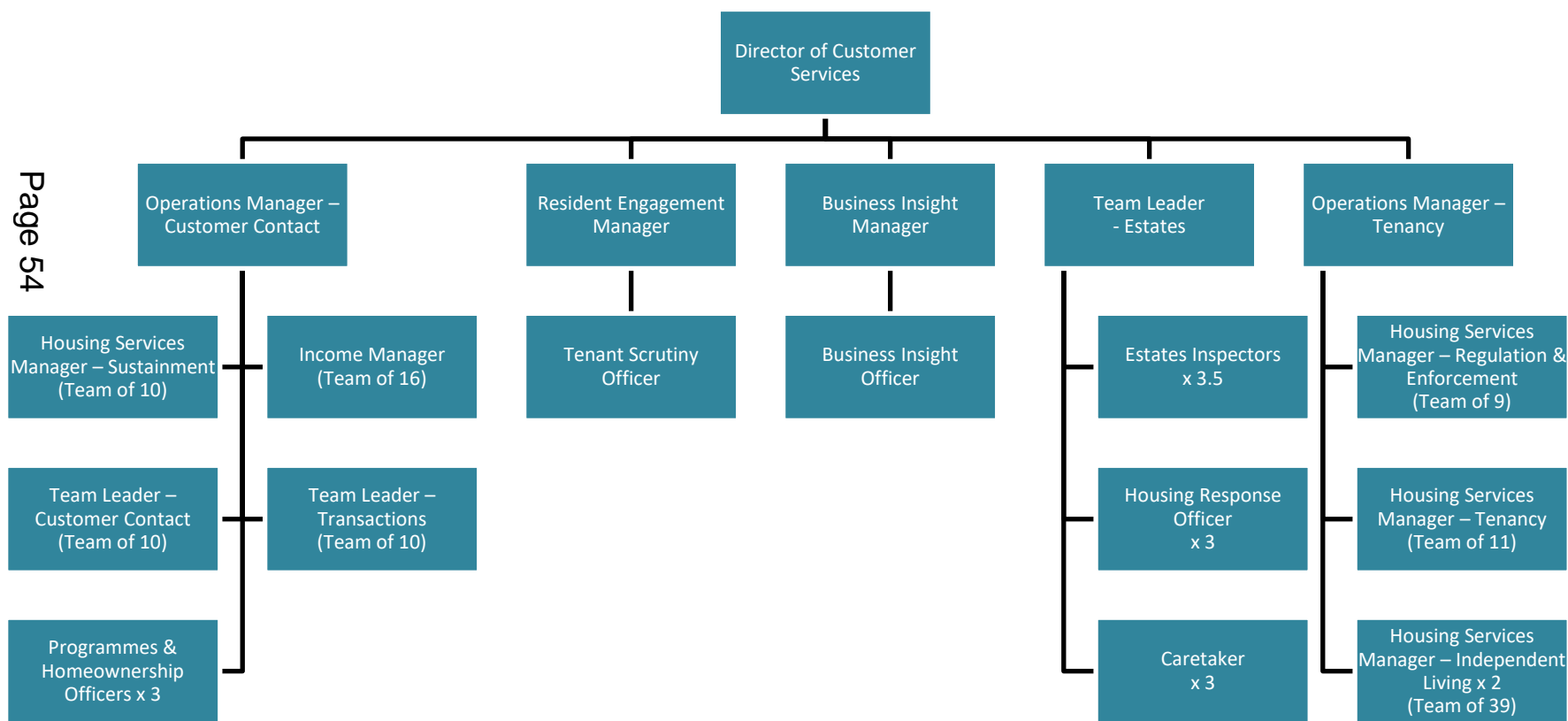
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CEX direct reports and their 1st line reports



Organisational Structure

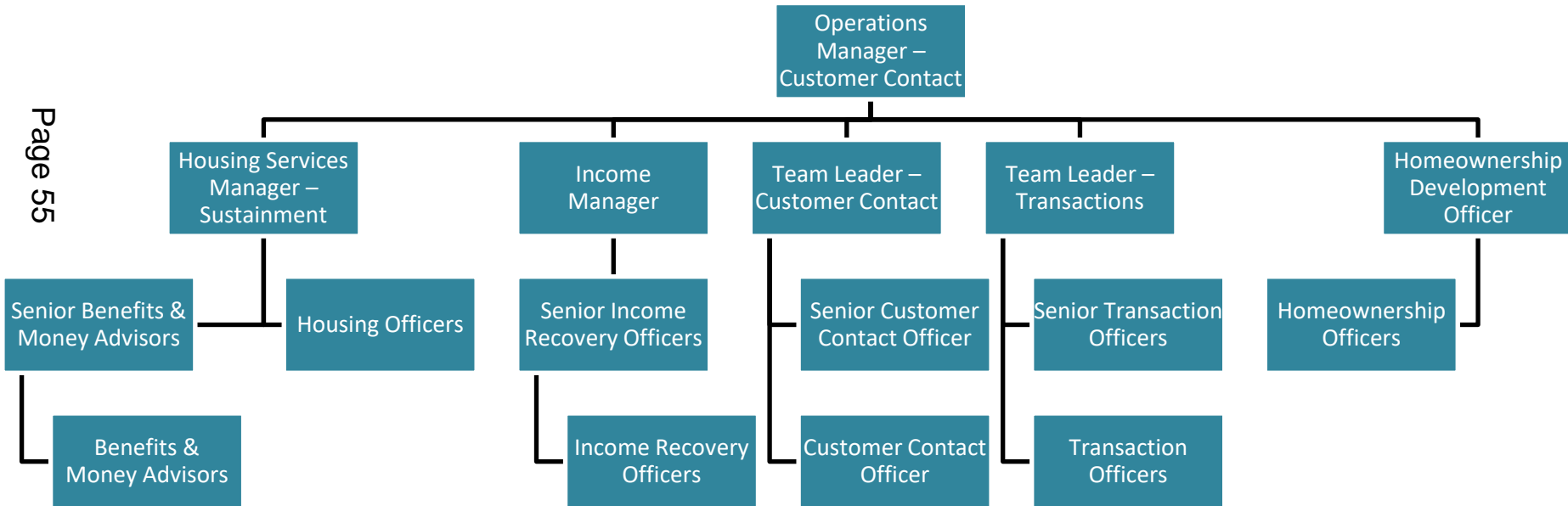
Customer Services Directorate



Organisational Structure

Customer Services Directorate

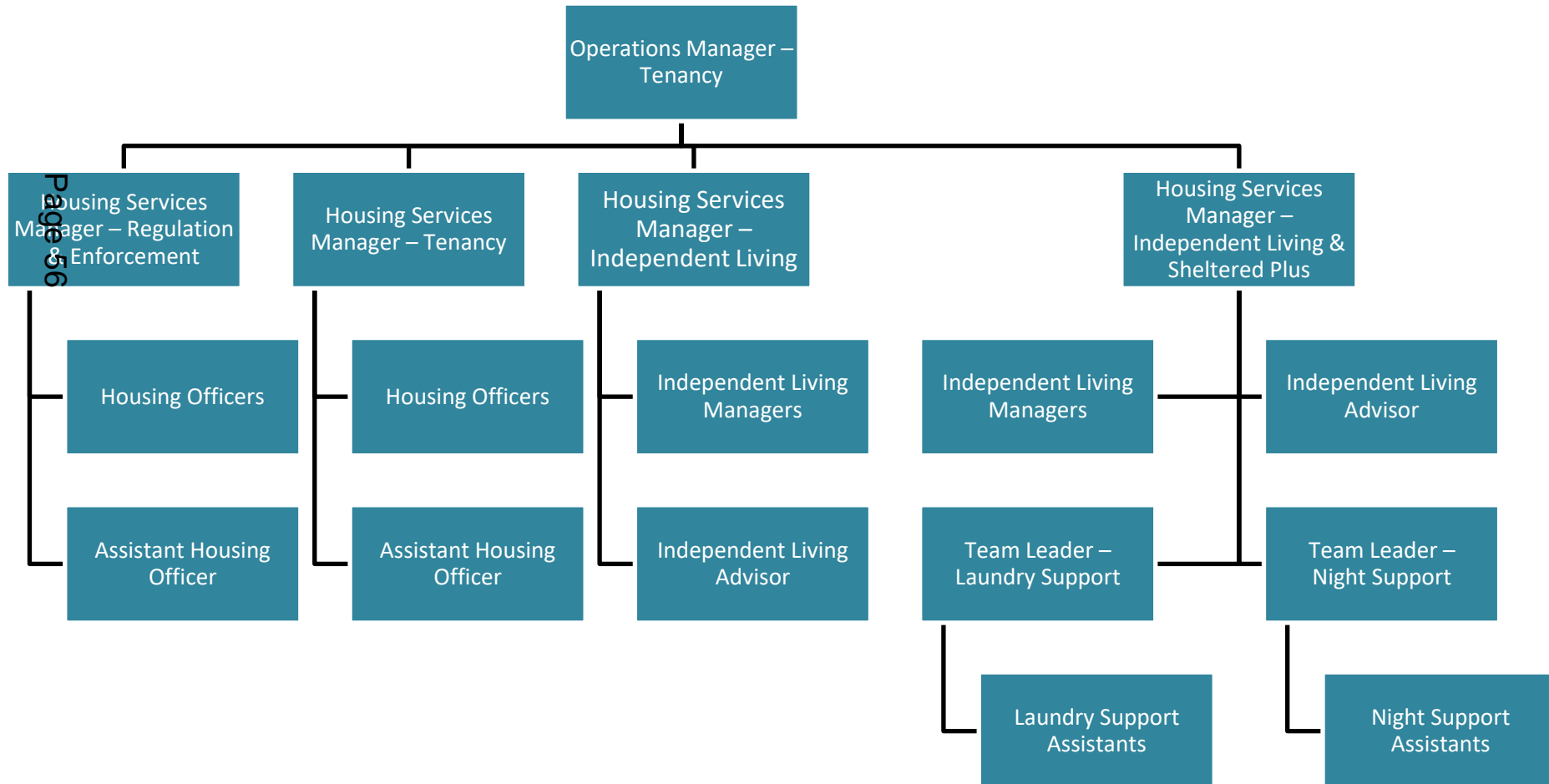
Customer Contact Team



Organisational Structure

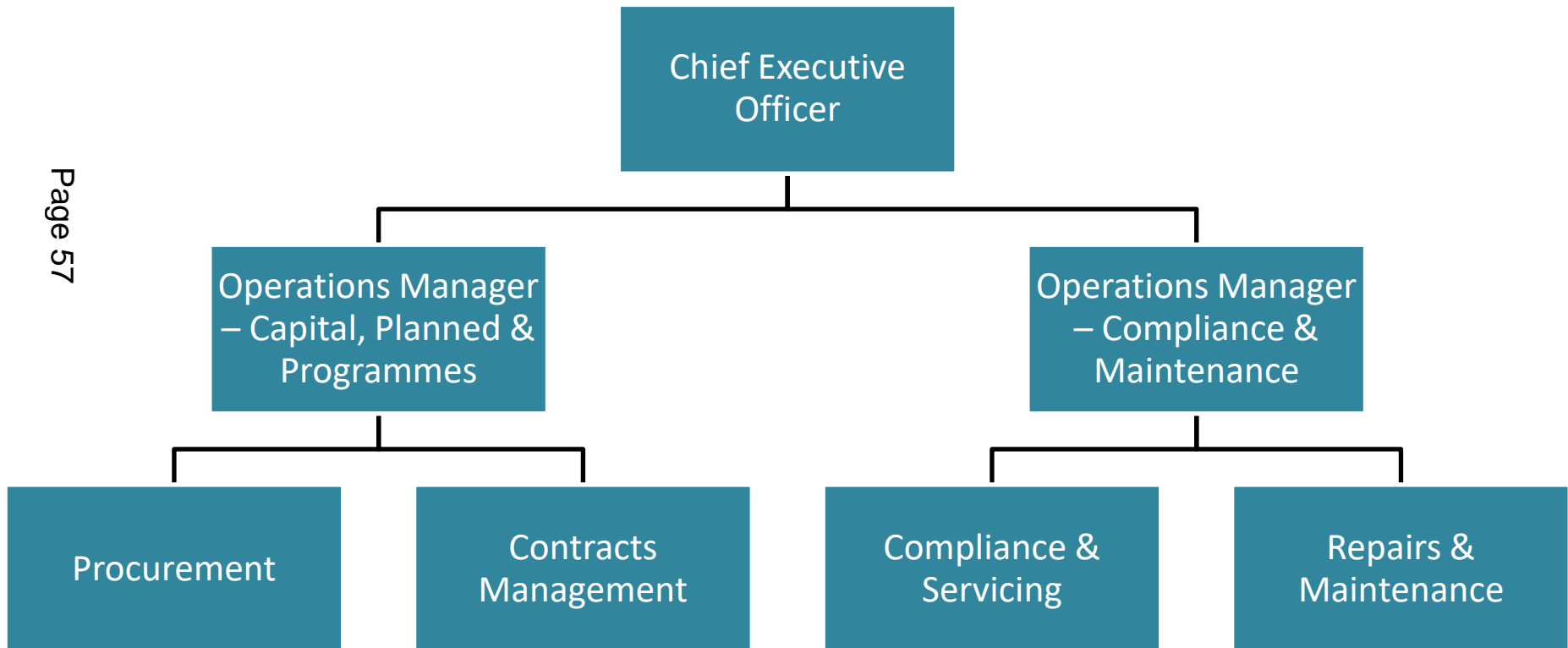
Customer Services Directorate

Tenancy Team



Organisational Structure

Property Services Directorate



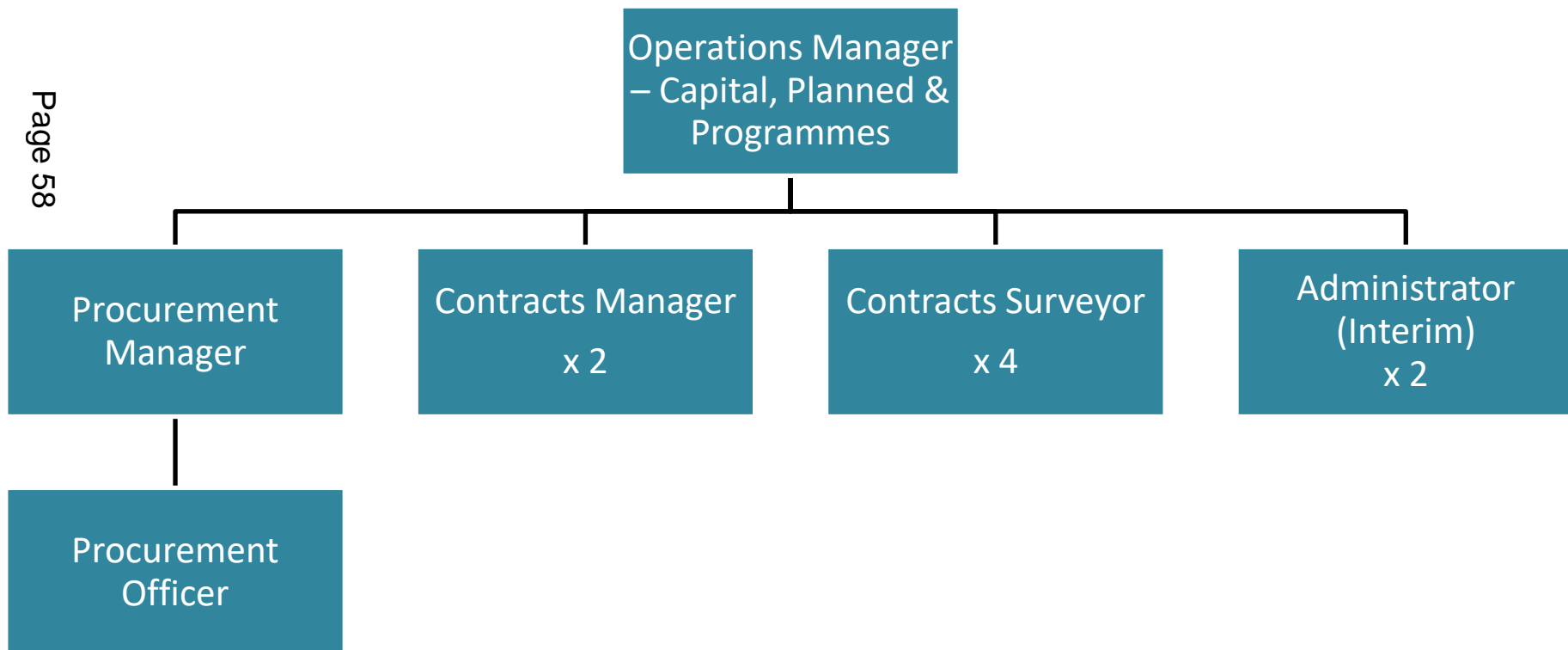
Organisational Structure

Property Services Directorate

Capital, Planned & Programmes Team



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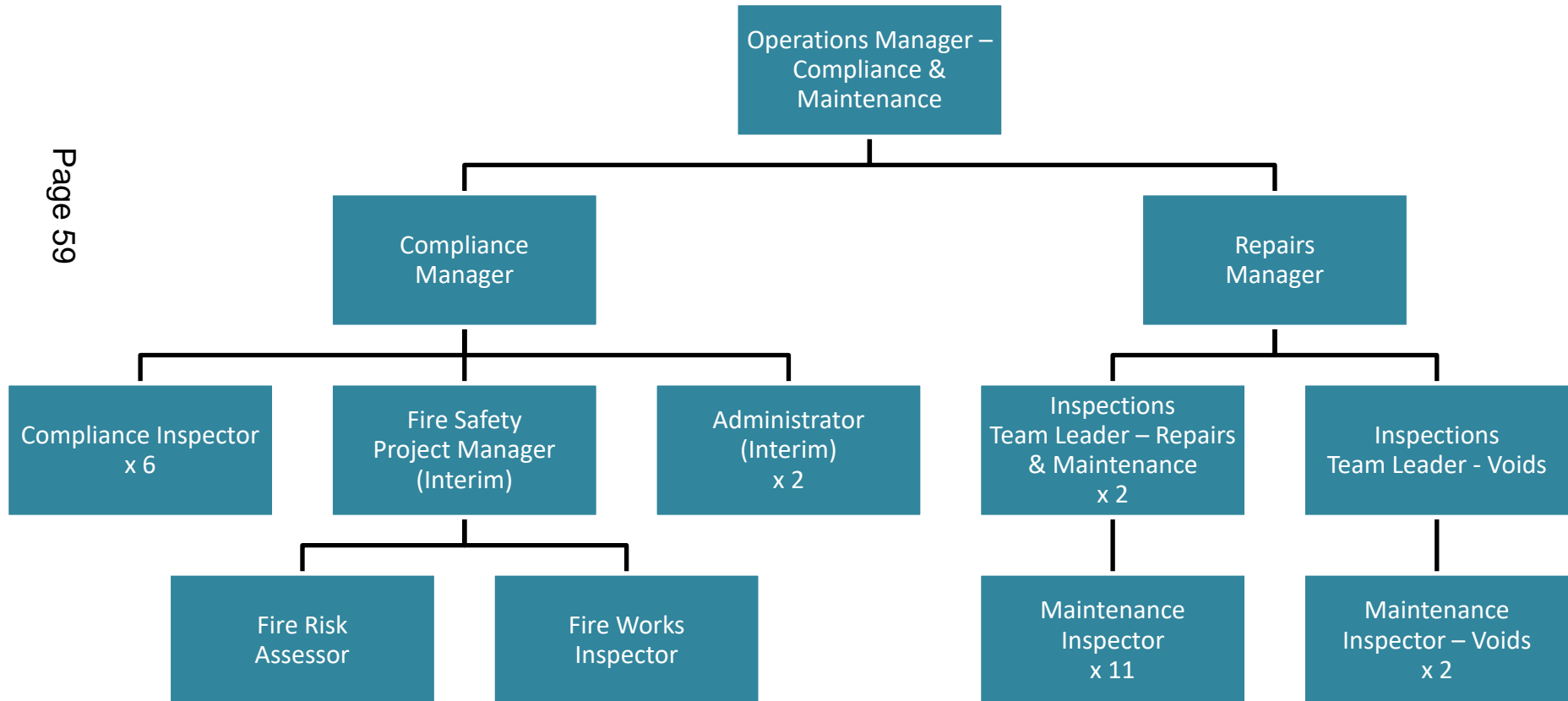
Organisational Structure

Property Services Directorate

Compliance & Maintenance Team



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SCHEDULE 6

FINANCIAL ARRANGEMENTS

(Clause 51)

1.0 The Transfer of Monies to East Kent Housing

- 1.1. East Kent Housing will provide an annual VAT invoice to the Council with a schedule of payments for each instalment of the Management Fee payable in any given financial year. The invoice will be produced and electronically delivered to the Council 10 working days prior to the year to which it relates. Payment will be made in accordance with the schedule of payments to East Kent Housing's bank account by BACS, no later than the working day prior to the period to which it relates. Initially there will be 12 monthly instalments of the management fee, but this will be open to mutual negotiation to reflect any changes in the service, or practical cash flow management requirements.
- 1.2 If the Management Fee is in dispute, to maintain the cashflow of East Kent Housing, the Council will continue to pay the management fee and both parties will seek, as a matter of urgency, to rectify the issue in dispute. If the parties are unable to reach a resolution they will refer to Clause 67 of the management agreement.

2.0 Pension Contributions

- 2.1 East Kent Housing will be treated as a separate employer for the purposes of the Kent Pension Fund and has been granted admitted body status into the scheme. The pensions of the staff transferring to East Kent Housing will be deemed to be fully funded at the point of transfer and the initial calculation relating to the pension contributions in the Management Fee has been determined on this basis. Through the Management Fee, it will be necessary for the Council to make further contributions to fund subsequent deficits on the fund as calculated and re-calculated by the approved actuaries

3.0 Transaction Types

- 3.1 Due to the potential for unpredictability in the funding of Local Authority housing the calculation of the Management Fee is dependent on the resources available from the Housing Revenue Account (HRA). The fee is also likely to change, over time, to meet the priorities of the service users and the Councils.
- 3.2 There will be three main transaction types:
 - Transactions charged by East Kent Housing (the Management Fee) - for example, salaries and office expenses);
 - East Kent Housing managed budgets (delegated functions HRA budgets, for example, responsive repairs expenses);
 - Direct Council payments (non East Kent Housing managed budgets – residual HRA budgets, for example, in respect of policy development relating the council housing stock.

- 3.3 The Management Fee is intended to reflect the management cost of the delegated functions. It will not include any amounts in relation to managed budgets themselves, as they remain with the Council.

4.0 Financial Arrangements for Transactions Charged by East Kent Housing

4.1 Fee

- 4.1.1 This transaction type covers all expenditure and any income accounted for under the management fee, including any service level agreements between East Kent Housing and:
- Council support services teams or facilities providers;
 - Council hosted support services (e.g. Dover District Council for Internal Audit Partnership services, East Kent Shared Services for ICT support).
- 4.1.2 The fee is calculated annually and incorporated into the Council's budget setting process, which allows both the Council and East Kent Housing to keep the service flexible and responsive, within the boundaries set by the Management Agreement.
- 4.1.3 A timetable will be agreed annually in June for the negotiation of the management fee and service level agreements to ensure both East Kent Housing and the Council can satisfy their own budget setting processes for the coming financial year. In addition, East Kent Housing will provide an indicative management fee for two further financial years to aid the medium term financial planning of all parties.

4.2 Payment for Services Provided by or to the Council

- 4.2.1 Where East Kent Housing has a Service Level Agreement for support services with one or more of the Councils (including East Kent Shared Services) or there is a prior agreed buy back arrangement for Council staff who perform duties on behalf of East Kent Housing, this will be separately chargeable on a monthly basis to East Kent Housing.
- 4.2.2 Where under prior agreement, East Kent Housing resources are used to undertake duties outside of the 'Delegation of Functions' scope (e.g. perform duties chargeable to the Council General Fund or residual HRA) these costs will be recovered separately on a monthly basis from the Council.
- 4.2.3 In both instances the invoicing party will provide an annual VAT invoice with an attached schedule of payments, *X days before the beginning of the financial year and payment will be made through BACS to the nominated bank account within X working days.*

4.3 Financial Arrangements

- 4.3.1 All expenditure incurred by East Kent Housing will be authorised by appropriate responsible officers employed by the organisation. In line with the Management Agreement clause 16.5, the mechanism for the authorisation of payments will be in accordance with the Financial Regulations and Standing Orders of East Kent Housing which will be aligned to the Council hosting the financial management system of East Kent Housing.
- 4.3.2 In line with good practice East Kent Housing will conduct regular budget monitoring which will be reported to its management team and Board and shared with the Council representative through regular monitoring meetings.
- 4.3.3 East Kent Housing's financial representative will alert the Council representative promptly to any projected significant under or over spends (in excess of 5% of the Management Fee) to East Kent Housing's budget.

- 4.3.4 East Kent Housing's financial representative will meet with the Council representative and the Section 151 Officers representative initially on a quarterly basis to discuss the current monitoring position and any relevant financial issues arising from East Kent Housing. The frequency of the meetings will be negotiable after year one and can be amended on mutual agreement.
- 4.3.5 East Kent Housing shall maintain its accounts in accordance with good accounting practice, any statutory or regulatory requirements and in such manner as will allow the Council to comply with requirements for the consolidation of accounts (if necessary) and will comply with any instructions issued by the Council to allow it to meet those requirements.

4.4 Calculation of East Kent Housing's Fee

- 4.4.1 In year one of operation (financial year 2011/12) the calculation of the Management Fee will be based on the current cost for each Council adjusted to reflect the new service delivery arrangements. From year two the basis of calculation will switch to an activity based costing methodology. East Kent Housing will identify in the first six months of operation the main activities performed by its staff and the resources consumed in the pursuit of those activities. These cost drivers will determine the revised apportionments of the Management Fee for each Council, reflecting the customer needs and requirements of each Council individually and the level of service and resources therefore consumed by them. The exercise will be limited initially to the most significant activities performed by East Kent Housing.

4.5 Surpluses and Deficits

- 4.5.1 Should East Kent Housing generate any surpluses or deficits in year one of operation the Council's apportionment will be calculated on the proportion of the overall Management Fee for all four Councils. From year two, where the surplus or deficit is clearly attributable to activities relating to a particular Council's housing stock it will be allocated on that basis otherwise it will be calculated on the proportions of the overall management fee.
- 4.5.2 Once each Council's surplus has been determined the following principle will apply (to each Council's share):
- East Kent Housing may apply such surpluses as it sees fit, to improve or extend the services, up to an amount equal to 5% of the Management Fee payable by the Council in respect of that Financial Year.
 - Where any such surpluses exceed 5% of the Management Fee payable by the Council in any Financial Year East Kent Housing shall apply the proportion of such surpluses which exceed 5% of the Management Fee in accordance with directions given by the Council's Representative.
- 4.5.3 Where a surplus is generated that will be recurring the management fee for the following financial year will be adjusted to reflect the efficiencies achieved by East Kent Housing.
- 4.5.3 Should East Kent Housing need to call upon the Council's HRA for additional funding (in particular in the initial year of set up) the Council representative with the agreement of the Section 151 Officer will seek the approval of the Council's Executive to authorise sums in excess of the agreed management fee budget.

5.0 East Kent Housing Managed Budgets

5.1 Division of Responsibilities

5.1.1 The Housing Revenue Account (HRA) and Housing Capital Budgets for the forthcoming year will be approved by the Council, in accordance with their timetable and strategies. The staff of East Kent Housing will continue to support the Council's HRA finance team in determining, managing and reporting on these budgets.

5.1.2 East Kent Housing will be responsible for:

- Procuring expenditure (including raising orders, goods receipting, and submitting invoices for payment).
- Managing expenditure within budget, in the prescribed manner.
- Managing and processing Council housing rent and other income.
- Assisting the Council's HRA Accountants in reporting financial performance against the budget including returning scheduled budget monitoring data within the agreed timescales.
- Assisting the Council's HRA Accountants in determining a robust budget and HRA Business Plan.
- Assisting the Council's HRA Accountants with information required for year end processes, statutory returns and any associated audits, in a timely fashion.

5.2 Financial Arrangements

5.2.1 In carrying out these functions East Kent Housing will fully comply with the latest version of the relevant Council's Financial Procedure Rules and Contract Standing Orders. Whilst the Council's Section 151 Officer will retain control over access to the Council's financial information systems and will specify the levels of authorisation for East Kent Housing staff, these authorisation levels will be set in the context of balancing control of the Council's financial activities and the practical needs of delivering housing services to the tenants.

6.0 Direct Council Payments

6.1 The last transaction type covers income and expenditure that does not relate to the Management Agreement, or to East Kent Housing managed activities, for example, corporate or democratic core expenses or residual HRA functions. While this income and expenditure will not be directly managed by East Kent Housing, there will need to be co-operation with the Council regarding the calculation of these amounts and the basis for the charges. This will be essential in order for the Council to present a full HRA budget and to complete the relevant business plans, with the assistance of East Kent Housing.

6.2 While the Management Fee is calculated annually in line with the budget setting process, it is important that there is some flexibility, especially during the first year of operation, between transaction types, provided that costs are contained within the overall budget and by mutual consent.

7.0 Financial Returns

7.1 East Kent Housing will produce Limited Company Annual Accounts and Returns in accordance with the relevant company laws and Statement of Accounting Practices. East Kent Housing will obtain suitable external audit providers, in accordance with their financial regulations and contract standing orders.

7.2 East Kent Housing will also, in accordance with the Council's statutory timetables, provide any relevant information or statements required for group accounting purposes.

- 7.3 East Kent Housing will register with *HM Customs* for VAT. They will maintain their accounts in accordance with good practice and the relevant guidelines to enable them to recover VAT where appropriate to do so. They will maintain and retain their records and make them available for inspection in accordance with the relevant regulations.

DRAFT

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Appendix 4: Consultation documents

Document 1: Covering letter

Dear xxx (*personalise*),

Have your say on how we look after your home

Your home is currently looked after by East Kent Housing on our behalf. They carry out safety checks, manage repairs, collect your rent etc.

Earlier this year we discovered serious problems with a range of safety checks at some properties looked after by East Kent Housing. I am sorry if that caused you to worry.

I am pleased to say we have made an enormous amount of progress in fixing those problems.

To make sure the same thing does not happen again, we have asked a range of experts to look into what went wrong.

We have also looked at how we should manage our council housing in the future.

We have come up with four options:

Option 1: Keep East Kent Housing and improve the way they work

Option 2: Close East Kent Housing and create a team at each council to look after your home

Option 3: Close East Kent Housing and work with nearby councils to look after your home

Option 4: Ask an outside organisation such as a housing association to look after your home

We think **Option 2** is the best way forward which means closing East Kent Housing leaving council staff to look after your home instead.

The advantages and disadvantages that we see of each way of doing things is explained in the attached information sheet.

We want to know what you think about our proposal and would ask you to spend a couple of minutes taking part in our survey.

You have until Friday 20 December and the easiest way to reply is online at canterbury.gov.uk/consultations (*link to be amended to be specific to each council*)

We have enclosed a paper copy and freepost envelope in case you prefer to do it that way.

If you want to find out more or have a chat about our proposals before making up your mind, we are holding some drop-in events:

- Add details of drop-in event 1 for the relevant district
- Add details of drop-in event 2 for the relevant district

If you need any help or support, for example if you need this information in a different format such as large print or Braille, or you'd like to talk to someone about the proposals over the phone or in person, please contact Mike Bailey, Corporate Consultation Manager at consultations@canterbury.gov.uk or on 01227 862 059 who can arrange this for you.

We will tell councillors, the people you vote for to run the council on your behalf, how you feel about the plans early next year before they make any final decisions.

When councillors have taken those views on board and decided on what they think is the best way forward, we will write to you again.

We look forward to hearing from you.

Yours sincerely,

Colin Carmichael *(to be amended to be specific to each council)*
Chief Executive

Document 2: Information sheet

What is East Kent Housing?

East Kent Housing is a company that looks after council housing on behalf of Canterbury City Council, Dover District Council, Folkestone and Hythe District Council and Thanet District Council. It does not make a profit because it was designed to provide a service rather than make money for the councils.

The four councils jointly own East Kent Housing which manages approximately 17,000 homes.

East Kent Housing is overseen by an independent board which is made up of an elected councillor for each council area, a tenant from each council area and four independent members.

East Kent Housing was created on 1 April 2011 and is now in its ninth year of operation.

Why was East Kent Housing set up?

The four councils felt it would provide better quality services for tenants and leaseholders, increase efficiency and save money.

Why are we thinking about the way the system works?

Before the problems with safety checks were discovered, the four councils were worried about how East Kent Housing was performing.

Concerns included how they managed the maintenance companies in charge of looking after council properties, how they managed a number of other contracts, how they were collecting rent and the progress they were making on getting a new computer system up and running.

The four councils and East Kent Housing all signed up to an improvement plan aimed at fixing these problems.

In May this year, it then became apparent gas safety checks were not being carried out by East Kent Housing's contractor.

This led to the discovery of problems with electrical checks, lift inspections, legionella checks and fire risk assessments. Action has been taken on all of these and they have been fixed or are in the process of being fixed.

By now, the four councils had reported themselves to the government body that oversees council housing, the Regulator of Social Housing. In September, the regulator issued formal notices against all four councils telling them improvements needed to be made.

Why are we saying East Kent Housing should be closed and the four councils should look after council homes themselves?

This is what is known as **Option 2** in our covering letter. We think the advantages of the councils taking back control are:

- The councils would be able to make decisions about their council homes more quickly
- The councils would be able to rebuild the strong relationships they had with tenants before East Kent Housing was created and talk directly to their tenants again
- The decisions around council housing would be made locally
- There could be opportunities to increase investment in council homes
- There could be cost savings from removing duplicated jobs

We think the disadvantages are:

- Performance around repairs and maintenance might dip while the changes are made
- Key staff might not want to work for one of the councils

Why did we rule out the other options?

Option 1 involves East Kent Housing continuing to manage council housing on behalf of the councils with improvements to the way they work

We feel the advantages of this approach are:

- The risks are reduced if smaller changes are being made to the service being provided and this is the least complicated option
- There would be no need to ask tenants for their views
- There is the opportunity for East Kent Housing to improve

We think the disadvantages are:

- The councils, who are paying for East Kent Housing's services, would have less control than if they were running things themselves.
- The extra layer of management provided by East Kent Housing could get in the way of necessary changes
- Lots of people, including councillors, have lost trust in East Kent Housing carrying out safety checks when they need to
- East Kent Housing has struggled to carry out its work and manage the people carrying out work for it. It would cost money to put this right

Option 3 is to close East Kent Housing and for some or all of the councils to work together to manage council housing.

In our view, the advantages are:

- The councils would have more control over the service being delivered
- The councils would be able to save money by not duplicating jobs and taking advantage of their greater buying power to reduce the prices of the goods and services they buy

We feel the disadvantages are:

- The councils would lose a little bit of control over buying decisions
- Disagreements between the councils could hamper efficiency and improvements

Option 4 involves asking an outside provider like a housing association to manage council homes.

We think the advantages of this option are:

- An outside organisation might be more efficient because it operates more like a private company and might have more buying power to reduce the prices of the goods and services they buy
- Any extra money generated can be ploughed back into other council services

The disadvantages are:

- Any savings that are made might be lost if the council cannot persuade the outside provider to alter the way it delivers its services when things go wrong
- It will take the councils a lot of work to ensure the outside provider manages council housing in the way councillors, and ultimately, tenants want
- Tenants and councillors may not trust an outside provider
- An outside provider would be exposed to the same risks as a private company

What happens if one or two of the four councils decide to stay with the current arrangements while the remaining councils take direct control of their housing service?

If the majority of councils decide to close East Kent Housing, it will close. The remaining councils would have to consider their next steps.

If the councils decide to bring the service back under their direct control, would this affect the service I receive?

No, the intention is it would simply be delivered by staff at the council instead of at East Kent Housing. They may be the very same staff you deal with at the moment. You would still be able to access housing services at the council office, by telephone or via the council website.

Would the proposal affect the amount of rent and service charges I pay?

No.

Would the proposal affect the work due to be done to my home?

No, all programmed work will continue as planned. The council will continue to keep your home to a decent standard.

Would staffing levels change?

There is a chance that levels would change overall but staff would still be delivering services and work within the community. The big difference is their employer would change and they are likely to be based in the council's offices.

Would the quality of housing provided change?

The four councils are committed to providing high-quality housing services to all tenants and leaseholders. The aim would be direct management by the four councils would lead to improvements.

Would the transfer affect how I report housing issues?

No, each council has a customer contact centre to provide a single access point for council services including housing.

When will you make a decision on whether to bring the service back under council management?

Consultation closes on Friday 20 December 2019. What you tell us will be reported to councillors early next year. They will use your feedback to decide how your housing service should be delivered in future.

As soon as a decision has been made, we will write to you again to let you know.

If you decide to bring the service back under direct council control, what happens next?

If the council decides to do this, more work would need to be done to manage the process and keep any disruption to a minimum. We would keep you informed on progress.

Add council logo

Have your say on how we look after your home

- Complete the questionnaire online at canterbury.gov.uk/consultations *(link to be amended to be specific to each council)*
- Fill in this paper copy and either:
 - Send it back to us in the freepost envelope provided
 - Bring it to us at one of our consultation events
 - Bring it to the council offices at Canterbury City Council, Military Road, Canterbury, Kent, CT1 1YW *(to be amended to be specific to each council)*

Questions that need a response are marked with a red asterisk (*)

☐ Council tenant or leaseholder

☐ Other individual

☐ A business, organisation or community group, please provide the name: _____

☐ Other, please state: _____

- ☐ Strongly agree
- ☐ Tend to agree
- ☐ Neither agree nor disagree
- ☐ Tend to disagree
- ☐ Strongly disagree

--

3. What do you feel are the most important things for the council to focus on for your housing services? * Please tick up to three options

- ☐ Dealing with repairs and maintenance
- ☐ Dealing with anti-social behaviour
- ☐ Providing value for money for your rent and service charges
- ☐ Building new council homes
- ☐ Estate services (such as grass cutting, cleaning communal areas etc)
- ☐ Dealing with customer enquiries and complaints
- ☐ Involving and listening to residents
- ☐ Other, please state: _____

4. If you are a tenant or leaseholder, would you like to be more involved in the management of your council home? *(On the online version, this question only to appear to people who ticked "Council tenant or leaseholder" as their answer to Question 1)*

If you would, and you are happy for the council to contact you about becoming more involved, please tick the box to indicate your consent to your email address being used to contact you in this regard: *(insert tick box)*

Please provide your email address: _____

5. Do you have any other comments on your housing services?

--

Thank you for taking the time to give us your views.

This Report will be made public on 8 October 2019



Report Number **C/09/31**

To: Cabinet
Date: 16 October 2019
Status: Key Decision
Responsible Officer: Sarah Robson, Chief Housing Advisor
Cabinet Member: Cllr D Godfrey, Cabinet Member for Housing, Transport and Special Projects

SUBJECT: ELECTRICAL INSTALLATION TESTING FOR HOUSING, WATER RISK ASSESSMENTS AND BUDGET SUMMARY

SUMMARY: This report has been prepared in response to the safety compliance issues identified in respect of East Kent Housing's management of the housing tenanted properties. The report reviews the current position with EICR compliance and makes recommendations on a new inspection regime. The report further updates the position with regards to water risk assessments and the budget provisions needed for completion of these works. The report ends with a summary of year to date additional costs for compliance improvements mainly related to additional EKH staff.

REASONS FOR RECOMMENDATIONS:

- The recommendation to move to a five-year rolling programme of EICR inspections is based on best practice and expected legislative changes.
- The recommendation for additional funding water risk assessment compliance works is based on health and safety requirements.

RECOMMENDATIONS:

1. To receive and note report C/09/31.
2. To approve the recommendation that the council adopt a five-year rolling programme of electrical installation testing of its tenanted properties.
3. An additional budget provision of £118,000 is agreed for 19/20 and subsequent years for electrical installation testing and remedial works to be funded from the HRA.
4. To note the actions and budgets allocated for Water Risk Assessment compliance works.
5. The additional budget provisions allocated to EKH for management fee increases for 19/20 and 20/21 and other costs are agreed with a full reassessment to be undertaken when considering the 2020/21 HRA budget.

1. ELECTRIC INSTALLATION INSPECTIONS

- 1.1 Electrical Installation Conditions Reports (EICRs) are periodic checks carried out by a qualified electrician testing the electrical installations within a property. This is different from Portable Appliance Testing (PAT), which tests electrical appliances. EICRs are currently completed by Mears Ltd under the main housing repairs and maintenance contract.
- 1.2 The council approach to EICRs in council tenanted properties is to complete checks when the property becomes void and before it is re-let. EICRs are also completed for mutual exchanges and for installations in communal areas. EKH report that currently there are 930 properties with EICRs recorded in the last ten years with 200 recorded within the past three-years.
- 1.3 This has been the long-standing approach to EICRs however in light of the compliance issues identified in the recent internal audit report and anticipated changes in the law, it is a good point to review and formalise the council's approach to the completion of EICRs in housing properties.
- 1.4 Any policy change would need to consider the inspection frequency and the process by which remedial works for high-risk faults could be swiftly completed.

2. LEGAL POSITION

- 2.1. An EICR is a report recording the outcome of the electrical checking process. The process commonly involves a visual inspection of the electrical installations (e.g. broken power points) followed by a check of the integrity and function of the electrical installations (e.g. circuit tests).
- 2.2. Faults identified in the course of inspections are rated: -
 - Classification code **C1** (Danger Present) - the safety of those using the installation is at risk and immediate remedial action is required.
 - Classification code **C2** (Potentially Dangerous) - indicates that, whilst those using the installation may not be at immediate risk, urgent remedial action is required to remove potential danger.
 - Classification code **C3** (Improvement Recommended) - the inspection and/or testing has revealed a non-compliance with the current safety standard which, whilst not presenting immediate or potential danger, would result in a significant safety improvement if remedied.

As the presence of any C1 or C2 item represents a danger or potential danger then this would result in an 'unsatisfactory' condition report and landlords would normally undertake C1 and C2 recommendations immediately while including C3 actions in a future planned maintenance.

- 2.3. The requirement for landlords to complete EICRs is not covered under specific legislation equivalent to the requirement for annual Landlord Gas

Safety Records under the Gas Safety (Installation and Use) Regulations 1998. The recommended practice is that EICRs are completed on tenanted properties every five-years and when a property is re-let. This based on the following: -

- The Landlord and Tenant Act 1985 creates a general duty for landlords to ensure that electrical installations in the rental property are in a safe condition at the start and throughout the duration of the tenancy.
- The Housing Health and Safety Rating System (risk-based guidance for local authorities introduced under the Housing Act 2004) identifies electrical hazards within its assessment of housing hazards. It recommends that installations meet British Standard 7671.
- BS7671 recommends an EICR test at each change of tenancy or at least every 5 years.
- The Ministry of Housing, Communities and Local Government (MHCLG) announced in January 2019 that it would introduce legislation that would require mandatory five-year electrical installation checks for private rented housing in England to be introduced in a phased approach.

- 2.4. For the reasons stated above, this report proposes the council adopts the policy of completing EICRS in its housing properties a minimum of every five-years. Inspections to be carried out on a rolling five-year programme and at every change of tenancy.

3. PREREQUISITES

- 3.1. Before considering the overall costs of any potential changes it is important to set out some of the other prerequisites needed in order to make the inspection regime successful.
- 3.2. **Record Keeping/Forward Programme** – Current record keeping of EICRs has been problematic with EICRs previously retained by Mears. East Kent Housing need to keep a central record of EICRs, which also records dates completed, current status in terms of classification codes, is able generate forthcoming inspection lists and can accurately report on compliance completion.
- 3.3. **C1 and C2 Repairs** – When C1 and C2 faults are identified in the course of inspections they need to be quickly rectified. Repairs are commonly completed by the contractor carrying out the inspection, working to schedule of rates to an agreed financial limit (e.g. £150-£250 per property). The financial cost of the inspection regime will therefore need to include an estimate for rectification costs as well as the inspection/EICR cost.
- 3.4. **Post-Inspections** – East Kent Housing would also need to complete their own post-inspections to check the contractor has completed the inspection correctly, completed all rectification works and all rectification works claimed were in fact required.

4. FINANCIAL COSTS

- 4.1. The cost of the inspection regime is determined by two factors, the fixed per inspection cost and the variable cost to rectify C1 and C2 faults.

Year	No.	EICR	Total EICR	33%	100%	Total 33%	Total 100%
Y1	679	£ 90	£ 61,110	£ 56,583	£ 169,750	£ 117,693	£ 230,860
Y2	679	£ 90	£ 61,110	£ 56,583	£ 169,750	£ 117,693	£ 230,860
Y3	679	£ 90	£ 61,110	£ 56,583	£ 169,750	£ 117,693	£ 230,860
Y4	679	£ 90	£ 61,110	£ 56,583	£ 169,750	£ 117,693	£ 230,860
Y5	680	£ 90	£ 61,200	£ 56,667	£ 170,000	£ 117,867	£ 231,200
	3,396		£ 305,640	£ 283,000	£ 849,000	£ 588,640	£ 1,154,640

- 4.2. The cost estimate above is based on the following assumptions: -

- The current housing stock is 3396 properties. It is assumed that properties with current EICRs will be scheduled into later inspection years.
 - The housing stock is split evenly over 5-years although in practice the number will vary depending on re-lets taking place during the period. In addition capital funded programmes for electrical installation upgrades (e.g. C3 classification works) are not included.
 - Electrical contractors have various methods of quoting inspection costs (e.g. per property, number of bedrooms or number of circuits) but for the basis of this estimate it is assumed an EICR is needed per property. We have researched potential inspection costs and these can also range widely. A midpoint cost of £90 per property has been used.
 - For the purposes of the estimate the contractor is also allowed a maximum allowance of £250 per property for C1 and C2 remedial works. It is difficult to assess the level of remedial works that will be needed. The table includes the potential budget cost if all properties required remedial works up to the £250 allowance and an estimate based on one third of all properties. For the budget setting purposes the one third estimate is recommended.
- 4.3. Instead of a rolling five-year programme, an alternative approach would be to complete all inspections within a single period, possibly 12-18 months. An accelerated programme would be more challenging to manage and would risk that post-inspection changes in electrical standards would not be incorporated as they would within a rolling programme. However, if in the course of the year 1 inspections a high-level of C1 and C2 faults were being identified the programme may need to be accelerated.
- 4.4. On the basis of a rolling five-year inspection programme a Year 1 budget of £118,000 is recommended.
- 4.5. In terms of delivery, it is recommended that the void/re-let inspections continue to be carried out by Mears under the main repairs and maintenance

contract as these will be linked to other void works carried out at the property. A separate EICR inspection and rectification contract would be procured for the new inspection programme probably through one of the nationally available framework agreements. EKH will need to confirm that the prerequisites set out in part 3 are in place.

5. WATER RISK ASSESSMENTS

5.1. The recent EKH internal audit report into health and safety identified that whilst water risk assessments across the housing stock had been completed there remained a high number of remedial actions unresolved. The reasons for this and why it was not reported sooner by EKH are subject of investigation.

5.2. EKH report the current position for this council as: -

Water Risk Actions FHDC				
	High	Medium	Low	Overall Risk Count
F&HDC	319	361	65	745

5.2 The water risk assessments mainly concentrated on communal water systems in flats. The risks identified can be broadly split as follows: -

- Control Regimes – monitoring of tank temperatures, regular flushing of water systems.
- Cleansing Regimes – cleaning and disinfecting systems and tanks.
- Repairs/Replacements – replacing of asbestos clad tanks, updating systems, removing old piping and other repairs.
- Information to Tenants – information to tenants about how to manage water risks in their flats e.g. de-scaling and keeping taps and showers heads clean.

5.3. In response to the internal audit report the council requested that EKH prepare an action plan to remediate the risks identified in the assessment. In the interim, whilst this was being prepared, the Corporate Health & Safety Officer was asked to review the water risk assessments and prioritise the high risks and identify any actions that could be immediately taken. This review was completed and reported back to EKH in early August. Actions included tank disinfecting and introduction of monitoring and flushing regimes. EKH have confirmed these actions have been implemented.

5.4. EKH have recent confirmed the main action plan and cost of remedial works. This is estimated at £61,000. This does not include a tank replacement programme, which will need to be separately considered as a capital works project.

- 5.5. The council has authorised EKH to proceed with the action plan and the remedial works.

6. BUDGET SUMMARY

- 6.1. The purpose of section of the report is provide an overview of the additional budget provisions agreed in recent months in respect of East Kent Housing compliance improvement.
- 6.2. **Management Fee** - EKH have requested additional funding to the agreed 19/20 management fee to support extra resources to address the recent compliance issues. A sum of £93,201 was agreed at the Cabinet meeting on 31st July 2019 to provide contract management improvements in relation to the Gas Servicing and Heating Installations Contract.
- 6.3. Further funding is now being requested for a total of 17.7 FTE Compliance Officers and 4 Estates Officers at a total of £873,075 across all four Councils. FHDC's share of this funding is shown below:

Staffing	FTE	19/20 Part Year Cost	20/21 Full Year Cost (excl inflation)
Compliance Officers	4.43	£197,314	£225,683
Estates Officer	1	£20,955	£41,911
Total	5.43	£218,269	£267,594

- 6.4. The additional management fee requested for 2019/20 is £218,269.
- 6.5. The figures above for 2020/21 are for information only and any increase in management fee will be approved as part of the 2020/21 HRA budget setting process and will be subject to the outcome of the consultation on future housing management options, as agreed by Cabinet at its meeting on 31st July 2019.
- 6.6. It should also be noted that the Council has placed one of its own employees within EKH on secondment to ensure these checks and works are being carried out effectively. This cost will also need to be met from within the HRA budget
- 6.7. **Revenue/Capital Costs** - These figures do not include the revenue and capital costs of undertaking the work. These additional costs will be funded from existing budgets within the HRA or built into the 2020/21 HRA budget. This report sets out an additional amount with regard to electrical testing of £118,000 and water risk assessment works of £61,000. It is expected further costs will follow in relation to the works required for those other areas of compliance. These will be drawn from within the HRA current budget and balances and will be fully reviewed during the preparation of the 2020/21 budget.
- 6.7 **Legal/Consultancy** - In addition there will be further costs in relation to the consultation process and additional legal work arising out of the current circumstances. This is collectively estimated at £100,000, which will be

drawn down as required, This will, as above, be funded from existing HRA resources and any ongoing effect will be reviewed as part of the 2020/21 HRA budget setting.

- 6.8 **Capital Programme 20/21** – It is expected that the HRA capital programme for 20/21 will include provisions for capital repairs and upgrading of the council owned pumping stations, an extended asbestos removal programme potentially including the replacement of water tanks and capital works arising from the latest round of fire risk assessments.

7. RISK MANAGEMENT ISSUES

- 7.1 The following risks have been discussed in the main body of the report.

Perceived risk	Seriousness	Likelihood	Preventative action
Electrical Installation Testing	High	Medium	<ul style="list-style-type: none"> • Update EICR inspection regime. • Procure inspection and remedial works contract. • Allocate budget for the above. • EKH – post inspection and ongoing monitoring.
Water System Risks	High	Medium	<ul style="list-style-type: none"> • WRA completed. • Risk assess compliance works and prepare action plan. • Confirm works to be completed by the contractor. • Allocate budget for the above. • EKH – post inspection and ongoing monitoring.

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (NE)

The legal position is set out in full within the body of this report.

7.2 Finance Officer's Comments (TM)

These are included in the above report

7.3 Diversities and Equalities Implications (AR)

None

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Andrew Rush, Corporate Contracts Manager
Telephone: 01303 8533271
Email: andrew.rush@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

East Kent Housing – Water Risk Assessments

Appendices:

Not Applicable

**This Briefing Note
will be made public
on 7 October 2019**



Briefing Note: **OS/19/05**

To: Overview and Scrutiny
Date: 15 October 2019
Status: Non Key
Head of Service: Amandeep Khroud, Assistant Director, Governance, Law and Regulatory Services
Cabinet Member: Councillor Stuart Peall, Cabinet Member for Enforcement, Regulatory Services, Waste and Building Control

SUBJECT: Fly-tipping in Folkestone

Background

The Environmental Protection Team are made up of 6 Officers, 3 who deal with Environmental Enforcement issues including Littering, Dog Control, Stray Dogs, Fly-posting and Unauthorised Encampments and 3 covering Environmental Protection, 1 that covers Air Quality, Planning Applications and Temporary Event Notices and 2 that cover Nuisance (Noise, Odour, Dust, Light), Beach Bathing and Private Drinking Water, Pest Control and Fly-tipping. The lead Environmental Protection Officer for Fly-tip investigations is Daniel Stone.

Fly-tipping is an illegal activity under Section 33 Environmental Protection Act 1990 (EPA 1990) and can be defined as the 'illegal deposit of any waste onto land that does not have a licence to accept it'. This can range from a small black sack of waste, electrical items, a mattress or grass cuttings and this can make the area look rundown and uncared for and causes a local nuisance. Larger scale fly-tipping can typically involve truckloads of waste, building materials, tyres, demolition works or construction site waste.

Uncontrolled large amounts of illegal waste can cause harm to the public, the local area and damage the soil quality, especially if the waste contains toxic or asbestos materials. This is a nationwide problem where the individual committing this offence has the intention to leave waste on the land and avoid any charges at waste sites.

Anyone who produces, imports, keeps, stores, transports, treats or disposes of waste has a "Duty of Care" to take all reasonable steps to ensure that waste is managed properly. The Duty of Care is dealt with under 34 of the Environmental Protection Act 1990 to ensure that it is disposed of correctly. For a householder this

includes household furniture, renovation works, grass cuttings or branches/roots etc from landscaping works.

A business or householder must ensure the person taking their waste away, is disposing of it correctly. They should ask to see a valid Waste Carriers Licence or have their own Trade Waste agreement. Otherwise, there is the risk that their property could be fly-tipped rather than correctly disposed of. If a business or householder has paid someone to remove the rubbish and not taken any steps to ensure the waste will be disposed of correctly, they may be guilty of an offence.

1 Penalties for Fly-Tipping

1.1 Fixed Penalty Notices, Fines and Prosecutions

1.2 For small fly tips and Duty of Care cases, a £300.00 Fixed Penalty Notice (FPN) is offered on the first offence where the person has admitted liability and they can discharge their duty which means the case is not taken to Court and no criminal record is made against them. They have 14 days to pay the FPN and a period of 5 years where any other offence would mean we would take them to Court without the offer of a FPN and they would be prosecuted. Failure to pay the FPN or a lack of remorse shown or refusal to provide information about who was involved when interviewing the alleged offender, would result in a prosecution against them.

1.3 A maximum penalty of £50,000 at a Magistrates Court and/or 12 months prison sentence can be awarded to the offender and unlimited fines can be imposed at Crown Court (for large commercial fly tips)

2 Statistics

2.1 National

2.1.1 In 2017/18 local authorities dealt with just under 1 million (998,000) incidences of fly-tipping in England, compared to just over 1 Million (1,011,000) reported in 2016/17. This is a reduction of around 1%.

2.1.2 Folkestone & Hythe District

Fly-Tipping Types - Calendar Year *	2018	2019
Fly Tipping Hazardous Private	1	1
Fly Tipping Investigation Trade	4	0
Fly Tipping Ongoing Investigation	0	1
Fly Tip Council Land Evidence	79	86
Fly Tip Hazard Public Evidence	18	35
Fly Tipping Other	84	90
Fly Tipping Private Land	34	30
Total	220	243

*Calendar year figures provided as breakdown only available from 01/01/2018

2.2 Enforcement action taken

2.2.1 National

2.2.2 Local Authorities carried out 494,000 enforcement actions in 2017/18, an increase of 18,000 actions (4%) from 2016/17.

2.2.3 The number of fixed penalty notices issued has continued to increase, up 20% to 69,000 from 2016/17 and up 91% on 2015/16. This is the second most common enforcement action (after investigations), and accounted for 14% of all enforcement actions in 2017/18.

2.3 Folkestone & Hythe District Council

Enforcement Action Taken	2015	2016	2017	2018	2019 (to date)
FPNs	NA	Introduced	3	4	5
CPNs	11	17	29	35	21
Prosecutions	0	1	2	2	0 (2 pending)
Formal Cautions/warnings	4	7	7	11	13 (1 pending)
Sec 108 request for information	N/A (not recorded on M3 yet)	21	72	62	82
Totals	15	46	113	114	124

3 Response to Key Areas of Enquiry

3.1 *Is there an escalation of Fly-tipping in every Ward in Folkestone?*

3.1.1 There has been an increase of Fly-tipping across the District and this is a problem that many Local Authorities are experiencing. In response the Council has provided educational work with pop-up events across the District, taken enforcement action including prosecutions, run campaigns for “Duty of Care”, intelligence led patrols, joint working with Kent Police under Operation Assist, as well as the general routine investigation work the team carry out.

3.1.2 Whilst Folkestone and Hythe District Council has seen an increase in Fly-tipping, there has been some great results with prosecutions and Fixed Penalty Notices (FPN) to show that enforcement is being taken seriously. We

have received 100% success rate of all legal cases submitted to Court and this is down to the quality of the investigations and interviews carried out. A total of 7 over the last 5 years.

3.1.3 Prosecutions are not always the best course of action as FPNs could be issued to those who show remorse and confess to the crime and this remains on their file for 5 years. It would not be in the public interest to take this matter to Court. However, if they have been found to Fly-tip again they would be prosecuted for both offences in Court.

3.1.4 Facebook is also used to identify those that offer a service to collect and dispose of household waste without using a Waste Carriers Licence (WCL). This would be typically a “Man and Van” scenario where they charge around £20 to remove waste. This has proven to be helpful in using

3.1.5 KCC are running a “Duty of Care” campaign spending £250,000 to support Kent Councils in the battle of Fly-tipping and they will do this by providing:

- 9 covert cameras to use for covert investigations on a shared basis
- KCC will apply for RIPA (Regulation of Investigatory Powers Act)
- 4 tracking devices (with the potential of more to come)
- New signage to highlight “We are watching” and to be placed into known problematic areas.
- Intelligence sharing and support with investigations

3.1.6 Training, intelligence support and media press releases will be carried out to ensure that every opportunity is taken to educate, inform and enforce. Local businesses can attend a free “Duty of Care” training session booked for January 2020 to find out what they should be doing with their waste and the issues it causes if they do not follow the correct procedure.

3.2 Do Veolia Operatives notify Managers if they find Fly-tipping?

3.2.1 We do receive reports from Veolia operatives notably when they suspect businesses are using public bins. We think there could be more reporting of locations and this is being discussed with Veolia Management.

3.3 *How many residents are using illegal waste carriers?*

3.3.1 There are no statistics available to show how many residents are using illegal waste carriers and this would be difficult to determine. However, as well as the normal enforcement investigations that are carried out, the team conducts special ‘stop and search’ operations with Kent Police which involves pulling vehicles to:-

- check paperwork for transferring and disposing of waste

- looking for any potential environmental crime that they may be involved with
- checks with Trading Standards, Department of Works and Pensions for Benefit fraud, intelligence team for any vehicles known to be involved in criminal activity and general vehicle checks.

3.3.2 Where Waste Carriers Licence (WCL) and Waste Transfer Agreement (WTA) are requested, any person stopped or investigated will have their licence checked with the Environment Agency. This can be used by householders as well as Officers and they can do so by visiting the following link to confirm it is in order:- <https://environment.data.gov.uk/public-register/view/search-waste-carriers-brokers>

3.4. Large Item collection are now unaffordable for those without a car, living on a low wage, what are they supposed to do?

3.4.1 The council provides a bulky waste collection service across the district and plans to continue to offer this service in the next contract. This service is charged to the household requesting the service.

3.4.2 Bulky items are available for collection at a cost of £24.50 for 1st item and £6.00 extra per additional item up to a maximum of 4 in total (£42.50). Bulky items are accepted at the Household Recycling Waste Centres free of charge.

3.4.3 Most household delivery services handling white goods or furniture also provide a removal/collection service at a small cost, or there is the option of giving items away for free via social media, so there is no excuse for fly-tipping.

3.4.4 We have used CCTV in known hotspots but the results have been disappointing. Firstly, monitoring and reviewing footage is resource intensive unless incident times can be pinpointed. Identifying individuals from footage is often difficult and many fly-tippers are 'CCTV aware'. The best intelligence often comes from local witnesses as they can identify individuals to properties or vehicles. However they have to be prepared to complete a statement.

3.4.5 Whilst charges were introduced by KCC for non-household items such as plasterboard, tiles and bricks at a cost of £4 per black sack with a maximum of 5 bags per day, it is difficult to say if this has had an impact on fly-tipping as there are not enough statistics to research. The Officers dealing with this work do not feel they have seen an increase, but more research needs to be carried out before a correct analysis can be made.

4 Expected outcomes

4.1 List of waste carriers to be provided

4.1.1 A list of waste carriers is not available as individual checks can be carried out by searching on the following website:-
<https://environment.data.gov.uk/public-register/view/search-waste-carriers-brokers>

4.2 Bringing in the 3 E's - Engage, Educate, Enforce

- Officers engage with customers daily either with a site visit or telephone call, recycling education is delivered as requested.
- Pop up events take place across the District to promote many areas of Environmental Protection and enforcement issues. Waste Management is also included in this with educational information provided and leaflets given.
- Enforcement action is taken with intelligence led information and special operations based on Hot Spots and locations identified by Officers and the public.

4.3 Instead of tiny litter picks, can you arrange a large one like 2005?

4.3.1 Litter picking is not dealt with under Fly-tipping as there is generally a planned intention under fly-tipping, to walk or drive to an area and illegally dispose of the waste to avoid being charged for its correct disposal, whereas, litter is normally caused by accident or through laziness without a planned action to discard of the item.

4.3.2 Campaigning organisation, Keep Britain Tidy (KBT), run an annual national litter picking / cleaning event each spring and F&HDC have a strong track record of supporting litter picking / cleaning events throughout the year.

4.3.3 We engage with local communities and businesses who provide support in the local area to clean the community and use social media communication campaigns to support the KBT campaign, promote litter picking generally and promote the work we do to support litter picking and increase participation.

5 Conclusion

5.1 We are responding to the increase in fly-tipping and there are a number of local and county initiatives taking place where we are getting good results often from information provided by the local community and by the information obtained by Officers, who check through the waste for vital clues and evidence.

This Report will be made public
on 8 October 2019.



Report Number: **C/19/26**

To: Cabinet
Date: 16 October 2019
Status: Key Decision
Corporate Director: Tim Madden, Customers, Support and Specialist Services
Cabinet Member: Councillor David Monk, Leader of the Council

SUBJECT: Medium Term Financial Strategy 2020/21 to 2023/24

SUMMARY: The Medium Term Financial Strategy (MTFS) is the Council's key financial planning document. It puts the financial perspective on the council's Corporate Plan priorities, expressing the aims and objectives of various plans and strategies in financial terms over the four year period ending 31st March 2024. It covers both revenue and capital for the General Fund and the Housing Revenue Account. Also included are the Council's reserves policies. The MTFS is a key element of sound corporate governance and financial management.

REASONS FOR RECOMMENDATION:

Council is asked to agree the recommendations set out below because:-

- (a) The MTFS is the council's key financial planning document.
- (b) The strategy defines the financial resources needed to deliver the council's corporate objectives and priorities and covers the financial implications of other key strategies.
- (c) The council needs to be able to carry out an early assessment of the financial implications of its approved policies and strategies and also external financial pressures facing the authority to ensure that it has robust budgeting and remains financially viable.

RECOMMENDATIONS:

Cabinet is asked to recommend to Council:

1. To receive and note Report C/19/26.
2. To recommend that the Medium Term Financial Strategy, as appended to this report, is adopted.

1. THE MEDIUM TERM FINANCIAL STRATEGY (MTFS)

- 1.1 The MTFS is the council's key financial planning tool and underpins the strategic approach to financial planning. It is a live document which needs to be periodically reviewed to reflect changing priorities and objectives. As the MTFS outlines the financial resources necessary to deliver strategic priorities, it should not be viewed in isolation but as part of the wider corporate process.
- 1.2 The council last reviewed the MTFS at its meeting of 31 October 2018. The attached MTFS has updated the document agreed at that point based on the work completed to date in preparation of the 2020/21 budget. The detailed budget strategy, which sets out the detailed preparation for the 2020/21 budget, will be presented to Cabinet at its meeting of 13th November 2019. The MTFS provides the medium term view of the financial position of the Council.
- 1.3 The attached document reflects a summarized version of the key financial elements facing the Council. It covers key areas of the council's finances and in particular updates the financial projections which are of importance at this stage of the process and links to the new corporate plan. The intention is, once the 2020/21 budget is completed, to refresh this document and to present the full version to Cabinet and Council which will take into account the final budget of the Council which will be agreed in February 2020.
- 1.4 As in recent years, local authority financial management is set against a background of uncertainty and the MTFS is subject to influence outside the authority's control. Nationally, there is continued uncertainty around the terms of any "Brexit" agreement and the growing importance of the recognition of the Climate Emergency at both a local and national level. The government has recently announced a 1 year spending review which, to a large extent, preserves the existing status quo as it has postponed the Fair Funding Review (FFR) until April 2021. This review includes key changes include the future funding arrangements for Business Rates, the end of the Revenue Support Grant and any structural or devolution proposals which will affect councils in different areas according to local circumstances. These will have a significant impact upon the financial profiling of the Council. The impact of decisions arising from Council policy could also affect the MTFS and therefore further iterations of the MTFS will reflect the financial implications of those decisions taken.
- 1.5 The current strategy has been developed in the context of this period of uncertainty. As such, assumptions have had to be made with regard to future income streams and assessments of future government grant. Although these are very much best estimates, they are taken in the context of the current economic climate and the uncertainties identified above. As such, a difficult but realistic forecast of income trends has been incorporated into this MTFS model.
- 1.6 There is long term pressure upon the finances of the Council and broadly the financial projection is in line with that in previous years. The key change is the Fair Funding Review (see above) which looks to make significant

changes from April 2021 to Council funding nationally. This gives a level of uncertainty when looking at future projections and developing the underpinning assumptions for the financial forecast

- 1.7 The current MTFS forecasts a cumulative funding gap of £4.007 million over the lifetime of this MTFS. This is based on the assumption of a 2% annual council tax increase for the period of the MTFS. These will be subject to Political decisions at the appropriate time. The table below also shows the annual deficit over the period of the MTFS.

	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Deficit	357	1,198	743	1,707

- 1.8 The position set out above is in advance of the budget strategy which will be presented to Cabinet at its meeting of the 13th November. That will address the detailed measures to consider the deficit for 2020/21 in terms of identifying savings but also any known cost pressures. In light of the increasing pressures facing the council, all budget considerations will also look at the impact in future years and the sustainability of any options.
- 1.9 The MTFS covers the key aspects of the Council's future plans to address the projected deficit and also to place the Council on a sustainable and secure footing for the future. This includes the impact of the Council's current transformation programme, its use of flexible capital receipts to support that programme, the future approach to investment in the district to generate commercial income and the key drivers associated with the future position. This is an overarching view and detail will be found in subsequent reports to Cabinet and Council.
- 1.10 The MTFS is included at Annex A to this report and sets out the financial forecast for the Council.

2. RISK MANAGEMENT ISSUES

- 2.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
The Council does not remain up to date up to date with changes in legislation and other developments.	High	Low	Financial Services are keeping abreast of finance changes. Assistant Directors and Chief Officers to keep up to date with / communicate changes to their areas of work.

Assumptions may be inaccurate	High	Medium	Budget monitoring process is up to date and a close eye is being kept on financial developments nationally. Assumptions are constantly reviewed and amended in light of information received.
Local Government Finance Settlement is worse than anticipated.	High	Medium	Realistic assumptions have already been included and any new information is being assessed as to its likely impact. This is subject to ongoing review especially given the changes in future funding arrangements.
MTFS becomes out of date	High	Low	This is reviewed annually through the budget process.
Significant financial shocks worsen the current position of the council	High	Medium	There is ongoing monitoring of the overall financial position and climate and by adopting the MTFS a longer term time horizon is maintained to anticipate and respond to uncertain events.

3. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

3.1 Legal Officer's Comments (AK)

There are no legal implications arising out of this report.

3.2 Finance Officer's Comments (TM)

There are no direct financial consequences arising from this report. However the strategy will influence the management of the council's resources ensuring that the focus is on the objectives and targets outlined in the corporate plan.

3.3 Diversity and Equalities Implications (TM)

There are no diversity and equality implications arising from this document. When the budget for 2020/21 is prepared, an Equalities Impact Assessment will be completed.

4. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councilors with any questions arising out of this report should contact the following officer prior to the meeting

Tim Madden, Corporate Director, Customers, Support and Specialist Services

Tel: 01303 853371 E-mail: tim.madden@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

No background documents have been used.

Appendices:

Medium Term Financial Strategy 2020/21 – 2023/24

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MEDIUM TERM FINANCIAL STRATEGY

2020/21 TO 2023/24

(Version produced in September 2019)

MEDIUM TERM FINANCIAL STRATEGY

Introduction

This document sets out the key challenges and approach of the Council in relation to Folkestone and Hythe District Council's Medium Term Financial Strategy ('MTFS') for the next four years. The MTFS provides an integrated view of the whole of the council's finances and it also maps out the objectives to be secured, policies to be applied and risks to be managed over the period.

Since the introduction of austerity in 2010, local government has taken a disproportionately large share of the reductions in public expenditure as part of efforts to balance the nation's finances. During the financial year 2020/21, the Council will again receive no Revenue Support Grant. The current national political uncertainty surrounding the shape of Brexit and its continuing priority in the government's agenda suggests it is reasonable to assume the approach adopted by local authorities since 2010 will need to continue for the foreseeable future.

The original planning intention from government had been to undertake a 3 year Comprehensive Spending Review (CSR) during 2019 to inform the 2020/21 budget and to implement the Fair Funding Review. The current national uncertainties have led to this being replaced by a 1 year CSR and a delay in significant financial reform to 2021/22. The result has been to a large extent a continuation of the funding status quo although at the time of writing a number of areas are due to go out to consultation. These include the future of New Homes Bonus and the limit needed for a council tax referendum. It is expected the significant reform will now follow from a longer term CSR due in 2020.

In response to this financial challenge, local government has innovated, streamlined services and increased productivity. The Government's plans to devolve more responsibilities to local government through the localisation of business rates which are now intended to take effect from April 2021 although detail as to whether there will be additional responsibilities are not yet clear. The devolution of business rates is intended to be fiscally neutral but the details of how this will work are currently being developed alongside the Fair Funding Review. This will bring both risks and opportunities for the council and will be implemented for the 2021/22 financial year.

The MTFS is the a critical document in setting out the council's approach to establishing a strong financial base to enable the council's policies and priorities to be delivered whilst ensuring the council's finances are sustainable. Within the document are some key issues which will need to be tackled. The annual budget setting process will set out the detailed actions required to meet these but will in all cases be consistent with the direction and objectives of the MTFS.

Folkestone and Hythe Council - the Current Position

Folkestone and Hythe Council covers an area of 140 square miles and has a population of just over 100,000 people with approximately 48,200 dwellings in the district. The council has responsibility for a wide range of services including waste collection, planning, environmental enforcement, housing and homelessness, parking

and grounds maintenance. In 2019/20 it planned to spend approximately £17.4 million per annum net revenue expenditure on services.

The Council's Aspirations

The vision and strategic objectives of the council are laid out in the Corporate Plan 2017 to 2020 and are shown below:

The vision for Folkestone and Hythe:

Investing for the next generation – delivering more of what matters

As a council, to help achieve the vision for the district, our strategic objectives are:

- More Homes – Provide and enable the right amount, type and range of housing
- More Jobs – Work with businesses to provide jobs in a vibrant local economy
- Appearance Matters – Provide an attractive and clean environment
- Health Matters – Keep our communities healthy and safe
- Achieving stability – Achieve financial stability through a commercial and collaborative approach
- Delivering Excellence – Deliver excellent customer service through the commitment of staff and members

The council will have a particular emphasis on supporting the growth and sustainability of the economy to increase prosperity, to increase the number of houses in a sustainable manner over the longer term and on improving our effectiveness and efficiency through service design and digital delivery. By focusing on these key priorities, the council will be able to direct resources to achieving its key strategic objectives and to ensure sustainability in its activities.

As part of further strengthening the council's corporate position going forward, in June 2018, the Local Government Association (LGA) Peer Review Team undertook a review of the council's organisational leadership and governance; financial plans; capacity to deliver; and, focus on commercialisation, highlighting both areas of strength and areas for development in the years ahead.

The Council will continue to deliver a range of major projects and initiatives focusing on putting the community and our customers first, whilst ensuring our financial stability, including a Council-wide transformation programme alongside realising development

projects at sites including Biggins Wood, Princes Parade and ultimately, Otterpool Park – a garden town for the future.

Strategic Financial Objectives

The MTFS covers all areas of the council spending and is underpinned by the strategic financial objectives as set out below:

- To maintain a balanced Budget such that expenditure matches income from Council Tax, fees and charges, and government and other grants and to maintain that position.
- To maximise the council's income by setting fees and charges, where it has the discretion and need to do so, at a level to ensure at least full cost recovery, promptly raising all monies due and minimising the levels of arrears and debt write offs.
- To ensure a long term sustainable view is taken of any investments and the appropriate risk analysis is provided in considering those.
- To set a rate for Council Tax which maximises income necessary for the council to deliver its strategic objectives but ensures that government referendum limits are not exceeded. The percentage increase will be reviewed annually.
- To ensure resources are aligned with the council's strategic vision and corporate priorities.
- To consider and take advantage of commercial opportunities as they arise to achieve a commercial return
- To maintain an adequate and prudent level of reserves.

The council faces a number of difficult decisions if it is to achieve its corporate priorities. Effective prioritisation and management of resources therefore continues to remain significant for the coming years.

Supporting the production of the delivery of sound financial planning for the Council are several Council wide documents and programmes including:

- The Corporate Plan 2017 - 20 the key objectives of which are set out above
- The Economic Development Strategy 2015 - 2020
-
- The Medium Term Financial Strategy
- The HRA Business Plan
- The Council's Capital Strategy and Investment Strategy
- The investment in longer term strategic developments to secure the financial future of the council
- The development of the garden town at Otterpool Park with a long term financial benefit for the council and establishing sustainable communities for the future

- A sustainable and prudent reserves policy to underpin the financial resilience of the council
- The implementation of the Transformation programme, together with the Council's transformation partners, to develop a new operating model and deliver efficiencies whilst improving the customer experience

The range of documents and approaches provides the overall strategy of the council in delivering its future agenda and as a combination they are owned by the council as a whole. This MTFS brings together the financial strands of that approach in the context of the current financial climate.

Budget Process

The MTFS represents an overarching view of the finances of the organisation. It is the document that takes a longer medium term look at the financial environment the Council is operating in and looks to anticipate future demands and pressures so the Council can take longer term decisions over its financial sustainability. In addition to this, there are a number of key documents which contribute to the overall financial health of the organisation. These are:

- The budget strategy. This is produced on an annual basis and sets out the strategy for setting and managing the budget for the following financial year. It is here the detailed decisions on expenditure are taken.
- The detailed revenue estimates. These are the operational detail for the following year's budget and form the basis of the following years budget monitoring and management.
- The capital programme. Which sets out the Council's capital expenditure plans over the medium term. This also informs the revenue budget of the costs and implications of any proposed developments.
- The Housing Revenue Account. This sets out the annual capital and revenue budget for the Council's housing stock and links to the 30 year business plan.
- The treasury management and investment strategy. This sets out the approach to managing the cash available to the Council and how to maximise its value to the Council. It also sets out the Council's investments and plans to achieve future returns over the longer term.
- Fees and Charges. This sets out a corporate view of the fees and charges which are levied by the Council for consideration each year.

Together these reports lead to the final council tax setting report and the agreement of the budget for the following year.

Financial Pressures and Projections

The Council is part of the local government sector which has been one of the areas hardest hit by central government's deficit reduction plan. The spending review 2015 confirmed a transition away from direct central government grant and for Folkestone and Hythe the grant has consistently reduced from £4.901 million in 2013/14 to nil in

2020/21 and beyond. This is in line with the government's intention to see more money raised locally to provide local services.

The government is currently undertaking a major review of the funding of local authorities known as the Fair Funding Review. This is a major change in the structure of local government finance which was originally intended to take effect from 2020/21. However, the one year spending review (CSR) previously referred to has delayed the implementation of this until 2021/22. Key elements of this include local business rates retention at 75%, a revised allocation of resources and new arrangements to replace the New Homes Bonus to reward those Councils which support home building. The detail behind much of this review, and therefore the impact upon Folkestone and Hythe, is unclear and does mean that the forecasts from 2021/22 onwards have a level of uncertainty which will need to be monitored as those details become available.

Acknowledging the future uncertainty, the forecasts set out below have recognised the current service levels plus any known and agreed variations. They are based on a continuation of those service levels and reasonable assumptions in relation to pay and price inflation and other known pressures. The forecast is based on a mid-range scenario and will need to be updated in line with government announcements and as new information becomes available. The current forecast is set out at Table 1 below:

Table 1 – Medium Term Financial Forecast

Financial Forecast	2020/21	2021/22	2022/23	2023/24
	£000	£000	£000	£000
Cumulative Deficit	357	1,198	743	1,707

The table identifies the ongoing pressure the Council is facing. A more detailed presentation is attached at Appendix 1. Some of the underlying assumptions drivers are set out in the paragraphs below:

Council Tax

The Council Tax is one of the key funding streams for the council and accounts for approximately two thirds of the Council's income. Although this is a significant funding source, it is subject to restrictions by central government. The Localism Act included a requirement to hold a local referendum if any Council Tax increase is deemed 'excessive' and this level is currently set at 3% by central government. However, as part of the spending review consultation, this limit is proposed to reduce to 2%. Final details will be confirmed when the Local Government Finance Settlement is announced.

The MTFs has assumed an ongoing Council Tax increase of 2% per annum however this will be subject to a Political decision on an annual basis dependant on circumstances in that time.

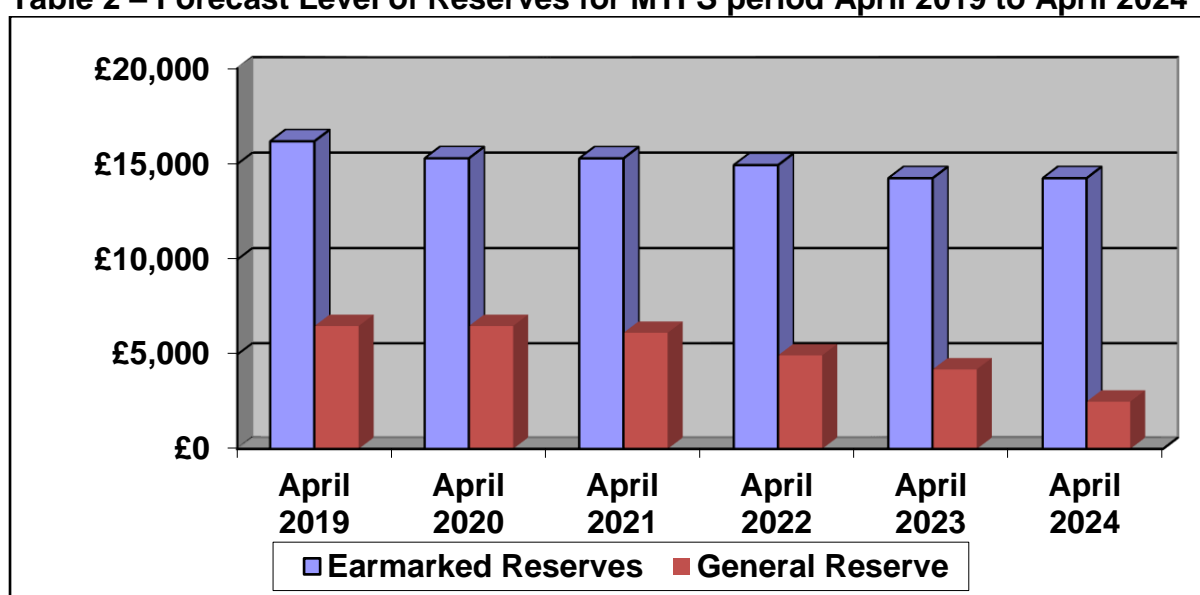
Use of Reserves

The council has a level of reserves which provides it with some protection against the difficult economic times. The level of reserves currently held by Folkestone and Hythe gives it a secure financial base however it is important to have an appropriate balance between supporting the financial position of the Council and planning the delivery of services. The Council has identified specific uses for much of the reserves including setting aside sums to support the planning process for Otterpool Park and the use of reserves will be focussed on specific priorities.

Appendix 2 to this report sets out the council's overall reserves policy and the context in which decisions are made as to the appropriate level of reserves.

The council's prudent approach to reserves means that a number of investments have been made using reserves to support initiatives such as Oportunitas and the Empty Homes programme. Table 2 below shows the forecast level of reserves for the period of this strategy.

Table 2 – Forecast Level of Reserves for MTFs period April 2019 to April 2024



New Homes Bonus (NHB)

The New Homes Bonus was introduced in 2011/12 and has become an important funding source for councils. It is designed by Central Government to incentivise new house building. Local authorities are rewarded with a financial bonus, equal to the national average Council Tax on each additional property built and paid for the following six years after the occupation as a non-ring fenced grant. This bonus is currently split in two tier areas 80% to the District Council and 20% to the County Council and includes where properties which have been empty for more than six months are brought back into use. There is also an enhancement for affordable homes.

The future of the New Homes Bonus was reviewed for the 2017/18 financial year with the length of time it is paid reduced from 6 years to 5 years (for the 2017/18 award)

and to 4 years from 2018/19 onwards. A “baseline” of 0.4% growth was also established before any bonus was paid. These funds were used to support those authorities with adult social care responsibilities.

The government has set out its intention to end New Homes Bonus from the Fair Funding Review in 2021. The intention is to replace this mechanism with a different means of incentivising and rewarding housing growth. The detail of this is unclear and poses a risk to the future funding of the Council. At present, Folkestone and Hythe utilises a proportion of its existing New Homes Bonus to support services with the remaining amounts being set aside within a reserve to fund the additional cost of services over future years. This reserve will deplete by 2022/23 if the current arrangements come to an end with no compensating alternative.

Business Rates (Non Domestic Rates)

From 2013, the government introduced a scheme through which local authorities would be able to retain a proportion of any business rates growth above a set baseline. The purpose was to give local authorities a financial incentive to encourage and foster economic growth within their area and to work collaboratively with other authorities and business organisations to achieve that growth. Whilst this scheme has been broadly welcomed by local authorities, there are concerns over the potential volatility of this income stream with the level of appeals and that even a small variation in the overall revenue generated can carry a significant financial impact. The government is currently undertaking a review of how business rates operate and has stated its intentions to achieve 75% localisation of business rates from 2021.

With regard to the MTFS, the Council has welcomed the emphasis on economic growth but has been cautious about building this into the base budget. Part of this is due to the impact of appeals and the volatility of the income which makes it more complex to forecast. Where possible, any surpluses have been placed within a reserve until there is a degree of certainty before they can be used which may well not be until the following financial year. This is prudent management to manage the natural fluctuations of the business cycle.

The Council is also part of the successful Kent and Medway Business Rates Pool which is able to retain 100% of business rates for 2018/19 only. This is of financial benefit to the Council but the Council has set this benefit aside in reserves for future use pending future clarification as to future arrangements.

The role of business rates in the funding of the Council will be affected by the Fair Funding Review which will be introduced from April 2021. The full impact of this will only become clear during 2020/21 as proposals are developed. This adds a further element of uncertainty to the projected position and suggests caution is needed in any future projections.

Climate Emergency

At its meeting of 24 July 2019, the Council approved a motion recognising that there is a climate emergency. The full motion can be found [here](#):

<http://www.folkestone-hythe.gov.uk/moderngov/documents/g4581/Public%20minutes%2024th-Jul-2019%2019.00%20Council.pdf?T=11>

As a result of this, the Council has agreed to commit to a number of activities which will reduce its carbon footprint and which will move towards a carbon neutral district. The financial implications of adopting the motion are not as yet sufficiently developed to include within the MTFS. As the budget cycle progresses, it is to be expected the financial impact of this will become clearer and can be incorporated into the financial plans of the council.

Future Strategies

The current forecast means that there will need to be significant work undertaken to address the forecast deficit. Set out below are some of the key areas to be developed through the 2020/21 budget strategy and beyond to address those financial challenges.

Transformation: The Council has undertaken a major review of its operations and is working to radically change how the Council operates and its relationship with its customers. This is based on a complete review of its operation and involves a significant investment in technology. The programme was approved at Council on the 28th February 2018 and is expected to produce ongoing savings for the Council. To date £600,000 per annum has been identified. There are 2 more phases of the programme remaining however the aim is to implement continuous service improvement philosophy to maintain the development of the Council.

Strategic Investments: The Council is looking to take advantage of its position with a number of developments to produce financial returns whilst at the same time supporting the delivery of housing and regenerating parts of the district. The largest development is that of the proposed new town at Otterpool Park and options are being explored to generate future revenue and capital streams. A full financial model is currently being developed by PWC to look at the long term potential returns from the development. Other areas include the developments at Varne, the Bigginwood site which are expected to produce financial returns for the Council in the long run. The Council has invested in the Connect 38 office block in Ashford to produce an immediate financial return to support the finances of the Council. The proposed development at Princes Parade will, if approved, also generate a revenue benefit due to the replacement of the current ageing leisure facility.

Commercial Opportunities: The Council will seek to take advantage of commercial opportunities wherever possible to cover costs and to review our fees and charges in order to maximise benefit in line with corporate objectives.

A **financial review** of previous years' out turn and our base budget to ensure maximum value is obtained from those resources already allocated – effectively to ensure financial discipline and good housekeeping are maintained. This is a fundamental annual review of our current operations in order to maximise the use of our current resources.

Using **reserves** in a sustainable and prudent manner to support the council's strategies and priorities. These are informed by the reserves strategies at Appendix 2 and it is recognised that these can only be used on a "one off" basis. However, they can play an important part in supporting initiatives or investments which can produce benefits in the future.

Using opportunities as they arise including government initiatives or incentives. In particular, the Council will seek to participate in the Business Rates Pooling scheme to maximise the financial benefit from this area. It also will seek to utilise Flexible Capital Receipts where possible to fund the transformation programme and to take pressure off the revenue account. All these are managed on an ongoing basis.

To maintain the council's financial standing it is important that it continues its proactive approach to financial planning and ensures that the savings plans are deliverable and that any investments are focussed on the financial health of the authority.

Housing Revenue Account

The council has a separate account, the Housing Revenue Account (HRA) which supports local authority housing throughout the district. The HRA is now required to produce a 30 year business plan which demonstrates the affordability and sustainability of the management and investment in the council's housing stock. This full plan was reviewed and updated by the council's Cabinet at its meeting of 13 March 2019 for the period 2019 – 2049. This report can be found at the following link.

<http://www.folkestone-hythe.gov.uk/moderngov/documents/s29834/Cabinet%20HRA%20BPlan%20Report%2013%20March%202019.pdf>

At the time of writing this strategy, there is a consultation and review into the future of East Kent Housing, the Council's shared ALMO with 3 other local authorities. Depending on the outcome of this review, the business plan will need to be reviewed to take into account any recommendations of this review.

Medium Term Capital Programme

The Medium Term Capital Programme sets out how capital resources are used to achieve the council's vision and corporate priorities. Funding for capital projects is limited and where possible external funding is used to supplement the programme. The council has an affordable Capital Programme and this is assessed against business cases taking into account future resources to support projects. A strategy has been adopted which will look to utilise capital receipts to support investments for the council. Demand for financing potential new projects continues to outweigh the funding available and developments such as Princes Parade and Otterpool Park will need to be prioritised as part of the programme.

The main strategic objectives of the Capital Programme, which provide the underlying principles for financial planning, can be summarised as follows:

- To maintain a five year rolling Capital Programme which remains within the approved affordable, sustainable and prudential limits.
- To ensure capital resources are aligned with the council's strategic vision and corporate priorities by ensuring all schemes are prioritised according to the council's prioritisation methodology.
- Prudential Borrowing to be undertaken to support the councils priorities where there is a business case for it to do so and there are sufficient monies to meet in full the implications of capital expenditure, both borrowing and running costs.
- To maximise available resources by actively seeking external funding to support council priorities and disposing of surplus assets.
- To use internal resources alongside external resources where appropriate to support the capital programme and minimise any borrowing costs.

The council forecasts its capital programme over a 5 year period and the latest position is set out in the report to council on the 20th February 2019. This can be found at:

<http://www.folkestone-hythe.gov.uk/moderngov/ieListDocuments.aspx?CId=122&MId=4475>

Risks and Sensitivities

In considering the future projections, it is recognised that there are unknowns which could impact upon the existing forecasts. The MTFS should be seen not as a static document but rather one that is constantly evolving as the environment around it changes. Some of the key risks and sensitivities which need to be monitored are mentioned below.

- Economic conditions. The impact of the economic cycle will need to be considered particularly in relation to business growth, inflationary pressures and interest rate movements. The impact of changes and any impact on public finances will need to be fully evaluated on the financial model.
- Impact of "Brexit". Whilst the government has underwritten EU funding agreed prior to the 2016 Autumn Statement, the impact of the UK's departure from the EU is one that is unclear and may impact both politically and economically.
- Government Finance Legislation. There are key pieces of government legislation which will impact upon the future financial position of the council. In particular the impact of the localisation of business rates and any additional responsibilities will need to be fully evaluated as well as the government's current Fair Funding Review of local government finance which is due to be introduced in 2021.
- Other Government Legislation. There are a significant number of political initiatives particularly in relation to localisation and the role of local government.

These will need to be assessed for their relevance to Folkestone and Hythe and the impact on future finances.

- Buoyancy of income streams. These will be sensitive to changes in consumer confidence and the economy so will need to be closely monitored.

Conclusion

The MTFS represents the collation of the key financial documents which looks to forecast the likely financial position the council will be facing over the next 4 years. It is the critical financial planning tool for the council and will provide the overall steer for the ongoing discussions throughout the annual budget cycles in dealing with the current economic climate.

Appendix 1 - MTFS Forecast

	2019/20	2020/21	2021/22	2022/23	2023/24
	£	£	£	£	£
Heads of Service					
CD Strategy	616,140	594,140	594,140	594,140	594,140
Governance, Law and Regulation	5,107,600	5,222,600	6,372,600	6,357,600	6,497,600
Human Resources	597,040	597,040	597,040	597,040	597,040
Finance, customers and support services	6,358,120	6,332,120	6,332,120	6,332,120	6,332,120
Strategy, performance and comms	2,141,020	2,031,020	2,031,020	2,031,020	2,031,020
Strategic Development	925,840	447,545	447,545	447,545	447,545
Economic Development	588,040	328,040	328,040	328,040	328,040
Planning	915,200	675,200	675,200	675,200	675,200
Enviromental and corporate assets	2,544,140	2,123,140	1,663,140	1,064,140	281,140
Changes not attributed to services	0	145,550	294,739	447,657	604,399
Recharges to non GF accounts	-1,980,500	-1,900,500	-1,850,500	-1,800,500	-1,750,500
Unallocated net employee costs	-340,000	311,260	659,545	1,042,103	1,701,901
Head of Service net expenditure	17,472,640	16,907,155	18,144,629	18,116,106	18,339,644
Internal drainage board levies	461,830	471,067	480,488	490,098	499,900
Interest payable and similar charges	431,000	431,000	431,000	431,000	431,000
Interest and investment income	-848,000	-776,000	-776,000	-776,000	-776,000
New Homes Bonus grant	-1,542,740	-1,195,675	-830,167	-493,272	0
Other non-service related grants	-1,815,160	-1,815,608	-1,851,920	-1,888,959	-1,926,738
	14,159,570	14,021,939	15,598,030	15,878,973	16,567,806
Net transfers to/from reserves	-889,754	-5,625	-351,703	-687,098	0
Minimum revenue provision adjust.	373,370	373,370	373,370	373,370	373,370
Financing of fixed assets	138,000	138,000	138,000	138,000	138,000
	13,781,186	14,527,684	15,757,697	15,703,245	17,079,176
Transfer to/from Collection Fund	0	0	0	0	0
Net business rates income	-3,495,939	-3,576,117	-3,647,639	-3,720,592	-3,795,004
	10,285,247	10,951,567	12,110,057	11,982,653	13,284,172
Council Tax Requirement	-10,285,247	-10,593,891	-10,911,723	-11,239,100	-11,576,311
Surplus/deficit to General Reserve	0	357,676	1,198,334	743,553	1,707,861

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Appendix 2 – Reserves Policy

INTRODUCTION

The establishment, monitoring and review of the levels of reserves and balances are an important element of the council's financial management systems and financial standing.

The Chief Finance Officer (S151 Officer) is required by law to formally report to the Council his/her opinion on the adequacy of the council's reserves. Irrespective of this, a well-managed authority is clear about the reserves it needs now and in the future to support its service aspirations, whilst at the same time delivering value for money within a climate of significant resource pressure and economic/social risk.

This policy does not cover non-distributable reserves required to support financial accounting transactions e.g. the Revaluation Reserve, Capital Adjustment Account and Pension Reserve. (Non-distributable reserves are those that cannot be used for revenue or capital purposes.)

Reserves can be held for four reasons:

- A working balance to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing.
- A contingency to cushion the impact of unexpected events or emergencies.
- A means of building up funds to meet known or predicted liabilities.
- A means of setting aside sums for future identified uses and / or investments

Such reserves are generally referred to as earmarked reserves.

WHAT ARE RESERVES?

There is no clear definition of reserves even though reference is made to reserves in legislation. The Chartered Institute of Public Finance and Accountancy (CIPFA) states "amounts set aside for purposes falling outside the definition of provisions should be considered as reserves." Provisions are required for any liabilities of uncertain timing or amount that have been incurred.

Generally there are two types of reserves, those that are available to meet revenue or in some cases capital expenditure (Usable) and those that are not available to finance revenue or capital expenditure (Unusable). Useable reserves result from events that have allowed monies to be set aside, surpluses or decisions causing anticipated expenditure to have been postponed or cancelled. They can be spent or earmarked at the discretion of the council.

The council must manage its reserves in accordance with its strategic longer term planning process.

LEVEL OF RESERVES

As mentioned above the council's reserves can be regarded as general and earmarked reserves. In addition, the council maintains a Usable Capital Receipt reserve.

As part of its MTFS, the council also adopts some fundamental principles as to how reserves are used:

- The reserves must only be used to fund one off expenditure.
- Any recurring item may only be funded from reserves if plans are in place to replenish the reserve within 12 months.
- Any unplanned revenue income receipt should be put in reserves pending any future decisions as to its use.
- Reserves should be maintained at a sustainable level to ensure an adequate working balance is maintained.
- Reserves may be used as part of a planned process to balance the budget in order to avoid short term responses which may not be in the best interests of the council.

The council has prudently built up its reserves in recent years to be able to provide for its priorities when required. The level of reserves has, in recent years, reduced in line with planned activities such as investments in Oportunitas and Otterpool and their use for other investment or in lieu of borrowing. This strategy means that reserves are currently at an adequate rather than excessive level however it is recognised this use is of a one off nature to secure future income streams for the council.

The use of reserves is a critical part of the council's budget strategy and the level of reserves is kept under ongoing review. Any future calls on the reserves are considered by looking at the whole position and ensuring minimum reserve levels are adhered to. It is vital that the future needs of the authority such as through the VET reserve are continually refreshed and updated and that earmarked reserves are applied appropriately.

ASSESSING THE ADEQUACY OF RESERVES

The Chartered Institute of Public Finance and Accountancy (CIPFA) state that the Institute 'does not accept a case for introducing a statutory minimum level of reserves, even in exceptional circumstances'. It does however confirm that authorities should make their own judgment on such matters, taking into account all relevant local circumstances on the advice of their Chief Finance Officer.

The Local Government Act 2003 requires the Chief Finance Officer to formally report on the adequacy of the proposed financial reserves.

To arrive at assessing the adequacy of reserves a number of issues need to be addressed:

- What are the strategic, operational and financial risks facing the authority?
- Does the authority comply with the requirements to ensure that there is an adequate system of internal control?
- Are the key financial assumptions in formulating the council's budget robust and reasonable?
- Does the council have adequate financial management and cash flow arrangements?

In addition there are a number of questions an authority can ask to demonstrate that it is managing its affairs satisfactorily, such as:

- What is the track record of the council in its budgetary and financial management?
- What is the council's record regarding Council Tax collection?
- What is the council's capacity to manage in-year budgetary pressures?
- What is the strength of the council's financial reporting?
- What are the procedures to deal with under and over spends during and at the year end?
- In the case of earmarked reserves, will there be expected calls on the reserves that prompted the setting up of the reserves in the first place?

Finally, there is a need to look at the assumptions made in setting the budget, not just for the coming year but also under the MTFS.

The budgetary assumptions cover:

- Inflation and interest rate projections.
- Estimate and timings of capital receipts.
- Treatment of planned efficiency savings.
- Financial risks involved in major funding arrangements.

The assessment of the adequacy of the reserves and the robustness of the estimates are contained within the Chief Finance Officers report to council as part of the budget setting process based upon Section 25 of the Local Government Act of 2003.

Allocation of Reserves

There are to be no withdrawals from reserves, unless of a one-off nature, or if they are part of a planned usage which will lead to the elimination of any deficit and the setting of a balanced budget. It is not normal practice to withdraw from the General Fund Reserve to balance the annual budget, unless plans are in place to provide for an ongoing balanced budget.

Budget Assumptions

These are set out in detail within the Budget Strategy and a sensitivity analysis has been undertaken regarding the financial forecasts for the next five years. The council is responsible for a number of demand led budgets which are difficult to control.

The council has identified its strategic financial risks and has carried out an assessment of that risk. Based on this analysis, the following levels are considered appropriate:

Required Levels of Reserves

	Minimum Level £m
General Fund	2.5
Housing Revenue Account	2.0
Capital Receipts	0.5

The minimum level of the General Reserve balance has been arrived at after assessing the strategic financial risks faced by the council.

The table above shows that a minimum General Reserve balance of £2.5 million should be maintained until the 2023/24 financial year. This level will be monitored and should be addressed as savings proposals are developed and implemented over the term of this plan. The HRA minimum balance has been set at £2.0 million as part of the preparation of the HRA business plan.

OPPORTUNITY COST OF HOLDING RESERVES

Having set minimum levels, the opportunity cost of holding reserves needs to be considered. All balances are used to either reduce temporary borrowing or are invested subject to other cash flows. Therefore in measuring any opportunity cost of holding these reserves, consideration needs to be taken of the interest saving. The opportunity cost of holding the reserves is therefore a judgment whether the 'worth' of expenditure foregone is more than the income generated. Given the current economic climate it is a balanced judgement as to whether to invest / spend reserves or to hold these. As part of the MTFS and budget setting, an assessment of the adequacy of reserves and the associated risks will be made annually.

REPORTING FRAMEWORK

The level of reserves is continually monitored and a full review is undertaken each year.

This Report will be made
public on 8 October 2019

Report Number **C/19/32**

To: Cabinet
Date: 16th October 2019
Status: Non Key Decision
Assistant Director: Charlotte Spendley- Assistant Director – Finance, ,
Customer & Support Services
Cabinet Member: Cllr Jennifer Hollingsbee, Deputy Leader and
Cabinet Member for Communities.

SUBJECT: Refresh of the Council's Children, Young People
and Vulnerable Adults Safeguarding Policy 2019

SUMMARY: The Council is part of the statutory safeguarding role within the wider public sector, with responsibilities to children, young people and vulnerable adults. The safeguarding policy of the Council has been updated and is attached at Appendix 1. A review of safeguarding activity and current status is presented in Appendix 2.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below:

- a) The Safeguarding Policy is required to be refreshed every 2 years and the last review took place in September 2017.
- b) There have been some significant changes in practice and new legislation impacting on the Council's safeguarding responsibilities.

RECOMMENDATIONS:

- a. To note report C/19/32.
- b. To approve the refreshed safeguarding policy for adoption by the Council (Appendix 1).
- c. To note the breadth of activity carried out around safeguarding in the review at Appendix 2.

1. BACKGROUND

- 1.1 Section 11 of the Children Act 2004 places a statutory duty on key organisations to ensure that, in discharging their functions, they have regard to the need to safeguard and promote the welfare of children. Similar obligations apply to young people, up to the age of 21, and vulnerable adults.
- 1.2 The Council is part of the statutory safeguarding role within the wider public sector, with responsibilities to children, young people and vulnerable adults.
- 1.3 The safeguarding policy was last published in September 2017 and is subject to a review on a 2 yearly cycle. Since the policy was last published there have been some significant changes to legislation and additional responsibilities placed on organisations including Local Authorities to address the changing trends in safeguarding matters.
- 1.4 This report highlights the changes made to the 2017 policy, and the Council's response to those in terms of practice.

2. INTRODUCTION

- 2.1 The corporate safeguarding function currently sits in Communities, largely due to expertise and close synergies with community safety and related partnership activity. The function ensures the Council is fulfilling its duties through a coordinated approach across departments utilising staff in key roles (e.g. trained Designated Officers (DOs) for safeguarding and to support training needs), as well as reporting to the previous Kent Safeguarding Children's Board (KSCB) which has recently changed to the Kent Safeguarding Children Multi Agency Partnership (KSCMP) arrangements and detailed in section 2.2 below. This report presents the revised policy (Appendix 1) , looks at the changes since the last safeguarding policy was refreshed, and provides an update on the Council's safeguarding activity (in the form of a review at Appendix 2)
- 2.2 The Kent Safeguarding Childrens Board (KSCB) has been replaced with the Kent Safeguarding Children Multi –agency Partnership (KSCMP) Arrangements as a result of the Wood Review in December 2015. This is a significant change and is therefore highlighted in the revised policy and detailed in section 3.0 below.
- 2.3 The policy also reflects changes to how safeguarding concerns are referred / reported as well as providing updated contact details. Links to key documents and a revised list of staff responsible for supporting safeguarding was necessary due to the number of previously trained staff that have now left the organisation since the last policy was written.
- 2.4 There is an ongoing programme of training for staff, members and designated safeguarding leads and there is a need to ensure all measures are in place to ensure appropriate training is delivered to all staff and members.

3. SIGNIFICANT CHANGES TO THE POLICY

- 3.1 This policy takes into account the arrangements at County level and the requirements of the Kent and Medway Adult Safeguarding Board (KMASB) and the new recent arrangements that have replaced Local Safeguarding Boards for children.
- 3.2 In December 2015, the Government asked Sir Alan Wood to undertake a review into effectiveness of Local Safeguarding Children's Boards (LSCBs). His review, (published in May 2016), concluded that LSCBs did not work effectively and should be abolished. The Wood review proposed a new model of collective working that would ensure better multi-agency collaboration, placing responsibilities on three key agencies to take a strategic lead on safeguarding and the promotion of child welfare in each local authority area. The Wood Review recommendations formed a core part of the Children and Social Work Act 2017.
- 3.3 Under the Children Act 2004, (as amended by the Children and Social Work Act 2017), LSCBs set up by Local Authorities had to be replaced. The revised legislation requires the three 'Safeguarding Partners' (the Local Authority, the Chief Officer of Police, and Clinical Commissioning Groups) to make arrangements to work together with relevant agencies, as they consider appropriate, to safeguard and protect the welfare of children in the area. District Councils are named as relevant authorities together with other agencies.
- 3.4 'Working Together to Safeguard Children 2018' and 'Working Together: transitional guidance 2018' statutory documents, set out further structural requirements for the proposed new multi-agency local safeguarding partnership arrangements. The legislation and Working Together require the three Safeguarding Partners to discharge a 'shared and equal duty' to safeguard and promote the welfare of children. These arrangements had to be published by the 29th June 2019 and implemented by the 29th September 2019. The KSCB website has transitioned across to a new Partnership website www.kscmp.org.uk.
- 3.5 In Kent the arrangements are now taking shape and new structures for sub groups are being formulated with appropriate District Council leads being appointed to them.
- 3.6 Since the last Policy was published there has been a change to reporting processes to KCC. All key staff have been trained on this and this encompasses use of a Single Request for Support Form managed through a new front door system operated by KCC. Advice can be sought from KCC where it is unclear what to do through a District conversation via KCC's early help teams.
- 3.7 The Policy is also updated as new safeguarding demands have emerged with threats of suicide and mental health issues presenting themselves creating additional complexity to safeguarding concerns received. As a result a guide to support services has been produced and this is touched upon in

the Policy with some information presented in Appendix 3 of the Policy itself. The full guide is now available on the intranet.

- 3.8 A summary of safeguarding activity is attached in the form of an annual review at Appendix 2 and includes additional updates e.g. the changes made to the intranet, new training information and a new support guide to services to help sign post vulnerable people to the right services.

4. CONCLUSION

The Council has a good track record in meeting its safeguarding obligations and the adoption of this refreshed policy will ensure that statutory requirements are met and that processes and practices are up to date in dealing with safeguarding matters. It is therefore recommended that Cabinet approve the policy for adoption by the Council.

5. RISK MANAGEMENT ISSUES

Perceived risk	Seriousness	Likelihood	Preventative action
Policy not approved by Cabinet and this will result in Council failing in it's duty to safeguard children, young people and vulnerable adults	High	Low	To approve and adopt the Policy

6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councilors with any questions arising out of this report should contact the following officers prior to the meeting:

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Appendix 1 – Refreshed Safeguarding Policy 2019
Appendix 2 – Annual Review of Activity - Summary

Children, Young People and Vulnerable Adults Safeguarding Policy

Date:	October 2019
To Be Reviewed:	October 2021
Contact Name:	Jyotsna Leney
Department:	Community Services
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Foreword

At a time when the safeguarding of children, young people and vulnerable adults has never been of greater concern, the Council is required to review its Safeguarding Policy to ensure its arrangements adequately reflect the additional responsibilities currently being placed on it, and that these additional requirements are being fully considered in the approach being taken to protect people from abuse.

We are therefore pleased to introduce this revised Safeguarding Policy which aims to outline the responsibilities of the Council, and how they dovetail with other agencies, to safeguard vulnerable children and adults with care and support needs from harm and abuse.

We believe that everyone has the right to be safe from harm, deserve the opportunity to fulfil their full potential and to have their rights and choices protected, and as such this Safeguarding Policy is the Council's commitment to this and to meet our statutory obligations on Safeguarding.

Susan Priest
Chief Executive

Cllr David Monk
Leader of the Council

1. Executive Summary

- 1.1 In recent years, safeguarding duties placed on the Council have been extended beyond safeguarding children and vulnerable adults to encompass domestic abuse and violence, Child Sexual Exploitation (CSE), so-called honour based abuse and forced marriage, Female Genital Mutilation (FGM) also known as Female Genital Cutting and Prevent (the Government's Counter- Terrorism Strategy) and other issues e.g. cuckooing see s4.0.
- 1.2 More recently, responsibilities have been further extended to ensure the Council has procedures and practices in place to champion e-safety and that processes are in place for disseminating learning from Domestic Homicide Reviews, Serious Case Reviews and other reviews of this nature.
- 1.3 Under the Modern Slavery Act 2015 Duty to notify and National Referral Mechanism (NRM) was introduced. Under this Act, local authorities have a duty to notify the Home Office of any individual encountered in England and Wales who they believe is a suspected victim of slavery or human trafficking.
- 1.4 This overarching Safeguarding Policy aims to ensure that a consistent approach to safeguarding exists across all Council policies. It outlines key roles and responsibilities of individual officers and elected members to embed safeguarding policies, practices and procedures to ensure the Council meets the requirements of these additional responsibilities.
- 1.5 In carrying out these duties the Council works in partnership with other agencies that have a role to play in relation to the welfare of its residents, aiming to ensure they are protected against abuse, neglect and exploitation.

2. Policy Statement

- 2.1 Folkestone & Hythe District Council is committed to working in partnership with others to safeguard its residents from all forms of abuse and neglect. The Council will raise awareness of safeguarding issues to ensure that the needs and interests of children, young people and vulnerable adults are incumbent in decision making processes and through service provision.
- 2.2 This Policy aims to ensure that an overarching approach to safeguarding is embedded within all Council services and that staff, elected members, volunteers and those delivering contracts on behalf of the Council understand their role and responsibilities in supporting all residents to live a life free from abuse, neglect, exploitation and intimidation.
- 2.3 The Council will create an environment where staff, volunteers and elected members are adequately trained and encouraged to think of safeguarding as being their responsibility, understanding the need for them to play a full and active part in the delivery of the Council's response. External training providers will be used to deliver training where necessary.

- 2.4 The Council will ensure that its Policy complies with all relevant legislation, a summary of which is listed in Appendix 5.
- 2.5 Section 11 of the Children Act 2004 places a statutory duty on key organisations to ensure that, in discharging their functions, they have regard to the need to safeguard and promote the welfare of children. Similar obligations apply to young people, up to the age of 21, and vulnerable adults.
- 2.5 This policy also takes into account processes at County level and the requirements of the Kent and Medway Adult Safeguarding Board (KMASB) including the new arrangements that have replaced Local Safeguarding Boards for children (see details below)
- 2.6 The Kent Safeguarding Children's Board (KSCB) is now replaced with the Kent Safeguarding Children Multi –agency Partnership (KSCMP) Arrangements as a result of the Wood Review in December 2015. This is a significant change and is therefore detailed further below. In addition, a new website link has been created www.kscmp.org.uk .
- 2.7 In December 2015, the Government asked Sir Alan Wood to undertake a review into the effectiveness of Local Safeguarding Children's Boards (LSCBs). His review, (published in May 2016), concluded that LSCBs did not work effectively and should be abolished. The Wood review proposed a new model of collective working that would ensure better multi-agency collaboration, placing responsibilities on three key agencies to take a strategic lead on safeguarding and the promotion of child welfare in each local authority area. The Wood Review recommendations formed a core part of the Children and Social Work Act 2017.
- 2.8 Under the Children Act 2004, (as amended by the Children and Social Work Act 2017), LSCBs set up by Local Authorities must be replaced. The revised legislation requires the three 'Safeguarding Partners' (the Local Authority, the Chief Officer of Police, and Clinical Commissioning Groups) to make arrangements to work together with relevant agencies, as they consider appropriate, to safeguard and protect the welfare of children in the area. District Councils are named as relevant authorities together with other agencies.
- 2.9 'Working Together to Safeguard Children 2018' and 'Working Together: transitional guidance 2018' statutory documents, set out further structural requirements for the proposed new multi-agency local safeguarding partnership arrangements. The legislation and Working Together require the three Safeguarding Partners to discharge a 'shared and equal duty' to safeguard and promote the welfare of children. These arrangements were required to be published by the 29th June 2019 and implemented by the 29th September 2019.



3. Effective Information Sharing

3.1 Better defined statutory provisions for information exchange are now in use as set out in “Working Together to Safeguard Children : The guide to inter-agency working to safeguard and promote the welfare of children, July 2018”

- The guidance provides information sharing advice for practitioners providing safeguarding services to children, young people, parents and carers. It is also specifically for all frontline practitioners and senior managers working in child and/or family services who have to make decisions about sharing personal information on a case by case basis. This simplifies current legislation and guidance and dispels common information sharing myths. Appendix 3 sets out the ‘Myth-Busting Guide to information sharing. The full document is available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf?_ga=2.209398674.188985920.1566900915-1398006495.1496410679

3.2 When there is a reasonable cause to believe that a person or persons may be suffering or may be at risk of suffering significant harm, consideration will always be given to referring these concerns to Kent County Council Children’s or Adults Social Care departments (as appropriate) and/or the relevant emergency service.

3.3 Information about children, young people, families and vulnerable adults will be shared appropriately, and always in accordance with Kent’s Information Sharing Protocol and KCSB policy.

3.4 The Council’s mechanisms for information sharing in relation to reporting disclosures can be found at :
<https://shareweb.kent.gov.uk/Documents/KELSI/Specialist%20Children%20Services/Integrated%20Processes/Toolkit/16%20%20Kent%20and%20Medway%20ISA.pdf>

4. Scope of Policy

This policy provides Folkestone and Hythe District Council and its staff, members and volunteers with information and guidance on how to meet our statutory obligations with regards to safeguarding. There have been changes in the way concerns are reported and these are reflected at 6.10. It is the responsibility of the Council to observe the requirements of the Safeguarding Policy.

4.1 Safeguarding and Promoting the Welfare of Children and Young People

This encompasses the protection and welfare of children under the age of 18 (including unborn babies) and statemented (‘vulnerable’) young people under the age of 25. It also incorporates the additional aims of preventing

the impairment of children's health and development; ensuring they grow up in circumstances consistent with the provision of safe and effective care. There are many forms of abuse and exploitation and some of these are highlighted below:

4.2 Child Sexual Exploitation

Child Sexual Exploitation (CSE) is illegal activity by people who have some form of power and control over children and use it to sexually abuse them. It involves forcing or enticing a child (under the age of 18) to take part in sexual activities whether or not the child is aware of what is happening, including exploitative situations, contexts and relationships where children (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of performing, and/or others performing on them, sexual activities. CSE can be a form of organised or complex abuse, involving a number of abusers and/or a number of children.

CSE can occur through use of technology without the child's immediate recognition, for example the persuasion to post sexual images on the internet/mobile phones with no immediate payment or gain. In all cases those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources.

4.3 On-line Safety

Kent has adopted the definition of Online Safety (or e-Safety) as the safeguarding of children and young people in the digital and online world. Therefore this encompasses not only internet technologies but also mobile phones, gaming consoles plus other devices and technologies. Online safety must be considered as part of all professionals' wider safeguarding responsibilities. Details of the KSCMP online safety strategy can be found at:

https://www.proceduresonline.com/kentandmedway/pdfs/kent_safety_online.pdf

4.4 Safeguarding Adults

This encompasses the protection from harm or neglect of a person aged 18 and over who may need community care services due to a disability, age or illness, who cannot take care of, or protect themselves from significant harm or exploitation. Adults with care and support needs should be supported in maintaining control over their lives and to make informed choices without coercion. Details of responsibilities for Councils are set out in the Care Act 2014 (published March 2015).

4.5 Hoarding and Neglect Policy

In May 2019 the Kent and Medway Adult Safeguarding Board approved the "Kent and Medway Multi-Agency Policy and Procedures to Support People that Self-Neglect or Demonstrate Hoarding Behaviour." This outlines to all partner agencies, the procedure for identifying and working with individuals who self-neglect or demonstrate hoarding behaviour which puts the individuals or others at risk of harm. The board has published other additional guidance documents that support practitioners working in the adult safeguarding field.

4.6 Domestic Abuse and Violence

Domestic abuse is defined as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

4.7 Honour-based Abuse, including Female Genital Mutilation and Forced Marriage

Honour based abuse is violence and abuse in the name of honour, covering a variety of behaviours (including crimes), mainly but not exclusively against females, where the person is being punished by their family and/or community for a perceived transgression against the 'honour' of the family or community, or is required to undergo certain activities or procedures in 'honour' of the family.

Female Genital Mutilation (FGM) is a form of child abuse and violence against girls and women which comprises all procedures involving partial or total removal of the external female genitalia for non-medical reasons. The procedure is typically performed on girls of any age, including new-borns and young women before marriage/pregnancy. A number of girls die as a direct result of the procedure, from blood loss or infection. FGM may be practised illegally by doctors or traditional health workers in the UK, or girls may be taken abroad for the operation. Despite some claims that FGM is a cultural matter and/or a procedure stipulated by religion, this is not the case. Under the FGM Act 2003, it is illegal in England and Wales and considered a serious crime in the UK.

A forced Marriage is one where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights. The pressure put on people to marry against their will may be physical (including threats, physical violence or sexual violence), emotional and psychological – for example, making someone feel like they are bringing 'shame' on their family.

<https://www.gov.uk/guidance/forced-marriage#understand-the-legislation-on-forced-marriage>

4.8 Prevent

Prevent is a Government strategy led by the Home Office and focuses on working with individuals and communities who may be vulnerable to the threat of violent extremism and terrorism. Supporting vulnerable individuals and reducing the threat from violent extremism in local communities is priority for statutory partners and their partners. Schedule 6 of the Counter Terrorism and Security Act 2015 lists District councils as one of the "specified authorities" in England that are to have a duty to address Prevent and to have "due regard to the need to prevent people from being drawn into terrorism", in the exercise of their functions.

4.9 Modern Slavery

Modern slavery encompasses slavery, human trafficking, forced labour and domestic servitude. It is an international crime involving a number of source and transit countries. Modern slavery involves the recruitment, transportation, transfer, harbouring or receipt of people who, with the threat or use of force, coercion, abduction, abuse of power or deception are exploited for the purposes of prostitution, forced labour, slavery or other similar practices. Victims are trafficked all over the world, including in and around the UK. The Modern Slavery Act 2015 places a legal duty on public bodies, including local authorities, to notify the National Crime Agency about potential victims of modern slavery.

4.10 Cuckooing

Cuckooing is the term used to define situations when drug dealers take over the homes of vulnerable people to use as a base for dealing. Older people, those suffering from mental or physical health problems, female sex workers, single mums, people living in poverty, and people suffering from different forms of addiction including alcoholism are amongst groups who become victims of cuckooing. Cuckooing gangs often subject their victims to domestic abuse, sexual exploitation and violence to get their victims – children as well as adults – to become drug runners. Some vulnerable adults may be forced to leave their homes, making themselves homeless and leaving the gangs free to sell drugs in their absence.

4.11 Safeguarding people with disabilities and special needs

People with disabilities and special needs are particularly vulnerable and every effort will be made to safeguard these groups, working with relevant agencies as appropriate when any safeguarding concerns present themselves. This policy is subject to an Equality Impact Assessment which covers these groups.

4.12 Mental Health and threats of suicide

There has been increasing awareness around mental health and a rise in threats of suicide and suicide rates in the County. FHDC staff are being trained on how to deal with these incidents and should a threat to life be immediately apparent the emergency services are required to be called. However in many cases a calm approach and signposting to help and services can often diffuse a situation. Mental Health services and other support services are now outlined in a guide to staff available on the intranet and appendix 3 lists a number of these. New campaigns are coming forward regularly and appropriate communication channels will be used to promote these.

5. Folkestone & Hythe District Council's approach to implementing the Policy

- 5.1 Whilst other partnerships and organisations, as referred to in section 6 of this Policy, have roles in co-ordinating and ensuring the effectiveness of the Council's work to safeguard and promote the welfare of children and adults with care and support needs, they are not accountable for the Council's operational work. The Council retains its own lines of accountability for safeguarding and promoting the welfare of children and adults with care and support needs through its own service delivery and provision. The Council does work in close partnership through for example the Community Safety

Partnership (CSP) to meet requirements as a multi-agency approach is often required to deal with issues.

- 5.2 All staff, volunteers and elected members are to ensure they familiarise themselves with the Council's Safeguarding Policy.
- 5.3 All staff, volunteers and elected members must participate in relevant training to recognise the varying forms of abuse and report any concerns, incidents or allegations as appropriate.
- 5.4 It is the responsibility of staff and elected members to consider safeguarding implications in their decision-making processes, including the procurement of services.
- 5.5 All external organisations and contractors providing services to the Council are required to comply with the Council's Safeguarding Policy as a minimum standard. Where relevant, they should have their own safeguarding policy and procedures in place.
- 5.6 Whilst safeguarding is the responsibility of all Council staff, volunteers, elected members and contractors, there are a number of safeguarding roles within the Council with specific responsibilities briefly set out below:

Role	Responsibilities
Executive Lead Susan Priest	<ul style="list-style-type: none"> • Raise the profile, support the Policy and promote the development of initiatives to ensure the protection of residents within the district. • Allocate resources to enable the Council to meet its responsibilities. • Scrutinise and authorise Annual Action Plans.
Designated Safeguarding Lead Jyotsna Leney	<ul style="list-style-type: none"> • Development of Policy, issuing operational guidance, promoting good practice and making policy recommendations to Council. • Submit annual progress reports to Corporate Management Team and relevant Committees to ensure that the Council's Safeguarding Policy is being met. • Make a referral to KCC's Local Authority Designated Officer (LADO) as appropriate. • Ensure that action taken is coordinated and monitored. • Development of an annual safeguarding action plan. • Provision of audit returns as appropriate, participation in County wide groups and any serious case review work as a coordinating point
Designated Safeguarding Officers – See Appendix 1	<ul style="list-style-type: none"> • Oversee the implementation of the annual safeguarding action plan. • Support the work on audits for submission to the Kent Safeguarding Children Multi-Agency Partnership. (KSCMP)

	<ul style="list-style-type: none"> • Support and advise the Council's contractors, leaseholders and grant recipients on the development of safeguarding policies, where necessary. • Handle safeguarding concerns reported to them by colleagues as having arisen in their respective lines of duty, including making referrals to the Kent Multi-Agency Safeguarding Partnership or the Kent and Medway Ault Safeguarding Board, as appropriate.
Elected Members Deputy Leader and Cabinet Member for Communities – Councillor Jennifer Hollingsbee	<ul style="list-style-type: none"> • Leader of the Council to nominate Cabinet Member lead for safeguarding. • Scrutinise the Council's Safeguarding Policy and endorse safeguarding reports to relevant Committees. • Portfolio Holder with responsibility for safeguarding has responsibility for approving any policy amendments. • Portfolio Holder with responsibility for safeguarding will act as the Council's safeguarding champion. • Training to be undertaken as necessary.
Heads of Service/Managers See intranet http://sdc-intranet/staffing-information/staffing-structures/	<ul style="list-style-type: none"> • Make staff aware of their duty to report any allegations or suspicions of abuse to the Named Safeguarding Officer and the procedure for doing so. • Operate safe recruitment practices and routinely take up and check references. • Adhere to and operate within the Council's Whistleblowing Policy and support staff who raise concerns. • Ensure all staff receive training in safeguarding consistent with their job roles and responsibilities. • Monitor compliance with Council's Safeguarding Policy with contractors, leaseholders and grant recipients as appropriate.

6. Working Together: Key Partnerships and Organisations

6.1 The Council will work with other agencies to prevent the abuse of its residents in all its forms

6.2 **Kent Safeguarding Children Multi-Agency Partnership (KSCMP)**
KSCMP has a wide range of responsibilities, including the development and review of procedures to protect children; the provision of training for staff and volunteers who work with children; reviewing the death of all children to find out what lessons can be learnt to safeguard other children and raising public awareness of safeguarding.

- 6.3 The Partnership, which replaces the Kent Safeguarding Children Board with effect from 29th September 2019, was established in response to the Wood review recommendation (published in May 2016) that Local Safeguarding Children Boards (LSCBs), found to be ineffective, should be abolished and replaced with a model of collective working that would ensure better multi-agency collaboration. The Wood Review recommendations formed a core part of the Children and Social Work Act 2017, which places local authorities under a duty to make arrangements to work together and with local partners to safeguard and promote the welfare of children in the local area as described earlier in section 2.5 - 2.9.

https://www.kscb.org.uk/_data/assets/pdf_file/0007/96721/FINAL-Kent-Safeguarding-Children-Multi-agency-Partnership-Arrangement-Doc_-25-June-2019.pdf

6.4 Kent and Medway Safeguarding Adults Board

The Kent and Medway Safeguarding Adults Board (KMSAB) is a statutory service which exists to make sure that all member agencies are working together to help keep Kent and Medway's adults safe from harm and protect their rights.

- 6.5 The Kent and Medway Safeguarding Adults Board is the main forum for making sure that we keep safe those adults with care and support needs who are at risk of abuse and neglect and unable to protect themselves. The Care Act 2014 places a duty on the Council to cooperate with the Kent and Medway Safeguarding Adults Board.

Further information on the roles and responsibilities of the Kent and Medway Safeguarding Adults Board can be found at

www.kent.gov.uk/about-the-council/partnerships/kent-and-medway-safeguarding-adults-

6.6 Folkestone and Hythe Community Safety Partnership

The Crime and Disorder Act 1998 (as amended) placed a duty on local authorities and the Police to form a local partnership and cooperate in the development and implementation of a strategy for tackling crime and disorder in the area. This local partnership is known as the Folkestone and Hythe Community Safety Partnership (CSP), of which the Council is a lead member.

The Partnership is a multi-agency forum which brings together responsible authorities as set out in the Crime and Disorder Act 1998 and other relevant legislation to work to reduce crime and improve community safety. The CSP also acts as the formal body to meet the requirements of the Act and it is also a statutory requirement for the Partnership to work with Kent County Council to undertake a multi-agency Domestic Homicide Review (DHR) following a domestic homicide to identify what needs to change to reduce the risk of further incidents, as well as other requirements.

6.7 Kent County Council Social Care

Kent County Council has responsibilities as the Children's Service Authority and the Adult Social Services Authority for Kent.

All safeguarding concerns, incidents and allegations regarding the welfare of a child or adult with care and support needs will be reported to Kent County Council. Relevant officers at Kent County Council are responsible for coordinating any investigation. Allegations against staff are dealt with by the Local Authority Designated Officers (LADO) at KCC – see Appendix 2) The District Council will always liaise with the LADO on any such concerns as necessary, including disclosures to the DBS where applicable while following all relevant reporting lines.

6.8 Kent Police

Kent Police has an essential role in protecting children, young people and adults with care and support needs from abuse and are under a legal duty to carry out their functions ‘having regard to’ (taking account of) the need to protect and promote the welfare of these groups.

Section 11 of the Children Act 2004 states that Police and Crime Commissioners (formally police authorities) and the Chief Officer of each Police force in England must make sure that they protect and promote the welfare of children. This means that, while officers from the Child Abuse Investigation Unit (CAIU) have a critical role to play in child safeguarding, it is not just down to them - it is a basic part of the duties of all Police Officers.

As well as their duty to investigate criminal offences, Kent Police have emergency powers to enter premises and make sure they can provide immediate protection for children and adults with care and support needs believed to be suffering, or likely to suffer, significant harm.

- 6.9 The contact details for these agencies and organisations can be found in Appendix 2: Lead Agencies - Essential Contacts.

6.10 Making Referrals

Kent County Council now operates an Integrated Front Door Service through which support for children, young people and families requiring intensive or specialist support can be accessed. To access this support on behalf of residents, appropriate staff at Folkestone and Hythe District Council, including Designated Officers (DOs), submit referrals to the relevant KCC teams. The Single Request for Support form is used where children and young people are concerned. This has replaced the old IAR (Inter-Agency Referral) form and EHN (Early Help Notification) form. Where adults are concerned, the Kent Adult Safeguarding Alert form is used. Staff can also seek advice direct from KCC through a District Conversation process. This information is made available to staff through training and is also available on the Intranet.

7.0 Conclusion

- 7.1 This policy provides the framework for the Council to meet its safeguarding responsibilities. It provides the latest information on the legislation, reporting mechanisms and staff responsibilities. In addition it meets the Council’s corporate priority of ‘Health matters’, enabling the wellbeing of vulnerable people to be safeguarded.

Designated (Safeguarding) Officer Contacts

Designated (Safeguarding) Officers (DOs)			
Name	Fixed Line No.	Mobile No.	Email
Jyotsna Leney Designated Safeguarding Lead Officer	01303 853460	07966 874174	jyotsna.leney@folkestone-hythe.gov.uk
Jess Harman	01303 853527	07517 995 531	jess.harman@folkestone-hythe.gov.uk
Richard Piper	01303 853328	07718 563 295	richard.piper@folkestone-hythe.gov.uk
Karen Everett	01303 853463	07540 675 191	karen.everett@folkestone-hythe.gov.uk
Indeera Trelokie	01303 853338	07922 572 036	indeera.trelokie@folkestone-hythe.gov.uk
Karen Weller	01303 853251	07876 504 953	karen.weller@folkestone-hythe.gov.uk
Emily Parfett	01303 853191	07907 979478	emily.parfett@folkestone-hythe.gov.uk
Angie Cowey	01303 853569	-	angie.cowey@folkestone-hythe.gov.uk
Rebecca Dray	01303 242615	07985 254885	rebecca.davidson@folkestone-hythe.gov.uk

Lead Agencies - Essential Contacts

Kent Safeguarding Children Multi-agency Partnership (KSCMP)

Tel: 03000 41 11 11

Kent and Medway Safeguarding Adults Board

Tel: 03000 41 61 61

Kent Social Services – Out of Hours – Children and Adults

Tel: 03000 41 91 91

Police

Emergency – Tel: 999

Non-emergency - Tel: 101

PREVENT (Radicalisation)

Quentin Carrington-Moss (and Nick Wilkinson)

Prevent Officer, Kent Police (East Division)

Tel: 07971452963

Immediate Threat: Tel: 999

Non-immediate Threat: Tel: 0300 41 41 41

Police: 101 or 0800 789 321

Operation Willow (Child Sexual Exploitation)

Tel: 101 – Combined Safeguarding Team

‘Say Something Helpline’: 116 000 (for anonymous reporting)

LADO (Allegations against staff)

County LADO Service

Tel: 03000 410 888

Email: kentchildrenslado@kent.gov.uk

Ali Watling - County LADO Manager

Emma Cumberbatch - PA to LADO Manager & Contact & Referral Officer

Sára Blenkinsop - Contact & Referral Officer

Lorrisa Webber - LADO

Hollie Priestley – LADO

Marie Jackson - LADO

James Borland – LADO

Susannah Burden - LADO

Mental Health / General Wellbeing

Release the Pressure

Phone 0800 107 0160 for free confidential support at any time.

Free expert advice from trained counsellors is available for every mental health concern, including:

:
anxiety
depression
low self-esteem
money worries
relationship troubles
stress
suicidal thoughts.

Live Well Kent

Tel: 01303 227510 Tel.: 0800 567 7699

Web: <https://livewellkent.org.uk/in-your-area/south-kent-coast/>

Samaritans

Tel: 116 123 (free phone number)

Alternative no. 013013 255000

Web: <https://www.samaritans.org>

Address: Samaritans House, 9 Cambridge Gardens, Folkestone CT20 1DB

In addition, all staff have access to a safeguarding support services guide on the Intranet. This guide facilitates frontline staff in signposting customers/service users to relevant services available in the local community, as appropriate.

Myth-busting Guide to Information Sharing (Source: Working Together to Safeguard Children 2018)

Myth-busting guide to Information Sharing

Sharing information enables practitioners and agencies to identify and provide appropriate services that safeguard and promote the welfare of children. Below are common myths that may hinder effective information sharing.

Data protection legislation is a barrier to sharing information

No – the Data Protection Act 2018 and GDPR do not prohibit the collection and sharing of personal information, but rather provide a framework to ensure that personal information is shared appropriately. In particular, the Data Protection Act 2018 balances the rights of the information subject (the individual whom the information is about) and the possible need to share information about them.

Consent is always needed to share personal information

No – you do not necessarily need consent to share personal information. Wherever possible, you should seek consent and be open and honest with the individual from the outset as to why, what, how and with whom, their information will be shared. You should seek consent where an individual may not expect their information to be passed on. When you gain consent to share information, it must be explicit, and freely given. There may be some circumstances where it is not appropriate to seek consent, because the individual cannot give consent, or it is not reasonable to obtain consent, or because to gain consent would put a child's or young person's safety at risk.

Personal information collected by one organisation/agency cannot be disclosed to another

No – this is not the case, unless the information is to be used for a purpose incompatible with the purpose for which it was originally collected. In the case of children in need, or children at risk of significant harm, it is difficult to foresee circumstances where information law would be a barrier to sharing personal information with other practitioners

The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information

No – this is not the case. In addition to the Data Protection Act 2018 and GDPR, practitioners need to balance the common law duty of confidence and the Human Rights Act 1998 against the effect on individuals or others of not sharing the information.

IT Systems are often a barrier to effective information sharing

No – IT systems, such as the Child Protection Information Sharing project (CP-IS), can be useful for information sharing. IT systems are most valuable when practitioners use the shared data to make more informed decisions about how to support and safeguard a child.

Glossary of Terms

Abuse and neglect: forms of maltreatment. A person may abuse or neglect a child, young person or vulnerable adult by inflicting harm, or by failing to act to prevent harm, including failing to ensure that the standard of care adequately supports health or development. There are four main types of abuse and neglect: physical, emotional, sexual and neglect.

Physical abuse: A form of abuse which may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to another person. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness.

Emotional abuse: The persistent emotional maltreatment of a person such as to cause severe and persistent adverse effects on the person's emotional development.

Sexual abuse: Involves forcing or enticing a person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the person is aware of what is happening. Sexual abuse may be perpetrated with or without physical contact. Child Sexual Exploitation (CSE) is a form of child sexual abuse.

Neglect: The persistent failure to meet basic physical and/or psychological needs of a child, young person or vulnerable adult, likely to result in the serious impairment of their health or development. Neglect may also occur during pregnancy as a result of maternal substance abuse.

Adult Social Care: County Council's social care services for adults.

Channel Panel: Part of the Prevent Strategy, Channel is a programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism. The programme uses a multi-agency approach to protect vulnerable people by: identifying individuals at risk; assessing the nature and extent of that risk; and developing the most appropriate support plan for the individuals concerned. The panel, which comprises statutory partners and the Channel Co-ordinator is chaired by the responsible local authority.

Child or young person is defined by the Children Act 1989 and Children Act 2004 to be anyone who has not yet reached their 18th birthday.

Child in Need: Under Section 17 of the Children Act 1989, a child whose vulnerability is such that they are unlikely to achieve or maintain a reasonable standard of health and development without the provision of services. This includes disabled children. The critical factors to be taken into account when deciding whether a child is in need under the Children Act 1989 are what will happen to the child's health or development without services, and the likely effect the services will have on the child's standard of health and development.

Child Protection is a key part of the safeguarding process and describes the activity that is undertaken to protect specific children who are identified as either suffering, or likely to suffer, significant harm as a result of abuse or neglect.

Children's Social Care: a functional division within Kent County Council which provides support, protection and care services to children and their families.

Development: Under Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002, development refers to physical, intellectual, emotional, social or behavioural development;

Domestic Abuse and Domestic Violence: Any incident or pattern of incidents of controlling, coercive, threatening, degrading and violent behaviour, between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. Domestic abuse/violence may also be perpetrated by carers. Examples include:

- **Psychological / emotional abuse**, including intimidation and threats, social isolation, verbal abuse, humiliation, constant criticism and / or enforced trivial routines
- **Physical violence**, such as slapping, pushing, kicking, punching, stabbing, damage to property, attempted murder or murder
- **Restriction of freedom**, such as controlling who the victim(s) see(s) or where they go; what they wear or do; stalking, imprisonment or forced marriage
- **Sexual violence**, i.e. any non-consensual sexual activity (including rape, sexual assault, coercive sexual activity or refusing safer sex)
- **Financial /economic abuse**, such as misusing money, which limits and controls their partner's current and future actions and their freedom of choice. It can include, using credit cards without permission, putting contractual obligations in their partner's name, gambling with family assets, discontinuing child support and withholding benefit books or bank cards.

Disclosure: A disclosure is the act or process of revealing, uncovering or sharing of information directly or indirectly.

Direct disclosure: a direct statement by the victim to another person that he/ she (the victim) is being or was abused.

Indirect disclosure: Making an experience of abuse known via means other than telling someone directly. Indirect disclosures may be made through behaviors, emotions, art, writing, appearance, inquiries, discussions about fears, concerns or relationships, indirect statements with conditions e.g. "Promise not to tell" and third party statements e.g. "My friend's parents hurt him every day."

Domestic Homicide Review (DHR) is a statutory requirement for local authorities to undertake a multi-agency review following a domestic homicide to identify what needs to change to reduce the risk of further incidents.

Extremism is vocal or active opposition to fundamental values including democracy, the rules of law, individual liberty, mutual respect and tolerance or different beliefs and faiths. Also included are calls for death of members of the armed forces whether in this country or overseas.

Female Genital Mutilation (FGM): a form of abuse and violence against girls and women which comprises all procedures involving partial or total removal of

the external female genitalia for non-medical reasons. In England and Wales, it's mandatory for all regulated health and social care professionals and teachers to report 'known cases' of female genital mutilation (FGM) in under 18s to the police (Home Office, 2016).

Forced marriage: a marriage conducted without the valid consent of both parties, where duress is a factor. Duress can involve physical, psychological, sexual, financial and / or emotional pressure.

Harm: Under Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002, harm is defined as the ill-treatment or the impairment of health or development of another, including, for example, seeing or hearing the ill-treatment take place. Under the same piece of legislation health includes physical or mental health.

Honour-based violence and abuse covers a variety of behaviours (including crimes) where a person is being punished by their family and / or community for a perceived transgression against the "honour" of the family or community. This includes physical abuse, sexual abuse, emotional and / or psychological abuse, financial abuse, forced marriage, female genital mutilation and in some cases, murder.

Ill-treatment: Under Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002, ill-treatment includes physical or sexual abuse as well as forms of ill-treatment that are not physical.

Kent and Medway Safeguarding Adults Board (SAB) raises awareness and promotes the welfare of vulnerable adults by the development of an effective co-operative. This group of people come from a wide range of public and voluntary services and other organisations and is committed to ensuring that the work done effectively brings about good outcomes for adults. It is a board that draws on expertise and experience from a number of sources.

The aim of SAB is to promote and develop effective protection systems for vulnerable adults across a wide range of agencies and where preventative strategies fail to ensure professionals are equipped to deal with incidents.

Kent Safeguarding Children Multi-agency Partnership (KSCMP): a statutory multi-agency organisation, which brings together agencies who work to safeguard and promote the welfare of children and young people in Kent. The Partnership replaces the Kent Safeguarding Children Board (KSCB) following the recommendation made in the Wood review that guarding boards be discontinued. The aim of the Partnership is to improve outcomes for children by co-ordinating the work of local agencies to safeguard and promote the welfare of children and ensuring the effectiveness of that work.

Organised and complex abuse: Abuse involving one or more abusers and a number of related or non-related abused children and may take place in any setting. The adults concerned may be acting together to abuse children, sometimes acting in isolation or may be using an institutional framework or position of authority or be in a celebrity position to access and recruit children for abuse. Such abuse can occur as part of a network of abuse across a family or community and within institutions such as boarding schools, sports clubs and faith groups (among others). Technological devices may be involved and although in most cases of organized and complex abuse the abuser(s) is an adult/are adults, it is also possible for children and young people to be perpetrators of such harm with or without adult abusers. Organised abuse can

also continue into adulthood, with sexual assault and exploitation being amongst the types of abuse that most often continue on from childhood.

Radicalisation: the process by which people come to support terrorism and extremist ideologies associated with terrorist groups, leading to terrorism.

Serious Case Review: usually convened when a child either sustains a life-threatening injury or dies (including through suicide) and abuse or neglect are known or suspected to be a factor in the death. Serious Case Reviews are also usually conducted upon the death of a vulnerable adult as a consequence of harm or neglect and for whom the local authority (Kent County Council) had responsibility.

Sexual exploitation: a form of abuse that involves the exchange of sexual activities by children for commodities such as money, drink, drugs, shelter, protection, accommodation etc. it is often perpetrated by an adult through violence or threats of violence and may include involving the child in prostitution, and pornography. Adults may also be victims of sexual exploitation. Often such experiences that took place during their childhood continue into adult life.

Significant Harm: The Children Act 1989 introduced the concept of significant harm as the threshold that justifies compulsory intervention in family life in the best interests of children. There are no absolute criteria on which to rely when judging what constitutes significant harm, however consideration of the severity of ill-treatment may take into account the degree and extent of physical harm; the duration and frequency of abuse and neglect; the extent of premeditation, and the presence or degree of threat, coercion, sadism and bizarre or unusual elements.

Terrorism: is defined in the Terrorism Act 2000 (TACT 2000) as an action that endangers or causes serious violence to a person or people, causes serious damage to property or seriously interferes or disrupts an electronic system. The use of threat must be designed to influence the government or to intimidate the public and is made for the purpose of political, religious or ideological gain.

Trafficking is the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat, use of force or coercion for the purpose of sexual or commercial exploitation or domestic servitude. It may take place within the UK from one area to another, as well as into the UK from elsewhere.

Well-being: The meaning of well-being is encapsulated within Section 10 of the Children Act 2004 as children's:

- Physical and mental health;
- Protection from harm and neglect;
- Education, training and recreation;
- Contribution to society, and
- Emotional, social and economic well-being.

Vulnerable adult: a person over the age of 18 years who may be in need of community care services (including health care) by reason of mental or other disability, age or illness, and who is or may be unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation. (No Secrets 2000)

Vulnerability and Prevent - A person who is susceptible to extremist messages and is at risk of being drawn in to terrorism or supporting terrorism at a point in time.

Legislative Framework

A summary of the relevant legislation is listed below, although it should be noted that this list is by no means exhaustive. Most recent legislation is listed first.

Working Together to Safeguard Children (2018)

Working Together to Safeguard Children: Statutory Framework (2018)

Working Together: Transitional Guidance (2018)

Keeping Children Safe in Education (2018)

Modern Slavery Act (2015)

The act makes provision about slavery, servitude and forced or compulsory labour and about human trafficking, including provision for the protection of victims.

Counter Terrorism and Security Act (2015)

The Counter Terrorism and Security Act 2015 place duties on local authorities to ensure that publicly-owned premises are not used to disseminate extremist views.

Serious Crime Act (2015)

The act outlaws causing emotional distress of children, regulate corrupt accountants and other businesses who assist criminal gangs, regulate “drug cutting agents”, and deal with offences related to female genital mutilation, paedophilia, and amend the Terrorism Act 2006.

Anti-social Behaviour, Crime and Policing Act (2014)

The Anti-Social Behaviour, Crime and Policing Act 2014, makes it a criminal offence to force someone to marry, and Forced Marriage is now a criminal offence punishable by law (16 June 2014).

Care Act (2014)

Sets out a clear legal framework for how local authorities and other parts of the health and care system should protect adults at risk of abuse or neglect.

Domestic Violence, Crime and Victims Act (Amendment) (2012)

The Domestic Violence, Crime and Victims (Amendment) Act 2012 extends the offence in section 5 of the 2004 Act to cover causing or allowing serious physical harm (equivalent to grievous bodily harm) to a child or vulnerable adult.

Equality Act (2010)

The Act makes it unlawful to discriminate against people on the basis of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Children and Young Persons Act (2008)

The purpose of the Act is to reform the statutory framework for the care system in England and Wales by implementing the proposals in the White Paper that require primary legislation. This forms part of the Government's programme to ensure children and young people receive high quality care and support. The Act also includes provisions in relation to well-being of children and young people, private fostering, child death notification to Local Safeguarding Children Boards and appropriate national authorities, the powers of the Secretary of State to conduct research and applications for the discharge of Emergency Protection Orders.

The Forced Marriage (Civil Protection) Act (2007) makes provision for protecting children, young people and adults from being forced into marriage without their free and full consent

Safeguarding Vulnerable Groups Act (2006)

Introduced the new vetting and barring scheme for those working with children and vulnerable adults in a paid or voluntary capacity. The Disclosure and Barring Service replaces the Criminal Records Bureau and the Independent Safeguarding Authority. The Disclosure and Barring Service process requests for criminal records checks; decide whether to place or remove an individual from a barred list; place or remove a person from the children's or adults barred lists for England, Wales and Northern Ireland.

The Mental Capacity Act (2005)

The five principles are outlined in the Section 1 of the Act. These are designed to protect people who lack capacity to make particular decisions, but also to maximise their ability to make decisions, or to participate in decision-making, as far as they are able to do so.

Domestic Violence, Crime and Victims Act (2004)

Domestic Homicide Reviews (DHRs) were established on a statutory basis under section 9 of the Domestic Violence, Crime and Victims Act (2004). This provision came into force on 13th April 2011.

The Children Act (2004)

Councils are defined in section 13(3) of the Children Act 2004 as partners on the Local Safeguarding Children Board. As a "Board partner", the Council has a duty to contribute to the effective work of the Board. As such, and under Working Together to Safeguard Children Guidance 2013, the Council has a legal obligation to complete a self-assessment, or audit, of its safeguarding activities around children.

Sexual Offences Act (2003)

In England, the legislation relating to Child Sexual Exploitation is covered under the Sexual Offences Act 2003. Girls and boys under the age of 16 cannot by law, consent to sexual intercourse and anyone engaging in sexual activity (as defined in The Sexual Offences Act 2003) with a child under the age of 16 is committing an offence. Children under 13 years of age cannot under any circumstances consent to sexual activity and specific offences, including rape, exist for child victims under this age.

Female Genital Mutilation Act (2003)

The Female Genital Mutilation Act 2003, came into force in March 2004. It introduced the issue of extra-territoriality, which makes it an offence for FGM to be performed anywhere in the world on UK nationals or UK permanent residents. The 2003 legislation also increased the penalty for aiding, abetting or counselling to procure FGM to 14 years imprisonment or a fine or both. Section 5B of the Act introduced a mandatory reporting duty which came into force on October 2015. Commonly known as the **FGM mandatory reporting duty**, it requires regulated health and social care professionals and teachers in England and Wales to report to the Police all 'known' cases of FGM in under 18s which they identify in the course of their professional work.

Sexual Offences Act (2003)

Sections 30-33 - create offences that rely on the inability of a person to refuse the sexual activity on account of lack of capacity or where they are unable to communicate their refusal. Sections 34-37 relate to situations where a person suffering from a mental disorder is threatened, coerced or deceived into sexual activity where the perpetrator knew the person was suffering from a mental disorder, or reasonably suspects.

Homelessness Act (2002)

Under Section 12 of the Homelessness Act 2002, as a housing authority, the Council is required to refer homeless persons with dependent children who are ineligible for homelessness assistance or are intentionally homeless, to Children's Social Care, as long as the person consents. If homelessness persists, any child in the family could be in need. In such cases, if Children's Social Care decides the child's needs would be best met by helping the family to obtain accommodation, it can ask the Council for reasonable assistance in this.

The Adoption and Children Act (2002)

This act replaces the Adoption Act 1976, updates the Children Act 1989 and modernises the existing legal framework for domestic and inter-country adoption in England and Wales.

The Protection of Children Act (1999)

Under this act, childcare organisations (defined as those that are concerned with the provision of accommodation, social services or health care services to children or the supervision of children) must make use of the Disclosure Service in their recruitment and reporting processes and urges other organisations working with children to also do so.

Data Protection Act (1998)

This act replaced the Data Protection Act 1984 and the Access to Personal Files Act 1987. It relates to recording information, including information about children. Under the 1998 act, personal information must be obtained fairly and processed lawfully. Information can only be shared in certain circumstances and it has to be accurate, relevant and kept securely.

The Human Rights Act (1998)

The Human Rights Act applies the European Convention on Human Rights to domestic law. Article 8, which covers respect for private and family life, limits state intervention in family life, which must be "in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of

the rights and freedoms of others". This ensures that a child's right to protection overrides a family's right to privacy.

Housing Act (1996)

Part VII – This Act places a duty on local authorities to provide accommodation for homeless people with a priority need, i.e. people who are vulnerable because of old age and homelessness, mental illness, learning and physical disability or other special reason.

Sections 145 & 149 – Provides a new ground for the granting of a possession order on the application of the local authority/housing association where a partner has left the dwelling because of violence or threats of violence by the other partner and the court is satisfied that the partner who has left is unlikely to return.

United Nations Convention on the Rights of the Child (1989)

This international agreement sets out the minimum standards for protecting children's rights and refers to all children up to the age of 18 years old. The principles and standards are binding on states that have ratified them. There are 54 articles: 40 give direct rights to children. The Convention defines the basic human rights of all children and specifies 14 basic rights.

The Children Act (1989)

The Children Act 1989 came into force in October 1991. It brought together legislation on caring for and protecting children and is still the framework for safeguarding children and promoting their welfare.

Criminal Justice Act (1988)

Section 39 – Common Assault – Assault is defined as any physical contact without consent. It includes acts or words involving threats of violence. No physical evidence may be present. It includes assault and battery, which involve the threat of immediate violence and which are summary offences

Mental Health Act (1983)

Section 127(2) – Provides that it is an offence for any staff member of a hospital or mental nursing home or for any person to ill-treat or willfully neglect a patient or person who is subject to his/her guardianship under this Act. It is also an offence for a guardian, or other person who has care of a mentally disordered person living in the community, to ill-treat or willfully neglect that person.

The Rehabilitation of Offenders Act (1974)

This act made any convictions "spent" after a certain period and the convicted person would not normally have to reveal or admit the existence of a spent conviction. In most circumstances, an employer cannot refuse to employ someone, or dismiss them, on the basis of a "spent" conviction. However under this act all applicants for positions which give them "substantial, unsupervised access on a sustained or regular basis" to children, must declare all previous convictions whether spent or unspent, and all pending cases against them.

Safeguarding Activity – Annual Review (Sept 19)

A summary of progress is provided on safeguarding activity carried out by the council.

Safeguarding Cases for the Years 2018-2019 & 2019 -2020 (to date)

In 2018/19 the Council dealt with 19 adult safeguarding concerns and 6 child safeguarding concerns. To date in 19/20 the Council has already dealt with 17 adult safeguarding concerns (to end Sept 2019) and 2 child safeguarding concerns. These will have been concerns that required full recording of details using relevant forms and not simply those calls where a caller may have generally been unhappy about a situation and sign posted to services without the need for further intervention. It is interesting to note how child safeguarding concerns have reduced due to the Early help work, schools interventions etc.

YEAR 1 st Apr. 31 st Mar.	Concerns about ADULTS			
	Quarter 1 01/04 – 30/06 2018	Quarter 2. 01/07 – 30/09 2018	Quarter 3. 01/10- 31/12 2018	Quarter 4 01/01-31/03 2019
2018 – 2019	7	6	7	1
	Total: 19			
2019 - 2020	Quarter 1 01/04 – 30/06 2019	Quarter 2. 01/07 – 30/09 2019	Quarter 3. 01/10 -31/12 2019	Quarter 4 01/01-31/03 2020
	12	5	-	-
	Total: 17			

YEAR 1 st Apr. 31 st Mar	Concerns about CHILDREN			
	Quarter 1. 01/04 – 30/06 2018	Quarter 2. 01/07 – 30/09 2018	Quarter 3. 01/10 – 31/12 2018	Quarter 4. 01/01-31/03 2019
2018 – 2019	1	0	4	1
	Total: 6			
2019 - 2020	Quarter 1 01/04 – 30/06 2019	Quarter 2. 01/07 – 30/09 2019	Quarter 3. 01/10 – 31/12 2019	Quarter 4 01/01-31/03 2020
	1	1	-	-
	Total: 2			

Designated Officers (DOs) have seen an increase in the number of suicide threats by adults and this has led to additional training being offered to key staff).

Safeguarding Policy

The Council's safeguarding policy has been refreshed and the 2019 version provides an update on the latest legislation changes and key duties upon the Council towards safeguarding Children, young people and vulnerable adults. Section 11 of the Children Act

2004 places a statutory duty on key organisations to ensure that, in discharging their functions, they have regard to the need to safeguard and promote the welfare of children. Similar obligations apply to young people, up to the age of 21, and vulnerable adults. The policy includes new areas of activity such as cuckooing and hoarding and self-neglect. It also lists all key legislation that applies and the Councils approach to the policy.

Intranet Updates

The intranet page on safeguarding was in need of a major overhaul and a number of changes have been implemented including:

- New DO details have been added
- A new poster created and displayed in key locations of the Council building
- Links to key documents including statutory guidance added.
- Newly implemented processes for reporting with newly created reporting forms for internal reporting added (old ones removed).
- This is supported by a new flowchart for managing concerns.
- Clearer instructions on mandatory e-learning produced.
- The method of reporting concerns to KCC has changed and the intranet updated on the operation of a new Front Door service
- Links to the online "Request for Support Form" for referral of child safeguarding concern forms has been added to the intranet.
- Similarly the form for adult safeguarding (Kent Adult Safeguarding Alert Form – KASAF) added.
- Links to the new Kent Safeguarding Children Multi-Agency Partnership (KSCMP) Arrangements also added.
- New Out of Hours Protocol compiled and uploaded

Guide to services

DOs had asked through the SSG (see below) for a guide to support staff in sign posting to further advice and to guide customers to services available locally. This has been compiled and is now also added to the updates on the intranet. New services providing support to customers experiencing mental ill health, suicidal thoughts and debt problems etc. have been pulled together and added to the guide. Some of the key contact information is also included in Appendix 2 of the refreshed safeguarding policy.

Training

Ongoing training opportunities are flagged to key staff. This includes induction training, reminders to staff to complete mandatory e-learning and other relevant opportunities that are available to support staff. In January 2019 staff were invited to attend suicide awareness training and throughout this financial year suicide awareness training sessions provided centrally via KSCB and MIND have been promoted. These cover awareness of both adult and children's / young people's issues and staff have been encouraged to attend. On 12th June 2019 Customer Service Officers and the Civic Wardens were provided training on the new Front door service and how to handle safeguarding concerns as there had been a significant turnover of staff since the last training session.

Out of Hours protocol

Where safeguarding concerns are received at the end of the working day a procedure has been agreed with the Lifeline Service to enable concerns to be handed over for them to continue to complete any required processes / referrals that maybe needed. Some of the Lifeline team are now DOs and are undergoing training. The Out of Hours protocol is on the intranet informing all staff what they need to do when concerns arise after 4.30pm and

how all the relevant information should be handed over to the Lifeline team. Similarly there is guidance on what lifeline need to do until the next working day. This has enabled lifeline to receive additional information and guidance on sign posting.

Audits

For the first time this year in an audit was carried out of the work done to address adult safeguarding following a request to all Districts by the Kent and Medway Adult Safeguarding Board (KMASB). A return was submitted outlining the Council's response to safeguarding and our response to KMASB's priorities:

Priority 1 – Prevention - We will deliver a preventative approach in all that we do.

Priority 2 – Awareness - We will improve awareness of adults at risk and safeguarding within, and across, our partner agencies and communities.

Priority 3 – Quality - We will quality assure our work, learn from experience and consequently improve our practice.

This audit is now required to be carried out on an annual basis. On the latest return the self-neglect and hoarding policy that FHDC were the leading authority, now adopted county wide, was highlighted as well as other good practice.

On a 2 yearly basis agencies including District Councils are required to complete a comprehensive s11 Audit. In the form of a self-assessment this document is assessed by the Kent Safeguarding Children's Board (KSCB) representatives. In May 2018 the Council largely achieved full or partial compliance with a few elements requiring action and these are now completed (e.g. updating the policy and intranet with changed DO details). This audit will be required to be carried out again in spring 2020.

Safeguarding Steering Group

The Council's steering group consisting of DOs and other reps of the Council act as an advisory board and support safeguarding functions which includes compiling evidence for the s11 Audit and agreeing on best ways of dealing with referrals and managing information around concerns etc.

District Leads Safeguarding meetings

The Council is represented on a number of key safeguarding groups including a Kent – wide meeting chaired by the C/E of Maidstone Borough Council who is also the C/E rep for all Districts on the current KSCB board. The group deal with national safeguarding issues, legislative requirements and local practice and are run by the KSCB. The KSCB arrangements are changing following the Wood review and subsequent legislative changes and these are reflected in the refreshed 2019 policy. The Kent Safeguarding Children Multi Agency Arrangements (KSCMP) are being put in place replacing the KSCB. These give Police, Health and KCC equal responsibility for safeguarding with District Councils being Relevant Authorities. A new link has been created for access to relevant information www.kscmp.org.uk

Multiagency work

The Community Safety Partnership (CSP) and through the Community Safety Unit (CSU) carry out ongoing interventions around all aspects of safeguarding at a multiagency level. The Safeguarding sub group of the CSP for example have run Domestic Abuse conferences and projects, supported adult safeguarding week and recently ran a Mental Health Conference and a Youth Conference tackling all aspects of exploitation. The CSU has dealt with cuckooing, Child Sexual Exploitation, Modern Slavery referrals and other

initiatives. The Police and Crime Commissioner funding is also used to support vulnerability and the same is the case or the funding allocated to projects by the Districts' Local Children's Partnership Group that is managed by KCC.

Member Training

Members have safeguarding training as part of their induction following elections and in 2019 this was scheduled for 24th September 2019 and 2nd October 2019. In June 2018 members of OSC at the time received a specialist one off input on PREVENT by the County PREVENT lead, following an OSC meeting that had earlier looked at safeguarding. The invitation to receive another input was given and this can be arranged around the trainer's availability.

This Report will be made public on 8 October 2019



Report Number **C/19/27**

To: Cabinet
Date: 16 October 2019
Status: Non-Key Decision
Responsible Officer: Charlotte Spendley – Assistant Director Finance, Customer & Support Services
Cabinet Member: Councillor David Monk, Leader

SUBJECT: TREASURY MANAGEMENT MONITORING REPORT 2019/20

SUMMARY: This report provides an update on the council's treasury management activities that have taken place during 2019/20 against the agreed strategy for the year. The report also provides an update on the treasury management indicators approved by Cabinet earlier this year.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because:

- a) Both the CIPFA Code of Practice on Treasury Management and the Council's Financial Procedure Rules require Members to receive a report on the Council's treasury management activities during the year.

RECOMMENDATIONS:

1. To receive and note report C/19/27.

1. BACKGROUND

- 1.1 Cabinet approved the Treasury Management Strategy Statement for 2019-20, including treasury management indicators, on 20 February 2019 (report C/18/71 refers). Full Council approved the Capital Strategy for 2019-20 covering capital expenditure and financing, treasury management and non-treasury investments on 20 February 2019 (report A/18/23 refers).
- 1.2 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management requires the council, as a minimum, to produce a mid-year report reviewing its treasury management activity undertaken so far against the approved strategy for the year and to consider any significant issues which may impact upon the function for the remainder of the year. This includes reviewing the approved treasury management indicators. The Code also requires the council to report on its non-treasury investments. This report meets CIPFA's reporting requirement.
- 1.3 The authority has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. This report covers treasury activity and the associated monitoring and control of risk.

2. ECONOMIC UPDATE AND INTEREST RATE OUTLOOK

- 2.1 A summary of the key factors affecting the UK economy for 2019-20 is shown below and is based on information supplied by Arlingclose Limited, the council's Treasury Adviser:-
 - i) The UK's economic outlook remains uncertain as the government continues to negotiate the country's exit from the European Union.
 - ii) UK Consumer Price Inflation (CPIH) was at 1.7% in August, just below the Bank of England's target of 2%.
 - iii) The unemployment rate has fallen to 3.8% at July 2019, its lowest level since 1975.
 - iv) The employment rate was 76.1%, the joint highest since comparable records began in 1971.
 - v) Pay growth rose to 3.8%, but real wages (adjusted for inflation) grew by just 1.9%.
 - vi) UK Gross Domestic Product (GDP) was at just 0.2% in Q2 of 2019 as is viewed as weak. However the monthly growth for July was 0.3% bringing some encouragement the country may avoid sliding into recession this year.
 - vii) Continuing fears to the global economy from the trade war between the US and China and the imposition of tariffs on each other's goods which may see the US Federal Reserve (Fed) reduce interest rates further as the likelihood of a global recession increases.
 - viii) The UK's Bank Base Rate has remained unchanged so far this year at 0.75% although BoE's August Inflation Report noted the deterioration in global activity and sentiment.

2.2 Financial Markets

- 2.2.1 Gilt yields (UK Government bonds), which the Public Works Loan Board borrowing rates are linked to, have been volatile so far during 2019 due to the ongoing economic and political uncertainty both domestically and globally. Over the summer this has seen a flight to quality by investors with the price of gilts rising and yields falling. The 5-year benchmark gilt yield fell to 0.28% at the start of September from 0.63% at end of June. There were falls in the 10-year and 20-year gilts over the same period, dropping to 0.43% from 0.83% and to 0.84% from 1.35% respectively.
- 2.2.2 Money markets rates remained low: 1-month, 3-month and 12-month LIBID rates averaged 0.65%, 0.75% and 1.00% respectively over the period.

2.3 Interest Rate Outlook

- 2.3.1 Given the continuing uncertainty over the UK's withdrawal from the EU, the UK's relatively weak economic environment and the threat of a global recession, Arlingclose's central case is for the UK Bank Base Rate to remain unchanged at 0.75% for the foreseeable future with the risks significantly weighted to the downside.
- 2.3.2 Arlingclose's central case for gilt yields is for them to remain broadly unchanged from their current historic low levels for the remainder of 2019/20 and beyond with the risks being balanced between increases and reductions to these. However gilt yields will continue to be subject to periods of short term volatility due to geo-political events.
- 2.3.3 With the authority's borrowing portfolio currently being virtually all of fixed rate debt, it is its investment portfolio that is much more exposed to changes in interest rates.

3. LOCAL CONTEXT

- 3.1 On 31 March 2019, the authority had net borrowing of £14.2m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in table 1 below.

Table 1: Balance Sheet Summary

	31.3.19 Actual £m
General Fund CFR	20.4
HRA CFR	47.4
Total CFR	67.8
Less: Usable reserves	(51.2)
Less: Working capital	(2.4)
Net borrowing	14.2

- 3.2 The authority's current strategy is to maintain borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low. The treasury management position as at 31 August 2019 and the change since the 31 March 2019 is show in table 2 below.

Table 2: Treasury Management Summary

	31.3.19 Balance £m	Net Movement £m	31.8.19 Balance £m	31.8.19 Rate %
Long-term borrowing	54.8	-	54.8	3.44
Short-term borrowing	1.6	-	1.6	1.52
Total borrowing	56.4	-	56.4	3.39
Long-term investments	(19.0)	3.4	(15.6)	4.64
Short-term investments	(10.0)	6.5	(3.5)	1.03
Cash and cash equivalents	(13.2)	3.3	(9.9)	0.74
Total investments	(42.2)	13.2	(29.0)	2.87
Net borrowing	14.2	13.2	27.4	

- 3.3 The overall increase of £13.2m in net borrowing is not unexpected and broadly reflects the impact of the council's capital expenditure incurred over the period met from prudential borrowing, notably £17.7m for the Connect 38 office building in Ashford. So far it has been possible to continue with the strategy of using internal borrowing from available cash balances rather than taking out new loans, demonstrated by the reduction in investment balances.

4. BORROWING STRATEGY AND ACTIVITY 2019/20

- 4.1 At 31 August 2019, the Authority held £56.4m of loans, unchanged compared to 31 March 2019, as part of its strategy for funding previous and current years' capital programmes. Following the introduction of the Housing Revenue Account (HRA) Self-Financing regime in 2012 the

authority operates a two pool debt approach allocating its loans between the General Fund and HRA. The borrowing position at 31 August 2019 compared to 31 March 2019 is shown in table 3 below. A list of the individual loans borrowed at 31 August 2019 is shown in appendix 1 to this report.

Table 3: Borrowing Position – Two Pool Debt Approach

	31.3.19 Balance £m	Net Movement £m	31.8.19 Balance £m	31.8.19 Rate %
<u>General Fund</u>				
Public Works Loan Board	7.2	-	7.2	4.69%
Local authorities (short-term)	0.5	-	0.5	0.50%
Total General Fund borrowing	7.7	-	7.7	4.42%
<u>Housing Revenue Account</u>				
Public Works Loan Board	48.7	-	48.7	3.23%
Total HRA borrowing	48.7	-	48.7	3.23%
Total borrowing	56.4	-	56.4	3.39%

- 4.2 The weighted average maturity of the overall loans portfolio at 31 August 2019 was 12.8 years.
- 4.3 The authority's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the authority's long-term plans change being a secondary objective.
- 4.4 In furtherance of these objectives no new long term borrowing has so far been undertaken in 2019/20, and there are planned maturities of about £1m due to take place before 31 March 2020.
- 4.5 Based on the council's existing approved capital expenditure investment plans, the CFR is forecast to increase by about a further £30m during 2019/20. As explained in section 3 above, so far it has been possible to use internal borrowing to meet this increase and this has helped to reduce borrowing costs, despite foregone investment interest, and reduce overall treasury risk. The position will continue to be closely monitored in conjunction with Arlingclose during the current financial year and it may be necessary to take on some new borrowing to meet the projected increase in the CFR.

- 4.6 The “cost of carry” analysis performed by Arlingclose has not indicated any value in borrowing in advance for future years’ planned expenditure and therefore none has been taken or, at this stage, is planned to be for the remainder of the current financial year.
- 4.7 A series of short term loans totalling £0.5m have been borrowed from Folkestone Town Council for cash flow purposes at a variable interest rate set at 0.25% below the official Bank Base Rate and were still in place at 31 August 2019. The council borrowed £5m from Portsmouth City Council at a fixed interest rate of 0.75% on temporary basis in May 2019 to provide it with a liquidity buffer while it completed the acquisition of the Connect 38 building. This loan was repaid in June 2019.
- 4.8 **Debt Rescheduling** – Opportunities to undertake debt rescheduling have been monitored during the year in conjunction with Arlingclose. However, as expected, PWLB interest rates have not reached a level where it would be beneficial to undertake debt rescheduling to create a net saving in borrowing costs. The position is not expected to change for the remainder of the current financial year.

5. INVESTMENTS

- 5.1 The council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the period to 31 August 2019, the authority’s investment balance has ranged between £25m and £50m due to timing differences between income and expenditure. The average investment balance held to 31 August 2019 was £37m. The investment position during the period to 31 August 2019 is shown in table 4 below. A list of the individual investments held at 31 August 2019 is shown in appendix 2 to this report.

Table 4: Investment Position

	31.3.19 Balance £m	Net Movement £m	31.8.19 Balance £m	Average Return
Covered bonds (secured)	3.5	-	3.5	1.03%
Government (incl. local authorities)	10.0	(10.0)	-	-
Money Market Funds	13.2	(3.3)	9.9	0.75%
Commercial Property Pooled Fund	5.5	-	5.5	4.18%
Multi-Asset Income Pooled Funds	10.0	0.1	10.1	4.89%
Total investments	42.2	(13.2)	29.0	2.87%

- 5.2 The weighted average maturity of the investment portfolio at 31 August

2019 was 66 days.

5.3 Both the CIPFA Code and government guidance require the authority to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The authority's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

5.4 The council is meeting its investment objectives and strategy for 2019/20. Firstly the amount of short term liquid cash for investments has been reduced by using it for internal borrowing to support capital expenditure, as outlined previously in sections 3 and 4 of this report. This has reduced the authority's exposure to credit risk. Secondly the strategic investments in externally managed pooled funds, representing the authority's forecast minimum level of cash reserves and balances over the medium term, have been maintained. The pooled funds continue to provide returns in excess of inflation with some limited capital growth, thereby helping to protect the value of the authority's cash reserves. Encouragingly there has also been a net unrealised gain of almost £100,000 to the capital value of these funds since 1st April 2019. This means the council's original cash investment of £15m is now worth about £15.6m, an increase of £0.6m.

5.5 Investment Benchmarking

5.5.1 The progression of risk and return metrics are shown in the extracts from Arlingclose's quarterly investment benchmarking in table 5 below.

Table 5: Investment Benchmarking

	Credit Score	Credit Rating	Bail-in Exposure	WAM* (days)	Income Return
FHDC					
31.03.2019	4.3	AA	49%	75	2.24%
30.06.2019	3.5	AA	69%	99	3.06%
Similar LAs	4.3	AA-	63%	81	1.74%
All LAs	4.3	AA-	62%	28	1.41%

5.5.2 The investment benchmarking, which is a snapshot at the end of each quarter, demonstrates the authority's risk profile had reduced slightly and was just below both its peer group and the wider local authority population at 30 June 2019 (measured against other Arlingclose clients only). Most notable from the benchmarking snapshot is the council's income returns are significantly better than the other groups. This is due to the pooled funds now being proportionally a larger part of the total investment portfolio as cash has been used for internal borrowing, coupled with the enhanced returns from the multi-asset income pooled funds that have been achieved.

- 5.6 Given the increasing risk and continued low returns from short-term unsecured bank investments and in line with advice from Arlingclose, it is the council's aim to continue to diversify into more secure and/or higher yielding asset classes during the remainder of this financial year and beyond.

6. CREDIT RISK AND COUNTERPARTY UPDATE

6.1 Credit Risk

- 6.1.1 The structure of the authority's approved credit risk methodology for new investments is in line with that suggested by Arlingclose. Based on this approved methodology, Arlingclose provides the authority with a regular up to date list of eligible counterparties to use and also notifies it immediately of any changes required to this.

6.2 Counterparty Update

- 6.2.1 Broadly UK bank credit default swap prices (the banking sector's insurance against default) have remained low in historical terms so far in this financial year with some limited volatility.
- 6.2.2 There have been few credit rating changes during the period and none directly affecting the authority's counterparty list adversely.

7. FINANCIAL SUMMARY

- 7.1 The projected outturn for the net cost of treasury management to the General Fund in 2019/20 is summarised in table 6 below:

Table 6: Financial Summary

	2019/20 Original Estimate	2019/20 Projection	Variance
	£'000	£'000	£'000
Interest on all Borrowing	1,912	1,922	10
Related HRA Charge	(1,569)	(1,569)	-
General Fund Borrowing Cost	343	353	10
Investment Income	(713)	(789)	(76)
HRA Element	75	88	13
General Fund Investment Income	(638)	(701)	(63)
Net General Fund Borrowing Cost	(295)	(348)	(53)

- 7.2 The projected reduction in the net borrowing cost to the General Fund is mainly due to additional investment income expected to be received from the enhanced returns from the multi-asset income pooled funds.

- 7.3 Opportunities to reduce the net cost of treasury management will continue to be sought as part of the pro-active management to the council's debt and investment portfolios by its officers in consultation with the Cabinet Member for Finance.

8. Non-Treasury Investments

- 8.1 Although not classed as treasury management activities, the 2017 CIPFA Code and the MHCLG Investment Guidance requires the authority to report on investments for policy reasons outside of normal treasury management. This includes service investments for operational and/or regeneration as well as commercial investments which are made mainly for financial reasons. This includes the authority's investment in its wholly owned subsidiary company, Oportunitas Limited. These are summarised in table 7 below:

Table 7: Non-Treasury Investments

Investment Type	Value 31/03/19 £'000	Movement £'000	Value 31/08/19 £'000	Projected Net Income 2019/20 £'000	Annualised Rate of Return %
Investment Property					
Agricultural Land	27,240	-	27,240	66	0.24
Offices	-	16,819	16,819	1,130	7.38
Commercial Land	1,057	-	1,057	-	-
Commercial Units	1,424	-	1,424	104	7.30
Residential Units	1,890	285	2,175	45	2.07
Assets Under Construction	143	-	143	-	-
Total Investment Property	31,754	17,104	48,858	1,345	2.98
Subsidiary Company					
Oportunitas loan	3,531	-	3,531	172	4.88
Oportunitas equity	1,300	-	1,300	0	0
Total Subsidiary	4,831	-	4,831	172	3.56
Total	36,585	17,104	53,689	1,517	3.03

- 8.2 The movement shown in the table is for the acquisition value for the Connect 38 offices and a further property linked to the Otterpool Park Garden Town project. The projected net income and rate of return on investments is required to be shown before the impact of any ongoing capital financing costs where assets have been financed by prudential borrowing.
- 8.3 Ordinarily the rate of return on non-treasury investment assets would be expected to be higher than that earned on treasury investments reflecting the additional risks to the council of holding such investments. This is demonstrated with the return on the commercial units, offices and Oportunitas. However the return on the investment property portfolio for

2019/20 is significantly distorted because of the land acquisition taking place for the Otterpool Park project in particular. In the meantime the council is receiving rental streams from some of the property being acquired in the short to medium term.

- 8.4 As previously reported to Cabinet on 17 July 2019 (Report no. C/19/10 refers), the agricultural land at Otterpool benefitted from a significant increase in value of £21.9m, from £5m to £26.9m in 2018/19 to reflect its current market value for housing development. This unrealised gain in value for the site is seen as a highly encouraging indicator for the council's involvement in the proposed development of the Otterpool Park Garden Town.

9. COMPLIANCE REPORT

- 9.1 The Corporate Director for Customer, Support and Specialist Services is pleased to report that all treasury management activities undertaken to 31 August 2019 complied fully with the CIPFA Code of Practice and the authority's approved Treasury Management Strategy. Compliance with specific investment limits is demonstrated in table 8 below.

Table 8: Investment Limits

	Maximum to 31.8.19	31.8.19 Actual	2019/20 Limit	Complied
Any single organisation, except UK Government	£5m	£5m	£5m each	✓
UK Central Government	£16.0m	nil	Unlimited	✓
Any group of funds under the same management	nil	nil	£5m per group	✓
Negotiable instruments held in a broker's nominee account	£3.5m	£3.5m	£10m per broker	✓
Foreign countries	nil	nil	£5m per country	✓
Registered Providers	nil	nil	£10m in total	✓
Unsecured investments with Building Societies	nil	nil	£5m in total	✓
Loans to unrated corporates	nil	nil	£5m in total	✓
Money Market Funds	£20.0m	£9.9m	£25m in total	✓
Any group of pooled funds under the same management	£7.5m	£7.5m	£10m per manager	✓

Real estate investment trusts	nil	nil	£10m in total	✓
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9.2 Compliance with the authorised limit and operational boundary for external debt is demonstrated in table 9 below.

Table 9: Debt Limits

	Maximum to 31.8.19	31.8.19 Actual	2019/20 Operational Boundary	2019/20 Authorised Limit	Complied
Borrowing	61.4	56.4	94.0	96.5	✓
PFI & finance leases	-	-	-	-	✓
Total debt	61.4	56.4	94.0	96.5	✓

9.3 Since the operational boundary is a management tool for in-year monitoring it is not significant if the operational boundary is breached on occasions due to variations in cash flow, and this is not counted as a compliance failure.

10. TREASURY MANAGEMENT INDICATORS

10.1 The authority measures and manages its exposures to treasury management risks using the following indicators.

10.2 **Security:** The authority has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	31.8.19 Actual	2019/20 Target	Complied
Portfolio average credit rating	AA	A	✓

10.3 **Liquidity:** The authority has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling three month period, without additional borrowing.

	31.8.19 Actual	2019/20 Target	Complied
Total cash available within 3 months	£9.9m	£5m	✓

- 10.4 **Interest Rate Exposures:** This indicator is set to control the authority's exposure to interest rate risk. The upper limits on the one-year revenue impact of a 1% rise or fall in interest was:

	31.8.19 Actual	2019/20 Limit	Complied
Upper limit on one-year revenue impact of a 1% rise in interest rates	£224,000	£265,000	✓
Upper limit on one-year revenue impact of a 1% fall in interest rates	£180,000	£215,000	✓

- 10.4.1 The impact of a change in interest rates is calculated on the assumption that maturing loans and investment will be replaced at current rates.

- 10.5 **Maturity Structure of Borrowing:** This indicator is set to control the authority's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing were:

	31.8.19 Actual	Upper Limit	Lower Limit	Complied
Under 12 months	2.8%	30%	0%	✓
12 months and within 24 months	2.3%	40%	0%	✓
24 months and within 5 years	18.3%	50%	0%	✓
5 years and within 10 years	35.5%	80%	0%	✓
10 years and above	41.1%	100%	0%	✓

- 10.5.1 Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

- 10.6 **Principal Sums Invested for Periods Longer than 364 days:** The purpose of this indicator is to control the authority's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end were:

	2019/20	2020/21	2021/22
Actual principal invested beyond year end	£3.5m	-	-
Limit on principal invested beyond year end	£15m	£5m	£5m
Complied	✓	✓	✓

Note – Although the council's investments in pooled funds of £15.6m are accounted for as non-current (long term) assets, based on the intention to continue to hold them for longer than 12 months, they do not have a fixed maturity date and can be redeemed within a short notice period if required so do not feature in this indicator.

11. CONCLUSIONS

- 11.1 The UK's economic outlook means interest rates are expected to remain broadly unchanged for the remainder of the current financial year.
- 11.2 The authority will maintain its strategy keeping borrowing and investments below their underlying levels (internal borrowing) in order to reduce risk and keep interest costs lower.
- 11.3 The loan and investment portfolios will continue to be closely monitored to ensure they efficiently contribute towards the authority's medium term financial strategy.
- 11.4 The authority's treasury management activities undertaken to 31 August 2019 complied fully with the approved Treasury Management Strategy.

12. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

12.1 Legal Officer's Comments (NE)

There are no legal implications arising directly out of this report. Part 1 of the Local Government Act 2003 gives the Council the power to borrow and to invest for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs. It also requires the Council to act prudently when carrying out these activities, including an obligation to determine and keep under review how much money it can borrow. In addition, the Council is required by the Local Government Finance Act 1992 to produce a balanced budget. The Council must bear in mind its fiduciary duties to local tax payers and its continuing obligation to ensure it has funding to perform the statutory undertakings it has to comply with.

12.2 Finance Officer's Comments (LW)

Prepared by Financial Services, no further comments.

12.3 Diversities and Equalities Implications

The report does not cover a new service or policy or a revision of either and therefore does not require an Equality Impact Assessment.

13. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Lee Walker, Group Accountant

Telephone: 01303 853593

E-mail: lee.walker@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report: None

Appendices:

Appendix 1 – Borrowing, Loans held at 31 August 2019

Appendix 2 – Investment held at 31 August 2019

APPENDIX 1 – BORROWING, LOANS HELD AT 31 AUGUST 2019

Folkestone and Hythe District Council Itemised Borrowing at 31 August 2019								
Lender	Loan No	Loan Type	Repayment Method	Maturity Date	Principal Outstanding 31/03/2019 £	Movement £	Principal Outstanding 31/08/2019 £	Interest Rate %
Public Works Loan Board	430141	Fixed	Annuity	01/11/2033	4,010	-54	3,956	11.38
Public Works Loan Board	480111	Fixed	Maturity	31/03/2023	1,000,000	0	1,000,000	6.63
Public Works Loan Board	488942	Fixed	Maturity	07/08/2034	2,000,000	0	2,000,000	4.80
Public Works Loan Board	492233	Fixed	Maturity	15/03/2054	2,000,000	0	2,000,000	4.05
Public Works Loan Board	493698	Fixed	Maturity	07/08/2055	2,500,000	0	2,500,000	4.55
Public Works Loan Board	493914	Fixed	Maturity	07/02/2053	2,500,000	0	2,500,000	4.55
Public Works Loan Board	494027	Fixed	Maturity	15/03/2044	2,000,000	0	2,000,000	4.65
Public Works Loan Board	494028	Fixed	Maturity	15/03/2045	2,000,000	0	2,000,000	4.65
Public Works Loan Board	494029	Fixed	Maturity	15/03/2046	2,141,190	0	2,141,190	4.65
Public Works Loan Board	500536	Fixed	Maturity	28/03/2023	4,000,000	0	4,000,000	2.56
Public Works Loan Board	500537	Fixed	Maturity	28/03/2031	4,010,000	0	4,010,000	3.26
Public Works Loan Board	500538	Fixed	Maturity	28/03/2028	4,000,000	0	4,000,000	3.08
Public Works Loan Board	500540	Fixed	Maturity	28/03/2025	4,000,000	0	4,000,000	2.82
Public Works Loan Board	500541	Fixed	Maturity	28/03/2029	4,000,000	0	4,000,000	3.15
Public Works Loan Board	500542	Fixed	Maturity	28/03/2030	4,000,000	0	4,000,000	3.21
Public Works Loan Board	500543	Fixed	Maturity	28/03/2027	4,000,000	0	4,000,000	3.01
Public Works Loan Board	500544	Fixed	Maturity	28/03/2021	1,300,000	0	1,300,000	2.21
Public Works Loan Board	500545	Fixed	Maturity	28/03/2022	1,300,000	0	1,300,000	2.40
Public Works Loan Board	500546	Fixed	Maturity	28/03/2024	4,000,000	0	4,000,000	2.70
Public Works Loan Board	500547	Fixed	Maturity	28/03/2020	1,100,000	0	1,100,000	1.99
Public Works Loan Board	500548	Fixed	Maturity	28/03/2026	4,000,000	0	4,000,000	2.92
Total - Public Works Loan Board					55,855,200	-54	55,855,146	
Folkestone Town Council	n/a	Variable	Call Notice - 2 days	n/a	500,000	0	500,000	0.50
Total - All Borrowing					56,355,200	-54	56,355,146	

APPENDIX 2 – INVESTMENTS HELD AT 31 AUGUST 2019

Category and Counterparty	Amount or Value £	Terms	Interest Rate or Yield %
Covered Bonds (Secured)			
Royal Bank of Scotland	1,000,257	Covered floating rate note to 15/05/2020	1.03
Royal Bank of Scotland	2,501,470	Covered floating rate note to 15/05/2020	1.03
Money Market Funds			
Aberdeen Standard MMF	4,930,000	No notice instant access	0.73
Federated MMF	5,000,000	No notice instant access	0.74
Other Pooled Funds			
Commercial Property Fund			
CCLA Property Fund	5,467,152		4.18*
Multi-Asset Income Funds			
CCLA Diversified Income Fund	2,021,951		3.82
UBS Multi-Asset Income Fund	1,006,325		4.67
Kames Diversified Monthly Income Fund	3,589,046		5.95
Investec Diversified Income Fund	3,513,579		4.48
Total Investments	29,029,780		2.87

* Net of Fees

This Report will be made public on 8 October 2019



Report Number **C/19/30**

To: Cabinet
Date: 16 October 2019
Status: Key Decision
Responsible Officer: John Bunnett, Corporate Director – Place and Commercial
Cabinet Member: Councillor David Monk, leader of the council, Councillor David Godfrey – Cabinet Member for Housing, Transport and Special Projects

SUBJECT: LAND AT SHIP STREET, FOLKESTONE

SUMMARY: This report seeks authority to acquire the former gasworks site in Ship Street, Folkestone (East Folkestone Ward).

REASONS FOR RECOMMENDATIONS:

The Ship street former gas works site is unlikely to be redeveloped without public sector involvement accordingly Cabinet are requested to agree the acquisition.

RECOMMENDATIONS:

1. To receive and note report C/19/30.
2. To purchase the site at Ship Street for the sum set out in this report;
3. To note the application to Homes England to support the remediation of the land; and
4. To bring forward a further report on the proposed development of the site.

1. BACKGROUND

- 1.1 On 27 September 2017 the cabinet received report C/17/37 concerning the proposed acquisition of the former gasworks site at Ship Street Folkestone (shown edged red on the plan at appendix 1). It was reported that an application was being made to the government's housing infrastructure fund under the marginal viability fund stream for a grant to cover the site's abnormal remediation costs. It was resolved (minute 35):-

1. *To receive and note report C/17/37.*
2. *That Cabinet authorises the Head of Strategic Development Projects to complete and submit an application to the HIF MVF to cover the costs of abnormal works*
3. *If the application is successful, and in consultation with the Leader of Council :*
 - a. *complete the purchase of the former gasworks site, Ship Street, Folkestone based on the terms set out in Appendix A.*
 - b. *authorise officers to complete the remaining pre-development work and prepare draft planning proposals for consideration at a future Cabinet, and agree to allocate the sum of £230,000 from the Corporate Development Fund budget to meet that expenditure.*
4. *If the application is unsuccessful, the purchase be deferred pending further work by officers on the scheme's financial viability, which will be subject to a future report to Cabinet.*

- 1.2 The application under the housing infrastructure fund was unsuccessful as the Council did not own the site. However, encouragement was given by Homes England and a further application has been made for a £1 million grant to support the redevelopment of the site and in particular as a contribution to the remediation of the land. Written confirmation has been received that the application meets the criteria for approval but the actual decision making process on the application does not take place until January 2020.

2. CURRENT POSITION

- 2.1 The land still remains as described in report C/17/37. In brief it is a derelict site which has not had any beneficial use for just under twenty years. Without public sector intervention it is highly likely to remain derelict because of the costs and complexities in bringing it forward. It is situated in a densely populated area (East Folkestone) which is in need of regeneration.
- 2.2 Developing the site would contribute significantly towards the council's corporate priorities, particularly by delivering more homes, improving the appearance of the area, providing jobs and creating decent homes that would have a beneficial effect on health. Significantly the site represents an important opportunity within the Town Centre masterplan.
- 2.3 It should also be noted that the Creative Folkestone used the gas works site as its Folkestone project for Pioneering Places in East Kent. This is

part of the national Great Places scheme supported by the Arts Council. Creative Folkestone are in their words:-.

“... inviting local people’s stories of the site along with their aspirations for its future and mixing this with leading creative place makers, in an effort to form an inspiring and credible proposal and so a stronger community. This will empower people and creatives to influence local planning decisions and places art and creativity in the heart of this place making initiative.”

- 2.4 Creative Folkestone have indicated their strong desire to work with the Council on bringing forward the site for effective use.
- 2.5 The planning policy is clear, 85 dwelling units (perhaps more) would be acceptable. Again in accordance with the current policies 30% would be affordable housing.
- 2.6 Despite the remediation work undertaken by the current owners, there remain certain abnormal costs in developing the site however it should be noted that there is no technical reason why the site can’t be successfully and safely redeveloped.
- 2.7 Officers have had discussions with potential developers one of whom set out an innovative proposal potentially for a cutting edge sustainable development including homes for local people. However none of the discussions to date have reached the stage where any firm offer has been made. This is not surprising as the council does not have control of the land.
- 2.8 The open market value of the site for its current use (open storage) has been assessed by the Council’s valuers at £500,000. The open market value of the site with detailed planning permission for 85 units has been assessed at £200,000. The owners are unwilling to sell the site for anything less than £400,000 with overage conditions. This is obviously below the market price for open storage but in excess of the valuation for housing.
- 2.9 It is however considered that the site can be made to work commercially now. However the Council would have fall back positions either to wait until the market improved or sell the site at open market value.
- 2.10 The current approved capital budget for the Ship Street site is:

	General Fund	HRA	Total
Allocation	70%	30%	
Purchase of land	£280,000	£120,000	£400,000
Pre-development costs	£161,000	£69,000	£230,000
Total cost	£441,000	£189,000	£630,000

3. FINANCIAL VIABILITY

- 3.1 The financial viability has been assessed with the assistance of Savills (Valuers), Betteridge and Milsom (Quantity Surveyors) and IDOM Merebrooks (Remediation Engineers).
- 3.2 Whilst the HRA Affordable Homes element (30% of the proposed 85 units) of the scheme could be financed by the Council within the parameters of the HRA business plan (payback within 30 years and cost pm2) the remaining, private, element of the scheme has been assessed as not financially viable because of the price asked by the seller and abnormal costs associated with bringing the site forward. Nevertheless as stated in paragraph 2.9 it is considered that the site can be made to work commercially and there are fall back positions.

4. SHOULD THE COUNCIL PURCHASE THE SITE?

- 4.1 The question consequently is whether despite the financial issues the Council should purchase the site. It is considered it should, in particular:-
- The site is a key one for the regeneration of Folkestone Town Centre as it will allow grant application to be made;
 - Without council intervention the land will remain in the same state as it is now – a derelict site in an area of Folkestone that needs regeneration; even if the Council is not able to develop it straightaway public ownership will offer a prospect of improvement;
 - It has taken quite a time for the owners to agree terms to sell, if this opportunity is lost then it could take some time to get to the point where the council is now;
 - Whilst the grant has not been formally awarded the prospects of obtaining the money are good. Even if unsuccessful it should be noted that the Government does offer a variety of grants and when in Council ownership further bids could be made as the objectives for the site directly support a number of central and local policy areas.
 - The fact that the Council has the land does not require it to develop it immediately; it could “bank” the land and wait for market conditions to improve;
 - Acquisition does put the Council in a position to provide, when conditions are right affordable housing in an area of great need in a central location. 30% would be Council dwellings so at the minimum 25 much needed new homes will be provided. If developers come forward with a greater number of dwellings on the site the number would accordingly rise and in any event there may be opportunities to increase the percentage of affordable units;
 - There is money in the general fund and HRA to purchase the site. The budget would be split as originally proposed: General Fund - 70%. HRA – 30%.

- 4.2 It should be emphasised that the site is a key one in the regeneration of Folkestone. It is envisaged that it will form part of the Masterplan for Folkestone and proposals for its future will be an important part of the work considered by members of the Folkestone Town Centre Working Group. The Working Group will be able to influence how the site is developed and potentially is an early “win”.
- 4.3 Subject to approval, the next steps would be to acquire the site and prepare more detailed plans for development for member consideration.

5. RISK MANAGEMENT ISSUES

5.1

Perceived risk	Seriousness	Likelihood	Preventative action
Remediation costs escalate	Medium	Low	Seek further grants and / or retender the work
Market conditions deteriorate	Medium	Low	Delay development until market conditions improve

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer’s Comments (NE)

There are no legal implications arising directly from this report. However Legal Services will continue to be involved with the title due diligence and negotiation of the purchase documents should the same go ahead.

6.2 Finance Officer’s Comments (LW)

The resources available from within the existing approved General Fund and Housing Revenue Account capital programmes to meet the acquisition and pre development costs are outlined in the report.

The future use or development of the site will need to be addressed in a separate report to Cabinet including the relevant financial considerations.

6.3 Diversities and Equalities Implications (AJ)

No diversity implications arising from the report.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting.

Andy Jarrett, Chief Strategic Projects Officer
 Telephone: 01303 853 429
 Email: andy.jarrett@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

Valuation advice – Partially exempt paragraph 3 of schedule 12A Local Government Act 1972 (as amended)

Appendices:

Appendix 1:- Plan of Ship Street site

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