



CABINET

Notice of a Meeting, to be held in the Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on Thursday, 12th July, 2018 at 7.00 pm.

The Members of the Cabinet are:-

The Members of the Cabinet are:-

- Cllr Clarkson (Chairman) – Leader of the Council
- Cllr Bell (Vice-Chairman) – Deputy Leader and Portfolio for Legal and Democracy
- Cllr Mrs Bell – Portfolio for Environment and Land Management
- Cllr Bennett – Portfolio for Culture
- Cllr Bradford – Portfolio for Community Safety and Wellbeing
- Cllr Clokie – Portfolio for Planning
- Cllr Galpin – Portfolio for Corporate Property
- Cllr Pickering – Portfolio for Human Resources and Customer Services
- Cllr Shorter – Portfolio for Finance and IT
- Cllr White – Portfolio for Housing

Agenda

Page Nos..

1. **Apologies**

2. **Declarations of Interest**

To declare any interests which fall under the following categories, as explained on the attached document:

- a) Disclosable Pecuniary Interests (DPI)
- b) Other Significant Interests (OSI)
- c) Voluntary Announcements of Other Interests

See Agenda Item 2 for further details

3. **Minutes**

1 - 4

To approve the Minutes of the Meeting of the Cabinet held on the 14th June 2018

4. **To Receive any Petitions**

5. **Leader's Announcements**

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DS
4 July 2018

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Cabinet

Minutes of a Meeting of the Cabinet held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **14th June 2018**.

Present:

Cllr. Clarkson (Chairman);

Cllrs. Bennett, Bradford, Clokie, Galpin, Pickering, Shorter.

Apologies:

Cllrs. Bell, Mrs Bell, Buchanan, Link, White.

Also Present:

Cllrs. Burgess, Chilton, Hicks, Suddards, Waters, Mrs Webb.

Chief Executive, Director of Law and Governance, Director of Finance and Economy, Head of Legal and Democracy, Head of Finance, Senior Policy and Scrutiny Officer, Communications Officer, Member Services Manager (Operational).

35 Declarations of Interest

Councillor	Interest	Minute No.
Clarkson	Made a Voluntary Announcement as a Director of A Better Choice for Property Ltd	41

36 Minutes

Resolved:

That the Minutes of the Meeting of the Cabinet held on the 10th May 2018 be approved and confirmed as a correct record.

37 Leader's Announcements

The Leader said he was sure all would be aware of the Fields of Battle, Lands of Peace photographic exhibition currently on display in the Memorial Gardens until the end of June. He said this was an extremely impressive and moving installation and commended it to all present. He also wanted to congratulate the Officers from Aspire and the wider Council who had made the Gardens look so stunning for the exhibition. The Council had already received a number of accolades from those who had attended.

38 Overview and Scrutiny Recommendations to Cabinet – Commercial Investment

The Chairman of the Overview and Scrutiny Committee introduced the report which presented recommendations from the Committee's examination of the Council's approach to commercial investment. He said the Committee had analysed the issue in great detail and had arrived at some good recommendations.

The Leader said that at this stage the Cabinet was minded to note the three recommendations for further examination, but not to adopt them at this stage. If they could be implemented they would be, but they wanted to be cognisant of all potential implications and costs before doing so. He undertook to report back to the Chairman of the Overview and Scrutiny Committee in due course.

Resolved:

That the recommendations from the Overview and Scrutiny Committee be noted for further examination of implications and costs, before consideration is given to whether they can be adopted.

39 Ashford Borough Council Performance – Quarter 4 2017/18

The report updated Members and the public on the performance of the Council against its Corporate Plan during Quarter 4 2017/18. This included information on what the Cabinet had achieved through its decision making, key performance data, and consideration of the wider Borough picture which impacted upon the Council's work. The Portfolio Holder drew attention to the fact that the Council's approach to the monitoring of its performance against this plan had been revised and accordingly summary highlights from the online Performance Dashboard for each of the Council's Corporate Plan areas were included in the report. He encouraged all Members and indeed the public to interrogate the data and advise if there was anything else they would like to see in the reports. He also wanted to acknowledge the amount of work that the Council's Senior Policy and Scrutiny Officer had put in to developing and improving these reports.

Resolved:

That (i) the Council's performance against the Corporate Plan in Quarter 4 of 2017/18 be noted.

(ii) the new performance framework outlined in the report be approved.

40 Financial Outturn

The Portfolio Holder introduced the report which presented the outturn revenue position for the General Fund and Housing Revenue Account. It also presented the Capital Outturn for capital works and how these had been financed, reserve transfers and a Treasury Management update. He drew particular attention to the sections on business rates and treasury management and wanted to compliment the Council's Treasury

Management team for the work they undertook to maximise each pound for the residents of the Borough. He also advised that recommendation (iv) within the report had been included in error from a previous report and should be deleted.

Resolved:

- That (i) the financial outturn for 2017/18 be noted.
- (ii) carried forward requests for New Homes Bonus in year underspends shown at Appendix A to the report, and Member Grant underspends to fund the centenary events, be approved.
- (iii) the Annual Treasury Management position be noted.

41 Trading and Enterprise Board – 8th May 2018

Resolved:

That the Minutes of the Meeting of the Trading and Enterprise Board held on the 8th May 2018 be approved and adopted.

42 Economic Regeneration and Investment Board – 25th April 2018

Resolved:

That the Notes of the Meeting of the Economic Regeneration and Investment Board held on the 25th April 2018 be received and noted.

43 Ashford Strategic Delivery Board – 27th April 2018

Resolved:

That the Notes of the Meeting of the Ashford Strategic Delivery Board held on the 27th April 2018 be received and noted.

44 Local Plan and Planning Policy Task Group – 27th April 2018

Resolved:

That the Notes of the Meeting of the Local Plan and Planning Policy Task Group held on the 27th April 2018 be received and noted.

45 Schedule of Key Decisions to be Taken

Resolved:

That the latest Schedule of Key Decisions as set out within the report be received and noted.

46 Exclusion of the Public

Resolved:

That pursuant to Section 100A(4) of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item, as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to Paragraph 3 of Schedule 12A of the Act, where in the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

47 Phase 1 Commercial Quarter Office Development – Variation to Council Lease Back Arrangement

The report advised of an amendment to the Council's Agreement for Lease with Ashford Commercial Quarter Limited, undertaken under the Chief Executive's urgency powers.

Resolved:

That the report be received and noted.

Agenda Item 6



ASHFORD
BOROUGH COUNCIL

Agenda Item No:	6
Report To:	CABINET
Date of Meeting:	12 July 2018
Report Title:	Revenues & Benefits Recommended Write-Offs Schedule
Report Author & Job Title:	Nic Stevens, Senior Recovery Officer, Revenues & Benefits
Portfolio Holder	Cllr Shorter, Portfolio Holder for Finance & IT
Portfolio Holder for:	

Summary:	This report proposes the formal write off of 299 accounts totalling £271,773.26. The proposals are in line with the Council's Revenues & Benefits Service Write Off Policy. Director of Finance & Economy has been consulted along with Heads of Service for relevant areas
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Key Decision: No

Significantly Affected Wards: None

Recommendations: The Cabinet is recommended to:-

- I. Note the action that accounts totalling £43,429.46 have been written off under the delegated powers (Financial Regulations 11.1)
- II. Approve the write offs listed in the Exempt Appendices totalling £228,343.80

Policy Overview: The regular review and writing off of un-collectable debts is part of strong financial management.

Financial Implications: Provision for bad debts has been made in the final accounts to account for expected write-offs during the year.

Legal Implications None

Equalities Impact Assessment Not Required

Other Material Implications: None

Exempt from Publication: Yes

[Not For Publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.] and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Background Papers: -

Contact:

nicola.stevens@ashford.gov.uk – Tel: (01233) 330446

Report Title: Revenues & Benefits Recommended Write-Offs Schedule

Introduction and Background

1. To advise Members of debts written-off and obtain approval to write off further individual debts of over £1,000.00 listed in the Exempt Appendices

Proposal/Current Position

2. The write offs being recommended are in accordance with the Revenues & Benefits Service Write Off Policy that was approved by the Executive Committee on 20 March 2003. Over recent years, due to the economic climate there has been a significant increase in NNDR (Business Rates) write offs, the majority of these relate to companies that have ceased trading.
3. Under delegated powers the Director of Finance & Economy has written off debts totalling £43,429.46 column (a). Approval is sought for write off of debts in column (b).

Table1 – Write off debt summary

	Value of debts written off under delegated powers	Value of debts recommended for write off (see attached appendices)	Provision for Bad Debts at 1.4.18	Provision for Bad Debts Balance (Current)	Value of outstanding Debt at 1.4.18
	(a)	(b)	(c)	(d)	(e)
Council Tax	£34,135.76	£39,780.16	£828,277.00	£754,361.08	£4,186,419.00
NDR	£2,416.45	£140,814.68	£250,538.00	£107,306.87	£1,176,617.00
HB overpayment	£3,135.97	£47,748.96	£1,026,133.00	£975,248.07	£2,565,331.00
Sundry Debtors	£3,741.28	£0.00	£572,809.00	£569,067.72	£1,815,422.88
TOTAL	£43,429.46	£228,343.80	£2,677,757.00	£2,405,983.74	£9,743,789.88

Implications and Risk Assessment

4. The write offs do not have an immediate financial effect on the current year's budget as the bad debt provision is greater than the write-off total. However, the making of that provision did have a cost implication at the time the provision was made; those being sundry debtors at full cost, council tax approximately 10% cost (90% financed by Kent County Council, Police and Crime Commissioner of Kent & Kent Fire Authority), housing benefit overpayments 60% cost due to existing subsidy arrangements and NNDR 40% (50% financed by the Government and 10% by Kent County Council).

Conclusion

5. The Service's Write Off policy has been followed and in many cases a number of methods of recovery followed before the debts have been recommended for write off.

Portfolio Holder's Views

6. To be given at meeting

Contact and Email

7. nicola.stevens@ashford.gov.uk Tel: (01233) 330446

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Agenda Item No:

Report To: Cabinet

Date of Meeting: 12 July 2018

Report Title: People serving people – The Ashford Borough Council Annual Report 2017/18

Report Author & Job Title: Will Train
Senior Policy and Scrutiny Officer

Portfolio Holder: Cllr. Gerry Clarkson, Leader of the Council

Summary:

The 2017/18 Annual Report provides a summary of the achievements and milestones of Ashford Borough Council over the course of the 2017/18 financial year as well as providing commentary on key performance

The report reflects on what has been achieved across the borough and through the work of the council's services, as well as highlighting the priorities of the corporate plan. This year's report also provides a summary of progress made in the delivery of the council's 'Big 8' projects.

The production of an annual report forms a crucial part of the council's overall arrangements to demonstrate good governance and accountability. The revised 'Delivering Good Governance in Local Government' framework, produced by CIPFA and SOLACE and published in April 2016, notes that such reporting demonstrates good practices in transparency, reporting, openness and engagement to deliver effective accountability.

Key Decision: NO

Significantly Affected Wards: None

Recommendations: **The Cabinet is recommended to:-**

- I. Note the contents of the annual report for publication on the council's website**

Policy Overview: The Annual Report offers another means by which the Council can embrace the transparency agenda and provide a high-level reflection on the previous financial year.

Financial Implications: None

Legal Implications	None
Equalities Impact Assessment	Not required as the annual report is a record of past performance and does not propose new action for the council.
Other Material Implications:	None
Exempt from Publication:	NO
Background Papers:	None
Contact:	will.train@ashford.gov.uk – Tel: (01233) 330394

people
serving
people



ASHFORD BOROUGH COUNCIL

Annual Report
2017 - 2018

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GERRY CLARKSON, CBE
LEADER, ASHFORD BOROUGH COUNCIL

The latest Ashford Borough Council annual report comes as a number of the 'Big 8' projects for the borough approach completion – from the construction of a flagship town centre leisure development at Elwick Place to the start of works to extend the Ashford Designer Outlet, 2018 is truly the year of delivery for Ashford.

While we move forward it is important that we do not lose perspective of where we have come from, and a number of events to celebrate the history, heritage and culture of the borough have taken place in the last year, with more planned in the year to come which you can read about in this report and in Ashford For You – our brand new quarterly residents' magazine.

Our commitment to delivering quality local services and making sure Ashford is a borough

where people want to live and businesses want to locate is being recognised nationally, with the council shortlisted for two categories in the prestigious Local Government Chronicle awards recognising our work in 'the Ashford way'.

Alongside exciting developments in the town centre and new opportunities for all our residents, the last year has also seen the number of empty shops in the town centre continue to fall, recycling rates continue to rise and council tax kept at the lowest level in Kent.

I look forward to sharing news of Ashford's continued progress with you all in future editions of Ashford For You and next year's annual report.



TRACEY KERLY
CHIEF EXECUTIVE, ASHFORD BOROUGH COUNCIL

As a forward-thinking, entrepreneurial council we are always looking to ensure that our services are effective and deliver the best value for residents while retaining the lowest level of council tax in Kent.

To ensure that we are at the forefront of best practice in local government, we invited representatives of the Local Government Association in to the council to conduct reviews of our Planning and Development service and our corporate governance arrangements, both of which have shown that Ashford continues to lead the way with its innovative approach while safeguarding services and keeping costs low.

Earlier this year we conducted a wide-reaching residents' survey, seeking your views on the council's performance and areas where we can look to better serve the people of the borough in future. Thank you to everyone who completed one of these surveys, and we look forward to sharing the results of these on our website shortly.

This annual report shows only a small amount of the council's good work over the last year as we work to deliver our corporate plan priorities – please check out our website, social media and our new residents' magazine for more on our work.



The Five Year Corporate Plan – for Aspiration, Action and Achievement

Ashford Borough Council's Corporate Plan for 2015-2020 sets the context and direction for the council up to the end of the decade. The Corporate Plan is ordered around five priorities designed to focus our efforts to deliver the vision of Ashford as an aspirational, active and achieving borough.

PRIORITY 1

ENTERPRISING ASHFORD: ECONOMIC INVESTMENT and GROWTH

Our Aspiration:

To promote growth and achieve greater economic prosperity for Ashford borough. We will work to secure inward investment to create a wide range of jobs carried out by a highly skilled workforce.



Enterprising Ashford

Vacancy rates in Ashford town centre have remained at low levels through much of the last year, dropping to 8% in November 2017. The council's ownership of Park Mall has also reduced vacancy rates in this key town centre location, which have fallen to 6% over the last year.

The council's decision to intervene where the private sector had failed through purchasing Park Mall in June 2015 has turned the centre's fortunes around – footfall has increased year on year with over 2.3 million people visiting Park Mall in 2017, showing increased confidence in the town centre. Made in Ashford, a collective shop in Park Mall celebrated its second birthday in October 2017 and continues to offer local producers an opportunity to test out selling on the high street.

There is £668m of recent and current investment in the borough that has been stimulated through a combined approach of focused project delivery and strategic marketing and promotion of Ashford as an area to invest in through the council's successful AshfordFor campaign. The council has also continued to invest in the borough to deliver further business development opportunities, including the purchase of 28 light industrial units at Carlton Road.

The borough's economy continues to grow – median weekly earnings for Ashford residents rose to £577.50 in 2017, higher than the national average (of £552.70) and the Kent average (of £574.90), whilst unemployment in the borough has remained below the national and Kent averages for the last year.

The Ashford and Tenterden Tourism Association continued to grow in 2017 with 54 active members working closely with the council to support business development and promote the visitor offer around the borough.



2018 – The year of delivery

2018 – THE YEAR OF DELIVERY

2018 represents a milestone in the council's delivery programme, with significant construction around the town both underway and due for completion before the end of the year. Several of the council's Big 8 projects, which are critical to the future economic growth and prosperity of the area, are all progressing through Ashford Borough Council's intervention, impetus and innovation.



Elwick Place ▲

Funded by the council, the flagship town-centre leisure development at Elwick Place includes a six-screen Picturehouse cinema, a 58-bedroom Travelodge hotel and restaurant complex. The project is due to open before Christmas 2018.



Commercial Quarter ▲

Construction of the Commercial Quarter will establish an important business hub for the south east next to Ashford International Station. The first phase comprises a new 80,000sq ft. office block, the first constructed in Ashford for decades, and is due for completion in summer 2018.

Ashford College ▼

The new £26m Ashford College campus on Elwick Road opened in September 2017. It was brought forward sooner through £3m of council grant funding and it now welcomes around 1,000 students per day, equipping them with the employment skills needed in Ashford in the future. Further phases will see an even wider range of facilities added.



Designer Outlet ▼

McArthurGlen has begun work to add around 50 new stores and restaurants to the Ashford Designer Outlet. The project will add around 100,000 sq. ft., to the centre, which already attracts more than 3.6m visitors a year.



2018 – The year of delivery



Chilmington Green ▲

The first phase of development has also begun at Chilmington Green, which will see 5,750 homes come forward over the next 25 years. The brand new community will eventually be home to around 12,000 people. Developers will provide £125m towards local amenities, including a secondary school and four primary schools, shops, healthcare, sports and leisure facilities, and road improvements.



Junction 10a ▲

Work on a new £104m motorway junction at J10a of the M20 started in spring 2018. The long-awaited junction, being constructed 700 metres east of the existing J10, will be the catalyst for further economic and commercial development, providing much-needed extra capacity in the town.

Ashford International Signalling ▼

A £10m signalling upgrade at Ashford International Station was completed in Spring 2018, ensuring that Ashford can receive the next generation of Eurostar trains. The project, which has included modifications to platforms to handle the wider fleet of European trains, is vital to secure Ashford's continuing status as an international town.



Jasmin Vardimon ▼

The Council has been working closely with Kent County Council to bring forward the planning application (expected this summer) that will help deliver a creative hub in Ashford for the Jasmin Vardimon Company. This Arts Council England funded organisation, currently located in the Stour Centre tours nationally and internationally, performing at high profile venues across Europe, Asia and the US. The project will enable schools and local audiences to share in the inspiring work of the company and other artists.



PRIORITY 2

LIVING ASHFORD: QUALITY HOUSING AND HOMES FOR ALL

Our Aspiration:

To secure quality homes across the borough, catering for a range of ages, tenures and need, in well planned and attractive new places.

Living Ashford

The delivery of new homes to meet the needs of all residents is of paramount importance to the council, with over 700 homes completed in the last year. A number of key housing developments are also underway in the borough, including the construction of a new scheme of 235 apartments and 26 riverside houses at Victoria Way started in February 2018 and the redevelopment of the Danemore sheltered housing scheme in Tenterden for which construction started in May 2017.

Ensuring public confidence in the planning system is a key aim of the council, and the Planning and Development service has maintained high levels of performance in the last year - across more than 1300 planning decisions taken in 2017, over 90% of decisions were approved and over 85% decided within 8 weeks.

The council submitted its Local Plan to the planning inspectorate in December 2017, with the public examination of the plan beginning in April 2018. The Local Plan sets the framework for housing and business space growth in the Borough, seeking to meet a target of 16,120 homes, deliver 11,100 jobs and 66 hectares of employment land.

The involvement of local communities in the planning process is a top priority, with 6 designated neighbourhood areas within the borough in addition to the existing adopted neighbourhood plans for Pluckley and Wye with Hinxhill. A public consultation on the WYE3 Masterplan was also launched in March 2018.

PRIORITY 3

ACTIVE AND CREATIVE ASHFORD: HEALTHY CHOICES THROUGH PHYSICAL, CULTURAL AND LEISURE ENGAGEMENT

Our Aspiration:

To provide or enable a range of quality leisure and cultural activities where people can make healthy and affordable lifestyle choices and enjoy assets that create attractive, desirable and active communities

Active and Creative Ashford

Over 12,000 people attended last year's Create festival, contributing an estimated £123,000 to the local economy. In addition, the 'Create Platform' debuted – a week-long programme of free and ticketed arts events in Ashford leading up to the festival itself featuring street entertainers, artists, theatre and live music. The council has committed to maintaining the Create Music Festival as a free festival and a focal point of the borough's cultural offer, championing local talent with 75% of acts at the festival being from Kent, and 39% of acts featuring one or more Ashford residents.

In October 2017 it was confirmed that the streets of Ashford will be transformed into an enchanting trail of beautifully crafted, giant Snowdog sculptures. Themed on the sequel to Raymond Briggs' classic story, The Snowman, local and national artists will decorate 30 Snowdog sculptures supported by over 25 local organisations and businesses. The trail will be displayed in Ashford during autumn 2018.

A number of community assets have been refurbished and supported to enable further sporting and community activity including Kingsnorth Recreation Centre, Cuckoo Park and Kestrel Play Area. Additionally, Repton Connect, a new community building and garden is due to open this summer.

The council remains committed to safeguarding public health and helping everyone lead healthy lives through providing a wide ranging leisure offer and working with partners to address priority health issues in the borough. The percentage of active adult residents increased to over 67% in 2017, while effective multi-agency work has seen the rate of smoking in the borough drop by 9%. Ashford also hosted the Wellbeing Symposium in February 2018 – the UK's leading symposium for the latest thinking on wellbeing in the workplace, community and for the individual.



PRIORITY 4

ATTRACTIVE ASHFORD: COUNTRYSIDE AND TOWNSCAPE, TOURISM AND HERITAGE

Our Aspiration:

To achieve an environment that creates higher standards of public space design, alongside improved standards of presentation of key green spaces. To safeguard and conserve our local heritage and areas of outstanding landscape quality to ensure the very best attractive environment with thriving and vibrant town centres

Attractive Ashford

The borough's recycling performance continued to improve in the last year, with DEFRA confirming that 55% of waste collected in the borough is being recycled, meaning that Ashford is the best recycling local authority in Kent and the 35th best in the country.

Aspire Landscape Management, the council's in-house grounds maintenance service, celebrated its first anniversary in October 2017. In just over a year and half of operation the Aspire team have transformed the presentation of the borough whilst maintaining a reactive, flexible team that can respond quickly to changing priorities.

Commemorating, celebrating and promoting the Borough's history and heritage is a key priority for the council, with a service commemorating the 100th anniversary of the Battle of Cambrai held in the town in November 2017 and the announcement in March 2018 that the council will host the 'Fields of Battle, Lands of Peace 14 – 18' photographic exhibition in June 2018.

The exhibition commemorates the 100th anniversary of the end of the First World War and will be displayed for public viewing in the Memorial Gardens. A programme of commemoration events around the exhibition will take place across the town throughout June 2018.

PRIORITY 5

ASHFORD'S UNDERPINNING PRINCIPLES

Our Aspiration:

To remain a well-resourced council, with effective governance, high quality services, good communications, safe surroundings, demonstrating good compliance and high standards.

Ashford Borough Council remains committed to delivering high quality services to the residents of the borough at the lowest level of council tax in Kent, and has been recognised for its approach through nominations for Council of the Year and Entrepreneurial Council of the Year at the 2018 Local Government Chronicle Awards.

In addition, the council won Engagement Team of the Year at the 2017 Engagement Excellence Awards and has been a finalist in both the 2018 Inside Housing UK Housing Awards and 2018 Housing Heroes Awards.

As part of our commitment to ensuring that we are operating effectively as an organisation, the council has welcomed officers and Councillors from other authorities to assess its practices and performance through the Local Government Association Peer Challenge, with reviews of the Planning and Development service and the council's corporate governance taking place in 2018.

In 2018 we surveyed 10,000 borough households to gather residents' views on the council, its services and how we communicate with you. The results of this survey will be presented to Cabinet later this year. 2018 also saw the launch of Ashford For You, the council's new quarterly magazine which will be delivered to every household in the borough.





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Agenda Item No: 8
Report To: Cabinet
Date of Meeting: 12 July 2018
Report Title: Disabled Facility Grants (DFG)
Report Author & Job Title: Julian Watts Senior EHO
Portfolio Holder Cllr. Gerald White
Portfolio Holder for: Housing



Summary: In October 2017 the Cabinet approved measures to tackle the waiting times for Disabled Facilities Grants. This action has been successful and this report seeks to build on that success, setting out a number of proposals to improve our services in regards to the overall grant assistance we provide for those who are disabled and vulnerable in our borough.

The grants set out in this report will not only focus on those who are disabled , but will also address certain health priorities, such as tackling bed blocking, which is costing our NHS millions of pounds a year.

Key Decision: YES

Significantly Affected Wards: Improving the recommendations will apply to all wards in the borough.

Recommendations: **The Cabinet is recommended to:-**

- I. Amend the types of assistance available in order to utilise the additional funding provided through the Better Care Fund for Disabled Facilities Grants to respond to the needs of the community as set out in paragraph 19 to 44
- II. Approve funding for an additional 12 months secondment of an OT from KCC.

Policy Overview:

The report will recommend a number of discretionary grants, to be adopted by the council to address health priorities in our borough, such as preventing bed blocking or supporting people move back home after treatment in hospital. These proposed grants can be withdrawn at any time subject to funding and certain conditions

Approving the proposals set out in this report will assist in the Council's Five Year Corporate Plan by improving the quality of housing and homes for all (Priority 2)

Financial Implications:

The costs of extending the placement of an Occupational Therapist (OT) for an additional 12 months would be split between the HRA and DFG funding with the remaining 50% funded by KCC.

The Council will fund 50% of the costs of the OT placement with the remaining 50% funded by KCC.

The Councils contribution will be part funded from the Housing Revenue Account (HRA) and the DFG budget provision.

No financial implications for introducing discretionary grants as it would be funded out of existing DFG funding.

Legal Implications

Approving to offer discretionary grants and funding a full time OT for 12 months will allow us to offer an enhanced service, which will continue to assist residents in our community.

The Council has a duty to provide mandatory DFGs. However, under the Regulatory Reform (Housing assistance) (England and Wales) Order 2002 provides a power for the local authority to provide discretionary assistance.

The council only has a mandatory duty to provide DFGs, whereas discretionary grants are at our discretion. If approved the council would be able to cancel at any time such grants if demand becomes too high, or there is insufficient funding.

Equalities Impact Assessment

See Attached Appendix 1 – There are no adverse implications as a result of these proposals.

Other Material Implications:

No material implications.

Exempt from Publication:

NO

Background Papers:

None

Contact:

Julian. Watts @ashford.gov.uk – Tel: (01233) 330339

Report Title: Disabled Facility Grants

Introduction and Background

1. In October 2017 the Council's Housing Department submitted a report to members titled "Reducing waiting times for Disabled Facility Grants" (DFG). The report sets out a proposal to address the Council's aspirations to level the playing field for disabled adaptations regardless of tenure and recommended approving a one-off additional capital funding contribution of £200,000 for the financial year 2018/19. Also, a proposal to support the provisions of a dedicated occupational therapist (OT) for Ashford in partnership with KCC for an initial 6 months, subject to review with the expectations of extending the placement up to 18 months. The cost of the post to be shared equally with KCC. The recommendation approved in October 2017 were focused towards achieving reduced waiting times resulting in a better service for residents in the Borough, which was approved by members.
2. Following the implementation of the above recommendation waiting time for assistance with DFG's has significantly reduced and at the time of writing the waiting list has been reduced from approximately 80 cases to a position where no one is waiting to be assessed.
3. The Council has a statutory duty in relation to mandatory DFGs for essential adaptations to allow disabled people to continue to live within their own homes. The maximum mandatory grant is set at £30,000, which is decided by a means test, based on income and capital. This means that some applicants may have to pay a contribution towards their grant. Children under the age of 19 are not subject to a means test. The Occupational Therapist decides whether adaptations are necessary and appropriate to meet the disabled person's need.
4. There are about 10 million disabled people in England. More than 1 in 10 adults have a mobility problem and about 1.25 million live with significant sight loss. Although most people maintain their health and fitness for much of their later years, disability and frailty increase with age. Most live in ordinary housing and three quarters are homeowners. The greatest increase in disability is in the older age groups and 71% of DFGs go to people over 60 years of age.
5. Traditionally a DFG is provided to adapt the home of a disabled person to meet their needs and allow them to achieve as independent a life as possible.

The Council's DFG process

6. The Council's role is to administer the grant, ensuring that the applicant qualifies for assistance and that the scheme of the works is reasonable and practical. An integral part of the process is the assessment of the applicant's needs for adaptations undertaken by an OT. The Council, by law, is required to consult with an OT on how to best meet the needs of the applicant.

7. The DFG process is supported by the Home Improvement Agency (HIA), which in Ashford is provided by the Peabody Group. The HIA act as an agent for the applicant in offering a service to draw up detailed specifications and obtain estimates via a tendering process in return for a fee, which is grant aided. An applicant is entitled to use an alternative agent if they choose to.

Summary of last year's DFG spend 2017/18

8. The DFG budget for 2017/18 total was £752,000 of which £662,000 came from the Better Care Fund and £90,000 contributed from the Council. The following sets out our current position was:
 - Since the OT post was seconded in December 2017 there is no longer a waiting list for people requiring an OT Assessment for major adaptations. Prior to December 2017 there was approximately 80 people awaiting an OT assessment.
 - 56 mandatory DFG's during 2017/18 were completed
 - During the year the value of Mandatory DFGs approved was £822,504 and of these completed grants spend was £651,621.
 - There was an underspend of £108,653, which has been carried over to the 18/19 budget.
 - The average duration time from referral to was significantly reduced from 18-24 months to 6-12 months depending on the complexity of the case.
 - ABC now has no waiting list, everyone is within the DFG process, either waiting for a means test or waiting for works to start or be completed.
 - 48 new referrals for Disabled Facilities Grants have been made since December 2017.
 - 95 referrals for Disabled Facilities Grants were made from April 2017 – April 2018 and these are now fast tracked over to the HIA to ensure that there are no unnecessary delays.
9. The performance has been unprecedented and within a relatively short period, there has been a massive turn around in waiting times and in predicted spends.
10. The 2017/18 DFG budget ended with an underspend of £108,653, whereas the previous year we had an overspend of over £40,000. The following sets out some of the reasons for this underspend -
 - The average grant spend has dropped significantly from previous years where our average spend was around £12,000, whereas this financial year the average has been £6,000.
 - £43,000 was repaid from previous recipients. A certain amount of DFGs relating to owner occupied properties has to be paid back if the property is sold or changes hand within a 10 year period from the completion of works. The maximum grant which has to be paid back is £10,000. Whereas if the cost of the DFG is under £5,000 they are not recoverable.

- A dropout rate of 58 cases since the beginning of the financial year. Many cases being referred to the HIA did not proceed. Applicants who do not have a passporting benefit such as Housing Benefit are referred to the HIA to undertake a means test. Many applicants were failing the means test, which meant they would need to make a contribution or may not be entitled to a grant.

The Council in most cases will refer an applicant to the HIA who will usually act as the applicant's agent and manage contractors to ensure work is carried out satisfactorily. However, an applicant can use the funding offered by the Council to fund their own preferred scheme (referred to as offset grants). In most cases, this would relate to child cases for funding towards major works such as extensions. The offsets for 2017/18 totalled over £190,000. Such cases are often complicated and do not run smoothly due to issues with designs and clients' expectations. This impacted on our overall underspend.

- The provision of bath-lifts by Social Services has increased significantly in recent years to address bathing difficulties quickly because of the delay in the provision of Disabled Facilities Grants. However, for many people, portable bathing aids only provide a temporary short-term solution as medical conditions deteriorate. A more major adaptation is then urgently required to meet the need and, in these cases, it would be more sensible to provide the major adaptation in the first instance rather than wait until there is a crisis in equipment use.

Break down of grant spend 2017-18

Month	Total Spend	Approvals	Cost of Approvals	OT Referrals	Completions	Through Floor lift	Straight Stairlift	Curved Stairlift	FF Shower	Ramping	Conversion	extension	Toilet	Heating
April	£0.00	2	£34,306.97	4	0									
May	£28,968.97	9	£67,530.69	4	6				3		3		1	
June	£28,574.63	6	£57,147.05	4	4		1		3					1
July	£24,538.24	3	£39,737.16	4	2			1	1					
Aug	£12,855.26	2	£18,859.16	8	1		1							
Sep	£46,429.36	7	£79,046.04	9	6		2	1	4					
Oct	£60,153.27	3	£42,395.32	9	3				2	1				
Nov	£39,223.46	6	£79,204.93	5	2	1			1					
Dec	£53,734.61	7	£55,929.59	12	5				4				1	
Jan	£45,221.30	12	£117,378.73	10	2						1	1		
Feb	£38,446.72	5	£70,717.54	13	4	1	1		2					
Mar	£116,598.00	6	£103,369.27	13	10	1	5		8					
Total:	£494,743.82	68	£765,622.45	95	45	3	10	2	28	1	4	1	2	1

11. The table above shows an increase in referrals starting from December 2017 when the OT was employed.

Current funding

12. Since April 2015, central Government funding for DFGs has been provided through the Better Care Fund (BCF). This funding is allocated to upper-tier authorities with part of the allocation being ring-fenced for the provisions of DFGs which in turn is passed on to District and Borough Councils.

One of the primary aims of the funding is to ensure that disabled people can live independently in their own homes for longer. However, more innovative use of the funding is encouraged. The main objectives set out in the BCF include not only addressing disabled persons needs but also using the funding to assist with reductions in delay transfer of care from hospitals (commonly known as bed blocking). Today people are living longer often with highly complex needs and multiple conditions.

13. For 2017/18 Ashford was allocated £775,304 up £67,000 from the previous year. Part of this allocated funding is top sliced by KCC to replace the Social Care Capital Grant, which ceased in 2016. For Ashford this funding equates to £113,304, which will be used to provide equipment, hoisting and minor adaptations to assist residents of Kent.
14. Currently DFGs are governed by the Housing Grants, Construction and Regeneration Act 1996. In 2002 the government brought in the Regulatory Reform (Housing assistance) (England and Wales) Order 2002, which allows local authorities to address housing issues. This Act enables the Council to address issues that can't be covered under mandatory basis. The government has been increasing amounts given to local authorities and powers given under the RRO can be used to provide more flexibility in how they can use their budget to address health priorities, such as preventing bed blocking in hospitals or supporting people to move back home after treatment in hospital.
15. Funding could be used to put in place preventable measures to reduce accidents such as slips, trips and falls within the homes of vulnerable and elderly people. This would assist in reducing the number being admitted to hospital for accidents from such hazards.
16. Under the Better Care Fund the government is looking for local authorities to be offering discretionary grants to deal with health issues. Ashford has for a long time only been able to offer mandatory grants however the improvements discussed above now provide an opportunity to reconsider this. It is time to consider offering alternative and more creative grants as our DFG service improves.
17. The Housing Service is proposing that in the next few months the Council adopts a number of discretionary grants. If such grants are approved the budget would have to be closely monitored to ensure that core service provision is maintained and mandatory grants are prioritised.

This year's Expenditure

18. This year's budget (2018/19) will be above one £million, which will include a £290,000 contribution from the Council. The Councils contribution includes a one off allocation of £200,000 for 18/19 only which was approved in order to respond to the demand. However, a fair proportion of this funding will be set aside for mandatory DFGs, leaving around £90,000, which could be used to offer discretionary grants. The tables below set out the budget for this year and predicted spend and funding for discretionary grants.

DFG Budget 2018-19	
Better care fund	£729,000
LA contribution	£290,000
Underspend carried over	£108,653
Government additional funding December 2017	£76,000
Repayments	£46,000
	£1,249,000

Predicted DFG spend 2018-19 (Based on previous trends)	
Approved cases	£345,641
54 cases to be assessed and approved	£478,500
40 additional cases	£320,000
Cost of OT	£12,000
	£1,155,000

Potential Discretionary Grant	
£1,249,000 - £1,155,000	Total: £94K

Proposed Discretionary Grants

The chart below sets out proposals for additional discretionary grants to support disabled and vulnerable people.

Proposed Discretionary Grants	
£10,000 provision of a top up on existing mandatory limit of £30,000. Maximum top up to be £10,000. Total amount not to exceed £40,000	Approx.: £30,000 per year See para 19 -23
Provide boiler replacements – able to assist 6 applicants per year.	Approx.: £20,000 per year See para 32-37
Disregard of first £10,000 for calculation of means test. Contribution to assist those in need who fall outside the mandatory DFG means test. Would apply to an additional nine applicants.	Approx.: £80,000 per year See para 24-29
Funding a Care Coordinator and Handyman scheme based at the William Harvey Hospital, in partnership with Dover and Shepway Council.	Approx.: £25,000 per year See para 38-43
Small budget for undertaking works as part of the discharge process	Approx.: £3,000 See para 44
Hospital discharge scheme, providing no means test for grants for stair lifts up to £5,000	Approx.: £20,000 per year See para 30-31
	Total £178,000

Grant top ups

19. Occasionally a property will require extensive adaptations far exceeding the mandatory limit. Such adaptations usually involve extending the property and/or installation of specialist lifts or highly technical bathing equipment.
20. It is recommended that the Council introduces discretionary loans for those in extreme need and experiencing hardship. It is recommended that a loan of up to £10,000 to fund the cost of eligible works, which exceed the maximum mandatory grant of £30,000. The Council will consult with Kent County Council Occupational Therapists to determine if works above £30,000 are reasonable.
21. The top up loan above the mandatory limit of £30,000, will be interest free, secured by a legal charge at land registry, and will be repayable upon sale or change of ownership of the property. This charge last for 10 years, after which the loan is written off.
22. Where a top-up is required because of extensive works and if the DFG has already been subject to a financial test of resources, no further means test will be made.
23. It is predicted that the uptake for this assistance will be low, however there have previously been cases in extreme need who have not been able to benefit from an adaptation as they have been unable to afford the top up.

Changing the means test and helping more disabled people

24. The mandatory part of the DFG is means tested, which means that some applicants may have to pay a contribution towards their grant. Means testing is used to calculate a relevant person's weekly expenses, taking into account any saving above a certain limit (certain state benefits are ignored). If a disabled person is in receipt of certain benefits they would not normally have to make a contribution. If the relevant person's resources are more than the assessment then a contribution will be required, which can in some cases be deducted from the DFG. The means testing calculations are nationally defined amounts, which are the same across the country.
25. The financial test of resources (means test) prescribed by government is outdated. For example the means testing does not take into account inflation and since its introduction 22 years ago, the set of allowances have never changed. Therefore, each year more and more applicants have to contribute towards the DFG works, reducing the amount of assistance they receive.
26. Since 1st April 2018, six people have already been turned away from applying for a grant due to being unable to afford a contribution; therefore more flexibility is needed in this approach.
27. There are cases where applicants who are in need fail the government means test by a relatively small margin. It is therefore, recommended that the council approve a more generous means test where £10,000 is disregarded before a person's income and savings are calculated through the means testing system. This amount would allow us to offer assistance to those whose income would just take them over the limit for assistance, but still ensuring those who are better off still have to contribute.

28. The figure of £10,000 was determined as a level that would have allowed the council to assist those who in the past had been refused a grant, which had left the applicant struggling or going without the adaptation. This amount would be discretionary and therefore can be withdrawn at any time if demand became unrealistic and affected our overall DFG budget.
29. Based on last year's DFGs out of the 15 that were turned down, 12 would have gone ahead if we had disregarded the first £10,000 of their income, of which five would have still had to make a contribution (under £2,000)

Emergency stair lifts

30. To offer discretionary grants of up to £5,000 to install an urgent stair lift in a disabled person's home in cases of delayed discharge from hospital or where a person is liable to become disabled following an operation (such as leg amputation) and a stair lift is required before the person can be discharged.
31. These grants will have no conditions and no means test will be applied. Owner-occupiers can access the grant and private tenants (with property owner's permission). The request for a stair lift will be assessed by a suitably qualified person, such as an OT. The responsibility for its maintenance and servicing would be with the grant recipient. The council have the right to choose a preferred contractor to supply and install the lift.

Winter Warmth Loans

32. The BCF guidance has widened the scope of DFG funding and suggest that council's consider funding energy efficiency measures (heating and insulation) in the homes of the elderly, disabled and chronically sick residents to help them to maintain independence in the home for longer and prevent hospital admissions through suffering from cold and falls in the home.
33. The eligibility criteria for the Winter Warm Loans are that the applicant must be a home owner who is over 65 years and suffer with a long-term illness or have a disability and be receipt of benefits. In certain circumstances, applications from people under 65 will be considered. A care navigator or health care professional, general practitioner or OT must sign off the health element of the criteria.
34. The funding is provided in the form of a repayable grant (with conditions). If the property is either sold or changes are made to the existing title ownership, the grant will have to be repaid. This condition remains in place for 10 years after the completion of the works and registered as a local land charge. This condition is applied to standard disabled facilities grants.
35. These loans will help more Ashford residents to remain independent in their own homes and will help in reducing fuel poverty and improving energy efficiency of properties in the district.
36. It is intended that the Private Sector Housing within the council will administer the scheme, which would entail undertaking visits and organising the works on behalf of the applicant. It is estimated that there should not be much take up on this grant.

37. The council under its DFGs can consider heating and a number of applicants have had heating installed as part of their grant application. However, the Winter Warm funding would be used for vulnerable and elderly people who are not eligible for a DFG, but do require help. It would be estimated that approximately £20,000 in funding would be required to offer such assistance. Each case would be assessed on its merits and would be subject to funds available.

Hospital discharge service

38. Hospital stays impact on people's ability to remain independent. So, speeding up discharges helps independence. Often people just need a little help to get them home and this is where an HHC can assist.
39. Tonbridge Wells, Tonbridge & Malling and Sevenoaks Councils in partnership have been providing this service at Pembury Hospital for over a year to great success – 188 patients have benefited from the scheme saving the NHS £85,000 from freeing up beds. There are plans to introduce the scheme at Maidstone Hospital as well.
40. It is recommended that we contribute to the provision of a hospital discharge service at the William Harvey Hospital in partnership with Dover and Folkestone and Hythe District Council. Under this scheme we would contribute to the provision of a Health and Housing Co-ordinator (HHC) who is based at William Harvey Hospital sitting alongside the hospital discharge team. This role supports safe and timely discharge from the hospital and prevents future admissions by dealing with issues around housing which can delay someone's return home.
41. A HHC has just taken up post at the William Harvey Hospital, this post is currently funded by Dover and Shepway Council. If we sign up to the scheme, we are likely to benefit the most as the hospital is in our borough and therefore a higher proportion of Ashford residents are likely to benefit from the scheme.
42. It is also recommended for the overall success of the above scheme that a Handyperson service is provided which would work in conjunction with the HHC. The handyperson service will be able to offer discharge support for patients living in Ashford.
- The cost to fund the Health and Housing Coordinator post from July to end of March 2019 would be £13,531.09.
 - Costs to fund the Handyperson Service from July to end of March 2019 would be £11,473.25.
43. The scheme will be monitored and will be reviewed on its success at the end of March 2019 to determine whether it offers value for money and whether to continue with the scheme.
44. The above scheme would benefit by having access to a small budget to fund certain works to assist with hospital discharge. It is recommended that approval be given to set aside £3,000 from existing DFG allocations to fund small works and items that may need to be purchased as part of the discharge process. Examples of some of the types of works that could be undertaken include: a patient living in a filthy property that requires a deep clean before they can go home; we could arrange a clean to the main principle living space and maybe a toilet/bathroom. The cost of the clean £150 - £200 depending on scope of works. Providing and supplying key safes and grab rails.

Funding an OT for 12 months

45. The council's role is to administer the grant, ensuring that the applicant qualifies for assistance, that the scheme of the work is reasonable and practical and that the works are both necessary and appropriate. An integral part of this process is the assessment of the applicants needs for adaptations, the council by law is required to consult with an Occupational Therapist (situated within KCC)
46. The OT carries out a joint visit with a contractor, surveyor and the authorities grant officer when the DFG is ready to proceed. This visit confirms the technical feasibility of the OT recommendations, whether adjustments are required to the original referral. A technical drawing and detailed specifications will then be completed by the surveyor with the final submission being agreed by the OT and the grants officer. The OT will also carry out a post inspection of the works.
47. In 2017 members approved a contribution to provide an in house Occupational Therapist within the housing department dedicated to Ashford cases only, for an initial 6 months. This post would be reviewed with the view of extending the placement for another 12 months. The aim of the OT was to help reduce waiting times. This has been a great success.
48. It is proposed that the council extends the funding of a full time OT on a 50:50 basis with KCC for 12 months. The proposal supports both the HRA tenants and DFG applicants it is proposed that this is jointly funded the HRA and from the Better Care Fund.
49. The funding for a full time OT, based on the cost of the post to be equally shared with KCC. This would equate to £23,500, which would be split between the HRA and Better Care Fund contributing £11,750 each.

Future role

50. In addition to their DFG role, the ABC OT will -
 - Continue to liaise with ABC and their architects to ensure that the specification for mobility housing within new build schemes meets the long-term needs of occupants who are full time wheelchair users.
 - Continue to complete prompt site visits on the request of the Housing Dept. (and where Adult Social Care OTs are unable to meet the target time frame) to ensure that void properties are allocated appropriately and as soon as possible.
 - Work towards a comparable Private Sector and Public-Sector adaptation processes - in order to achieve the best outcomes for all vulnerable adults in the Borough.
 - Provide recommendations on discretionary grant applications.

Implications and Risk Assessment

51. The recommended proposals set out in this report are not considered to pose any risks or adverse implications.

52. Funding for seconding an OT and providing discretionary grants will be financed from our existing DFG budget.
53. The discretionary grants can be stopped at any time if there is insufficient funding to meet demand. The DFG budget will be monitored to ensure funding for mandatory grants will always be available.

Equalities Impact Assessment

54. Members are referred to the attached Assessment. Impact attached Appendix 1. No significant issues have been identified.

Consultation Planned or Undertaken

55. The recommendations set out in this report have been, discussed, and agreed by the Portfolio Holder, Head of Housing, Home Improvement Agency and our current OT before submitting to Members for approval.

Other Options Considered

56. Only to offer mandatory grants. However, since the introduction of the Better Care Fund, councils are encouraged to come up with more innovative use of DFG funding.

Reasons for Supporting Options Recommended

57. The council has a mandatory duty to provide DFGs to disabled residents in our borough. Providing discretionary grants in conjunction with our mandatory duties will ensure we provide a fairer and improved service for vulnerable and disabled people in our district.
58. Overall, such additional grants will improve the client's experience, whilst also working towards a more holistic approach to the adaptations we can offer and help to reduce hospital admissions facing our elderly and vulnerable residents.
59. Approving the funding for another 12 months of a secondment of an OT will ensure we continue to provide an enhanced service for those needing adaptations to be able to continue to live in their homes.

Next Steps in Process

60. If these proposals are approved our currently funded OT will be able to continue assisting with DFGs for an additional 12 months
61. The Home Improvement Agency will need to be informed of the discretionary grants available.
62. To start implementing discretionary grants, but closely monitoring uptake to ensure that sufficient funding is available to offer mandatory grants. If demand exceeds funding the mandatory grant will be placed on hold until sufficient resources are found.

Conclusion

63. There are about 10 million disabled people, not including vulnerable and elderly people in England. People are living longer of which there is a drive to sustain independence in peoples' homes for as long as possible. DFGs are provided to adapt people's homes to meet their needs and to allow them to achieve as independent a life as possible. Providing mandatory grants does ensure those in most need in society are looked after. However, outdated means testing is reducing the net for those who in some cases are just as deserving.
64. The discretionary grants will ensure a fairer system, whilst ensuring the better off in society still contribute the most.
65. Funding from Government has been increasing and powers under the Regulatory Reform (Housing assistance) (England and Wales) Order 2002 can allow the council to address health priorities, such as preventing bed blocking.
66. The council has significantly increased its contribution to the DFG budget for this financial year, which was to support the provisions of reducing our overall waiting times for a DFG.
67. Continuing to fund the OT placement for an extra 12 months will also provide an opportunity to continue a more holistic approach to managing and supporting adaptations and complex needs. The first six months have been a success, to continue with the placement will continue to see more improvements in the service we provide. The placement is an example of what the Government is encouraging councils to do with their DFG budgets.

Portfolio Holder's Views

68. I am very pleased to see the significant improvements in waiting times over the past year brought about by the Private Sector Housing Team joint work with the Occupational Health Team. The co-location of an OT within the housing service has proved to be invaluable. It is important that we ensure that disabled residents in our borough are provided with adaptations they need to be able to remain at home. Offering discretionary grants and funding an OT will seek to use existing funding more effectively by ensuring a fairer system and help reduce hospital admissions, such as bed blocking.

Contact and Email

Contact: Julian Watts
Email: Julian.Watts@ashford.gov.uk

Tel : 01233 330339

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- (a) Eliminate discrimination, harassment and victimisation;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.

6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
- encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
 8. In terms of timing:
 - Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
 - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
 - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
 - The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
 - It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
 - A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
 - A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:
 - Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
 - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Julian Watts Senior EHO
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	<ul style="list-style-type: none"> • Amend the types of assistance available in order to spend the additional funding provided through the Better Care Fund for Disabled Facilities Grants • Approve funding for an additional 12 months secondment of an OT from KCC.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 June 2018
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>The council has a mandatory duty to provide DFGs to disabled residents in our borough. Providing discretionary grants in conjunction with our mandatory duties will ensure we provide a fairer and improved service for vulnerable and disabled people in our district. Overall, such additional grants will improve the client's experience, whilst also working towards a more holistic approach to the adaptations we can offer and help to reduce hospital admissions facing our elderly and vulnerable residents. Approving the funding for another 12 months of a secondment of an OT will ensure we continue to provide an enhanced service for those needing adaptations to be able to continue to live in their homes.</p> <p>The report will recommend a number of discretionary grants, to be adopted by the council to address health priorities in our borough, such as preventing bed blocking or supporting people move back home after treatment in hospital. These proposed grants can be withdrawn at any time subject to funding and certain conditions</p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<p>Back ground research included the following legislation:</p> <ul style="list-style-type: none"> • The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 • Department of Health - Integration and Better Care Fund Planning Requirements for 2017-19 • House of Commons Briefing Paper – Disabled Facilities Grants for home adaptations:
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? 	<p>Consultation process included relevant Managers within Housing ,Home Improvement Agency , In house Occupational Therapist (OT) and including the Portfolio Holder for Housing (Cllr. White)</p> <p>Those who were consulted were in agreement that the</p>

<ul style="list-style-type: none"> • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	proposals set out in the report should be adopted and were long overdue.
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	Medium	Positive (Minor)
Middle age	Medium	Positive (Minor)
Young adult	Low	Positive (Minor)
Children	Medium	Positive (Minor)
<u>DISABILITY</u> Physical	Medium	Positive (Minor)
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE-ASSIGNMENT</u>	None	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Neutral
<u>PREGNANCY/MATERNITY</u>	None	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral

Women	None	Neutral
SEXUAL ORIENTATION	None	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	N/A
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	N/A
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/A

Conclusion:	
<ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Approving discretionary and funding an OT for 12 months will not have any potential for discrimination or adverse impact for people living within the borough.</p> <p>No unlawful discrimination will result from implementing both the grants and seconding and OT from KCC for a further 12 months</p> <p>Both proposals meet the aims of the equality duty and no adjustments were required.</p> <p>Monitoring of the grants will be undertaken to ensure funding is available. If funds are not available, the proposed discretionary grants will be stopped until further funding can be resourced.</p>

EIA completion date:

12/6/18

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Agenda Item No: 9
Report To: Cabinet
Date of Meeting: 12 July 2018
Report Title: Civil penalties
Report Author & Job Title: Julian Watts
Senior EHO
Portfolio Holder Cllr. Gerald White
Portfolio Holder for: Housing Services

Summary: The Government have introduced the civil penalties (CP) as part of its campaign to clamp down heavily on criminal landlords. Councils have been given the authority to both determine whether to convict and the level of CP to impose.

It is the Council's intention to encourage landlords to meet their obligations without the need to impose a Penalty Charge. However, the ability to impose such Charges is likely to be a deterrent and encourage compliance.

Adopting the new enforcement powers will assist with dealing with rogue landlords, who blatantly break the rules.

This report outlines this power and sets out proposals on their use.

Key Decision: NO

Significantly Affected Wards: Yes

Recommendations: **The Cabinet is recommended to:-**

- I. Recommend the approval to implement civil penalties as an alternative to prosecution housing offences.
- II. Formally approve the attached Civil Penalties Policy – **see Appendix 1**
- III. Delegate authority to the Head of Housing to implement the Policy and take decisions on the appropriate imposition of civil penalties and the level of fine.
- IV. Delegate authority to the Head of Housing to set up a procedure to deal with representations following service of a Notice of Intent.

- V. Recommend to Council that the Constitution is amended as follows:
- VI. Under Part 3 Appendix 5, “Delegations to the Head of Planning”, para 14.1, add:
14.1K To issue notices and civil penalties under the Housing Act 2004 (as amended by the Housing and Planning Act 2016, and to take all necessary steps under the legislation, including deciding on the level of penalty and dealing with representations.

Policy Overview: The Housing and Planning Act 2016, has given discretionary powers to Councils to impose civil penalties of up to £30,000 for certain housing offences as an alternative to prosecution, since 1st April 2017.

Financial Implications: The Council is permitted to retain any revenue from penalty charges in relation to private rented sector enforcement activities.

It is unlikely that many penalty charges will be issued, as most landlords/agents tend to comply with enforcement notices. Therefore, potential income for the Council will be low. However, the charges are quicker and cheaper to administer than taking a prosecution in the courts.

Legal Implications Officers within Private Sector Housing will be delegated to issue civil penalties in accordance with the proposed policy.

Landlords and agents have the right to appeal the notice until the appeal is heard. Appeals would be heard in a First Tier Property Tribunal.

Any representations resulting from imposing financial penalties will be dealt with by the Manger of Private Sector Housing.

Successful fines would be brought to the attention of our finance department to pursue for payment.

Equalities Impact Assessment An Equalities Impact Assessment has been completed and is attached as **Appendix 2** to this report.

Other Material Implications: Adopting the policy would not affect staff terms and conditions, staff resources or structures.

Contact: Julian.Watts @ashford.gov.uk – Tel: 01233 330339

Report Title: Civil penalties

Introduction and Background

1. The Housing & Planning Act 2016 introduced civil penalties as an alternative to prosecution offences on individuals and organisations under the Housing Act 2004. The penalty is a financial penalty, which can be imposed by a local authority , up to £30,000.
2. The Government have introduced the civil penalties (CP) as part of its campaign to clamp down heavily on criminal landlords. Councils have been given the authority to both determine whether to convict and the level of CP to impose. All monies collected following the issue of a CP can be retained by the Council to further its statutory functions in relation to private housing enforcement work.
3. The Council will be able to impose such penalties as an alternative to prosecution for the following offences under the Housing Act 2004 and Housing and Planning Act 2016:
 - Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004)2;
 - Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004)3;
 - Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004)4;
 - Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004)5;
 - Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004)
 - Breach of a banning order (section 21 of the Housing and Planning Act 2016)
4. The council will determine, on a case-by-case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any offences listed above.
5. In addition to the above offences, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.
6. Banning orders prohibit landlords and agents from letting or managing residential properties. An order can prohibit a person from:
 - Renting out a residential accommodation
 - Engaging in letting agency work
 - Engaging in property management work.

7. The Ministry for Housing, Communities and Local Government has issued guidance about the implementation of civil penalties. In order to issue fines, the Council must first adopt a policy that has regard to this guidance.
8. Adopting a Policy Statement on Civil Penalties will provide additional enforcement options to help protect occupants and help ensure residents can live in safe homes.
9. The Council has previously adopted a policy to impose penalty charges in relation to smoke and carbon monoxide alarms in 2017.
10. The majority of cases dealt with in private sector housing are resolved informally without the need to take enforcement action. However, in a small minority of cases action is required ranging from informal advice, service of formal notices, undertaking works in default to prosecuting landlords.
11. The proposed introduction of the use of Civil Penalties is intended to increase the level of enforcement activity but allow a greater range of enforcement tools that can be considered and applied to the worst offenders when informal and formal actions have failed.
12. It is the Council's intention to encourage landlords to meet their obligations without the need to impose a fine. However, the ability to impose such a fine is likely to be a deterrent and encourage compliance. It is intended that the use of the penalty charges will provide greater certainty and speed than a prosecution route in dealing with serious housing offences.
13. A penalty will only be imposed where the Council is satisfied that there would be a realistic prospect of a conviction if we proceeded to prosecution. The criminal burden of proof, beyond all reasonable doubt, must be satisfied.
14. Where both the landlord and a letting/managing agent have committed the same offence, a civil penalty can be imposed on both as an alternative to a prosecution.
15. The maximum amount is £30,000. There is no minimum penalty level. In setting the level of a penalty the Council must have regard to the Government Guidance and take into account the following:
 - severity of the offence
 - culpability and track record of the offender
 - harm or potential harm caused to the tenant, e.g. physical injury
 - damage to health
 - distress
 - punishment of the offender , to deter the offender from repeating the offence
 - deter others from committing similar offences.
16. The proposed Policy Statement in Appendix A has been drafted having regard to the Corporate Enforcement Policy.

Proposal/Current Position

17. Currently the Council does not issue civil penalties offences under the Housing Act 2004, which has been agreed by Cabinet and therefore we are unable to issue any fines.
18. Implementing the Civil Penalty Policy would be in accordance with the Council's Five Year Corporate Plan: priority 2 – Improving the quality of housing and homes for all.
19. Deciding on an appropriate level of penalty the Council will determine this in conjunction with the Civil Penalty Policy.
20. Councils have the authority to both determine whether or not to prosecute and the level of civil penalty to impose. All monies collected following the issue of a civil penalty can be retained by the Council to further its statutory functions in relation to private housing enforcement work.

Implications and Risk Assessment

21. The primary aims of the civil penalties will be to:
 - Ensure that landlords/agents comply with the law
 - Aim to deter future non-compliance
 - Clamp down on rogue landlords
 - Provide additional enforcement options
22. The charges would be used in most cases for small level offences, which may not warrant the need for a prosecution. For example, a penalty charge could be issued for a first offence in failing to comply with an improvement notice, whereas a repeat offender could be prosecuted. If successfully prosecuted the offender could be issued with a Banning Order, preventing them from renting properties. Whereas, a penalty charge prevents making an application for an Order.
23. The serious adverse effects of a hazard and those affected would determine whether to issue a fine. For example, where vulnerable (elderly & young children) or multiple persons (house in multiple occupation) are put at risk due to a unscrupulous landlord, then a prosecution may be the best option. However, where a hazard is not deemed to be an imminent risk to the occupants, but the landlord continues to not comply with an improvement notice, a fine would be deemed to be the appropriate course of action.

Equalities Impact Assessment

24. The new regulations do not impact on any particular equality group in our borough as they apply to all tenants in privately rented properties covered by the Act

Consultation Planned or Undertaken

25. The Civil Penalties Policy has been reviewed by legal services.

26. The Policy has been discussed and agreed by the Portfolio Holder and Head of Housing before submitting to Directors for approval.

Other Options Considered

27. No other options were considered.

Reasons for Supporting Option Recommended

28. Without a civil penalties policy the Council is unable to issue a penalty charges on landlords/letting agents as an alternative to prosecution.
29. Having a policy, which is a public document will hopefully deter landlords from failing to comply with their responsibilities in providing safe homes and ensuring they comply with the relevant housing law.

Next Steps in Process

30. Approving the Civil Penalties Policy will give the council additional powers to deal with landlords who fail to comply with the relevant legislation.

Conclusion

31. It is the Council's intention to encourage landlords to meet their obligations without the need to impose a Penalty Charge. However, the ability to impose such Charges is likely to be a deterrent and encourage compliance.
32. Adopting the new enforcement powers will assist with dealing with rogue landlords, who blatantly break the rules.

Portfolio Holder's Views

33. I'm supportive of the proposed implementation of the Civil Penalty Policy to allow the Council to consider imposing fines on landlords who fail to comply with housing law, as an alternative to a prosecution. Implementing the policy will hopefully deter landlords from failing in their responsibilities in providing safe homes and ensuring that they comply with the relevant housing law.

Contact and Email

34. Mr Julian Watts Senior EHO, Private Sector Housing –
Julian.watts@ashford.gov.uk.

Appendix 1

Equality Impact Assessment

Lead officer:	Julian Watts Senior EHO Private Sector Housing
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Directors to agree to implement a Civil Penalties Policy Statement to allow the council to consider issuing civil penalties as an alternative to prosecuting landlords/agents for certain offences under the Housing Act 2004.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 June 2018
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>The Housing & Planning Act 2016 introduced civil penalties as an alternative to prosecution offences on individuals and organisations under the Housing Act 2004. The penalty is a financial penalty, which can be imposed by a local authority as an alternative to prosecuting for certain offences, up to £30,000.</p> <p>It is the Council's intention to encourage landlords to meet their obligations without the need to impose a Penalty Charge. However, the ability to impose such Charges is likely to be a deterrent and encourage compliance. Adopting the new enforcement powers will assist with dealing with rogue landlords, who blatantly break the rules.</p> <p>The council is required under the Housing and Planning Act 2016 to prepare and publish a civil penalty policy setting out how the Council will determine the level of the fines and the right to appeal. Without a policy, the Council is unable to issue any civil penalty up to a maximum £30,000.</p> <p>The penalties can be issued on landlords and letting agents.</p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<ul style="list-style-type: none"> • The Housing and Planning Act 2016 • Guidance for Local Housing Authorities -Civil penalties under the Housing Planning Act 2016
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? 	The wording of the Policy Statement has been discussed and agreed with by Housing Managers, Portfolio Holder (Cllr White) and Legal Services (Estelle Culligan)

<ul style="list-style-type: none"> • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
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Middle age	Low	Positive (Minor)
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Children	Medium	Positive (Minor)
<u>DISABILITY</u> Physical	Medium	Positive (Minor)
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral

Women	None	Neutral
<u>SEXUAL ORIENTATION</u>	None	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	N/A
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	N/A
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/A

Conclusion:	
<ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be 	<p>Implementing the Policy will not discriminate against any disadvantage or vulnerable people.</p> <p>The Policy will provide the council with additional enforcement powers to deal with landlords who fail to keep their properties up to standard.</p>
	Page 53

undertaken and reported?	
EIA completion date:	12/6/18

Private Sector Housing Enforcement Policy

Appendix 1 – Civil penalties under the Housing and Planning Act 2016

The Housing & Planning Act 2016 introduced changes to the Housing Act 2004 to allow the Council to issue civil penalties of up to £30,000.

The Council will be able to impose such penalties as an alternative to prosecution for the following offences under the Housing Act 2004 and Housing and Planning Act 2016:

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004)2;
- Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004)3;
- Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004)4;
- Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004)5;
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004)
- Breach of a banning order (section 21 of the Housing and Planning Act 2016)

The council will determine, on a case-by-case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any offences listed above.

In addition to the above offences, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.

Banning orders prohibit landlords and agents from letting or managing residential properties. An order can prohibit a person from:

- Renting out a residential accommodation
- Engaging in letting agency work
- Engaging in property management work.

Guidance on Banning Orders document “Banning orders for landlords and property agents can be found under the Housing and Planning Act 2016” see link:

<https://www.gov.uk/government/publications/banning-orders-for-landlords-and-property-agents-under-the-housing-and-planning-act-2016>

Where a letting/managing agent and landlord have committed the same offence the Council can impose a civil penalty on both of them as an alternative to prosecution. The level of the civil penalty imposed on each offender may differ, depending on the circumstances of the case. The Council cannot prosecute as well as impose a financial penalty, but must be satisfied, to the criminal standard of proof, i.e. beyond

reasonable doubt, that an offence has been committed, which could justify a prosecution, before it imposes a financial penalty.

Determining whether to prosecute or issue a civil penalty.

Where the legislation allows a civil penalty to be issued this will normally be the first choice rather than prosecution unless the landlord has breached housing legislation in the past and continues to be considered such a poor landlord that a banning order is considered necessary. In this case a prosecution will be the first choice with an aim to proceed for a banning order.

When issuing a civil penalty the procedures set out between pages 4 & 6 of this policy in this appendix will be followed in determining the level of the fine.

When determining whether to prosecute for an offence, officers will follow the guidance in this enforcement policy.

The Council has the power to impose a civil penalty of up to £30,000, with a level of civil penalty imposed in each case in line with its policy. The financial penalty will be based on the seriousness of the offence and taking into account the circumstances of the case. This would include the financial circumstances of the offender..

Statutory Guidance

The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 Local authorities must have regard to this guidance (see link below) in the exercise of their functions in respect of civil penalties

Civil Penalties under the Housing and Planning Act 2016 Guidance- link: <https://www.gov.uk/government/publications/civil-penalties-under-the-housing-and-planning-act-2016>

Paragraph 3.5 of the statutory guidance states that 'The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending'. The same paragraph sets out several factors that should be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

- a. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b. **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- c. **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm

(this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.

- d. **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- e. **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- f. **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- g. **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

Deciding on an appropriate level of penalty

STEP 1 – Determining the offence category

The Council will determine the offence category using only the **culpability** and **harm** factors in the tables below. The severity of the offence based on the culpability levels below, would be determined in conjunction with the statutory guidance on page two.

Culpability

Very high

- Where the offender intentionally breached, or flagrantly disregarded, the law or
- Who has a high public profile and knew their actions were unlawful

High

- Actual foresight of, or wilful blindness to, risk of offending but risk nevertheless taken

Medium

- Offence committed through act or omission, which a person exercising reasonable care would not commit

Low

Offence committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on this occasion
- there was no warning/circumstance indicating a risk
- failings were minor and occurred as an isolated incident

Harm

The table below contains factors relating to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

Category 1 – High Likelihood of Harm

- Serious adverse effect(s) on individual(s) and/or having a widespread impact
- High risk of an adverse effect on individual(s) – including where persons are vulnerable

Category 2 – Medium Likelihood of Harm

- Adverse effect on individual(s) (not amounting to Category 1)
- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect
- The Council and/or legitimate landlords or agents substantially undermined by offender's activities
- The Council's work as a regulator to address risks to health is inhibited
- Consumer/tenant misled

Category 3- Low Likelihood of Harm

- Low risk of an adverse effect on individual(s)
- Public misled but little or no risk of actual adverse effect on individual(s)

We will use the following definition of harm taken from the statutory guidance on hazard rating under the Housing Act 2004, 'Harm is an adverse physical or mental effect on the health of a person.

STEP TWO -Starting point and category range

Having determined the **category**, the Council would refer to the following **starting points** to reach an appropriate level of civil penalty within the category range. The Council will then consider further adjustment within the category range for aggravating and mitigating features.

Starting points and ranges The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability

Starting point	Range	
	Min	Max
Low culpability		
Harm category 3	£50	£175
Harm category 2	£125	£350
Harm category 1	£300	£750
Medium culpability		
Harm category 3	£350	£750
Harm category 2	£1,000	£2,000
Harm category 1	£2,500	£4,500
High culpability		
Harm category 3	£1,000	£2,250
Harm category 2	£3,000	£5,500
Harm category 1	£6,250	£12,500
Very high culpability		
Harm category 3	£2,500	£4,500
Harm category 2	£6,250	£12,500
Harm category 1	£15,000	£30,000

Factors, which the Council will consider in reducing the penalty

The Council will consider any factors, which indicate a reduction in the penalty and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

- impact of the financial penalty on offender's ability to comply with the law or make restitution to victims;
- impact of the financial penalty on employment of staff, service users, customers and local economy.

Reduction for early admission of guilt

The Council will take into account a potential reduction in penalty for an admission of guilt.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender admitted guilt
- The circumstances in which they admitted guilt
- The degree of co-operation with the investigation

The maximum level of reduction in a penalty for an admission of guilt will be one-third. In some circumstances, there will be a reduced or no level of discount. For example where the evidence of the offence is overwhelming or there is a pattern of criminal behaviour.

Any reduction should not result in a penalty, which is less than the amount of gain from the commission of the offence itself.

Obtaining financial information

The statutory guidance advises that local authorities should use their existing powers to, as far as possible, make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained or the offender has supplied any financial information to the contrary. An offender will be expected to disclose to the Council such data relevant to his financial position to enable the Council to assess what an offender can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has received and from all the circumstances of the case, which ***may include the inference that the offender can pay any financial penalty.***

Penalties for Failure to Comply with a Banning Order

The court can impose an unlimited maximum fine for failure to comply with a Banning Order. In addition, the court can also impose a prison sentence

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the most serious housing related offences. If the Council was satisfied that a breach of a Banning Order had occurred, the Council would normally start prosecution proceedings. In the event that the Council believed that a civil penalty would be appropriate for a breach of a Banning Order, the council would normally impose a penalty up to a maximum amount of £30,000 to reflect the severity of the offence.

Procedures

Financial Penalty Process and Right for Person to make Representations.

Before imposing a financial penalty on a person the Council will, within 6 months of the date of the offence, give the person notice of its proposal to do so (a “notice of intent”); setting out the Council’s reasons for doing so and the level of fine. A person in receipt of the notice of intent can make written representations to the following within 28 days:

The Manager

Private Sector Housing

Ashford Borough Council

Civic Centre

Tannery Lane

Ashford

TN23 1PL

Subsequently the Council will decide whether to issue a financial penalty and the amount. Before doing so the Council will issue a final notice requiring that the penalty be paid.

The final notice will set out:

- the amount of the financial penalty
- the reason for imposing the penalty
- information about how to pay the penalty
- the period for payment of the penalty (28 days)
- information about rights of appeal; and
- the consequences of failure to comply with the notice.

The officer determining the level of the financial penalty will record his/her decision, giving reasons for the amount of the penalty.

The landlord has the right to make representations against the decision and the Council will consider any representation. The Council will provide a response within 21 days, with a decision notice stating whether the penalty will be withdrawn, varied or upheld.

A person who receives a final notice may appeal to the First-tier Tribunal against:

- the decision to impose a penalty: or
- the amount of the penalty

If a person appeals, the final notice is suspended until the appeal is determined or withdrawn.



Agenda Item No:

Report To: Cabinet

Date of Meeting: 12th July 2018

Report Title: Personnel Policy Review

Report Author & Job Title: Joy Cross – HR Manager

Portfolio Holder Cllr. Pickering – Portfolio Holder for Human Resources and
Portfolio Holder for: Customer Services

Summary: As part of a wider programme of personnel policy reviews Cabinet are asked to consider and advise upon three new personnel policies, which materially alter the existing policies.

The three new policy documents are

- Disciplinary Policy and Procedure
- Performance Management Policy and Procedure
- Welfare Support For Employees Policy

The above policies replace the following policy documents in the current Conditions of Service

- D4 Disciplinary procedure
- M1 Managing Poor Performance (Capability)
- W1 Welfare policy
- C2 Compassionate Leave

Key Decision: NO

Significantly Affected Wards: None specifically

Recommendations: **Cabinet are requested to:**

Review and approve the following policy documents which form part of the Conditions of Service.

- I. Disciplinary Policy and Procedure
- II. Performance Management Policy and Procedure
- III. Welfare Support For Employees Policy

Policy Overview:

- D4 Disciplinary procedure
- M1 Managing Poor Performance (Capability)
- W1 Welfare policy
- C2 Compassionate Leave

Financial Implications: None

Legal Implications	The policy documents form part of the contract of employment (contained with the Conditions of Service) and as such the Conditions of Service is referred to together with notable employment legislation and codes of practice <ul style="list-style-type: none"> • ACAS Code of Practice • Employment Rights Act 1996 • Employment Relations Act 1999
Equalities Impact Assessment	See Attached
Other Material Implications:	None
Exempt from Publication:	NO
Background Papers:	N/A
Contact:	Joy.cross@ashford.gov.uk – Tel: (01233) 330 400

Report Title: Review of Personnel Policies – Disciplinary, Performance Management and Welfare Support

Introduction and Background

1. A review of six key Personnel Policies was initiated in late 2017. The review involved six key policy documents contained within the Conditions Of Service:
 - Disciplinary procedure,
 - Managing Poor Performance (Capability),
 - Welfare policy,
 - Grievance procedure,
 - Redundancy and Organisational change,
 - Sickness.
2. The purpose of the review was to respond to feedback and observations from across the organisation and, following meaningful consultation, produce a set of six frequently used personnel policies which;
 - Reflect the organisation's reputation as a forward-thinking employer that supports all employees across the organisation.
 - Provide an accurate reflection of the organisation's values and digital agenda.
 - Offer effective methodologies which aim to resolve situations.
 - Outline simple processes and self-help guides which reduce management and HR time and therefore the indirect costs incurred in adhering to policies and procedures.
 - Support best practice and emerging social trends.
 - Include recent changes in employment case law and changes on the horizon.
3. The review commenced and a meaningful consultation process has been followed as detailed below.
4. The proposed new policy documents are provided to the Cabinet for consideration as featured in Appendices 1-3
 - Appendix 1 Disciplinary Policy and Procedure
 - Appendix 1B Disciplinary Procedure Flow Chart
 - Appendix 2 Performance Management Policy and Procedure
 - Appendix 2B Performance Management Procedure Flow Chart
 - Appendix 3 Welfare Support For Employees Policy
5. It is not proposed to amend the policy documents that are applicable to the group of employees at ASPIRE who transferred to Ashford Borough Council from Commercial Services Ltd in October 2016. Amendments to contractual terms associated with a TUPE transfer are likely to be unlawful under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).

Proposal / Summary of Changes

Disciplinary Policy and Procedure & Performance Management Policy and Procedure

6. These two policy documents are very similar and so the changes are summarised collectively unless otherwise stated.
7. The *contents, introduction and principles* section of these two policy documents has been reduced in length owing to the repetition that was identified in these sections. A simplified introduction in each policy document provides an overview of the ethos behind the policy together with a summary of overarching principles.
8. The sections concerning the *Procedure relating to Statutory Officers (section 151 Officer, Head of Paid Service and Monitoring Officer)* has been replaced with a slightly expanded section to correctly incorporate the responsibilities of the Appointments Committee and the Investigations & Disciplinary Committee.
9. The *informal stage* of both procedures has been placed at the beginning of each policy and separated from the formal stages, in order to avoid confusion around the requirement for representation at this stage and the formality of the investigation. The informal stage has been expanded in the Disciplinary Policy and Procedure to mirror the standard setting process laid out in the informal stage of the Performance Management Policy and Procedure, this will enable conduct and performance issues to be managed in a consistent way. Line management responsibilities in this area have been more clearly allocated and explained.
10. Within the Disciplinary Policy and Procedure, the list of potential *gross misconduct* examples has been expanded.
11. Within the Disciplinary Policy and Procedure the section regarding *suspension* has been amended to reflect case law around the legality of suspension and when it is permissible.
12. The *Formal Hearing* section of both policies has been amended to provide an enhanced explanation of employee rights enabling the removal of the employee rights section of these policy documents, which was previously situated at the end of the policy documents and less visible to employees accessing the document.
13. The *sanctions* table has been amended in each policy document to remove the Second Written Warning Stage. This level of warning was very infrequently issued and represented an excessive stage to the process advocated by ACAS. In recognition of the removal of this formal stage the length of time over which a final written warning is live has been reduced from 18 months to 12 months. In order to enhance objectivity in this area, both policy documents require an Independent Head of Service to issue a dismissal sanction or sanction short of dismissal.
14. Time lines have been extended in each policy document enabling five working days for the organisation to send out written confirmation of formal sanctions, this is more practicable than previous deadlines.
15. A flow chart of both policy documents are provided at Appendices 1A and 1B to provide an overview of both procedures.

16. The Welfare Policy has been revised to operate as a *'go to' document* should an employee be experiencing difficult situations, inside or outside of work, and require support from their employer. In particular, the policy document seeks to support employees who are living or working with a chronic condition or serious illness affecting them individually or affecting their dependents.
17. References to flexible working arrangements such as job share and part time working have been removed from the policy, in light of its revised focus. The right to request Flexible Working is a statutory right for all employees with more than 26 weeks service and not an option only to be explored in a welfare situation. It should be noted that a future provision of a Flexible Working policy has been agreed to provide detail and guidance on the afore mentioned topics which have been removed from the current policy document.
18. The responsibilities regarding counselling arrangements have been revised to reflect reasonable professional boundaries and duties both for HR and line managers
19. Outdated or replicated sections have been removed from the policy document, namely redundancy counselling, a policy statement on AIDS and maternity exit interviews.
20. Additional sections have been added to the policy document such as Employee Assistance Programme, Role Specific Counselling Support, Time Off To Care For Dependents, Compassionate leave and Miscarriage, Still Birth and Neonatal Death.

Implications and Risk Assessment

21. The main risks and implications of the course of action proposed are around introducing a policy document that is unlawful and an overall failure to consult with employees reading proposed changes to their contractual terms of employment (as detailed within the afore mentioned conditions of service).
22. The HR team have worked to ensure that the policy documents comply with key legislation in this area and the ACAS Code of Practice.
23. A meaningful consultation process has been followed with regard to this issue and is detailed below.

Equalities Impact Assessment

24. Members are referred to the attached assessment at Appendix Four.

Consultation Planned or Undertaken

25. As the three policy documents form part of our Conditions of Services, these policies are contractual and therefore employees must be consulted regarding any proposed changes. Additionally as the proposed changes are significant they must be referred to by Cabinet and approved.

26. The HR Manager and HR Officers have facilitated twelve focus groups with employees, managers, staff-side JCC representatives and Unison executive.
27. During these focus groups discussions were held regarding;
- Positive elements of the policy or positive experiences related to the policy,
 - Negative elements to the policy or negative experiences caused by the policy,
 - Important procedural points to gain feedback on,
 - Changes in caselaw, HR or social trends to gain feedback on.
28. Feedback from these focus groups was collated and used by the HR Manager and HR Officers in the creation of the first drafts of the policy documents.
29. First drafts were submitted to the Unison executive who provided specific feedback that was discussed with the HR Manager.
30. Second drafts were created and sent to the Unison executive and, for the disciplinary and performance management policies, to the Unison full-time Regional Officer.
31. Feedback from Unison was discussed with the HR Manager and third drafts were created (Appendices 1-3).
32. The latest drafts of the three policy documents were provided to JCC for consideration on 26th April 2018.
33. Comments from the JCC were broadly supportive and included the following questions;
- a. TUPE transfer processes in relation to the terms and conditions relating to the Aspire staff. Changes to terms and conditions solely due to a TUPE transfer would arguably be unlawful and therefore are not proposed.
 - b. Counselling for staff who had been made redundant was not referred to in the Welfare policy; specific support in these circumstances is referenced and will be detailed with the relevant redundancy policy.
 - c. No detailed explanation about parental leave in the policy, but employees' rights under shared parental leave are covered in the Parental Leave policy.
 - d. Job share and part time working arrangements have been removed from the Welfare Policy but will feature in the soon to be revised Flexible Working policy.
34. Full details of these discussions can be reviewed in the minutes that are available from this meeting.

Other Options Considered

35. Other options available rather than proceed with the above detailed proposals are to either continue with the current policy documents or accept a first or second draft of the policy documents as presented to Unison.

36. The current policy documents are recognised by employees, managers and Unison as requiring an update; and a recent audit from the Mid Kent Audit Partnership concurred with this view point.

37. Earlier drafts of the proposed policy documents would not be acceptable to Unison.

Reasons for Supporting Option Recommended

38. The proposed policy documents have been produced following consultation across the organisation and specifically with Unison.

Next Steps in Process

39. If approved by Cabinet the policy documents will be amended within the Conditions of Service and communicated to employees.

Conclusion

40. The proposed policy documents have been produced following thorough consultation across the organisation and represent a transparent, fair and consistent set of procedures, supporting employees and the organisation equally.

Portfolio Holder's Views

41. A review has been carried out on the attached policy documents involving meaningful consultations with all appropriate bodies within our organisation. The aim is to ensure we continue to update ourselves to meet changing demands and needs of the organisation. I am grateful that all parties see the advantages of such changes to these areas.

Contact and Email

Joy Cross – HR Manager

joy.cross@ashford.gov.uk

01233 330 400



Disciplinary Policy and Procedure

1. Introduction

- 1.1 This policy and procedure has been agreed between Ashford Borough Council and the trade union recognised by the Council for collective bargaining and negotiation purposes, namely Unison.
- 1.2 The aim of this policy and procedure is to help and encourage all employees to achieve and maintain acceptable standards of conduct enabling the Council to function efficiently and effectively. The policy and procedure gives regard to the requirements of natural justice and ensuring that formal action is considered and applied fairly, consistently and equitably to all employees. It should not be viewed primarily as a means of imposing sanctions. It follows the general principles outlined in the revised ACAS code of practice on Disciplinary and Grievance procedures.
- 1.3 The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues.
- 1.4 Employees will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the sanction will normally be dismissal without notice and without pay in lieu of notice.
- 1.5 No disciplinary action for misconduct may be undertaken outside of this policy and procedure.
- 1.6 The Council recognises that, although it is not our intention, action taken in accordance with this policy can impact employees wellbeing. Employees and managers are encouraged to seek confidential support via their trade union representative (if a member) and/or the Council's Employee Assistance Programme provider, details are available from HR and the intranet.
- 1.7 Although normal disciplinary standards should apply to the conduct of Unison officials as employees, disciplinary action can be misconstrued as an attack on the union. In order to avoid such problems, formal disciplinary action should not be taken against a Unison representative until the circumstances of the case have been discussed with the Head of HR and Customer Services and Unison's full-time Regional Officer.

- 1.8 The Human Resources Manager should ensure that advice is appropriate and given by an appropriately experienced Human Resources professional
- 1.9 For specific issues of poor performance the Council's Performance Management Policy and Procedures must be followed.
- 1.10 Similarly, issues relating to ill-health should be dealt with under the Council's Sickness Policy.

2 Constitutional and Regulatory Procedure Rules Relating to Staff

- 2.1 The dismissal of or taking disciplinary action against the Head of Paid Service, Monitoring Officer or Section 151 Officer must follow The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and be in accordance with the General Procedure Rule of the Constitution relating to Disciplinary Action Against The Head Of The Authority's Paid Service, The Monitoring Officer, and/or The Chief Finance (151) Officer and with the full involvement of the Investigation & Disciplinary Committee.

3. Misconduct

- 3.1 Examples of misconduct that may lead to action under this procedure include, but are not limited to:

- refusal or deliberate failure to follow reasonable management instruction;
- breach of Council policies or procedures;
- use of abusive language/behaviour;
- discrimination, harassment or victimisation;
- persistent poor time keeping or unauthorised absence;
- misuse or careless use of Council equipment and / or facilities;
- insufficient regard for the safety of others;
- dishonesty;
- wilful misuse of information;

4. Gross Misconduct

- 4.1 Gross misconduct is misconduct of such nature that due to its seriousness or significant consequences, the Council cannot reasonably allow the continued presence of the employee at the place of work and may lead to summary dismissal (dismissal without notice) for a first offence.

- 4.2 Examples of actions likely to be treated as gross misconduct include, but are not limited to:

- theft or unauthorised possession of property belonging to the Council, members of the public or staff;
- fraud, deliberate falsification of records;
- corrupt practices;
- persistent or substantial failure to follow Council policies, procedures, regulations

- and documented processes;
- gross negligence or incompetence;
- submission of false references/information or failure to disclose relevant information when requested in connection with an application for appointment with the Council;
- disorderly or indecent conduct, fighting at work or threatening physical violence;
- drunkenness or use of or being under the influence of illegal drugs or alcohol on duty, including possession;
- non-negative test result for misused substances, illegal drugs or alcohol for employees in designated safety critical posts and within with cause investigations;
- deliberate damage to Council property or that of other agencies or employees;
- breaching statutory provisions which would render the Council or its employees liable to prosecution;
- serious breach of health and safety rules;
- serious breach of confidence/confidential information;
- serious or persistent acts of harassment and/or bullying;
- failure to act to prevent, or to incite, or actual acts of, discrimination.
- bringing the Council into disrepute.

5. Criminal Offences outside work

- 5.1 Criminal offences outside of work should not be treated as automatic reasons for dismissal, regardless of whether the offence has any relevance to the duties of the individual as an employee. Consideration will be given to what effect the charge or conviction has on the employee's suitability and ability to carry out their role and their relationship with the Council, work colleagues and customers.

6. Informal stage

- 6.1 Managers will make every effort to resolve minor cases of misconduct through informal discussions. Only where this fails to bring about the desired improvement or the act of misconduct is more serious should the matter be considered in accordance with the formal stages of this procedure.
- 6.2 If it becomes clear during the course of an informal discussion that the act of misconduct could be more serious, the manager should adjourn the meeting to consult a Human Resources professional with a view to undertaking a full investigation.
- 6.3 Managers must ensure that informal discussions are held with the objective of encouraging and helping the employee to improve. Where conduct is below the standard expected, a line manager should meet with the employee and have an informal discussion leading into a standard setting meeting. Further information regarding conducting standard setting meetings can be found on the Human Resources section of the intranet. At the meeting the employee should be given the opportunity to contribute fully and the following matters should be discussed and agreed:

- the areas of misconduct that are a cause for concern;
- any other circumstances to be taken into account e.g. personal issues or ill health;
- the expected standards of conduct;
- the ongoing support that will be made available i.e. advice, guidance and appropriate training;
- the improvement targets that will be set to determine that the required standard of conduct has been achieved;
- arrangements for the monitoring or assessment of improvements;
- the period for improvement and a date to review;
- that failure to reach and sustain the required standards may lead to formal action under this procedure.

6.4 A record of the points raised and actions arising from the standard setting meeting will be confirmed in writing to the employee in the form of a file note or letter and a copy will be placed on the employee's personal file.

7. Representation

7.1 Employees have the right to be accompanied by a workplace colleague or trade union official (if they are a member) at all stages of the formal procedure.

7.2 The right to be accompanied does not extend to the informal stages of this policy. At the informal stage issues may be best resolved directly by the employee and their manager. However an employee should be accompanied in the informal stage if associated meetings are held with more than one manager.

7.3 The right to be accompanied does not extend to the investigation stage of this policy. Managers must not allow an investigation into the facts surrounding a disciplinary case to extend into a disciplinary hearing. At the investigation stage all reasonable requests to be accompanied will be accommodated and investigating managers should offer the opportunity for employees to be accompanied when they consider it could be helpful to the investigation.

7.4 In the most serious cases employees may request a Unison full-time officer to attend (if they are a member). Disciplinary hearings will not be unduly delayed due to the non-availability of a representative. Any proposal to postpone a hearing to an alternative time due to non-availability of a representative must be both reasonable and the proposed time must not be more than ten working days after the date originally proposed.

7.5 The role of the representative is to support the employee in the preparation of their case. This may be in gathering information, providing moral support and asking questions on the employee's behalf. At a formal hearing the representative may either present the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing, or support the employee whilst s/he presents the case. The representative does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employer from explaining their case.

7.6 The statutory right to be accompanied applies specifically to hearings which could result in the administration of a formal warning, dismissal or other action short of a dismissal.

8. *Investigations*

8.1 Prior to any formal action being taken an investigation must be undertaken, appropriately supported by a Human Resources professional. Guidance on conducting investigations can be found on the Human Resources section of the intranet.

8.2 When an investigation is to be undertaken, the employee concerned should be notified at the earliest opportunity with sufficient detail so that the purpose of the investigation can be understood. A copy of this procedure should also be provided.

8.3 Where there are allegations of fraud the Head of HR and Customer Services and the Head of Audit Partnership must be informed before the employee or other witnesses are approached concerning the allegation.

8.4 Investigations will normally be carried out by the immediate line manager. However it may be necessary in more complex and serious cases of alleged misconduct or gross misconduct for the required investigation to be conducted by a more senior manager, or a manager who is as independent of the facts as possible.

8.5 The investigation should concentrate on establishing facts promptly before recollections fade and, where appropriate, obtain written statements from any available witnesses and collect any evidence. A record must be kept of all such evidence. The investigation must be conducted without undue delay and should normally have been completed within 28 days from the date when the issue is brought to the manager's attention.

8.6 Investigations will normally involve interviews with the employee concerned and any other relevant parties. In some instances it will be necessary to conduct multiple meetings with individuals.

8.7 Having investigated all the facts the investigating manager, with appropriate support from HR, should decide:

- a. that there is no case to answer;
- b. to arrange informal action;
- c. to arrange for the matter to be considered within a formal hearing.

Employees should be notified accordingly.

9. *Suspension*

9.1 In certain circumstances, for example, in cases involving gross misconduct, where an employee may impede an investigation or interfere with witnesses or evidence; or where it is considered there are risks to the Council's property or

responsibilities to other parties; consideration should be given to a period of suspension with pay whilst an unhindered investigation is conducted.

- 9.2 Such a suspension should only be imposed after careful consideration; be as brief as possible and should be reviewed to ensure it is not unnecessarily protracted. It should be made clear that the suspension is not considered a disciplinary action.
- 9.3 In such circumstances, managers should always consider alternatives to suspension for example: working from home; amended duties or temporary redeployment.
- 9.4 Suspension should not take place prior to an employee being able to first respond to the circumstances being investigated.
- 9.5 The authority to suspend an employee is with the relevant Head of Service in consultation with HR.

Formal Stage

10. Formal Hearings

- 10.1 Before a decision is reached or any disciplinary sanction issued there must be a disciplinary hearing at which the employee has the opportunity to state their case and to answer the allegations that have been made. Wherever possible the hearing should be arranged at a mutually convenient time. The employee must be advised of any rights under this procedure including the right to be accompanied.
- 10.2 Prior to the hearing the manager will prepare a written report which will be the management's statement of case. The report will give details of the areas of concern and the action which has been taken to rectify the shortcomings. The report will also include any supporting documentation.
- 10.3 The investigating manager, with appropriate support from HR, will write to the employee requiring them to attend a formal hearing. The letter will state precisely the purpose of the hearing, include the management's statement of case, names of any witnesses and remind the employee of their right to be accompanied by a workplace colleague or trade union official (where they are a member). The letter must state that the employee has the right to present evidence and bring witnesses to support their case and give the employee at least 7 days' notice of the hearing.
- 10.4 Employees should submit any documentation to the investigating manager and chair prior to, and where possible 3 working days in advance of, the hearing.
- 10.5 Details of proposed witnesses should be communicated to both parties in advance of the hearing. Witnesses should be used where relevant and should only be present at the hearing to give evidence and be questioned.

- 10.6 Wherever possible the chair should not have any detailed knowledge of the case so that they can hear the case impartially.
- 10.7 At the hearing the chair will invite both parties to present their case, call any witnesses and ask and answer any questions related to the disciplinary matter including information presented by witnesses. The employee will also have the opportunity to give any mitigating circumstances where appropriate. Further guidance regarding the format of formal hearings can be found on the Human Resources section of the intranet.
- 10.8 The chair will adjourn the meeting to consider the evidence that has been presented and, with appropriate support from HR, will determine what action needs to be taken. The hearing will be re-convened to inform the employee of their decision including details of the duration of any sanction and their right to appeal.

11. Sanctions

11.1 Within a formal hearing sanctions may be awarded as follows:

Stage	Description	Duration*	Chaired by
Level 1	First warning	6 months	Senior manager
Level 2	Final warning	12 Months	Head of Service
Level 3	Dismissal or other sanction short of dismissal		Independent Head of Service

*this indicates the duration that the warning will remain current for disciplinary purposes

- 11.2 The manager listed in the fourth column indicates the minimum level of authority to issue the warning shown in the second column. Managers more senior to those identified, including the Chief Executive and Directors may also issue the sanctions specified.
- 11.3 Depending upon the facts of the case any level of sanction may be issued i.e. a final warning does not always have to be issued following a first warning if the facts of the case warrant a higher level of sanction. If an employee's first misconduct is sufficiently serious, it may be appropriate to move directly to a final warning or dismissal.
- 11.4 All warnings should be confirmed in writing within 5 working days of the hearing and set out the nature of the misconduct and the change in behaviour or improvement in conduct required (with timescale). The chair should make recommendations for any necessary training and support to be agreed and implemented by the line manager and employee. The employee should be informed how long the warning will remain current, the consequences of further misconduct, or failure to improve, within the set period together with information on the right of appeal.
- 11.5 At the end of the period, if there have been no further substantiated complaints, written records of previous warnings will be deemed to have lapsed and will be

disregarded for disciplinary purposes.

- 11.6 Where there is a failure to improve or change behaviour within the duration of a prior warning the employee will be required to attend a further hearing in accordance with this procedure.
- 11.7 In cases of gross misconduct or where an employee's conduct has failed to improve the final step might be dismissal or another sanction short of dismissal such as disciplinary transfer, demotion or loss of seniority. This should be confirmed in writing within 5 working days and set out the reasons for dismissal, the date on which the employee's contract terminates, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal.

12. Appeals

- 12.1 Individuals may appeal against any form of formal disciplinary action, but must do so in writing, within 21 days of the date of the letter confirming the outcome. Letters of appeal should be sent to the Head of HR and Customer Services, stating clearly the grounds for appeal. Appellants must be advised to consult with their trade union (if a member) or workplace colleague.
- 12.2 Individuals may choose to raise appeals on a number of grounds which could include the perceived unfairness of the judgement, the severity of the penalty, new evidence coming to light or procedural irregularities.
- 12.3 Appeals against warnings will be chaired by an independent Head of Service and wherever possible the manager hearing the appeal will not have been previously involved in the case.
- 12.4 Appeals will be heard without unreasonable delay and normally within one month of the original hearing. The employee should receive written confirmation of the arrangements at least 7 days in advance of the hearing.
- 12.5 Employees should submit any documentation to the chair prior to, and where possible 3 working days in advance of, the hearing.
- 12.6 Witnesses should be used where relevant and should only be present at the appeal hearing to give evidence and be questioned. Details of proposed witnesses should be communicated to both parties in advance of the hearing.
- 12.7 At the hearing the chair will invite both parties to present their case, call any witnesses and ask and answer any questions related to the disciplinary matter including information presented by witnesses. Further guidance regarding the format of formal hearings can be found on the Human Resources section of the intranet.
- 12.8 The chair will adjourn the meeting to consider the appeal evidence that has been presented and, with appropriate support from HR, will determine what action needs to be taken. The hearing will be re-convened to inform the employee of their decision.

12.9 In cases of dismissal or other sanctions short of dismissal where the appeal is to be heard by the Appeals Committee, a meeting of the Appeals Committee will be arranged in accordance with the Council's normal procedure as soon as is practicable. Further information regarding the Appeals Committee can be found on the Human Resources section of the intranet.

13. Formal Records

13.1 Records must be kept detailing the nature of any breach of disciplinary rules or unsatisfactory conduct, the employee's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records should be kept confidential and retained in accordance with the disciplinary procedure and the General Data Protection Regulations.

13.2 Copies of any meeting records should be given to the individual concerned in a timely manner although in certain circumstances some information may be withheld, for example to protect a witness.

13.3 Formal warnings will be recorded on an individual's personal file on the basis of the following:

- First 6 months
- Final 12 months

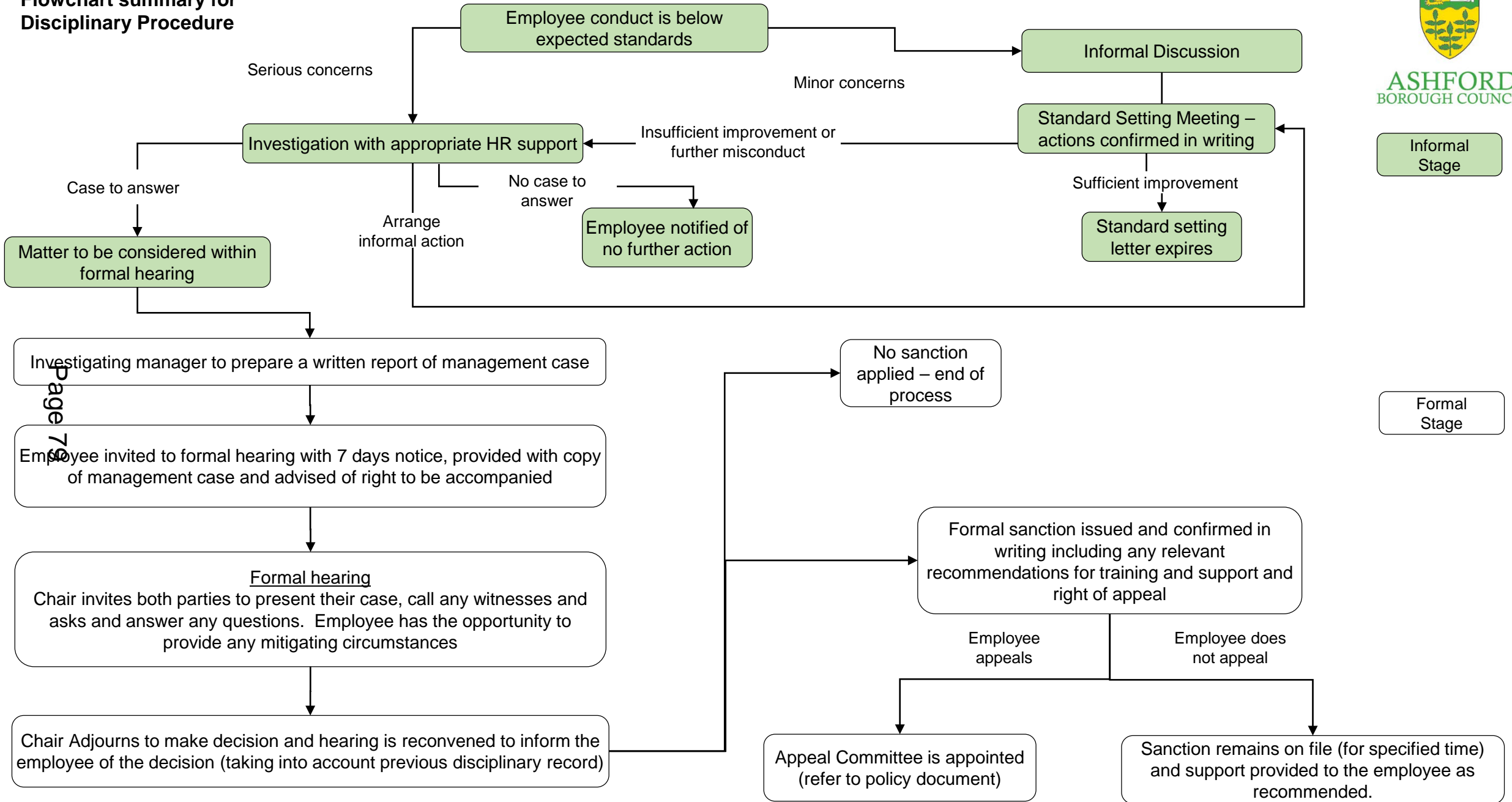
13.4 At the end of the period, if there have been no further substantiated complaints against the staff, written records of previous warnings will be deemed to have lapsed and will be disregarded for the purposes of this policy.

Reviewed April 2018

Flowchart summary for Disciplinary Procedure



ASHFORD
BOROUGH COUNCIL





Performance Management Policy and Procedure

1 Introduction

- 1.1 This policy and procedure has been agreed between Ashford Borough Council and the trade union recognised by the Council for collective bargaining and negotiation purposes, namely Unison.
- 1.2 The purpose of this policy and procedure is to help and encourage all employees to achieve and maintain acceptable standards of work performance enabling the Council to function efficiently and effectively. The policy and procedure give regard to the requirements of natural justice and ensuring that formal action is considered and applied fairly, consistently and equitably to all employees. It should not be viewed primarily as a means of imposing sanctions. It follows the general principles outlined in the revised ACAS code of practice on Disciplinary and Grievance procedures.
- 1.3 Employees have a contractual responsibility to perform to a satisfactory level and should be given help and encouragement to do so. Whilst staff may underperform for a number of reasons, it is also necessary for the Council to recognise its responsibilities towards the rest of the team and the impact that an underperforming individual has on their colleagues' wellbeing and the effectiveness of their work outputs.
- 1.4 Managers have a responsibility for setting and monitoring realistic standards of performance and for providing guidance and support regarding these standards.
- 1.5 The formal measurement of performance standards is ordinarily achieved through the Council's appraisal process but can take place via other agreed methodologies.
- 1.6 Where employees are not meeting the expected standards, action should be taken in accordance with this procedure.
- 1.7 This procedure does not apply to inadequate performance believed to be attributable to a wilful disinclination by the employee to carry out their duties efficiently or effectively. This should be dealt with through the Council's Disciplinary Policy and Procedure.
- 1.8 Similarly, issues relating to ill-health should be dealt with under the Council's Sickness Policy.

- 1.9 An employee should not be dismissed because of a failure to perform to the required standard unless warnings and an opportunity to improve together with reasonable targets and timescales have been given. However, where an employee commits a single error due to negligence or incompetence and the actual or potential consequences of that error are, or could be, extremely serious and amount to gross misconduct, procedural warnings may not be appropriate. In such circumstances action may be taken in accordance with the Council's Disciplinary Policy and Procedure.
- 1.10 The Council recognises that, although it is not our intention, action taken in accordance with this policy can impact on employee wellbeing. Employees and managers are encouraged to seek confidential support via their trade union representative (if a member) and/or the Council's Employee Assistance Programme provider, details are available from HR and the intranet.
- 1.11 Although normal disciplinary standards should apply to the conduct of Unison officials as employees, disciplinary action can be misconstrued as an attack on the union. In order to avoid such problems, formal disciplinary action should not be taken against a Unison representative until the circumstances of the case have been discussed with the Head of HR and Customer Services and Unison's full-time Regional Officer.
- 1.12 No formal action for poor performance may be undertaken outside of this policy and procedure.
- 1.13 The Human Resources Manager should ensure that advice is appropriate and given by an appropriately experienced Human Resources professional.

2 Constitutional and Regulatory Procedure Rules Relating to Staff

- 2.1 The dismissal of or taking disciplinary action against the Head of Paid Service, Monitoring Officer or Section 151 Officer must follow The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and be in accordance with the General Procedure Rule of the Constitution relating to Disciplinary Action Against The Head Of The Authority's Paid Service, The Monitoring Officer, and/or The Chief Finance (151) Officer and with the full involvement of the Investigation & Disciplinary Committee.

3 Informal Stage

- 3.1 When a performance issue is identified, it is essential that it is raised informally so that additional support or training needs can be identified.
- 3.2 When an employee's performance falls below the standard expected, line managers should meet with the employee and have an informal discussion leading into a standard setting meeting. Further information regarding conducting standard setting meetings can be found on the Human Resources section of the intranet. At the meeting the employee should be given the opportunity to contribute fully and the following matters should be discussed and agreed:

- the areas of performance that are a cause for concern;
- any other circumstances to be taken into account e.g. personal issues or ill health, change of job standards, poor induction, lack of training etc;
- the expected standards of performance;
- the ongoing support that will be made available i.e. advice, guidance and appropriate training;
- the improvement targets that will be set to determine that the required standard of performance has been achieved;
- arrangements for the monitoring or assessment of improvements;
- the period for improvement and a date to review;
- that failure to reach and sustain the required standards may lead to formal action under the procedure.

3.3 A record of the points raised and actions arising from the standard setting meeting will be confirmed in writing to the employee in the form of a file note or letter and a copy will be placed on the employee's personal file.

3.4 The period set for reviewing performance needs to be sufficiently long to allow for improvement, depending on the area of performance, training required, etc. but should normally be for a maximum of 3 months. The length of the review period should also take into consideration employee's individual circumstances such as length of service, health, previous performance and changes in the workplace.

3.5 Throughout the period for improvement regular meetings should take place between the line manager and employee. At the end of the period a review meeting should take place to assess the level of improvement that the employee has made. Possible outcomes include:

Improvement level	Action
Sufficient improvement achieved	Procedure ceases (some monitoring continues i.e. appraisals and one-to-ones)
Some improvement	Consider extending improvement target date
Insufficient or no improvement	Consider formal stage

4 Representation

4.1 Employees have the right to be accompanied by a workplace colleague or trade union official (if they are a member) at all stages of the formal procedure.

4.2 The right to be accompanied does not extend to the informal stages of this policy. At the informal stage issues may be best resolved directly by the employee and their manager. However an employee should be accompanied in the informal stage if associated meetings are held with more than one manager.

4.3 The right to be accompanied does not extend to the investigation stage of this policy. Managers must not allow an investigation into the facts surrounding a disciplinary case to extend into a disciplinary hearing. At the investigation stage all reasonable requests to be accompanied will be accommodated and

investigating managers should offer the opportunity for employees to be accompanied when they consider it could be helpful to the investigation.

- 4.4 In the most serious cases employees may request a Unison full-time officer to attend (if they are a member). Disciplinary hearings will not be unduly delayed due to the non-availability of a representative. Any proposal to postpone a hearing to an alternative time due to non-availability of a representative must be both reasonable and the proposed time must not be more than ten working days after the date originally proposed.
- 4.5 The role of the representative is to support the employee in the preparation of their case. This may be in gathering information, providing moral support and asking questions on the employee's behalf. At a formal hearing the representative may either present the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing, or support the employee whilst s/he presents the case. The representative does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employer from explaining their case.
- 4.6 The statutory right to be accompanied applies specifically to hearings which could result in the administration of a formal warning, dismissal or other action short of a dismissal (e.g. suspension without pay, demotion, etc.) or confirmation of a warning issued.

5 Investigations

- 5.1 Prior to any formal action being taken an appropriate investigation must be undertaken, appropriately supported by a Human Resources professional. Guidance on conducting investigations can be found on the Human Resources section of the intranet.
- 5.2 The investigation should consider all of the evidence available including the actions that have been taken in accordance with the informal stage of this procedure.
- 5.3 When an investigation is to be undertaken, the employee concerned should be notified at the earliest opportunity with sufficient detail so that the purpose of the investigation can be understood. A copy of this procedure should also be provided.
- 5.4 Investigations will normally be carried out by the immediate line manager, however it may be necessary in more complex and serious cases of alleged poor performance for the required investigation to be conducted by a more senior manager or a manager who is as independent of the facts as necessary.
- 5.5 The investigation should concentrate on establishing facts and be conducted without undue delay and should normally have been completed within 28 days from the date when the employee concerned is notified.

- 5.6 Having investigated all the facts the investigating manager, with appropriate support from HR, should decide;
- a. that there is no case to answer;
 - b. to arrange informal action;
 - c. to arrange for the matter to be considered within a formal hearing.
- Employees should be notified accordingly.

Formal Stage

6 Formal hearings

- 6.1 Where an investigation finds that an employee has failed to improve their performance to the standard required then the employee will be required to attend a formal hearing to establish as comprehensively as possible:
- The nature of the unsatisfactory performance and the effect in the workplace.
 - The steps being taken to rectify the situation, their likely duration, and further options including alternative duties.
 - Any other circumstances to be taken into account e.g. personal issues, ill health, change of job standards, lack of training, poor induction etc.
- 6.2 The investigating manager, with appropriate support from HR, will write to the employee requiring them to attend a formal hearing. The letter will state precisely the purpose of the hearing, include the management's statement of case, names of any witnesses that will be called and remind the employee of their right to be accompanied by a workplace colleague or trade union official (if they are a member). The letter must state that the employee has the right to present evidence and bring witnesses to support their case and give the employee at least 7 day's notice of the hearing.
- 6.3 Employees should submit any documentation to the investigating manager and chair prior to, and where possible 3 working days in advance of, the hearing.
- 6.4 Details of proposed witnesses should be communicated to both parties in advance of the hearing. Witnesses should be used where relevant and should only be present at the hearing to give evidence and be questioned.
- 6.5 Wherever possible the chair should not have any detailed knowledge of the case so that they can hear the case impartially.
- 6.6 At the hearing the chair will invite both parties to present their case, call any witnesses and ask and answer any questions related to the disciplinary matter including information presented by witnesses. The employee will also have the opportunity to give any mitigating circumstances where appropriate. Further guidance regarding the format of formal hearings can be found on the Human Resources section of the intranet.
- 6.7 The chair will adjourn the meeting to consider the evidence that has been presented and, with appropriate support from HR, will determine what action

needs to be taken. The hearing will be re-convened to inform the employee of their decision including details of the duration of any sanction and their right to appeal.

7 Sanctions

7.1 Within a formal hearing sanctions may be awarded as follows:

Stage	Description	Duration*	Chaired by
Level 1	First warning	6 months	Senior manager
Level 2	Final warning	12 months	Head of Service
Level 3	Dismissal or other sanction short of dismissal		Independent Head of Service

*this indicates the duration that the warning will remain current

7.2 The manager listed in the fourth column indicates the minimum level of authority to issue the warning shown in the second column. Managers more senior to those identified, including the Chief Executive and Directors may issue the sanctions specified.

7.3 Depending upon the facts of the case any level of sanction may be issued i.e. a first warning does not always have to be issued prior to a final warning if the facts of the case warrant a higher level of sanction. If an employee's poor performance is sufficiently serious, it may be appropriate to move directly to a final warning or dismissal.

7.4 All warnings should be confirmed in writing within 5 working days of the hearing and set out the nature of the poor performance and the change in behaviour or improvement in performance required (with timescale). The employee should be informed how long the warning will remain current, the consequences of further poor performance, or failure to improve, within the set period together with information on the right of appeal.

7.5 At the end of the period, if there have been no further substantiated complaints, written records of the warning will be deemed to have lapsed and disregarded for the purposes of this Policy and Procedure.

7.6 Where there is a failure to improve performance within the duration of a prior warning the employee will be required to attend a further hearing in accordance with this procedure.

7.7 Where an employee's performance has failed to improve an appropriate sanction may be dismissal or another sanction short of dismissal such as transfer, demotion or loss of seniority. This should be confirmed in writing within 5 working days and set out the reasons for dismissal, the date on which the employee's contract terminates, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal.

- 7.8 Where a first written warning or final written warning has been issued an accompanying Performance Improvement Plan will be issued to the employee and the manager outlining the levels of support and training that the manager is expected to provide and the levels of performance that the employee is expected to achieve within a reasonable timeframe, for example three months. Should the employee not achieve the expected levels of performance within the agreed period the employee will be required to attend a further hearing in accordance with the procedure. For further details on Performance Improvement Plans please see the HR section of the intranet.
- 7.9 At any point during the formal procedure, if management considers that it would be appropriate to do so they may discuss the option of alternative employment with the employee. Additionally and only as an alternative to dismissal the employee may be formally offered alternative employment; this should be done in writing explaining why the offer is being made and the consequences should the employee refuse to accept.

8 Appeals

- 8.1 Individuals may appeal against any form of formal disciplinary action, but must do so in writing, within 21 days of the date of the letter confirming the outcome. Letters of appeal should be sent to the Head of HR and Customer Services, stating clearly the grounds for appeal. HR will advise appellants to consult with their trade union (if a member).
- 8.2 Individuals may choose to raise appeals on a number of grounds which could include the perceived unfairness of the judgement, the severity of the penalty, new evidence coming to light or procedural irregularities.
- 8.3 Appeals against warnings will be chaired by an independent Head of Service and wherever possible the manager hearing the appeal will not have been previously involved in the case.
- 8.4 Appeals will be heard without unreasonable delay and normally within one month of the original hearing. The employee should receive written confirmation of the arrangements at least 7 days in advance of the hearing.
- 8.5 Employees should submit any documentation to the chair prior to, and where possible 3 working days in advance of, the hearing.
- 8.6 Details of proposed witnesses should be communicated to both parties in advance of the hearing. Witnesses should be used where relevant and should only be present at the appeal hearing to give evidence and be questioned.
- 8.7 At the hearing the chair will invite both parties to present their case, call any witnesses and ask and answer any questions related to the disciplinary matter including information presented by witnesses. Further guidance regarding the format of formal hearings can be found on the Human Resources section of the intranet.

- 8.8 The chair will adjourn the meeting to consider the appeal evidence that has been presented and, with appropriate support from HR, will determine what action needs to be taken. The hearing will be re-convened to inform the employee of their decision.
- 8.9 In cases of dismissal or other sanctions short of dismissal where the appeal is to be heard by the Appeals Committee, a meeting of the Appeals Committee will be arranged in accordance with the Council's normal procedure as soon as is practicable. Further information regarding the Appeals Committee can be found on the Human Resources section of the intranet

9. Formal Records

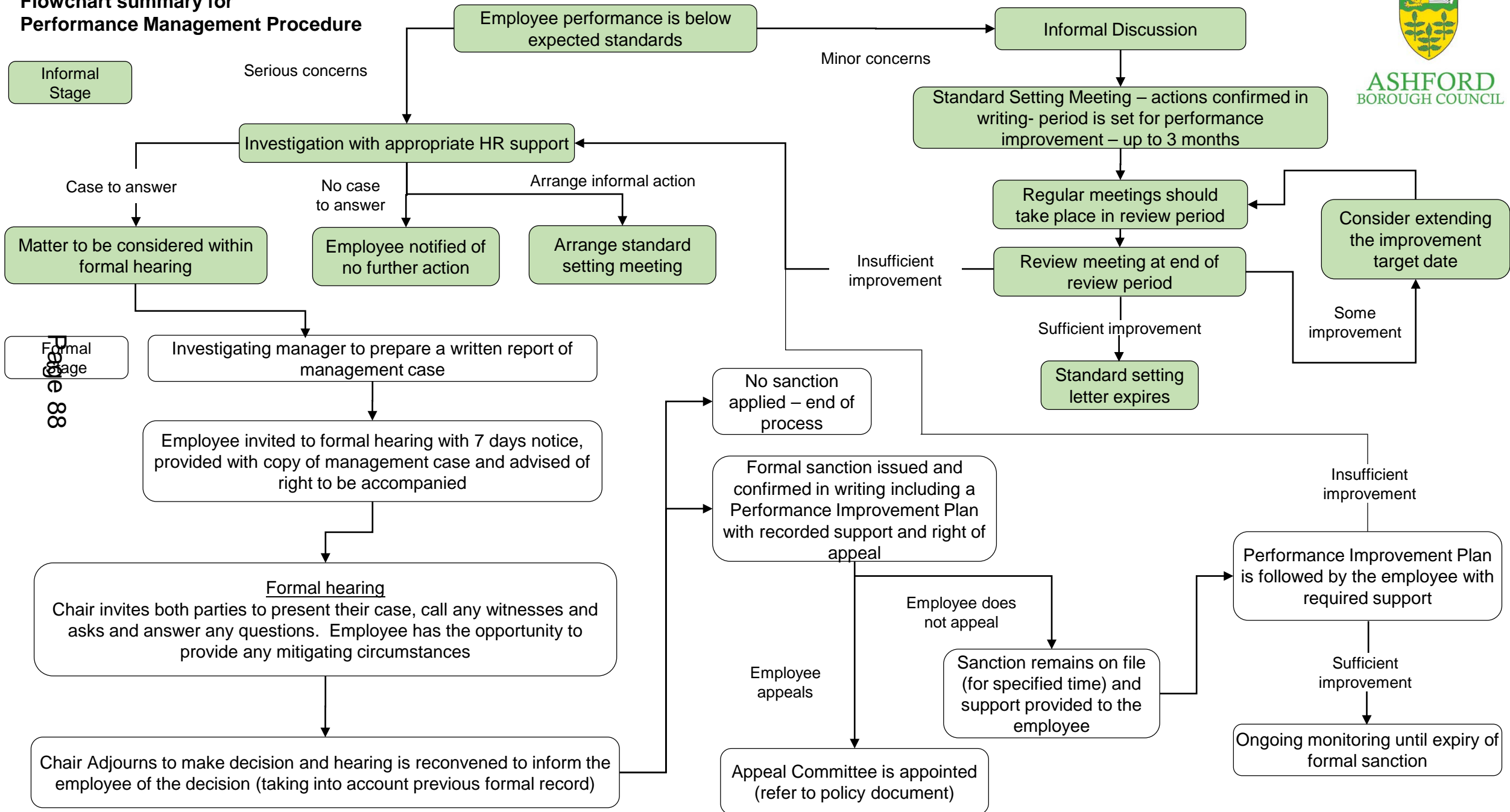
- 8.10 Formal records must be kept detailing the nature of any breach of organisational rules or unsatisfactory performance, the employee's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records should be kept confidential and retained in accordance with the disciplinary procedure and the General Data Protection Regulations.
- 8.11 Copies of any meeting records should be given to the individual concerned in a timely manner although in certain circumstances some information may be withheld, for example to protect a witness.
- 8.12 Formal warnings will be recorded on an individual's personal file on the basis of the following:
- First 6 months
 - Final 12 months
- 8.13 At the end of the period, if there have been no further substantiated complaints against the staff, written records of previous warnings will be deemed to have lapsed and will be disregarded for the purposes of this policy.

Reviewed April 2018

Flowchart summary for Performance Management Procedure



ASHFORD
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Welfare Support for Employees

Introduction

The Council recognises that at times all employees can experience situations when life and work can be difficult and wishes to provide appropriate support to employees during tough periods. In particular the Council would like to support employees who are living and/or working with a chronic condition or serious illness, affecting them individually or affecting their dependents.

This policy document highlights the numerous welfare provisions which the Council offers to its employees to assist them practically, emotionally and psychologically.

It should be noted that the Council takes its duty of care as an employer seriously and this is also reflected within the health and safety provisions made for employees.

Compassionate Leave

There may be circumstances when a member of staff requires leave of absence on an unplanned or unexpected basis such as bereavement or sudden/serious medical emergency involving a close relative or partner.

Where the provisions of the policies relating to parental leave and time off for dependents are not applicable, the employee may submit a request to their Head of Service via their manager.

Heads of Service have the discretion to grant up to five days paid Compassionate Leave; any leave granted in addition to this will be dependent upon the circumstances and may be paid or unpaid. Decision are made on the merits of the employee's circumstances, including any religious or cultural needs. Where Compassionate Leave is not granted an employee can request that the Head Of HR and Customer Services review the decision taken by the relevant Head Of Service to ensure that discretion has been applied fairly and consistently; there is not a formal appeal process in this regard.

Counselling Support – Line Managers

All line managers are responsible for supporting their employee's health, safety and welfare whilst they are at work. Supportive managers will have an appropriate level of understanding regarding any challenges that an employee is experiencing, inside and outside of work, in order to reasonably support them.

Sometimes it is clear when there is something wrong but it is not always obvious. These are a few examples of when a line manager needs to be alert for possible problems:

- uncharacteristic behaviour;
- frequent absences;
- deterioration in performance;
- loss of confidence;
- persistent lateness;
- undue stress or anxiety;
- self neglect.

It is important to note that counselling support is a professional area and one which, in the main, most line managers are not qualified to provide. Instead the role of a line manager is to recognise when an employee may be having a tough time inside or outside of work, handle this matter sensitively and confidentially, seek advice and guidance from HR and/or signpost the employee to the Council's employee assistance programme.

Counselling Support – HR Support

HR professionals are experienced in listening to and understanding a situation in a confidential and compassionate manner. HR will provide specific support to line managers and employees and this may involve welfare discussions, guidance regarding applicable policies and procedures and signposting to our Employee Assistance Programme. HR are also able to signpost individuals to appropriate external organisations for additional support. e.g. Alzheimer's Society, Relate, Cruse & Age UK.

Employee Assistance Programme

The Council offers a confidential and comprehensive employee assistance programme to its employees. Employees can access information and counselling over the telephone and face to face to gain advice and support in times of difficulty. Full information regarding the provisions of the Council's employee assistance services can be found on the HR section of the intranet.

Role Specific Counselling Support

It is the responsibility of the manager to recognise when an employee may be affected by a particular event or the nature of their ongoing work and to discuss this matter with HR in order to determine appropriate support.

In some circumstances the Council will consider the provision of role specific counselling support on an ongoing basis to provide the employee with regular, specific support.

Time off to Care for Dependents

Employees are entitled to take unpaid time off work to care for dependents. There is no service qualification.

Dependents

- A dependent is the partner, child or parent of the employee or someone who lives with the employee as part of their family
- It does not include tenants or lodgers living in the family home or someone who lives in the household as an employee, for example, a live-in housekeeper.
- In cases of illness, injury or where care arrangements break down, a dependent may also be someone who reasonably relies on the employee for assistance.
- This may be where the employee is the primary carer or is the only person who can help in an emergency.

Relevant Circumstances

An employee is entitled to take a reasonable amount of time off work during their normal working hours in order to take action which is necessary:-

- to provide assistance on an occasion when a dependent falls ill, gives birth, or is injured or assaulted
- to make arrangements for the provision of care for a dependent who is ill or injured
- in consequence of the death of a dependent to make arrangements for a funeral or attend a funeral
- because of an unexpected disruption or termination of arrangements for the care of a dependent
- to deal with an incident which involves the child of the member of staff and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for them

Time Off

There is no set limit to the amount of time off which can be taken. In most cases, the amount of leave will be one or two days at the most, but this will depend on the individual circumstances, although an employee may be able to take a longer period of leave under other arrangements such as paternity leave or parental leave. Annual leave may also been used under certain circumstances to help out.

Notice

The employee should advise their manager of their absence as soon as practically possible, explaining the circumstances and the expected duration of time away from work.

Redundancy Support

Where an employee is to leave the Council for reason of redundancy, the Council will provide tailored support to the employee.

Ill health retirement

In cases of long-term sickness, eligible employees may be assessed as to whether they meet the criteria for ill health retirement under the Local Government Pension Scheme.

Full details can be found in the Sickness & Attendance Management Policy.

Miscarriage, stillbirth & neonatal death: rights and support for parents who have suffered the loss of a baby before, during or shortly after birth

Miscarriage

If a baby is stillborn before the end of the 24th week of pregnancy it is treated as a miscarriage and the employee cannot qualify for Maternity Leave or pay.

Requests for Compassionate Leave will be sensitively considered.

Where the employee is not medically fit for work their absence is treated as sickness absence and the terms of the Sickness & Attendance Management policy will apply.

Stillbirth

If a baby is stillborn after the end of the 24th week of pregnancy an employee is entitled to Maternity Leave and any maternity pay that they qualify for. Maternity Leave will commence with effect from the day after the date of stillbirth, as stated on the certificate of stillbirth issued by a medical professional.

The partner will also be entitled to paternity leave and pay if they meet the normal qualifying conditions.

Shared Parental Leave

If either parent had already given notice to take shared parental leave they may still take the leave that has been booked.

Neonatal Death

A neonatal death is where a baby passes away within the first 28 days of their life. If Maternity Leave had not already commenced it will do so with effect from the day after the baby was born.

Death in service: Support for dependents

In the event that an employee dies whilst employed by the Council, support will be offered to their immediate family.

HR will make contact with their next of kin to express condolences and to ascertain the nature of support required.

HR will also ensure that the next of kin are aware of their entitlements under the Local Government Pension Scheme, and will make the initial contact with Kent County Council on their behalf.

Confidentiality

All information about an employee's welfare is confidential and must be treated with sensitivity. Everyone involved in supporting the employee has a responsibility to maintain confidentiality.

Reviewed April 2018

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Joy Cross – HR Manager
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Revised personnel policy documents which form part of the conditions of service.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	April 2018
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	Proposed new policy documents for Disciplinary, Performance Management and Welfare Support which will be applicable to all Ashford Borough Council Employees
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	12 focus groups, caselaw research, best practice guidance, consultation with employees, managers, Unison and staff side. Negotiation with Unison involving their regional office.
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Consultation was undertaken as detailed above which resulted in three drafts of the proposed policies being produced and discussed.</p> <p>The policy documents comply with UK employment law and one policy document aims to support employees experiencing physical or mental ill health.</p>

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	None	Neutral
Middle age	None	Neutral
Young adult	None	Neutral
Children	None	Neutral
<u>DISABILITY</u> Physical	None	Neutral
Mental	None	Neutral
Sensory	None	Neutral
<u>GENDER RE- ASSIGNMENT</u>	None	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Neutral
<u>PREGNANCY/MATERNITY</u>	None	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral
Women	None	Neutral
<u>SEXUAL ORIENTATION</u>	None	Neutral

Mitigating negative impact:

Where any negative impact has been identified, outline the measures taken to mitigate against it.

n/a

Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC’s [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	n/a
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	n/a
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	n/a

<p>Conclusion:</p> <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Due regard has been paid to equality through the drafting of documentation by qualified HR professionals trained in equality issues and review of relevant employment case law.</p> <p>Via consultation with affected employees.</p> <p><i>The council’s revised policy register will assist services to meet this</i></p>
<p>EIA completion date:</p>	<p>10.04.18</p>

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Agenda Item No: 11
Report To: Cabinet
Date of Meeting: 12 July 2018
Report Title: S106 funding at Chilham Recreation Ground
Report Author & Job Title: Amanda Scott, Play and Open Spaces Project Officer
Portfolio Holder Cllr. Mike Bennett
Portfolio Holder for: Culture, Leisure, Environment and Heritage

Summary: Chilham Parish Council have submitted a funding application for the use of S106 funds from local development for improvement works at Chilham Recreation Ground and Old Wives Lees Recreation Ground.

Key Decision: NO

Significantly Affected Wards: Chilham

Recommendations: **The Cabinet is recommended to:-**

- I. Agree the release of S106 funding to support the local community of Chilham and Old Wives Lees for improvement works that are compatible with the relevant Borough strategies.**
- II. Agree that a funding agreement is implemented between Ashford Borough Council and Chilham Parish Council to ensure the funds are used appropriately.**

Policy Overview:

Financial Implications: The release of £185,871.74 to Chilham Parish Council in S106 funding collected by the Borough Council from the former Chilham Saw Mill development (Ref 12/00052/AS) for improvement works to Chilham and Old Wives Lees Recreation Grounds

Legal Implications Funding agreement with Chilham Parish Council to administer the agreed S106 funds.

Equalities Impact Assessment See Attached

Other Material Implications: Continued monitoring of the improvement works and funding agreement by Borough Council officers.

Exempt from Publication: **NO**

Background Papers: **None**

Contact: amanda.scott@ashford.gov.uk – Tel: (01233) 330393 or len.mayatt@ashford.gov.uk – Tel: (01233) 330490

Report Title: S106 funding at Chilham Recreation Ground

Introduction and Background

1. S106 funding has been collected by the Borough Council from the former Chilham Saw Mill Development (Ref: 12/00052/AS) and is available for improvement works to Chilham and Old Wives Lees Recreation Grounds.
2. Chilham Recreation Ground, owned and run by Chilham Recreation Ground Trust (CRGT), has one football pitch, children's play area, car parking and tennis club with 2 courts. The tennis club has a programme of free training to local school children and open days to encourage further use of the facilities and support the local community. Old Wives Lees, owned and run by Chilham Parish Council, has an open space and play area.
3. Local consultation and analysis of facility conditions has been undertaken by the Parish Council and CRGT which resulted in a programme of works with costings being identified to improve the local facilities.
4. The ward member for Chilham, Cllr Stephen Dehnel has been consulted on the improvement proposals and is in support of distributing the S106 monies to fund this work.

Proposal/Current Position

5. The S106 obligations from the former Chilham Saw Mill development set out the following contributions which have now been collected from the developer.

Sport - £97,834.67

Play and Young People - £53,244.27

Informal/Natural Open Space - £34,812.80

The S106 obligations state the funding be spent on provisions in the rural areas.

6. Chilham Parish Council have applied to the Borough Council to spend the S106 contributions on the improvement works at Chilham Recreation Ground and Old Wives Lees Recreation Ground. Chilham Recreation Ground is the only area of publically accessible open space available to the local community of Chilham village. CRGT and Chilham Parish Council have sourced three quotations for each element of the improvement works.
7. It is proposed that the S106 contributions are spent in the following way:
Sport (Chilham Recreation Ground)
Pitch drainage works - £7,901
Supply and install a new Multi Use Games Area - £47,650
Creation of a 3rd tennis court - £58,512
Total - £114,063

Play and Young People

Chilham Recreation Ground – Relocation and upgrade of play area - £42,500

Old Wives Lees Play Area – Replace safety surfacing - £12,000

Total – £54,500

Informal/Natural Open Space (Chilham Recreation Ground)

New tarmac pathway to improve accessibility around the site - £15,650

Resurface car park - £4,240

New site furniture - £3,849

A new container for grounds maintenance equipment - £2,910

A replacement tractor for grass cutting and pitch maintenance - £8,500

Total - £35,149

8. Further funding has been obtained by Chilham Parish Council and CRGT from the Lawn Tennis Association and the Ward Members devolved budget to ensure the total amount required is available to fully complete the improvement works.
9. Chilham Parish Council and CRGT have agreed to a Funding Agreement with the Borough Council that will set out the terms and conditions for spending the contributions. Borough Council officers will undertake ongoing monitoring to ensure compliance with that agreement.
10. The proposed works are compatible with the Borough Council's adopted playing pitch and open space strategies (which incorporates play provision).
11. The improvements will benefit all members of the local community in Chilham and families in Old Wives Lees and encourage further participation in health and wellbeing activities.
12. The Approval to Spend S106 Monies form has been submitted to the S106 working group. In agreement with distributing the funds to these improvement works, the form has been signed off by representatives of Legal Services and Planning & Development, the Head of Culture and the Ward Member.

Implications and Risk Assessment

13. A key risk is cost of works increasing due to unforeseen circumstances. This risk has been mitigated by the Parish Council obtaining quotes from reputable experienced contractors.

Equalities Impact Assessment

14. Members are referred to the attached Assessment. The key issues arising are that the improvements to the children's play area and pathways/car parking will improve access for people with limited mobility to be able to enjoy the open space and facilities.

Consultation Planned or Undertaken

15. Consultation took place with the local community and ward member which highlighted the need for the works identified to be implemented.

Other Options Considered

16. There are no other requirements for capital improvement works on public open space within the ward of Chilham or Old Wives Lees.

Reasons for Supporting Option Recommended

17. Were the Borough Council not to recommend the release of the S106 funds to the Parish Council, the improvement works would be severely diminished in scope and the S106 funds would be required to be paid back to the developer.
18. By supporting this recommendation the Borough Council ensures the use of the S106 monies for appropriate improvement works that will benefit the local community and improve opportunities for a healthy and active lifestyle.

Next Steps in Process

19. Set up a Funding Agreement through the Borough Council's legal department.
20. Arrangement for payment of funds to Chilham Parish Council.
21. Ongoing monitoring of improvement works by officers in Culture to ensure compliance with the Funding Agreement.

Conclusion

22. Chilham Parish Council and CRGT's plans are a fantastic opportunity to make significant improvements to the public open space offer provided to the local community. These works will further encourage participation in health and wellbeing activities and use of the local facilities.

Portfolio Holder's Views

23. Working in partnership with Chilham Parish Council demonstrates Ashford Borough Council's commitment to relationship working with the rural villages to engender strong attractive communities in the Ashford Borough. I fully support the approach offered by this report and recommend the Council accepts the recommendations herein

Cllr Mike Bennett

Contact and Email

24. Amanda Scott, Play and Open Spaces Project Officer
amanda.scott@ashford.gov.uk – Tel: (01233) 330393
25. Len Mayatt, Cultural Projects Manager len.mayatt@ashford.gov.uk – Tel:
(01233) 330490
26. Christina Fuller, Head of Culture Christina.fuller@ashford.gov.uk – Tel:
(01233) 330474

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Amanda Scott
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 th July 2018
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<ul style="list-style-type: none"> • Agree the release of S106 funding to support the local community of Chilham and Old Wives Lees for improvement works that are compatible with the relevant Borough strategies. • Works to be completed: Chilham Recreation Ground, pitch drainage works, supply and install a new Multi Use Games Area, creation of a 3rd tennis court, relocation and upgrade of play area, new tarmac pathway to improve accessibility around the site, resurface car park, new site furniture, a new container for grounds maintenance equipment, a replacement tractor for grass cutting and pitch maintenance Old Wives Lees Recreation Ground: replacement play area safety surfacing • Works will affect all users of both recreation grounds and will encourage further users from the local community to both sites. • The key issues arising are that the improvements to the children's play area and pathways/car parking will improve access for people with limited mobility to be able to enjoy the open space and facilities.
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<ul style="list-style-type: none"> • Chilham Parish Recreation Ground Trust (CPRGT) have developed a project scheme based on researching requirements for local users and ensuring the continued growth of the tennis club within the local community. • CPRGT provided a report outlining this research and the resulting objectives for the improvement works.
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views 	<ul style="list-style-type: none"> • CPRGT have consulted with local users and the Tennis Club • The consultation has resulted in the belief that this is the best course of action to improve local facilities using local S106 funding. • The decision will have either no impact or a positive impact on people with different protected characteristics.

<p>across the protected characteristics?</p> <ul style="list-style-type: none"> • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	MEDIUM	POSITIVE
Middle age	HIGH	POSITIVE
Young adult	HIGH	POSITIVE
Children	HIGH	POSITIVE
<u>DISABILITY</u> Physical	MEDIUM	POSITIVE
Mental	MEDIUM	POSITIVE
Sensory	LOW	NEUTRAL
<u>GENDER RE-ASSIGNMENT</u>	NONE	NEUTRAL
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	NONE	NEUTRAL
<u>PREGNANCY/MATERNITY</u>	NONE	NEUTRAL
<u>RACE</u>	NONE	NEUTRAL
<u>RELIGION OR BELIEF</u>	NONE	NEUTRAL
<u>SEX</u> Men	NONE	NEUTRAL
Women	NONE	NEUTRAL
<u>SEXUAL ORIENTATION</u>	NONE	NEUTRAL

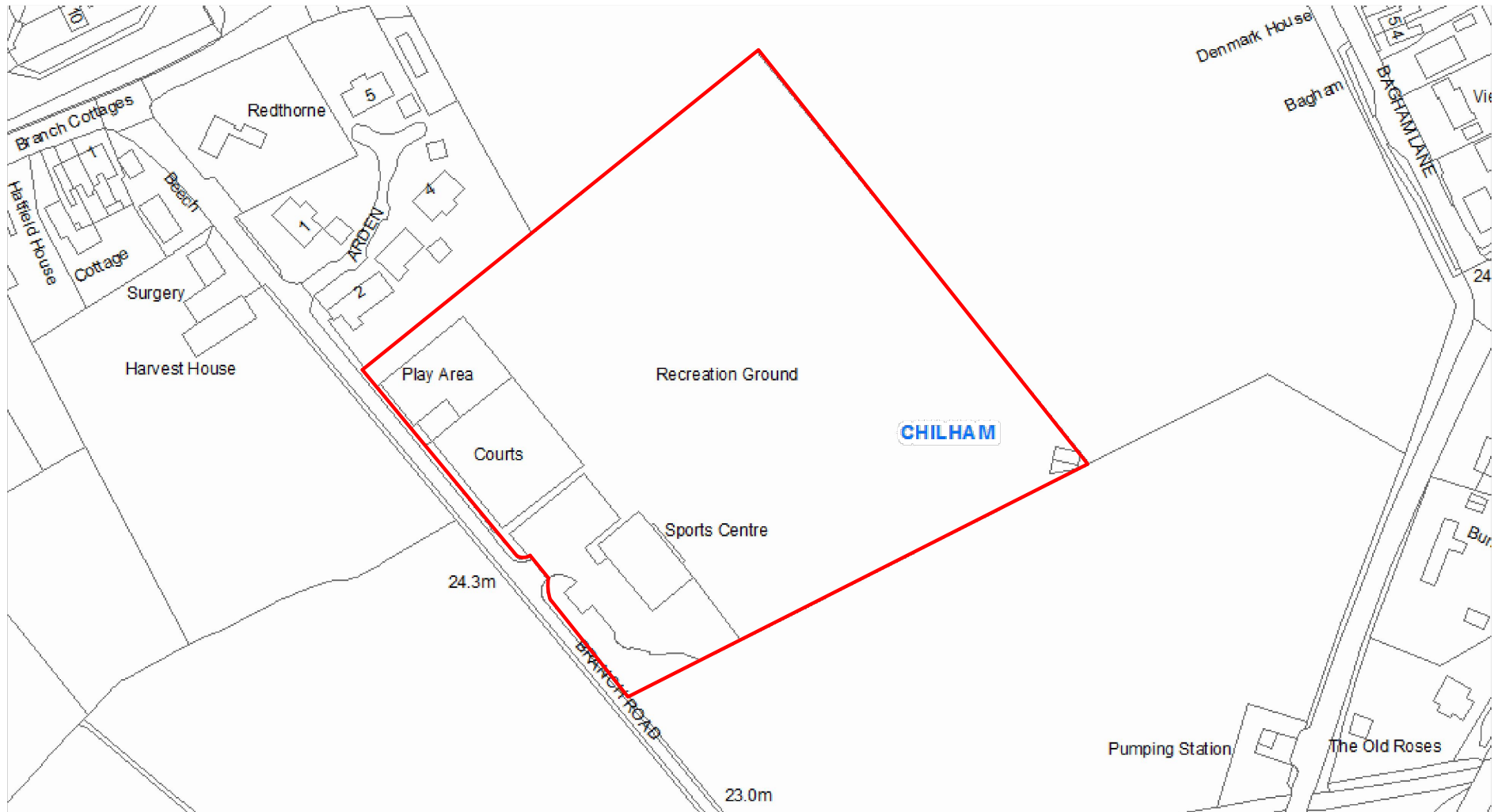
Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	YES
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	YES
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	YES

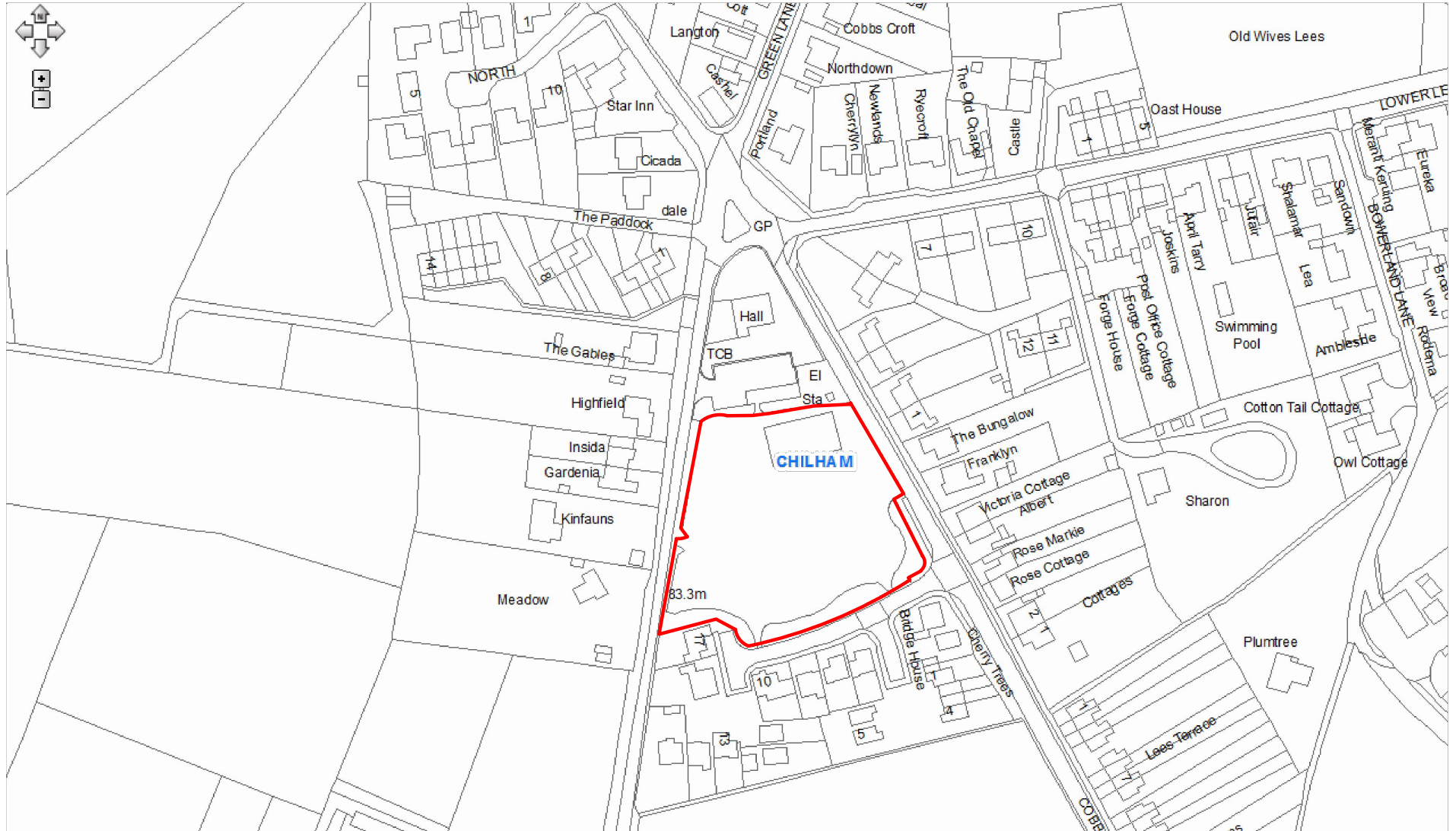
<p>Conclusion:</p> <ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. • There should be no unlawful discrimination arising from the decision (see guidance above). • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<ul style="list-style-type: none"> • Due regard has been made to the equality duty, from start to finish of the consultation and scoping process by CPRGT • There will be no unlawful discrimination arising from the decision • The proposal meets the aims of the equality duty as all sections of the community including those with protected characteristics will benefit from the enhancements to both recreation grounds, and in particular from improved access allowing people of limited mobility to enjoy the leisure facilities. • Monitoring of the decision and its implementation will be undertaken and reported on by Council Officers during the completion of the projects onsite.
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	<i>The council's revised policy register will assist services to meet this</i>
EIA completion date:	04/07/2018

Chilham Recreation Ground



Old Wives Lees Recreation Ground





Agenda Item No: 12
Report To: Cabinet
Date of Meeting: 12 July 2018
Report Title: Lease of Kiln Field to Tenterden Town Council
Report Author & Job Title: Michelle Byrne, Funding & Partnerships Officer
Portfolio Holder Cllr. Mike Bennett.
Portfolio Holder for: Culture, Leisure, Environment & Heritage

Summary:

To agree a 25 year lease of the land known as Kiln Field, off Abbott Way, Tenterden, to Tenterden Town Council for the purpose of maintaining the area as a Nature Conservation site.

Key Decision: YES

Significantly Affected Wards: Tenterden South

Recommendations: **The Cabinet is recommended to:-**

- I. Agree the lease of the land known as Kiln Field, off Abbott Way, Tenterden, to Tenterden Town Council on a 25 year lease at a peppercorn rent;**
- II. Provide delegated authority to the Head of Corporate Property & Projects in consultation with the Head of Culture and relevant Portfolio Holders to complete all tasks and documentation necessary to give effect to the above recommendation.**

Policy Overview:

Financial Implications: None

Legal Implications A 25 year lease will be required, to include the production of a Management Plan to be produced by the Town Council for approval by the Borough Council.

Equalities Impact Assessment An equalities impact assessment will be required from TTC as part of the development proposals for the site and will be based on the aim to improve access to the site for all sectors of the community.

Other Material Implications: None

**Exempt from
Publication:**

NO

**Background
Papers:**

-

Contact:

Michelle Byrne, Funding & Partnerships Officer
michelle.byrne@ashford.gov.uk – Tel: (01233 330485)

Len Mayatt, Cultural Projects Manager
Len.mayatt@ashford.gov.uk – Tel: (01233 330490)

Report Title: Lease of Kiln Field to Tenterden Town Council

Introduction and Background

1. Kiln Field, Off Abbots Way, Tenterden, is an area of land adjacent to the Abbots Way residential development comprising mainly of grassland but also containing some woodland, scrub and a large balancing pond that acts as a drainage point for the residential development. The site is currently used by residents for informal recreation, especially dog walking.
2. Ownership of the site was transferred to Ashford Borough Council (ABC) by the housing developer and is therefore currently in ABC ownership. However, grounds maintenance of the site is already undertaken by Tenterden Town Council (TTC) as part of the village caretaker scheme.
3. TTC has formally requested the transfer of the site to them on a long term lease at a peppercorn rent in order for them to enhance the site to encourage increased community use. A lease term of 25 years, with break clauses every five years, is being proposed as this will allow them sufficient time to secure external funding to help pay for the improvements in site management that they wish to aspire to.
4. A map of the site can be found at Appendix I.

Proposal/Current Position

5. TTC are currently maintaining Kiln Field as part of the grounds maintenance work undertaken through the village caretaker scheme. TTC has identified a potential opportunity to improve and develop the site to offer educational use to local schools while retaining informal recreational use by the local community.
6. TTC would like to further enhance and manage the site to enhance its biodiversity and to encourage local residents, schools and youth groups to engage with and learn about nature, the environment and nature conservation. One proposal, for example, is to use the site as a nature school. It is hoped that this will also reduce the incidence of anti-social behaviour on the site by engaging the local community in the maintenance of the area.
7. In preparation for making the transfer request, TTC commissioned Kent Wildlife Trust (KWT) to make an educational suitability assessment of the site and to make preliminary recommendations as to its potential future management, development and community use. The report produced by KWT can be seen at Appendix II.

8. The report that KWT produce is positive about the potential of the site and they have expressed an interest to work further with TTC to develop a sustainable and accessible resource for the community.
9. In order to apply for the grant funding needed to develop the site, TTC have requested a long term lease which is supported by officers to enable them to raise appropriate funds as already described above. It will include break clauses for both parties. A peppercorn rent is also recommended in order that all funding available can be spent on developing and maintaining the site, therefore maximising the offer to the community. The draft Heads of Terms is attached drawn at Appendix III.
10. The ward member, Cllr Callum Knowles, is fully supportive of the project and is playing an active part in his role as a Tenterden Town Councillor to develop and move the project forward.
11. If approved, all site enhancements, management, maintenance and running costs will be met by TTC. A management plan will be provided to ABC, for which the lease will be subject to, and this will be renewed as appropriate.

Implications and Risk Assessment

12. A full risk assessment will be undertaken by TTC as part of the proposals for the development of the site in partnership with KWT and in consultation with ABC to ensure all risk related to the landlord function are identified, assessed and satisfactorily mitigated.
13. This proposal will ensure the site is properly developed and managed to encourage wider community use and to enhance the bio diversity of the site which will not be compromised by that use.
14. Ongoing monitoring requirements from the lease will be undertaken as part of the existing support to the Town Council from appropriate ABC officers. TTC will not be permitted to use the site for anything other than the agreed permitted use without formal agreement from ABC as landlord.

Equalities Impact Assessment

15. An equalities impact assessment will be required from TTC as part of the development proposals for the site and will be based on the aim to improve access to the site for all sectors of the community. This will be required as part of the lease agreement and updated accordingly.

Consultation Planned or Undertaken

16. In preparation of this report, consultation has been undertaken with the Members and officers concerning future development of the site. The land does not appear in the current local plan and is unlikely to feature in subsequent Local Plans. The valuation report concluded that there would be little demand in the wider market should the land be offered for rent, and a market value of £100 per annum was suggested as appropriate. There was

subsequently no further objection to the proposal in principle for community use.

17. The Head of Environment was also consulted on the proposal and had no objection on the assurance that the grounds maintenance responsibilities for the site would remain with TTC.
18. Neighbouring residents will be consulted on proposals to enhance the site as they are drawn up by TTC. Local schools will also be consulted to ensure their requirements to use the site as an educational resource are met and they will make use of the area. This will be part of the management plan.

Other Options Considered

19. To refuse the proposal - the site will continue to be used by residents for informal recreational use but the biodiversity of the site may be jeopardised and the site would not be developed to its full potential to optimise community access and use.
20. To transfer land on a short term lease - TTC would find it difficult to source the grant funding needed to realise the aims of the project.
21. To lease the site to TCC at market rate - the valuation report set the market rate for the site at £100 pa so the potential income to ABC from the site is limited. Leasing the land to TCC at a peppercorn rent would show support of the project and reflect the positive working relationship between ABC and TTC.

Reasons for Supporting Option Recommended

22. The proposal will enable the development of the site in order to increase its biodiversity, educational potential and community access with no financial resources required from the Council's general service budgets. However, funding from the community grants fund may be appropriate and will be considered in the normal manner if an application is submitted.

Next Steps in Process

23. If the request to lease the land to TTC is approved, Legal Services will draw up the lease in consultation with Culture, Corporate Property & Projects and TTC. Ongoing monitoring requirements from the lease will be undertaken as part of existing support to the Town Council.
24. TTC will draw up proposals for the development of the site and will consult as necessary on those proposals as part of the development and implementation of their Management Plan for the site. The satisfactory receipt of the Plan will be required before signing the lease.

Conclusion

25. The proposals from TTC will provide the best opportunity for the development of the site to ensure its continued and improved use by the community and to conserve its biodiversity.

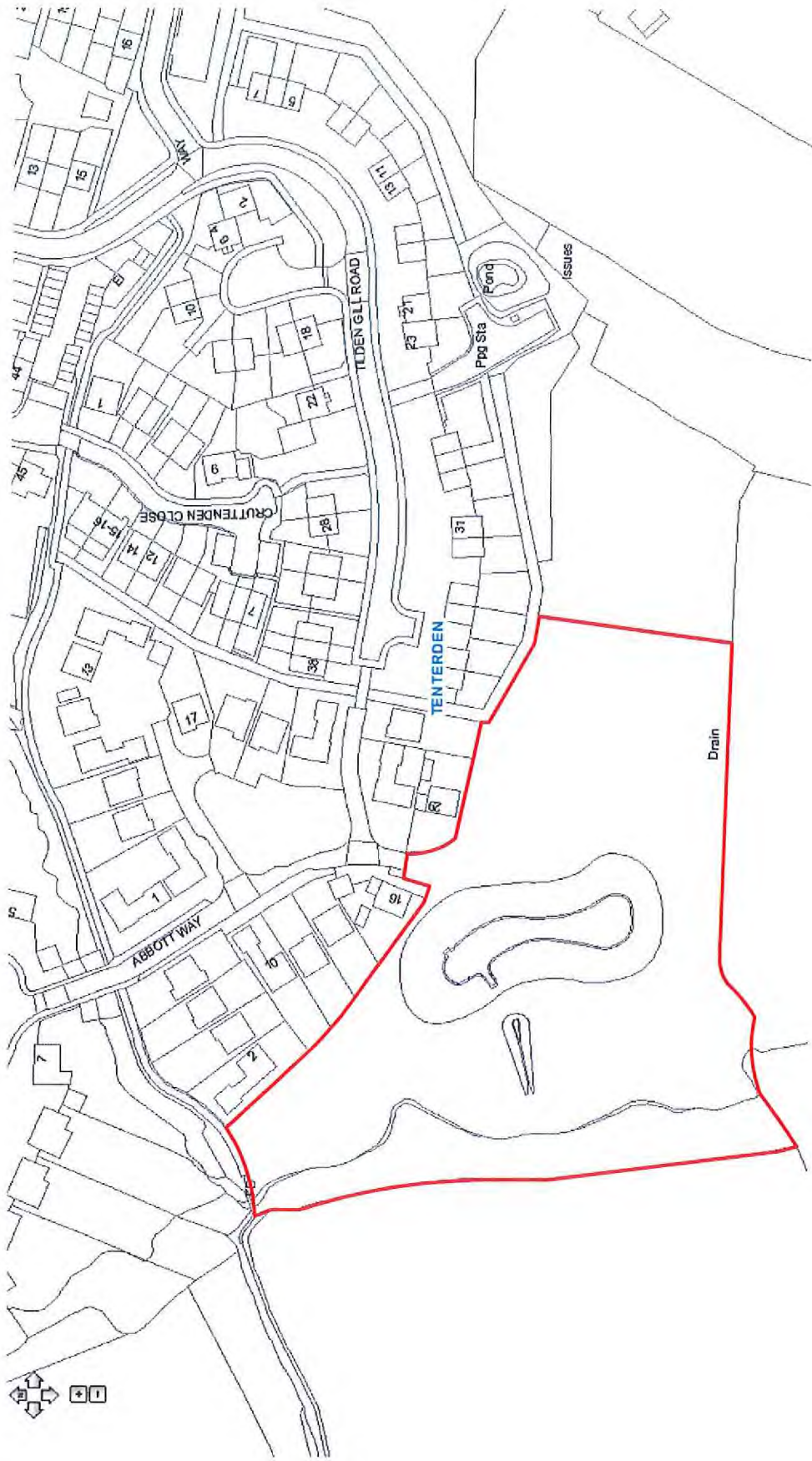
Portfolio Holder's Views

26. This report outlines in great details the potential of this site to create a special place for nature conservation and education plus informal leisure and I totally support the recommendations.

Contact and Email

27. Michelle Byrne, Funding and Partnerships Officer
michelle.byrne@ashford.gov.uk – Tel: (01233 330485)
28. Len Mayatt, Cultural Projects Manager
Len.mayatt@ashford.gov.uk – Tel: (01233 330490)
29. Christina Fuller, Head of Culture
Christina.fuller@ashford.gov.uk – Tel: (01233 330477)

Kiln Field



DRAFT June 2018

**ASHFORD BOROUGH COUNCIL
TENTERDEN TOWN COUNCIL**

**HEADS OF TERMS IN RESPECT OF
KILN FIELD TENTERDEN KENT**

Landlord	Ashford Borough Council of Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL
Tenant	Tenterden Town Council
Landlord's Solicitor	Legal Services, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL
Tenant's Solicitor	TBA
Property	Public Open Space known as Kiln Field, Abbott Way, Tenterden, Kent TN30 7BZ
Lease Term	25 years
Commencement Date	July 2018
Break Clause	Landlord or Tenant – Reviewable every five years
Rent	£1 to be collected upon request
Utilities	Any utilities associated with the site and used by the tenant or their agent will be the responsibility of the tenant.
Insurance	All insurances are the responsibility of the Tenant. Public Liability and site Insurance: minimum £10million in respect of any one claim.
Alterations/Exclusions	No residential or commercial development will be permitted. No selling of lease or sub-letting. No erection of any building or structure without consent of the land lord and appropriate planning permission if required.
Initial works	Fitting Out N/A
Repairs	Responsibility of the tenant

Alienation	The tenant must not assign sublet or charge the whole or any part of the premises. The lease is outside of the Landlord & Tenant Act 1954.
Permitted Use	Use by the public for general amenity use including dog walking, health and wellbeing activities and educational purposes in partnership with education providers. Also allow specific uses such as an outdoor classroom, pond dipping and for volunteering opportunities and organised open days
Site Management	Tenant to produce a Management Plan for approval by the landlord within one year of occupying the site. No late night activity as in a residential area.
Access	The Tennant shall not block the Landlord's right to access the land at any time or to impede any reasonable request to cross the land.

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ASHFORD
BOROUGH COUNCIL

Agenda Item No:

Report To: Cabinet

Date of Meeting: 12th July 2018

Report Title: Section 106 Annual Monitoring Report 2017/18

Report Author & Job Title: Michael Scaplehorn
S106 Technical Officer

Portfolio Holder Cllr.Clokie
Portfolio Holder for: Planning & Development

Summary: The primary purpose of the report is to show transparently how contributions are being collected and applied in a proper way; that the monitoring of section 106 contribution remains robust. This report will reinforce the point that section 106 is an important resource stream and that officers are prepared for any legislative changes. The report includes details of new contributions negotiated; an accounts update, funds received from existing agreements, and update on projects being funded by section 106 obligations.

Key Decision: NO

Significantly Affected Wards: None directly

Recommendations: **The Cabinet is recommended to:-**

- I. Endorse this report, so it can be made available online to provide information to the public and provide a transparent record of s106 activity over the last financial year.**

Policy Overview: The delivery of high quality development as part of well-balanced communities and other infrastructure is a key part of the Council's policy ambition. These are set out in the draft local plan, the Adopted Development Plan policy and the Council's Corporate Plan.

Financial Implications: As the Borough grows so does the need for more and improved community infrastructure. Section 106 funding supporting this growth vital. It is important to have a robust section 106 monitoring system ensuring the availability of capital from section 106 agreements and that those contributions are collected and spent effectively on their intended purpose.

Legal Implications

Equalities Impact Assessment

Spending of section 106 contributions is in line with adoption plan policy and local priorities. Decisions on expenditure involve working closely with many departments, local parishes and other organisations. Many contributions arise from site policies and development brief requirements that have been directly influenced by the wider community through design workshops and similar events.

Background Papers:

None

Contact:

Michael.Scapplehorn@ashford.gov.uk – Tel: (01233) 330202

Report Title: Section 106 Annual Monitoring Report

Purpose of the Report

1. This report updates Members on the financial contributions negotiated and secured in the financial year 2017/18 and the use and management of financial resources. The report provides details of new S106 agreements signed in the financial year and identifies the progress that has been made since the last report. There is a breakdown of payments received in this financial year, what the contributions are to be used for, and contributions currently held on account. The report also includes examples of projects delivered by the Council in the financial year and update on national policy.

Current S106 Position

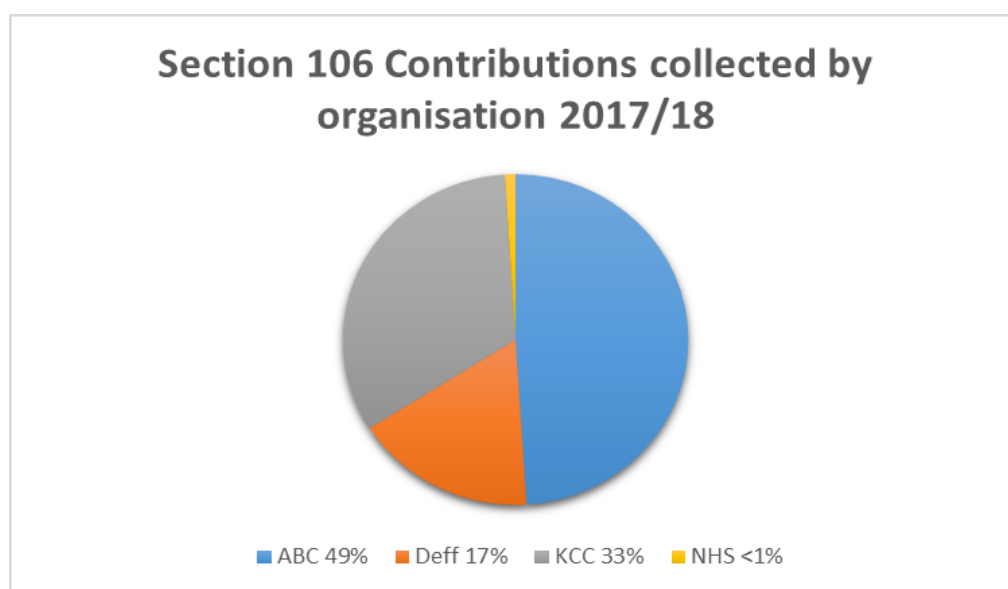
2. Between 01/04/2017 and 31/03/2018, 22 planning permissions have been issued that have been subject to a section 106 agreement. The total projected financial contributions arising from these agreements are £10.2m. The agreements also provide for 'payments in kind' in the forms of various works – mainly highway related and affordable housing as well as restrictions on land use.
3. The following points should be noted: if a planning permission is not implemented, associated s106 benefits will not be received. Also there is a period of time between the issue of the planning permission and the payment of contributions as the timing of payments will be linked to the phasing of the development and when the need for the facility arises. Hence, payments received in a specific year will often be from an agreement signed in a previous year.

2017/18 Financial Overview

Overview	17/18	16/17	5 Year Average 2012-2017
Number of Agreements Signed	22	18	25
Value of Agreements Signed	£10.22m	£114m*	£30.3m
Section 106 Money Spent	£5.57m	£2.66m	£2.96m
Payments Received	£4.84m	£4.23m	£4.02m
End of Year Balance	£7.86m	£8.59m	£5.66m

*includes Chilmington Green

4. The above table highlights the financial breakdown in the section 106 accounts for 2017/18, a comparison of the year before and a five year summary.
- As can be seen the number section 106 agreements that have been signed has remained largely unchanged since the last year and is only slightly lower than the five year average. There was a drop in the value of section 106 agreements signed on the previous year, this is due to the one off section 106 value of Chilmington green that distorted the previous figure.
 - The level of section 106 agreement contributions spent has doubled on the previous year, this is due to large section 106 funded projects hitting key capital expenditure points as well as large contributions going towards Kent County Council education. As more housing developments reach 'trigger' points for payments, the council receives more section 106 payments to go towards projects. In 2017/18 there has been a small increase in payments received.
 - Government policy has not changed meaning that the Council can't seek developer contributions on any development of less than 10 dwellings (unless in rural sites where the restriction is 5). The section 106 pooling restrictions (which restrict our ability to pool contributions for projects) have also influenced the Council's ability to collect contributions.
5. The pie chart below breaks down section 106 contributions collected in 2017/18 by organisation, a full complete breakdown is included as Appendix B

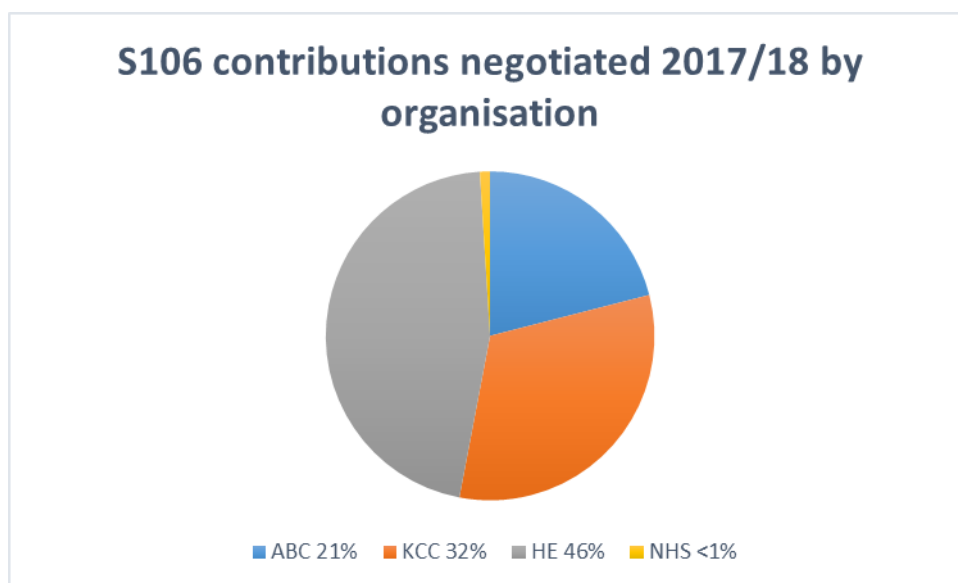


Deff – Deferred Contribution

6. Contributions towards Ashford Borough Council obligations amounted to just under 50% of the total collected in 2017/18, this equated to £2.4 million in section 106 contributions that can be put forward to projects in the borough. KCC contributions were just under a third of the total collected and equated to

£1.6 million. Deferred contributions (deff) are sums that are collected on the back of housing sales and then distributed at a later date.

7. The following pie chart shows the breakdown of what the Council has negotiated in 2017/18.



8. The breakdown above highlights how much of the signed section 106 each organisation will receive, it should be noted that Ashford Borough Council will receive just over 20% of the financial value of the section 106 agreement. The largest recipient will be Homes England and contributions towards J10a, these large contributions towards infrastructure will help unlock further development. As part of the above around £7,800 of S106 contributions per dwelling were negotiated.

End of year balance (breakdown)

End of year balance (breakdown)		
Account	17/18	16/17
General S106 Account	£6.84m	£7.54m
Supplementary Planning Guidance (SPG6) Account	£1.04m	£1.02m
Total	£7.88m	£8.59m

9. The general section 106 account is used to hold all section 106 contributions that are collected through section 106s & unilateral undertakings (excluding the SPG6 fund). This includes contributions towards open space, community

halls & play areas. This account continues to grow as a) more section 106 contributions are collected and b) because there is a time lag between contributions collected and section 106 contributions fully expended.

10. The SPG6 main fund contribution is used to pay back the forward funded work for the J10 Interim improvement scheme completed several years ago. In recent years, this figure has been greatly reduced and this will be paid off within the next financial year.

CIL & the relationship with S106

11. As of April 2015 CIL, restrictions have been placed to limit the number of contributions councils can secure for particular infrastructure projects (maximum of 5) this was created to try to push councils into adopting CIL. The levy will come from the same 'economic headroom' from rising land values through development that currently funds section 106 however CIL focuses more on strategic infrastructure.
12. As part of the Housing White Paper a paper reviewing the Community Infrastructure Levy titled 'A New Approach to Developer Contributions' was released, this paper that took a comprehensive look at the Operation of CIL and its relationship to section 106s. The paper suggested four options to take CIL forward which it has subsequently consulted on, the results of which will dictate government policy and have yet to be published. Once this has been published Ashford Borough Council will take a decision on CIL & section 106.

Risk Assessment

13. Failure to monitor section 106 agreements in an efficient and timely manner would lead to the possibility of Section 106 contributions being missed and infrastructure not being constructed at the correct time. If section 106 agreements were not monitored a drawback is that any payment collected or sent in by the developers may not be spent within the allotted time limit. This could lead to a scenario where the council is forced to pay back the contribution to the developers negating any benefit. It is important that any section 106 contribution set out in the section 106 agreement be spent within the restrictions, failure to do so could lead to legal challenges.

Consultation

14. The section 106 working group, which meets quarterly, was created to monitor the collection and spending of section 106 contributions. The section 106 working group comprises of officers from planning, cultural, finance, legal & property. An audit form process is used to make sure the required steps are completed and specific approval given before the money is transferred.

Conclusion

15. It is vitally important that the council continue to monitor the collecting and spending of section 106 contributions to ensure that the necessary community, transport and other infrastructure is constructed and maintained

to support the Borough's growth. The process of monitoring and spending section 106 contributions is always being adapted and improved to make sure that any problems or challenges that arise can be dealt with quickly and efficiently

Portfolio Holder's Views

16. To be reported at cabinet.

Contact and Email

17. Michael Scaplehorn (01233 330202)
18. Michael.Scaplehorn@ashford.gov.uk

Appendix A - Section 106 Agreements signed 2017/18

Date Signed	Application	Description	Organisation	Obligation Detail	Financial Contribution (£)	Restrictions
07/04/2017	16/01164/AS	Hotel, Victoria Road	KCC	Highways Infrastructure	64,000.00	Beaver Road bridge junction improvement project
			ABC	Carbon off-setting	57,818.00	Carbon reducing project
			KCC	Highways Infrastructure	12,500.00	Improvements to Bus Shelter
			ABC	Town Centre Commuted Parking	40,000.00	Town centre parking
07/04/2017	16/01167/AS	Aldi, Victoria Road	KCC	Highways Infrastructure	12,500.00	Bus Shelter on Beaver Road Bridge
			ABC	Town Centre Commuted Parking	37,477.00	Town centre parking
			ABC	Carbon off-setting	10,130.00	Carbon reducing project
07/04/2017	16/01157/AS	Brewery, Victoria Road	ABC	Carbon off-setting	10,575.00	Carbon reducing project
			KCC	Education Contribution	100,000.00	Repton Park/Highworth expansion
			ABC	Open Space Contribution	150,000.00	Victoria Park Improvement Project
26/05/2017	16/00981/AS	North Side of Victoria Crescent	ABC	Open Space Contribution	21,514.00	Victoria Park Improvement Project
			KCC	Community & Libraries Contribution	1,488.49	Additional book stock
13/06/2017	16/00986/AS	South Side of Victoria Crescent	ABC	Open Space Contribution	19,432.00	Victoria Park Improvement Project
			KCC	Community & Libraries Contribution	1,344.44	Additional book stock
14/06/2017	16/01851/AS	Coty Operations	ABC	Carbon off-setting	34,010.37	Carbon reducing project
17/05/2017	16/00045/AS	Smarden Charter Hall	ABC	Open Space Contribution	23,000.00	Cemetery Contribution
			KCC	Community & Libraries Contribution	2,401.00	Library Contribution
			ABC	Open Space Contribution	95,750.00	Resurfacing Tennis Courts
			ABC	Open Space Contribution	65,600.00	Upgrading the Play Area
			KCC	Education Contribution	118,000.00	Primary School - John Mayne Church
			KCC	Education Contribution	117,990.00	Secondary School - Homewood phase 2
			ABC	Open Space Contribution	9,650.00	Strategic Park - Conningbrook Bridge
27/04/2017	16/01667/AS	Unit 3, Orbital Park	ABC	Carbon off-setting	TBD	Generator - Charter Hall
17/01/2018	16/01758/AS	Woodchurch House, Woodchurch	ABC	Carbon off-setting	TBD	Carbon reducing project
02/03/2018	17/01118/AS	Prince Albert, 109 New Street	ABC	Open Space Contribution	18,368.00	Quantock Drive lower play area
			ABC	Open Space Contribution	10,626.00	Improvements to Mary Field
			KCC	Community & Libraries Contribution	672.28	Additional book stock
			ABC	Open Space Contribution	2,702.00	Signage at Conningbrook
			ABC	Voluntary Sector	1,162.00	Provision of women's support
05/02/2018	16/00303/AS	Land between Canterbury Road	KCC	Community & Libraries Contribution	9,697.50	Services at Farrow Court
			ABC	Open Space Contribution	40,500.00	Provision of Car Park at Allotments
			KCC	Highways Infrastructure	10,000.00	Provision of a Bus Stop
			ABC	Open Space Contribution	57,500.00	Bybrook Cemetery (woodland burial)
			ABC	Open Space Contribution	164,000.00	Junction/Church Road Play Improvement
			KCC	Community & Libraries Contribution	4,306.25	New IT equipment at Ashford Adult Education Centre
			KCC	Education Contribution	500,000.00	New Places at Finberry
KCC	Education Contribution	294,975.00	Expansion Norton Knatchbull			

			ABC	Open Space Contribution	24,125.00	Footpath Link at Conningbrook
			KCC	Community & Libraries Contribution	6,000.25	Additional book stock
			KCC	Community & Libraries Contribution	3,488.75	North Youth Centre
21/12/2017	17/00937/AS	Rear of Jubilee Field, Wittersham	ABC	Restriction on Occupation	N/A	Local needs housing
17/10/2017	16/01548/AS	Wye School Extension.	ABC	Carbon off-setting	TBD	Carbon reducing project
13/09/2017	14/00906/AS	Land On the North Side Of, Sevington	ABC	Church Works Contribution	186,785.00	Works to Sevington Church
			KCC	Highways Infrastructure	30,000.00	Pedestrian & Cycling Improvement
			KCC	Highways Infrastructure	93,450.00	Turning Works Cost Estimate
			HE	Highways Infrastructure	4,756,431.68	J10A Contribution
			ABC	Carbon off-setting	TBD	Carbon reducing project
04/08/2017	16/01512/AS	Land at Hinxhill	KCC	Community & Libraries Contribution	9,035.52	Services at Farrow Court
			ABC	Open Space Contribution	49,536.00	Henwood Allotment/Gas House
			ABC	Open Space Contribution	88,320.00	New Cemetery Ashford
			KCC	Community & Libraries Contribution	6,614.00	New IT equipment at Ashford Adult Education Centre
			KCC	Highways Infrastructure	20,000.00	Controlled Parking Zone
			KCC	Community & Libraries Contribution	40,114.56	Reconfiguration of Ashford Gateway
			ABC	Open Space Contribution	305,088.00	Outdoor Furniture at Julie Rose
			KCC	Education Contribution	850,314.00	New Primary at North Willesborough
			KCC	Education Contribution	442,246.50	Phase 1 Norton Knatchbull
			ABC	Open Space Contribution	28,032.00	Storage at Conningbrook
			KCC	Community & Libraries Contribution	5,358.72	North Youth Centre
12/01/2018	15/01496/AS	Kingshead, Woodchurch Road	ABC	Open Space Contribution	24,928.00	Hornash Lane Play Equipment
			KCC	Community & Libraries Contribution	912.38	Additional book stock
			ABC	Open Space Contribution	36,385.00	Hornash Lane Drainage of Sports Pitches
			KCC	Education Contribution	63,156.00	John Wesley extension
			KCC	Education Contribution	44,821.00	Homewood Modular
			KCC	Highways Infrastructure	5,000.00	Upgrade of public footpath AW 327
			ABC	Open Space Contribution	3,667.00	Aeration system at Conningbrook
30/01/2018	14/01486/AS	Charing, Ashford Kent	KCC	Community & Libraries Contribution	2,715.30	Additional social care staff
			ABC	Open Space Contribution	11,340.00	Allotment - Dog Kennel Lane Charing
			ABC	Open Space Contribution	45,920.00	Upgrading Charing skate park
			KCC	Community & Libraries Contribution	1,205.75	lip reading classes in Charing
			NHS	Healthcare	35,000.00	Expansion of Charing Surgery
			ABC	Open Space Contribution	26,565.00	Natural Green Space
			KCC	Community & Libraries Contribution	1,680.70	Additional book stock
			ABC	Open Space Contribution	67,025.00	Sports Pitches - Arthur Baker Playing Fields
			KCC	Education Contribution	116,340.00	Classroom extension of Charing Primary
			ABC	Administration Fee	5,000.00	Quality Monitoring
			ABC	Open Space Contribution	6,755.00	Strategic Parks - Conningbrook Play Area BBQ
			KCC	Education Contribution	82,565.00	Highworth school 3 Classroom Extension
			ABC	Voluntary Sector	2,905.00	Alderbeds Local Wildlife Site
			KCC	Community & Libraries Contribution	941.15	Community Activity Teams
16/02/2018	16/01198/AS	Kent Highways Depot	KCC	Community & Libraries Contribution	1,200.40	Additional book stock
			ABC	Open Space Contribution	47,875.00	Improvement to Sports Pitches

			KCC	Education Contribution	58,995.00	Secondary School - Homewood
			ABC	Pay Regardless Contribution	93,000.00	Provision of Affordable Housing
02/02/2018	15/01550/AS	Highmead House, Hythe Rd, Willesborough	KCC	Community & Libraries Contribution	1,317.40	Farrow Court, Stanhope Road
			ABC	Open Space Contribution	9,072.00	Allotments - Lower Vicarage Road
			ABC	Open Space Contribution	36,736.00	Children's Play - Hythe Rd Recreation
			KCC	Community & Libraries Contribution	964.60	Community Support Contribution
			KCC	Highways Infrastructure	14,000.00	Controlled Parking Zone
			ABC	Open Space Contribution	21,252.00	Informal Green - landscape improvements
			KCC	Community & Libraries Contribution	1,344.56	Additional Book stock
			ABC	Open Space Contribution	53,620.00	Sports Pitches - provision of MUGA (Hythe Road)
			KCC	Education Contribution	84,000.00	Primary School - Willesborough Primary
			KCC	Education Contribution	56,000.00	Secondary School - Highworth phase 1 Extension
			ABC	Open Space Contribution	5,404.00	Strategic Park - pathways, fencing, signage
			KCC	Community & Libraries Contribution	752.92	Youth Services - Ashford North Youth Centre
24/11/2017	17/01084/AS	On the west side of Ashford Road, St Michael's Tenterden		Restriction on Occupation	N/A	Age restriction on dwellings
11/12/2017	17/00017/AS	Land at Warehorne		Restriction on Occupation	N/A	Local needs housing
22/03/2018	16/01271/AS	Courtlands, Church Hill, Bethersden	ABC	Open Space Contribution	7,820.00	Cemetery - provision of additional burial plots
			ABC	Open Space Contribution	22,304.00	Children's Play - Mill Road, Bethersden
			ABC	Open Space Contribution	12,903.00	Improvements to Recreation Ground, Mill Hill
			KCC	Community & Libraries Contribution	816.34	Additional book stock
			ABC	Open Space Contribution	1,915.00	Infrastructure at Bethersden Cricket Club
			KCC	Education Contribution	39,100.00	Phase 2 extension at Homewood
			ABC	Open Space Contribution	3,281.00	Seating/BBQ at Conningbrook
Total Financial Contributions					10,227,279.81	

Appendix B - Section 106 Contributions received 2017/18

Application Number	Description	Organisation	Obligation Detail	Date	Financial Contribution (£)	Restrictions
02/01565/AS	Repton Park	ABC	Open Space Contribution	07/11/2017	19,675.02	Commuted sum for onsite open space
11/00473/AS	Cheesemans Green	ABC	Open Space Contribution	20/06/2017	409,523.23	Off-site sports facility contribution
		ABC	Administration Fee	20/06/2017	10,000.00	Monitoring Fee
10/01711/AS	Park Farm	ABC	Open Space Contribution	31/07/2017	380,267.18	On-site sports and leisure contribution
		ABC	Open Space Contribution	19/01/2018	380,267.18	On-site sports and leisure contribution
		ABC	Administration Fee	19/01/2018	2,500.00	Monitoring Fee
		KCC	Education Contribution	22/03/2018	441,790.16	Primary School Fees
		KCC	Education Contribution	22/03/2018	441,790.16	Primary School Fees
10/01663/AS	Warren site A&C	All	Deferred Contributions	07/06/2017	492,029.30	Related to varied S106 contributions
12/01359/As	Avalon, 140 High Street	ABC	Open Space Contribution	03/08/2017	1,312.00	Children and Young Peoples Play
		ABC	Open Space Contribution	03/08/2017	759.00	Natural Green Space
		ABC	Open Space Contribution	03/08/2017	1,915.00	Outdoor Sports
13/00051/AS	Land west of Bourne Lane (Lancaster Close)	ABC	Open Space Contribution	06/03/2018	46,349.59	Natural Green Space Contribution
		ABC	Open Space Contribution	06/03/2018	88,516.26	Children and Young People's Play
		ABC	Open Space Contribution	06/03/2018	17,744.27	Allotment Contribution
		ABC	Open Space Contribution	06/03/2018	21,994.13	Outdoor Sports Contribution
14/01314/AS	Old Clockhouse Green	ABC	Open Space Contribution	12/07/2017	324.00	Allotment Contribution
		ABC	Open Space Contribution	12/07/2017	1,357.03	Children and Young People's Play
		ABC	Open Space Contribution	12/07/2017	759.00	Natural Green Space Contribution
		ABC	Open Space Contribution	12/07/2017	1,915.00	Outdoor Sports Contribution
		ABC	Open Space Contribution	12/07/2017	193.00	Strategic Parks Contribution
14/00757/AS	(Land south west of Rec ground) Tent1	ABC	Administration Fee	05/07/2017	32,142.86	Monitoring Fee
		KCC	Highways Infrastructure	05/07/2017	75,067.56	Commuted Parking Contribution
		ABC	Administration Fee	12/01/2018	23,057.91	Quality Monitoring Fee
		KCC	Highways Infrastructure	12/01/2018	10,617.76	Controlled Parking Zone
14/00362/AS	Churchfield, Wye	ABC	Open Space Contribution	12/01/2018	9,447.84	Allotment Contribution
		ABC	Open Space Contribution	12/01/2018	38,257.92	Children and Young People's Play
		ABC	Open Space Contribution	12/01/2018	22,132.44	Natural Green Space Contribution
		ABC	Open Space Contribution	12/01/2018	55,841.40	Outdoor Sports Contribution
		ABC	Open Space Contribution	12/01/2018	5,627.88	Strategic Parks Contribution
		ABC	Healthcare Contribution	12/01/2018	26,710.56	Healthcare Contribution

		ABC	Administration Fee	12/01/2018	1,000.00	Monitoring Fee
		KCC	Education Contribution	12/01/2018	63,745.92	Primary Education Contribution
		KCC	Education Contribution	12/01/2018	137,473.20	Secondary Education Contribution
		KCC	Communities & Libraries Contribution	12/01/2018	930.15	Social Community Contribution
		KCC	Communities & Libraries Contribution	12/01/2018	720.90	Adult Social Care Contribution
16/01851/AS	Coty Operations, Eureka Science Park	ABC	Carbon Off-Setting	31/05/2017	34,010.37	Carbon Reducing Project
16/00554/AS	Dover Place Car Park	KCC	Highways Infrastructure	24/04/2017	200,874.00	Junction Improvements
16/00795/AS	Highways Depot, Ashford Rd High Halden	ABC	Administration Fee	22/06/2017	1,000.00	Monitoring Fee
15/01195/AS	Bower Farm, Bower Road	ABC	Administration Fee	30/08/2017	250.00	Monitoring Fee
12/00400/AS	Land at Chilmington Green	ABC	Community Management Contribution	13/06/2017	75,000.00	CMO - Start up contribution
14/01456/AS	Chestnut Grange, Willesborough	NHS	Healthcare Contribution	08/03/2018	33,144.55	Healthcare Contribution
		ABC	Open Space Contribution	08/03/2018	11,564.69	Allotment Contribution
		ABC	Open Space Contribution	08/03/2018	27,091.36	Natural Green Space Contribution
		ABC	Open Space Contribution	08/03/2018	46,829.85	Children and Young People's Play
		ABC	Open Space Contribution	08/03/2018	68,353.03	Outdoor Sports Contribution
		ABC	Open Space Contribution	08/03/2018	6,888.84	Strategic Parks Contribution
		ABC	Administration Fee	08/03/2018	1,000.00	Monitoring Fee
16/01164/AS	Junction of Dover Place	KCC	Highways Infrastructure	13/02/2018	72,685.71	Public Realm Improvements
		ABC	Administration Fee	13/02/2018	567.86	Monitoring Fee
14/01402/AS	Ashford Designer Outlet	ABC	Administration Fee	08/03/2018	5,315.87	Monitoring Fee
14/01305/AS	Godinton Way Industrial Estate	All	Deferred Contributions	22/01/2018	333,727.62	Related to varied S106 contributions
		KCC	Highways Infrastructure	22/01/2018	5,613.38	Controlled Parking Zone
		ABC	Administration Fee	22/01/2018	1,000.00	Monitoring Fee
11/00405/AS	South Kent College	ABC	Administration Fee	01/02/2018	1,738.07	Monitoring Fee
		ABC	Open Space Contribution	01/02/2018	52,987.05	Children and Young Peoples Play
		ABC	Open Space Contribution	01/02/2018	113,970.00	Neighbourhood Play Contribution
		ABC	Open Space Contribution	01/02/2018	97,015.76	Maintenance of Open Play Contribution
16/01167/AS	Aldi	ABC	Administration Fee	04/01/2018	553.50	Monitoring Fee
		KCC	Highways Infrastructure	04/01/2018	14,045.94	Bus Contribution
		KCC	Highways Infrastructure	04/01/2018	42,111.96	Town Centre Parking Contribution

		ABC	Carbon Off-Setting	04/01/2018	10,130.00	Carbon Reducing Project
16/00981/AS	Victoria Crescent	ABC	Open Space Contribution	11/01/2018	21,245.65	Victoria Park Contribution
		KCC	Communities & Libraries Contribution	11/01/2018	1,384.48	Library Contribution
		ABC	Administration Fee	11/01/2018	300.00	Monitoring Fee
16/01548/AS	Wye School, Olantigh	ABC	Administration Fee	23/10/2017	1,000.00	Monitoring Fee
17/01118/AS	Prince Albert	ABC	Administration Fee	05/05/2017	300.00	Monitoring Fee
14/00681/AS	Land Abutting Celak Close, Ald	ABC	CS10 Contributions	23/08/2017	33,686.17	Carbon Reducing Project
		ABC	Open Space Contribution	23/08/2017	15,859.00	Allotment Contribution
		ABC	Open Space Contribution	23/08/2017	64,219.00	Children and Young Peo
		ABC	Open Space Contribution	23/08/2017	15,908.00	Informal Natural Green
		ABC	Open Space Contribution	23/08/2017	41,784.00	Facility Contribution
10/00715/AS	Hopewell School	KCC	Education Contribution	14/03/2018	100,672.02	Primary School Payment
16/00986/AS	Victoria Crescent	ABC	Open Space Contribution	05/02/2018	21245.65	Victoria Park Contribution
		KCC	Communities & Libraries Contribution	05/02/2018	1384.48	Libraries Contribution
Total Financial Contributions					4,840,212.67	

SECTION 106 & *the community*



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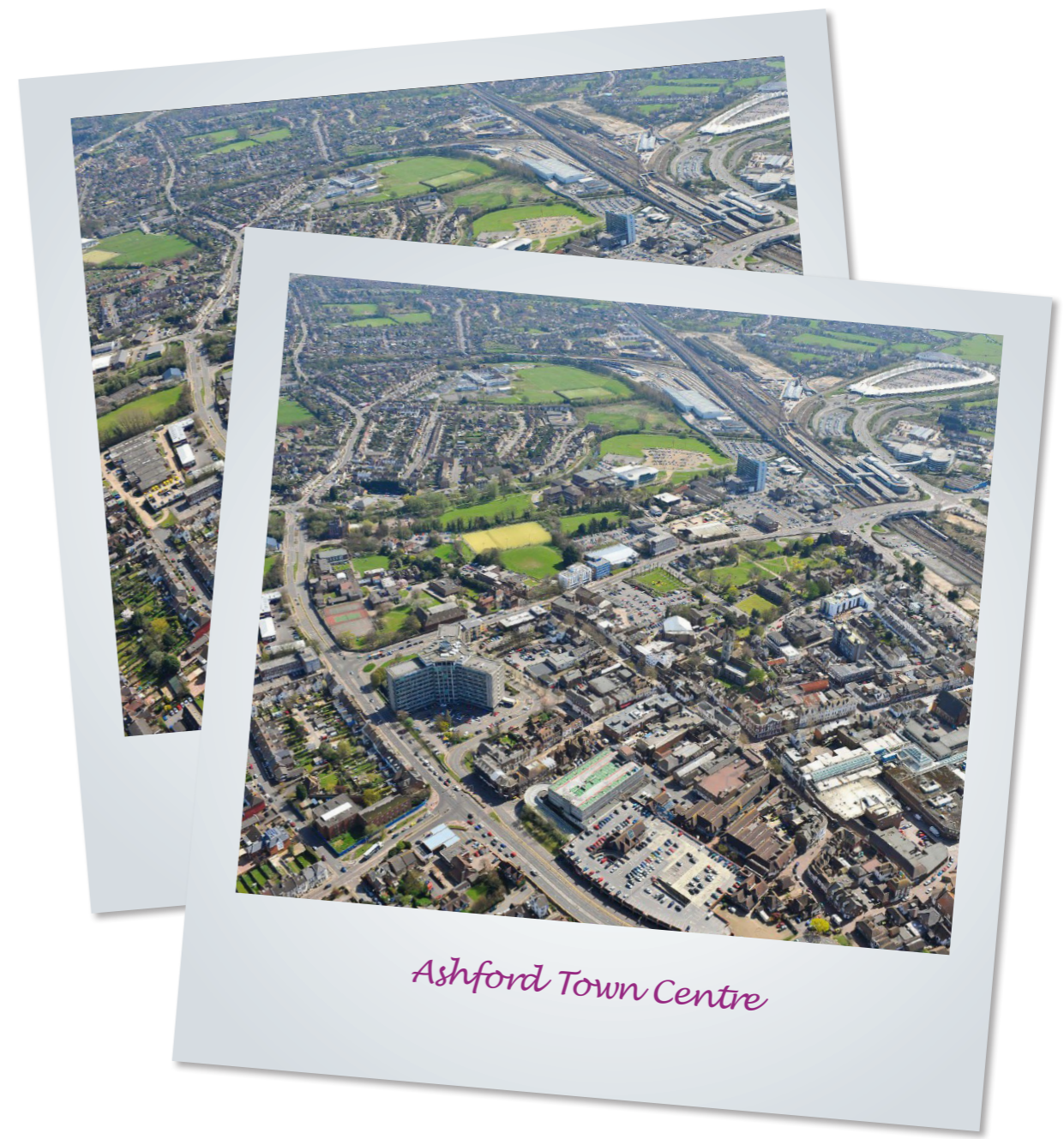
Introduction

A Section 106 agreement allows a local planning authority to enter into a legally binding agreement with a developer. Within section 106 agreements there are planning obligations that enable a council to secure contributions to services, infrastructure and amenities. As the borough continues to grow it is vitally important that community infrastructure grows and improves with it. This report looks at the many projects that section 106 (S106) payments have contributed towards in the 2012/13 financial year and looks ahead to those due to be delivered in the current year.

These range from small community projects to large infrastructure works. S106 contributions are an important revenue source that helps support sustainable growth and enhances communities within the Ashford borough.

This report looks at the many projects that Section 106 (S106) payments have contributed towards in 2017/18 financial year, a glance back at previous years and a look ahead towards some projects to look forward to.

These range from small community projects to large infrastructure works. S106 contributions are an important revenue source that helps support sustainable growth and enhances communities within the Ashford borough.



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Section 1 – Housing

(Affordable & ABC construction)

In 2017/18 199 affordable housing units in a variety of different formats were negotiated through S106 agreements. Affordable housing in the borough is primarily provided by developers working with registered social landlords. Ashford Borough Council's role in this process is pivotal - through the planning process we have built, enabled or brought back into use 782 affordable homes.

167 affordable units were completed in 2017/18, over half of these completions were from Ashford Borough Council sites.



Noakes Meadow



Golding Homes construction at Finberry



Housing continued....

There will be times when it is not possible to achieve all or any of the affordable housing on-site, in this instance the Council will seek offsite contributions towards affordable housing. In 2017/18 the Council, through S106 receipts, allocated £940,000 towards ABC affordable housing projects, these projects are either under construction or working through the planning process.



Section 2 – Community Facilities

Repton Park

Repton Park Community Centre - budget circa £2m

Repton Park Community Centre or 'Repton Connect' has been under construction for the past year and is due to open at the end of this summer. The Community Centre's facilities include a multi-use games area, two large internal rooms that can be used for a multitude of activities and an area of open space to the rear of the facility. Once completed the Community Centre will be handed over to the newly formed trust.



Coming soon –

Finberry Community Centre

Circa budget £2.5m

As part of Crest Nicholson's development at Finberry there is a requirement on the developer to construct a community centre and sporting facilities to serve the residents of the new development. The Council is currently in talks with the developer to discuss the design, layout and sporting uses of this community hub. It is likely that planning approval would be sought in 2018 with an expected opening in 2020.



Section 3 – Education

As the borough continues to grow it is hugely important that education supply meets the increasing demand. In 2017/18 £2.9m towards primary and secondary was negotiated through section 106 agreements and a further £1.2m collected from past S106 agreements.

Finberry school opened in Autumn 2017.



Section 4 – Sports, Play Areas & Open Space

Bulleid Place Play Area & Open Space

Section 106 funding £140,000

Combined with funding provided from ABC Housing this project replaces the play area at Bulleid Place, which has come to the end of its lifecycle, and replaces it with a brand new designed and built play area, alongside landscaping works. Alongside this new play area an adult gym would be provided as well as substantial open space works. Newtown Green will also have its young children's play area refurbished and some items replaced; this is seen as an opportunity to increase the play value offer within the same footprint.

Bridgefield

§106 budget circa £800,000

The creation of a local community park, play area and nature conservation area. The play area has been designed to cater for all age groups, providing a play experience that is different, yet complimentary to what is on offer in the local vicinity. The concept of the play area and designed equipment promotes the three themes of the Iron Age, Nature and Water. The play area will include, amongst other play equipment, a bespoke tower with two zip wires, trampolines, swings, carved farm animals and small and full size play tractor. The park opens this summer.



Section 5 – Public Realm and Town Centre Improvements

Ashlon leaf

S106 funding - £35,000

As part of the public realm works in front of International house and opposite Ashford International Train Station there was an opportunity to install an art piece in a pivotal location.



Town Centre Public Realm Improvements (College Corner)

S106 budget £125,000

Given the likely increase in pedestrian activity from the proposals to the South of Beaver Bridge, the brewery and hotel, to and from a developed commercial quarter, the station and the college site there is a clear need for the visual quality of that movement experience to be improved through enhancements to the public realm, across the combined junctions. These works were carried out by Kent Highways in the first half of 2018, using a combination of S106 funding and other sources, and have recently been completed.



Section 6 – Strategic Parks (looking forward)

Victoria Park

The project is within the development stage of a bid to Heritage Lottery Fund. Currently the masterplan is being refined and detailed in response to comprehensive community and stakeholder engagement, and detailed surveys of the site. The key areas for the project include provision of a café, better play areas, improvements for wildlife, better toilets, improved safety and security, and more activities and events.



Conningbrook

Having installed the aeration system and introduced a range of measures to manage weed and algae growth in Conningbrook Lakes at the start of the year, the focus will now turn to building up the activities taking place on the water even further in the coming twelve months, as well as completing the Masterplan for the Country Park. The Masterplanning process will focus on the leisure land within the park and incorporate the various elements of infrastructure, play, leisure and recreation needed to complete this strategic park for the borough.

The work will complete the designs for the final layout of the park and incorporate the proposed hub building, footpaths, parking, storage, play area, signage/interpretation, landscaping and artistic interventions. As the enabling residential development is now well underway (and supporting S106 contributions will be collected by the authority over the next five years) the final features for the park can be commissioned and delivered.



SECTION 106 & *the community*

Ashford Borough Council
Planning & Building Control
Civic Centre
Tannery Lane
Ashford
Kent TN23 1PL

Web: www.ashford.gov.uk/section-106-agreements

E-mail: michael.scaplehorn@ashford.gov.uk
lois.jarrett@ashford.gov.uk

Tel: (01233) 330202 / 246



ASHFORD
BOROUGH COUNCIL



Agenda Item No: 14

Report To: CABINET

Date of Meeting: 12th July 2018

Report Title: Proposed Multi Storey Car Park, Station Road, Ashford (Bowling Alley Car Park).

Report Authors & Job Titles: Steve Parish – Project Delivery Manger
Jo Fox - Deputy Head of Community Safety & Wellbeing

Portfolio Holders for: Cllr Bradford – Community Safety and Wellbeing
Cllr Galpin – Corporate Property
Cllr Shorter – IT and Finance

Summary: The council currently provides 1467 public car parking spaces to serve Ashford town centre on land that it owns.

The town centre offer is changing therefore the council needs to ensure there remains enough parking provision to meet demand in the future, while also allowing regeneration and development opportunities to come forward, which will benefit the overall prosperity of the borough.

Dover Place Car Park has been identified as suitable for redevelopment, with the opening of CQ38 new office building showing the potential that the redevelopment of this site has for bringing investment, growth and employment opportunities to the town centre. Furthermore, the council has a temporary car park on Elwick Road and has only a limit period of use determined by the planning permission and as such alternative provision needs to be sought.

The redevelopment of these sites has the potential to create a shortage of parking provision in the town centre and work is needed to identify a solution to this problem. It is proposed to explore the potential of the construction of a multi storey car park on the existing the council owned Station Road car park site at the rear of the bowling alley.

This report seeks authority to allocate resources to develop these proposals to a stage that will enable the preparation of a business case, construction cost estimate and planning application.

Key Decision: YES

**Significantly
Affected Wards:**

All Town Centre wards particularly Victoria.

Recommendations: **The Cabinet is recommended to authorise expenditure of up to £190,000 and the commitment of council staff resources to scope the options available to the council to construct a multi storey car park on the existing Station Road car park site.**

Policy Overview: Promote growth and achieve greater economic prosperity for the borough which will support the delivery of a viable and sustainable replacement for the Formula Grant through the generation of income for the council.

The additional car parking will enhance the car parking offer for its customers and in doing so an efficient and cost effective proposal.

**Financial
Implications:**

The financial implications of this report require the allocation of £190,000 from reserves set aside for corporate projects.

Following this work a full business plan will be produced for a future multi-storey car park which will include all capital investment required, the operating income and expenditure and how the project will be funded.

Legal Implications: Legal implications will be considered through the feasibility study and reported at the end of this stage.

**Equalities Impact
Assessment:**

EIA is not needed at this stage.

**Other Material
Implications:**

None

**Exempt from
Publication:**

NO

**Background
Papers:**

None

Contact:

steve.parish@ashford.gov.uk
jo.fox@ashford.gov.uk

– Tel: 01233 330613
– Tel: 01233 330331

Report Title: Proposed Multi Storey Car Park, Station Road, Ashford (Bowling Alley Car Park).

Introduction and Background

Existing Parking Provision

1. The council currently provides 1467 public car parking spaces in Ashford town centre. A further 1502 spaces are available in privately operated car parks.
2. The Ashford International Station Car Parks (Euro Star services) contain a further 1850 spaces. These are available to all visitors to the town but are some distance from the town centre and primarily aimed at commuters and users of the Euro Star.

New Car Parks Approved for Delivery in 2019

3. New “ground level” public car parks are being delivered alongside the Elwick Place development and on Victoria Way. Elwick Place will open in December 2018 whilst Victoria Way is being provided by the developer of the new residential scheme opposite the site and is expected early in 2019.
 - a. The new Elwick Place Car Park will contain 282 spaces
 - b. The new Victoria Way Car Park will contain circa 116 spaces
4. A total of circa 398 new parking spaces will be provided by the end of 2019, however, it should be remembered that these spaces are intended to support visitors to the new Elwick Place complex and the new Victoria Way development and cannot be considered a direct replacement for any losses elsewhere in the town centre.

Town Centre Master Planning

5. The council is developing an Ashford Town Centre Masterplan which has identified suitable redevelopment sites located on land in Ashford Borough Council ownership which are currently utilised for public car parking.
6. Key sites are Dover Place and Elwick Road (temporary) car parks which currently deliver the below public parking provision:

Elwick Road Temporary Car Park 110 spaces
Dover Place 180 spaces

7. Dover Place has already had its capacity reduced with the construction of CQ38 and is earmarked for further development as the market matures. The Temporary Car Park on Elwick road will be developed as part of the future phases of the Elwick Rd development site, the first phase of which is being delivered this year.

8. A multi storey car park has the potential to grow car parking capacity within the town centre and will offset against the potential loss of circa 290 spaces over the next few years.
9. The need to start planning for replacement parking was recognised last year and the council engaged the services of Design Consultants Willmott Dixon and KSS to look at potential sites in and around the town centre on which a multi storey car park could be constructed.
10. The resulting report identified the existing Station Road Car Park site, at the rear of the bowling alley, as the most suitably located and economical option to accommodate a multi storey car park. The site currently provides 108 parking spaces at ground level.

The Proposal

11. It is proposed to undertake a feasibility study looking at the options available to the Council to construct a multi storey public car park on the existing Station Road site to maximise the number of spaces.
12. It is intended that the multi storey car park would replace the spaces lost to redevelopment and potentially deliver additional spaces.
13. The Community Safety and Wellbeing Service would be the operator / end user of any new multi storey car park whilst Corporate Property Service would be responsible for the buildings maintenance. The feasibility study will consider the following items when setting out the car park specification:
 - a. The building must be clad in a suitably aesthetically pleasing material and incorporate an attractively designed feature focal point on the southwest corner visible from Station Road and the Commercial Quarter.
 - b. The design must aspire to meet the “Park Mark” specification standard and incorporate the provision for vehicle charging points.
 - c. Bay sizes must be generous and located to make manoeuvring of vehicles an easy and comfortable experience.
 - d. Energy efficient with the potential option to add PV panels to the building.
 - e. CCTV will be incorporated into the building on every floor.
 - c. There is the aspiration to create a safe, clean and comfortable environment in which to park.
14. Tariffs will be set to reflect the user mix that is expected e.g. commuters, town centre workers, shoppers and other visitors.
15. A project delivery programme will be established in agreement with the Project Champion and “end user” Head of Service and will reflect their needs, the amount of time required to submit and determine the planning application and the time required to design procure and construct the new car park.

Implications and Risk Assessment

16. The potential implications of the council not approving the proposals set out in this report include:
- Affordable town centre public parking provision not keeping pace with demand affecting residents, businesses and commuters.
 - A missed opportunity for the council to generate income through the development of the current car park sites.
 - A slowing of the economic growth of the town through a lack of investment in the necessary infrastructure to support its development.

17. An initial assessment of the proposals has been undertaken and the following key risks identified which will be explored further through the feasibility study:

Risk 1 – The number of spaces that the building can accommodate may be restricted due to insufficient traffic capacity being available at the exiting Station Road junctions issue.

Mitigation measure – Early engagement with KHS local traffic officers and planning consultants is imperative to commission the necessary traffic assessment surveys needed to establish the available capacity within the local highway network to accommodate ABC's car parking proposals. This may lead to the need for local junction improvements or a reduction in the proposed parking provision depending on the associated costs.

Risk 2 – A suitable location to accommodate temporary parking spaces is needed to deal with the temporary displacement of vehicles from the existing Station Road car park during the multi storey car park construction phase.

Mitigation measure - Early establishment by Parking Services of the expected impact of the temporary closure of Station Road car park is needed to inform the project as to the number of temporary spaces required and where they can be provided.

Consultation Planned or Undertaken

18. The identified owners and occupiers of land immediately adjacent to the Station Road Car Park site have been written to by the Deputy Head of Community Safety and Wellbeing informing them of the councils intentions to investigate options to locate a MSCP on the site.

Other Options Considered

19. **Do nothing** – The council could choose not to replace the lost car parking spaces when the existing sites are developed. This would leave private car park operators pick up the displaced business but reduce parking revenue income for the council. The need for additional capital investment for the car park would however be avoided and thus available for other projects.

20. This approach would not be in line with the council's policy to promote redevelopment to bring economic investment, growth and employment opportunities to the town. Subsequently it was rejected.
21. **Alternative site within the town centre** – As previously stated, the council appointed design consultants Willmott Dixon and KSS looked at five potential sites in and around the town centre on which a multi storey car park could be constructed. Their findings are presented in the *Ashford Car Park Sites Options Appraisal Report dated September 2017*.

Reasons for Supporting Option Recommended

22. The Ashford Car Park Sites Options Appraisal Report concluded that it would be possible to build on all identified sites, but singled out Station Road car park as the most economical to construct and best located to serve the council's existing and future customers.

Next Steps in Process

23. This report seeks authority to commit resources to scope the options available to the council to construct a multi storey car park on the existing Station Road car park site and generate the following outputs:
 - The preparation of a business case to demonstrate the proposal is viable.
 - Evaluation of project options, feasibility study and outline designs.
 - Commissioning of site surveys and assessments to support the preparation of the outline designs and planning application preparation.
 - Consultation with key stakeholders and early engagement with planning statutory consultees.
 - Development of designs to a level sufficient to permit the submission of a planning application.
 - Preparation of a budget cost estimate for the delivery of the new car park and provision of temporary car parking.
24. A further report will come to cabinet later in the year to obtain the necessary approval to start construction.

Conclusion

25. The Council's policy to promote redevelopment in the town centre to bring economic investment, growth and employment opportunities is reliant on the availability of suitably located land and the provision of supporting infrastructure.
26. The proposals in this report support this policy through the potential provision of new infrastructure that will allow land to be available for redevelopment.

Portfolio Holder's Views

27. *Ashford Town Centre is going from strength to strength. Ensuring a supply of modern and safe parking to complement the economic growth that is taking place is vital for all who work and visit the town. A new multi storey car park is very much a part of our vision for the future and therefore I fully support the necessary preparatory work being undertaken to turn this proposal into reality.*

Cllr Bradford – Community Safety and Wellbeing

28. *This report outlines the importance of the provision of adequate car parking for the continued economic and social development of Ashford Town and the place that this site can have as a location of a multi storey car park. New parking provision is needed to accommodate new residents, visitors and businesses. It would also compensate for parking spaces which are being lost on Dover Place and potentially at Elwick Road temporary car park. A multi-storey car park also gives flexibility for the next phase of regeneration. The project as described is the vital preparation work to test viability of a multi-storey car park and, if viable, taking the project through to the submission of a planning application. This is a vital piece in the jigsaw of Ashford's revitalisation and regeneration. I therefore commend this to Cabinet*

Cllr Galpin – Corporate Property

28. *This report sets out the clear objective of preparing the Town for the planned and as yet aspirational developments for the future. This is fully in line with the council's aspiration to make the town more welcoming for both residents and visitors and to help businesses to thrive in the current evolution of town centre economies.*

Cllr Shorter – IT and Finance

Contact and Email

29. Steve Parish
email - Steve.parish@ashford.gov.uk

Jo Fox
email - jo.fox@ashford.gov.uk

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Agenda Item No: 15
Report To: Cabinet
Date of Meeting: 12th July 2018
Report Title: Terms of Reference of the Town Centre Place Making Board
Report Author & Job Title: Richard Alderton
Portfolio Holder: Leader of the Council, Cllr. Gerry Clarkson

Summary: Membership of this Board has been agreed by Cabinet following a recommendation from Selection and Constitutional Review Committee. This report proposes Terms of Reference for the Board prior to its first meeting.

Key Decision: NO

Significantly Affected Wards: Borough-wide interest

Recommendations: **The Cabinet is recommended to agree the Terms of Reference for The Town Centre Place Making Board as set out in the appendix to this report.**

Policy Overview: This Board has a key role to play delivering the Council's corporate agenda in terms of helping drive the Borough's economy; the quality of life for residents; and supporting the Council's finances to provide value for residents.

Financial Implications: None in terms of this decision.

Legal Implications None in terms of this decision.

Equalities Impact Assessment Not required in terms of this decision.

Terms of Reference of the Town Centre Place Making Board

Background

The purpose of the report is to seek Cabinet approval for the Terms of Reference of this Board.

In line with the Articles of the Constitution – Part 2, para 7.11 - the Cabinet is required to approve the Terms of Reference of this Board. The proposed Terms of Reference are attached as an Appendix to this report.

Proposal/Current Position

A Town Centre Place Making Board is proposed to drive a strong and positive response to the various challenges that all town centres are currently facing. This is a high priority for the Council.

The Board aims to capitalising on the many changes underway in the town to create a stronger destination that Borough residents and visitors alike will enjoy.

As a first step, there is a need to better understand what people want from their town centre in a fast changing world. Then the response will focus on speedy action – be it delivering improvements to the environment so it is easier to use and enjoy the town centre; or broadening the quality of the experiences on offer to appeal to all sections of the community.

The Council will need to work with residents, businesses and many others who have a stake in the town to find a compelling mix of retail, business and community services, leisure and entertainment experiences. The intention is to create a co-ordinated action plan which will deliver a range of projects. The Board's minutes; the action plan that is prepared; and any financial approvals needed will be reported to the Cabinet for decision.

It is now timely – given the priority focus on regenerating the town centre – to have a specific Board focusing on town centre place-making.

The town centre work is being handled in four work-streams with a lead councillor in each. The Board's membership reflects this and also includes lead members for finance and legal issues.



Portfolio Holder's Views

“This Ashford Town Centre Place Making Board has one of the most important tasks ahead of it and its Organisation and now its Terms of Reference, are therefore extremely important. These Terms of Reference are well defined and, whilst written in an engaging way, direct a sharp focus on delivering a very special place for the people of Ashford and with which I hope that we too can all be proud.

I commend this report and its single recommendation”.

Contact and Email

Richard.alderton@ashford.gov.uk;

Ashford Town Centre Place Making Board

Draft Terms of Reference

1. The Board's role is to help set an ambitious future for Ashford town centre. This will be based on a clear understanding of the way town centres are changing and the ingredients that will make Ashford town centre a special place with a great range of experiences to enjoy and a quality environment to enjoy them in. The ambition is to consolidate Ashford town centre as the vibrant, exciting and economically buoyant heart of our community.

2. Ashford town centre – in line with town centres generally – is changing rapidly as people's shopping habits and expectations change. But, unlike most other centres, Ashford is currently seeing large-scale investment in a range of leisure, employment and tourism projects and the Board's vision needs to capitalise on this opportunity map a clear and exciting direction for the town centre's future.

3. The Board will set a challenging and ambitious set of specific outcomes to achieve. These will be fleshed out in practical project delivery plans with the resources needed to deliver them.

4. The agenda of projects will be wide ranging and vary in scale – getting the detail right is as important as delivering major capital projects. A special focus is needed on the range of experiences and 'things to do' in the town centre to respond to the fact that peoples' expectations of town centres have changed.

5. This agenda must be tackled at pace to take full advantage of the current opportunities and the market momentum and enthusiasm that has built up around the town's future prospects. Working groups tackling key themes have been set up to inject this momentum – the Board will oversee this work and agree an action plan for subsequent formal consideration by the Cabinet.

6. Specialist financial and legal support the Board needs will be provided by relevant officers and their respective portfolio holders being fully involved as Board members.

7. The minutes of the Board will be reported to Cabinet. Decisions requiring financial approval outside existing approved budgets will continue to be taken by Cabinet in the normal way.

8. It is important that all councillors are able to contribute their ideas to the Board's work. This will be achieved in a number of ways including member briefings, workshops and written progress updates.

9. Understanding the needs of different user groups in the town centre will be crucial to help shape the Board's project delivery plans and make sure they are relevant. The Board will draw on research from the Residents' Opinion Survey; focus groups with key target audiences; and a town centre stakeholder event.

10. The Board will want to engage with the wider Borough community both to seek their views and ideas but also to explain and build awareness of what is happening now and in future in the town centre. The Board will approve a Communications Plan to tackle this requirement and keep it under review as the work develops. Major individual projects may need their own Communications Plans.

11. Working with partners in the private, public, community and voluntary sectors is crucial. This will help to generate commitment, enthusiasm and confidence. Crucially it will also help to identify shared opportunities and show how resources from different sources can be matched to help deliver the Board's ambitious agenda

12. The Board will direct the collective efforts of the four work stream groups and receive reports from them, in order to co-ordinate our approach and drive forward and deliver that special place we all seek to create. The Board will oversee the preparation and implementation of an action plan for the town centre and work with strategic partners (e.g. at the Ashford Strategic Delivery Board and the Health and Well-being Board) to help deliver that plan.

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Agenda Item No: 17
Report To: CABINET
Date: 12TH JULY 2018



Report Title: SCHEDULE OF KEY DECISIONS TO BE TAKEN

Report Author and Job Title: Danny Sheppard, Member Services Manager (Operational)

Portfolio Holder: Portfolio Holders are individually specified in the attached Schedule.

Summary:	To set out the latest Schedule of Key Decisions to be taken by the Cabinet of Ashford Borough Council.
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Key Decision: NO

Significantly Affected Wards: Where appropriate, individual Wards are indicated.

Recommendations That the Cabinet receive and note the latest Schedule of Key Decisions.

Policy Overview: Under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is no longer a legal requirement to publish a Forward Plan of Key Decisions, however there is still a requirement to publish details of Key Decisions 28 clear days before the meeting they are to be considered at. The Council maintains a live, up to date rolling list of decision items on the Council's website, and that list will be presented to the Cabinet each month, in its current state, for Members' information.

Financial Implications: Nil

Legal Implications: n/a

Equalities Impact Assessment n/a

Other Material Implications: Nil

Exempt from publication: No

Background None

Papers:

Contacts:

danny.sheppard@ashford.gov.uk – Tel: 01233 330349

**CABINET
SCHEDULE OF KEY DECISIONS TO BE TAKEN**

The following Key Decisions will be taken by Ashford Borough Council's Cabinet on the dates stated.

Ashford Borough Council's Cabinet is made up of: - Councillors Gerry Clarkson; Neil Bell; Clair Bell; Mike Bennett; Gareth Bradford; Paul Clokie; Graham Galpin; Alan Pickering; Neil Shorter; and Gerald White.

Copies of the reports and any other relevant documents that are submitted to the Cabinet in connection with a proposed decision will be available for inspection, or on screen, five clear days before the decision date at the Civic Centre, Tannery Lane, Ashford and at The Town Hall, 24 High Street, Tenterden, during opening hours, or at www.ashford.gov.uk/councillors_and_committees.aspx

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
12th July 2018					
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Shorter	Nic Stevens	Open (Exempt Appendix)	14/7/17

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Disabled Facilities Grants	<i>To report on the success of the integration of an OT within the housing department and to seek agreement to extend the project, to set out the position in relation to mandatory DFGs reflecting on the progress in reducing wait times, to set out proposals to offer discretionary grants on top of our existing mandatory DFGs, to provide a better service to those in need and address health equality and to provide an overview of the future proposals for a potential integrated East Kent Housing Health and Social Care project.</i>	Cllr White	Julian Watts	Open	4/5/18
Civil Penalties	<i>To recommend that the Council adopt a Policy Statement in relation to CP as an additional enforcement option. Once adopted the Council will be able to issue fines of up to £30,000. It would be expected that the maximum fine would be imposed on the worst offenders.</i>	Cllr White	Julian Watts	Open	4/5/18
Annual Performance Report 2017/18	<i>The Annual Report will build upon the contents of quarterly performance monitoring, but will also include the following information – An Introduction from the Leader and Chief Executive; Facts and figures about Ashford; Timeline of key achievements in the Borough over the calendar year; Borough achievements; and a Financial Summary.</i>	Cllrs Clarkson/ Shorter	Lorna Ford	Open	16/6/17

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Updated Personnel Policies – Disciplinary, Capability and Employee Welfare	<i>The changes within the policy documents aim to reflect the organisation's reputation as a forward-thinking employer, provide an accurate reflection of the organisation's values, offer effective methodologies that aim to resolve situations, support best practice and emerging social trends and include recent changes in employment case law and changes on the horizon.</i>	Cllr Pickering	Joy Cross	Open	9/5/18
Chilham Recreation Grounds – Section 106 Funding	<i>To seek agreement to the release of funding to the Parish Council and Recreation Ground Trust for the purposes described in the report, subject to an appropriate Funding Agreement and monitoring regime being in place.</i>	Cllr Bennett	Amanda Scott	Open	17/5/18
Lease of Land Known as Kiln Field to Tenterden Town Council	<i>To ask the Cabinet to agree to the transfer of the site to TTC on a 50 year lease and to allow the development and delivery of a management and community engagement plan by TTC.</i>	Cllr Bennett	Michelle Byrne	Open	17/5/18
New Multi-Storey Car Park, Station Road, Ashford		Cllr Galpin	Steve Parish	Open	24/5/18

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
9 th August 2018					
MEETING CANCELLED					
13 th September 2018					
Commercial Investments – Response to the Overview and Scrutiny Committee		Cllr Shorter	Will Train	Open	14/6/18
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance ‘snapshot’.</i>	Cllr Shorter	Will Train	Open	11/8/17
Corporate Commercial Property – Annual Report	<i>To advise of the revenue performance of the Council’s corporate property portfolio during the last financial period and to advise of proposals to increase profitability in the coming financial period.</i>	Cllr Shorter	Stewart Smith	Open	11/8/17
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	11/8/17
Wye 3 Masterplan		Cllr Clokie	Mark Chaplin	Open	6/10/17
Affordable Housing Delivery Update		Cllr White	Mark James	Open	9/3/18

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Planning Peer Review		Cllr Clokie	Tim Naylor	Open	19/4/18
Residents Survey		Cllr Clarkson	Lorna Ford	Open	19/4/18
Review of Taxi Licensing Policy and Appeals Committee Terms of Reference		Cllr Bradford	Trevor Ford/ Estelle Culligan	Open	23/5/18
Review of the Chilmington Green Area Action Plan		Cllr Clokie	Daniel Carter	Open	22/6/18
11th October 2018					
Medium Term Financial Plan	<i>To ask Cabinet to note the Medium Term Financial Plan ahead of this year's Budget process.</i>	Cllr Shorter	Maria Seddon	Open	13/10/17
Leisure Procurement	<i>To update Members on the progress, process and timescales anticipated and lease arrangements proposed with ALT. To seek approval to bring the selected leisure operator proposals to the Cabinet for consideration.</i>	Cllr Bennett	Christina Fuller	Open	9/3/18

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
8th November 2018					
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Shorter	Will Train	Open	11/11/16
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report.</i>	Cllr Shorter	Maria Seddon	Open	11/11/16
6th December 2018					
Draft Budget 2019/20	<i>To present the preliminary draft service budget and outline MTFP for the purposes of subsequent formal scrutiny by the O&S Task Group and public consultation.</i>	Cllr Shorter	Ben Lockwood	Open	8/12/17
Council Tax Base 2019/20	<i>To present for approval the estimated 2019/20 Council tax base calculation for the Borough and each parished area, on which the major preceptors and local Parish Councils will base their requirements.</i>	Cllr Shorter	Ben Lockwood	Open	8/12/17
Housing Revenue Account (HRA) Business Plan 2018 – 2048	<i>An annual update of the HRA Business Plan financial projections. This report updates the position for the period 2018-48.</i>	Cllr White	Sharon Williams	Open	8/12/17

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
10th January 2019					
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Shorter	Nic Stevens	Open (Exempt Appendix)	12/1/18
14th February 2019					
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	9/2/18
Revenue Budget 2019/20	<i>To present the draft revenue budget for 2019/20 to the Cabinet for recommendation to Council.</i>	Cllr Shorter	Maria Seddon	Open	9/2/18
Corporate Performance Report	<i>The report seeks to give members and the Borough's residents an overview of how the Council is performing. It seeks to do this in a transparent and easily-accessible manner, giving a key performance 'snapshot'.</i>	Cllr Shorter	Will Train	Open	9/2/18
Leisure Procurement	<i>To seek agreement to the appointment of a new leisure operator following the joint procurement exercise with ALT.</i>	Cllr Bennett	Christina Fuller	Open	9/3/18

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
14th March 2019					
Annual Pay Policy Statement	<i>A review of the annual Pay Policy Statement and Ashford Living Wage Allowance</i>	Cllr Pickering	Michelle Pecci	Open	9/3/18
11th April 2019					
Corporate Property Asset Management Strategy 2018–2021 – 12 Month Update		Cllr Galpin	Stewart Smith	Open	12/4/18
MAY 2019 – NO MEETING DUE TO BOROUGH COUNCIL ELECTIONS					
14th June 2018					
Final Outturn 2018/19	<i>Final budget outturn for previous financial year.</i>	Cllr Shorter	Ben Lockwood/Maria Seddon	Open	18/6/18
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Shorter	Will Train	Open	11/8/17

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Section 106 Agreements – Annual Progress Report	<i>Focus on s106 contributions received in the last year, contributions secured in new agreements and projects that have been supported by s106 funding.</i>	Cllr Clokie	Lois Jarrett	Open	18/6/18

If you wish to contact a Report Author by email, unless stated otherwise, the addresses are; first name.surname@ashford.gov.uk

4/7/18

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