

# AUDIT, GOVERNANCE AND STANDARDS COMMITTEE MEETING

Date: Monday 15 January 2024  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Bartlett (Vice-Chairman), Coulling (Parish Representative), Cox (Chairman), Forecast, Harper, Jones, Kimmance, Knatchbull, Titchener (Parish Representative), Trzebinski and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## AGENDA

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1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Notification of Visiting Members
5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information
8. Minutes of the Meeting held on 13 November 2023 - To Follow
9. Presentation of Petitions (if any)
10. Questions and answer session for Local Residents (if any)
11. Questions from Members to the Chairman (if any)
12. Member Code of Conduct & Arrangements for Dealing with Councillor Conduct Complaints 1 - 91
13. Information Governance Report – Annual Report 92 - 159
14. External Auditor’s Audit Plan 2022/23 160 - 186

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**Issued on Friday 5 January 2024**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

15. External Auditor’s Progress Report & Sector Update	187 - 205
16. Treasury Management Strategy, Investment Strategy and Capital Strategy for 2024/25	206 - 282
17. Budget Strategy - Risk Assessment Update	283 - 300
18. Independent Member	301 - 306

## **PART II**

**To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.**

### **Head of Schedule 12 A and Brief Description**

19. Exempt Appendices to Item 18 - Independent Member - To Follow	1 – Relating to an Individual
20. Minutes (Part II) of the Meeting on 13 November 2023 - To Follow	1 – Relating to an Individual

## **INFORMATION FOR THE PUBLIC**

In order to ask a question at this meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Thursday 11 January 2024). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 4 p.m. one clear working day before the meeting (i.e. by 4 p.m. on Thursday 11 January 2024). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

To find out more about the work of the Committee, please visit the [Council’s Website](#).

## AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

**15 January 2024**

### Revised Member’s Code of Conduct and Arrangements for dealing with councillor conduct complaints

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Audit, Governance and Standards Committee	15 January 2024
Democracy and General Purposes Committee	31 January 2024
Council	21 February 2024

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	AUDIT, GOVERNANCE AND STANDARDS COMMITTEE
<b>Lead Head of Service</b>	Russell Fitzpatrick, Monitoring Officer
<b>Lead Officer and Report Author</b>	Russell Fitzpatrick, Monitoring Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

This report provides an update on a review of Local Government Ethical Standards and in accordance with that review proposes various changes to Maidstone Borough Council’s Member’s Code of Conduct and arrangements for dealing with Councillor conduct complaints, which form part of the Council’s Constitution.

#### **Purpose of Report**

Recommendation to Council

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**This report makes the following recommendation to the Committee:**

**THAT**

1. The proposed update to the Member Code of Conduct at Appendix 3, be noted.
  2. The proposed update to the arrangements for dealing with councillor conduct complaints at Appendix 4, be noted.
  3. The Democracy & General Purposes Committee recommend to Council that the Constitution be updated to include the Member Code of Conduct at Appendix 3, and the arrangements for dealing with councillor conduct complaints at Appendix 4.
  4. The Council be recommended to adopt the Member Code of Conduct at Appendix 3, and the arrangements for dealing with councillor conduct complaints at Appendix 4.
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# Revised Member's Code of Conduct and Arrangements for dealing with councillor conduct complaints

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p>	Monitoring Officer
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>We do not expect the recommendations will by themselves materially affect achievement of the cross-cutting objectives</p>	Monitoring Officer
<b>Risk Management</b>	<p>The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed accordingly.</p>	Monitoring Officer
<b>Financial</b>	No implications identified.	Monitoring Officer
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Monitoring Officer
<b>Legal</b>	It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in	Monitoring Officer

	Public Life. The extant Members' Code of Conduct adopted 2012 can be found within Part D (Codes) of the Council's Constitution. Pursuant to s. 28(5) of the Localism Act 2011 the Council may revise its existing code of conduct adopt a code of conduct to replace its existing code of conduct.	
<b>Information Governance</b>	The recommendations will impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes. The Information Governance Team have reviewed the processing of personal data affected and the associated documentation has been updated accordingly.	Information Governance Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Monitoring Officer
<b>Public Health</b>	No implications identified.	Monitoring Officer
<b>Crime and Disorder</b>	There are no implications to Crime and Disorder	Monitoring Officer
<b>Procurement</b>	No implications identified.	Monitoring Officer
<b>Biodiversity and Climate Change</b>	There are no implications on biodiversity and climate change.	Monitoring Officer

## 2. INTRODUCTION AND BACKGROUND

- 3.1 Pursuant to section 27 of the Localism Act 2011, all Councils are under a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council *"must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity"*. The council's Code of Conduct, when viewed as a whole, must be consistent with the seven principles of public life of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership (known as "the Nolan Principles"). In addition, the Code must include provision for the registration and disclosure of pecuniary interests and other relevant interests. There is no mandatory Code of Conduct.
- 3.2 Maidstone Borough Council (**the Council**) adopted its current Code of Conduct on 5 July 2012 (**the extant Maidstone Code of Conduct**). The extant Maidstone Code of Conduct is contained within the Maidstone Borough Council's Constitution at Part D1 (Members' Code of Conduct) with the arrangements for dealing with Councillor conduct complaints being contained

in Part D2 (Code Complaints) and associated Appendices. This code of conduct is based on the Kent County Council Code, a practice which is considered good practice to promote consistency for the authorities.

- 3.3 On 30 January 2019, the Committee on Standards in Public Life (**CSPL**) produced a report on Local Government Ethical Standards. The report found that there was considerable variation in the length, quality, and clarity in local authority Codes of Conduct. A link to the full report has been provided in the Background Papers (**CSPL January 2019 Report**). A summary of the highlights of the Report and the Government's response is attached as Appendix 1. It is important to note that notwithstanding the issues raised by the CSPL, the only recommendation from CSPL effectively taken forward by the government was the model Code of Conduct recommendation.
- 3.4 To this end, the CSPL recommended that the Local Government Association (**LGA**) should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. At its meeting on 29 July 2020, this Committee noted a report on the Consultation on the LGA Draft Model Code of Conduct Code. In December 2020, the LGA issued the "Local Government Association Model Councillor Code of Conduct 2020". This was updated on 19 January and 17 May 2021. A link to the Model Code is provided below and is also attached at Appendix 2:

<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>

The LGA subsequently published "Guidance on the Local Government Association Model Councillor Code of Conduct" in July 2021. The LGA also published a "Guidance on Member Model Code of Conduct Complaints Handling" in September 2021. Links to these guidance documents are provided in the Background Papers.

- 3.5 The Government's response to the CSPL January 2019 Report was finally published in March 2022. A summary of the Government's response is included in Appendix 1. The full response can be accessed via the link contained in the Background Papers.
- 3.6 The Kent Secretaries Group, a forum for Heads of Legal Services and Monitoring Officers across Kent, set up an officer's working group to review all the reports and guidance documents referred to above. MKLS was represented on that group. This resulted in the production of a recommended Kent Member's Code of Conduct and arrangements for dealing with councillor conduct complaints (**the Kent Code**). This has the advantage in seeking to ensure (so far as possible) a consistent approach to Code of Conduct complaints across Kent. This also assists dual hatted members to ensure that they can work within the same/similar Code of Conduct framework and assist Monitoring Officers and Independent Persons to try, so far as possible, to adopt a consistent approach to dealing with Code of Conduct complaints. As various Heads of Legal and Monitoring Officers across the County had input into the Kent Code, any issues arising for one authority can be raised within the Kent Secretaries group and solutions sought to amend the code to ensure (so far as possible) consistency and lead to further improvements. Ultimately

it is for each authority to adopt their own Code of Conduct and arrangements for dealing with complaints.

3.7 That said, the Kent Secretaries group adopted the majority of the LGA's Model Code of Conduct save for the following provisions:

3.7.1 some of the introductory and explanatory paragraphs as these were considered to be verbose, and

3.7.2 the civility/respect provisions. This was included in a previous Model Code but later removed due to concerns that the definition of "disrespectful" was subjective and resulted at the time in an increase in the number of petty complaints. There was concern expressed that this would be repeated, and the Kent Secretaries group considered it would suffice for this aspect to be covered by the existing sections of the Code relating to bullying and harassment and bringing the Council into disrepute.

This approach has been approved by Kent County Council's Standards Committee.

3.8 The proposed changes to the Maidstone Code of Conduct and arrangements for dealing with code of conduct complaints have been informed by the work of the Kent Secretaries Group. The amendments proposed by the Kent Model Code of Conduct and arrangements have been incorporated as track changes to the extant Maidstone Code of Conduct at Appendix 3 (Code of Conduct) and Appendix 4 (Arrangements for dealing with councillor conduct complaints).

3.9 With specific reference to the Code of Conduct, save for formatting issues (which are not shown as track changes), by way of summary, the proposed principal changes to the extant Maidstone Code of Conduct are:

3.9.1 Part D1. Paragraph 1, sub-paragraph 1.1 "Associated Person" - The words "or body" have been added, these were not included in the code but have been incorporated in other codes and therefore to ensure consistency this has been suggested as being incorporated into the code by Kent Secretaries Group.

3.9.2 Part D1. Paragraph 2, sub-paragraph 2.1- Additional wording has been included to reference social media. The LGA Model Code recommended including a long list of different types of communication and interaction. The form of words suggested here is simpler and reduces the risk of an unintended gap due to the list missing something. The current Code was adopted prior to the rapid growth in social media and this section recognises this.

3.9.3 Part D1. Paragraph 3, sub-paragraph 3.2.1 - This has been expanded to include reference to "harassment" and provide definitions as to what constitutes "bullying" and "harassment".

3.9.4 Part D1. Paragraph 3, sub-paragraph 3.2.5 - This section provides a direct cross-reference between the sections in the Constitution

referring to information that is classified as exempt in Committee papers.

- 3.9.5 Part D1. Paragraph 3, sub-paragraph 3.3 – A new section has been suggested to include training. The LGA Model Code recommended including a requirement to undertake Code of Conduct training. Rather than mandate it, the approach taken here is to establish the principle that not undertaking training cannot be used as an excuse for breaching the Code.
  - 3.9.6 Part D1. Paragraph 3, sub-paragraph 3.4 – A new section has been added to promote cooperation by members subject to a Code of Conduct complaint. The LGA Model Code recommended including a requirement to cooperate with any investigation and/or subsequent determination.
- 3.10 The arrangements for dealing with councillor conduct complaints contained at Appendix 4 is procedural in nature and reflects cumulative Monitoring Officer/Head of Legal Services experience.
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### **3. AVAILABLE OPTIONS**

3.1 The Committee has the following options available:

- 3.1.1 **Option 1:** To recommend to Council that the proposed amendments to the Member's Code of Conduct (at Appendix 3) and arrangements for dealing with councillor conduct complaints (at Appendix 4) be adopted and the Constitution updated accordingly. This option is recommended on the basis that members are familiar with this layout of the code, the changes to be considered are not extensive and this is consistent with the position of the principal authority. This is also the preferred option so as to provide consistency with other Kent authorities.
- 3.1.2 **Option 2:** To recommend to Council that alternative proposed amendments to the Member's Code of Conduct and arrangements for dealing with councillor conduct complaints be adopted and the Constitution updated accordingly. The Localism Act 2011 provides local authorities with the freedom to create their own Code of Conduct and arrangements for dealing with councillor conduct complaints, so it is open to the Audit, Governance and Standards Committee to make alternative proposed amendments having considered the various reports, government responses and LGA guidance. This is not a recommended course of action as the Council could inadvertently create a "third" Code of Conduct in circumstances where various options have already been considered and assessed extensively by both the LGA and separately by the Kent Secretaries group.
- 3.1.3 **Option 3:** To recommend to Council to adopt the LGA Model Code of Conduct (at Appendix 2). This option is not recommended as the Monitoring Officer on review of the existing code considers that the majority of the points set out in the LGA Model Code are captured in the Kent Code. The LGA will continuously review the model code and the Monitoring Officer (and Kent Secretaries group) will in turn continuously review the changes and

update members to determine whether further changes need to be made to the local code. The majority of the LGA Model Code has been incorporated within a code that Councillors are au fait with.

- 3.1.4 **Option 4:** Do nothing and make no changes to the existing Maidstone Code of Conduct so the Member's Code of Conduct and arrangements for dealing with Councillor conduct complaints remain as they are currently. This option would run counter to the recommendations of the Committee in Standards in Public Life whose intention was to strengthen the position regarding ethical standards.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option 1 is the recommended option as this would reflect most of the LGA's proposals and the CSPL's best practice recommendations for local authorities and also reflects the recommendations of the Kent Secretaries group. Furthermore, Members are familiar with this layout of the code, the changes to be considered are not extensive and this is consistent with the position of the principal authority.
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#### **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed accordingly.
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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The consultation on the LGA Model Code of Conduct was presented to and noted by Audit, Governance and Standards Committee on 29 July 2020 where the contents of the then LGA Model Code of Conduct were noted.
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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The recommendations of the Audit, Governance and Standards Committee will be put to Full Council. The Democracy & General Purposes Committee will be consulted on Appendices 3 and 4 prior to Full Council's consideration given the constitutional changes that would be required to give effect to this Committee's recommendation.
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#### **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Summary of Highlights of CSPL Report & Government Response
  - Appendix 2: LGA Model Councillor Code of Conduct (December 2020 as updated on 19 January and 17 May 2021)
  - Appendix 3: Proposed updated Maidstone Borough Council Member's Code of Conduct
  - Appendix 4: Proposed updated Maidstone Arrangements for dealing with councillor conduct complaints
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## **9. BACKGROUND PAPERS**

- 9.1 [Committee on Standards in Public Life - Local Government Ethical Standards - A Review by the Committee on Standards in Public Life \(30 January 2019\)](#)
- 9.2 [Guidance on LGA Model Councillor Code of Conduct \(July 2021\)](#)
- 9.3 [Guidance on Member Model Code of Conduct Complaints Handling \(September 2021\)](#)
- 9.4 [Local government ethical standards: government response to the Committee on Standards in Public Life report \(March 2022\)](#)

## **APPENDIX 1 TO REPORT**

### **Committee on Standards in Public Life – Review of Local Government Ethical Standards (January 2019)**

**&**

### **Government Response (March 2022)**

#### **Highlights and recommendations**

This summary is comprised of 3 sections:

- A) highlights of the review,
- B) recommendations to Government and other responsible bodies to bring about change and
- C) best practice recommendations to local authorities.

#### **A. Highlights of the review**

1. This is the 20<sup>th</sup> report of the Committee and was not prompted by any specific allegations of misconduct, but to assure the committee that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.
2. The following paragraphs provide a summary of the findings and an overview of discussions on particular areas including Code of Conduct, Independent Persons, sanctions, register of interests and parish councils.
3. The findings are summarised below:
  - a. The vast majority of councillors and officers want to maintain the highest standards of conduct.
  - b. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour.
  - c. A small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.
  - d. Concerns arose about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.
  - e. Whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.
  - f. The Committee have made a number of recommendations to government and identified best practice to improve ethical standards in local government. This includes recommendations that a number of

changes should be made to primary legislation, which would be subject to Parliamentary timetabling.

- g. The Committee will review the implementation by local authorities of the best practice recommendations in 2020.

#### 4. Code of Conduct:

- a. Local Authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct creating confusion among the public and councillors. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities to enhance the consistency and quality of local authority codes.
- b. There are benefits to local authorities being able to amend and have ownership of their own codes of conduct so the updated model code should be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.
- c. Several new provisions are recommended to be included in the new model code of conduct:
  - i. Cllrs must not participate in a discussion or vote in a matter at a meeting if they have **any** interest, whether registered or not, *"if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter"*.
  - ii. prohibitions on bullying and harassment, including a definition of bullying and harassment (plus list of examples of the sort of behaviour covered).
  - iii. Councillors must comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
- d. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source.
- e. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.
- f. The Code of Conduct should be reviewed annually and council should seek the views of the public, community organisations and neighbouring authorities.
- g. The Code of Conduct should be readily accessible – in prominent position on website and available in council offices.

- h. Straightforward and accessible guidance on how to make a complaint, the process for handling complaints and estimated timescales for investigations and outcomes should be on website.

5. **Register of Interests:** The following recommendations were made regarding Register of Interests:

- a. Cllrs should not be required to register their home address.
- b. Cllrs should register unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.
- c. Publish gifts and hospitality register at least quarterly and in an accessible format.

6. **Independent Persons (IP):**

- a. IP should be consulted on whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations the MO is minded to dismiss as being without merit, vexatious, or trivial.
- b. Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed.
- c. IPs to be appointed for two year fixed term, renewable once.
- d. The view of the IP in relation to a decision on which they are consulted should be published in any formal decision notice.

7. **Sanctions**

- a. The current sanctions available to local authorities are insufficient which damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.
- b. Local authorities should be given the power to suspend councillors, without allowances, for up to six months **but** only where the IP agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.
- c. Government to clarify (and legislate if necessary) whether councils may lawfully bar councillors from council premises or withdraw facilities as sanctions.
- d. Councillors (including parish Cllrs) should be given the right to appeal to the LGO if suspended (but not for lesser sanctions). The LGO should be given the power to investigate and decide upon an allegation

of a code of conduct breach and the appropriate sanction - including the ability to overturn the suspension. The Ombudsman's decision to be binding on the local authority.

- e. After a decision has been made on an allegation of misconduct, should publish a decision notice asap on website - including brief statement of facts, the provisions of the code engaged by the allegations, the view of the IP, the reasoning of the decision-maker and any sanction applied.
- f. Requirement to publish annual report on number of complaints, what they relate to, outcomes and any sanctions applied.
- g. The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.

## **8. Parish Councils:**

- a. Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.
- b. Parish Councils should be required to adopt the code of conduct of their principal authority and a principal authority's decision on sanctions for a parish councillor should be binding.
- c. Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.
- d. Complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

## **9. Miscellaneous**

- a. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.
- b. Councils should report, as part of their annual governance statement, on separate bodies they have set up or which they own, and give a full picture of their relationship with those bodies.
- c. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

## **B. Recommendations**

This section sets out the full list of recommendations. The responsible body for the majority of these recommendations is central government.

1. The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government

Government Response (GR) – The Local Government Association published the updated Code of Conduct in January 2021 however, it remains a local decision on whether this model code is adopted (Localism Act 2011).

2. The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

GR – The Government agrees with the principle behind this recommendation – which safeguards elected representatives – and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it. The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

3. Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

GR – The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media. It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

4. Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

GR – The LGA's Model Code of Conduct provides the following suggested wording on this matter: the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts they [they] are acting as a [member]".

It is for individual local authorities to ensure that their codes of conduct are regularly updated and elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government has no immediate plans to amend the regulations.

5. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

GR – The government has no immediate plans to amend the regulations. Unpaid roles need to be declared if it is relevant to council business and recuse themselves if appropriate. Councillors have a right to a private life and be involved in local organisations outside of their role as councillors.

6. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

GR - The LGA's Model Code of Conduct provided for members to record any gifts or hospitality with an estimated value of at least £50 but contained nothing re a cumulative amount.

Local authorities have the autonomy to set the requirements in their own codes of conduct. The Government accepts there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that the register should be publicly available.

7. Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".

GR – No immediate plans to repeal s31 Localism Act 2011. The principle of integrity requires that any such interests should be declared and resolved.

8. The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

GR – This would be unworkable and was not accepted. In practice most local authorities would find this rate of turnover unachievable.

9. The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

GR – The Government does not agree with this. The Transparency Code is a statutory requirement to publish information, it does not regulate the content of council's minutes or decision notices. It should not be necessary to publish details of an unfounded complaint.

10. A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.

GR – These proposals would effectively reinstate the previous flawed regime which allowed politically motivated and vexatious complaints and it was a deliberate policy decision to differentiate from the previous regime and have no provision for a sanction to suspend a councillor.

The government will engage with all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity.

This response also applies to recommendations 12, 13, 14 and 16.

11. Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

GR – The government endorses this as local authority best practice but sees no need to amend secondary legislation.

12. Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

GR – See 10 above.

13. Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

GR – see 10 above.

14. The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

GR – see 10 above.

15. The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

GR – This is better addressed through a best practice of an annual report of the cases and complaints handled and there is no need to prescribe the form and content of such reports.

16. Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

GR - See 10 above.

17. The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

GR – The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment. The government will consider this further.

18. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

GR – It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption. The high bar of police involvement has served to discourage politically motivated and unfounded complaints. The Govt does not therefore agree with this recommendation.

19. Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.

GR – There was no comment re this recommendation within the Government's response.

20. Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

GR – The government does not agree and has no plans to repeal s27(3) Localism Act 2011. It is a matter for local determination.

21. Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

GR – There are no current plans to repeal s28(11) Localism Act 2011 but the govt will give this matter further consideration.

22. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

GR – the government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England) (Amendment) Regulations to provide disciplinary protections for statutory officers.

23. The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

GR – Most local authorities already publish their whistleblowing policy, procedure and a named contact on their websites

24. Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. However, the govt is open to further representations on the matter on how local accountability can be strengthened in this regard.

25. Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.
26. Local Government Association corporate peer reviews should also include consideration of a local authority’s processes for maintaining ethical standards.

### **C. Best Practice Recommendations for local authorities**

This section sets out the best practice recommendations that are directed to local authorities. The Committee expects local authorities to fully implement them and intends to review the implementation of these in 2020.

1. Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
2. Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
3. Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.
4. An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.
5. Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

6. Councils should publish a clear and straightforward public interest test against which allegations are filtered.
7. Local authorities should have access to at least two Independent Persons.
8. An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.
9. Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
10. A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.
11. Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.
12. Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.
13. A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.
14. Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.
15. Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.



## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest :

- a) any unpaid directorships
  - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
  - c) any body
    - (i) exercising functions of a public nature
    - (ii) directed to charitable purposes or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

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

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

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

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

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

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

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

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

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

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

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

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

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

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **D1. MEMBERS' CODE OF CONDUCT**

### **PREAMBLE**

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
  - (a) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a Member.
  - (b) Fail to disclose the interest at Meetings where the interest is not entered in the Authority's register.
  - (c) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the Authority's register and is not the subject of a pending notification.
  - (d) Take part in discussion or votes, or further discussions or votes, at Meetings on matters in which you have the interest which are being considered at the meeting.
  - (e) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you

become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority.

- (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
  - (g) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## THE CODE

### **1. Interpretation**

#### **1.1.** In this Code:

**“Associated Person”** means (either in the singular or in the plural):

- (a) a family member or any other person or body with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or

management and to which you are appointed or nominated by the Authority; or

- (e) any body in respect of which you are in a position of general control or management:
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**“Authority”** means Maidstone Borough Council.

**“Authority Function”** means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends; [or](#)
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay; [or](#)
- (d) an allowance, payment or indemnity given to Members of the Authority; [or](#)
- (e) any ceremonial honour given to Members of the Authority; [or](#)
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

**“Code”** means this Code of Conduct.

**“Co-opted Member”** means a person who is not an elected Member of

the Authority but who is a member of:

- (a) any Committee or Sub-Committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

**"Disclosable Pecuniary Interest"** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest; or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

**"Interests"** means Disclosable Pecuniary Interests and Other Significant Interests.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) any of the Authority's committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is an elected Member of the Authority and includes a Co-opted Member.

**"Other Significant Interest"** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: -
  - (i) other council tax payers, ratepayers or inhabitants of the

electoral division or ward, as the case may be, affected by the decision; or

(ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or

(b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgement of the public interest.

**"Register of Members' Interests"** means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**"Sensitive Interest"** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## 2. Scope

2.1. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

2.2. [This Code applies to all forms of communication and interaction including social media.](#)

## 3. General Obligations

3.1. You must, when using or authorising the use by others of the resources of the Authority:

3.1.1. act in accordance with the Authority's reasonable requirements;  
and

3.1.2. ensure that such resources are not used improperly for political

purposes (including party political purposes).

**3.2.** You must not:

- 3.2.1. [bully any person or carry out any act of harassment. For the purposes of this paragraph bullying and harassment shall be construed as follows:-](#)
- (a) [the Advisory, Conciliation and Arbitration Service \(ACAS\) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples;](#)
  - (b) [harassment will have the meaning set out in The Protection from Harassment Act 1997 and other relevant legislation.](#)
- 3.2.2. intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- 3.2.3. do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- 3.2.4. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) you have the written consent of a person authorised to give it; or
  - (b) you are required by law to do so; or
  - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (d) the disclosure is
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the Authority;
- 3.2.5. [disclose information which is exempt information within the meaning of Part VA Local Government Act 1972 or The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012;](#)
- 3.2.6. prevent another person from gaining access to information to which that person is entitled by law;
- 3.2.7. conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- 3.2.8. use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 3.3 [Where you have not undertaken training relating to conduct matters, you shall not be able to use this as a defence where a complaint has been made.](#)
- 3.4 [You must co-operate with any Code of Conduct investigation and/or determination.](#)

#### **4. Registering Disclosable Pecuniary Interests**

- 4.1.** You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- 4.2.** In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

- 4.3.** Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members’ Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

## **5. Declaring Interests**

- 5.1.** Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members’ Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.

- 5.2.** Where you are present at a meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the meeting, you must:

- 5.2.1. disclose the Interest; and
- 5.2.2. explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6~~7~~ below); and unless you have been granted a dispensation or are acting under para 5(4):
- 5.2.3. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- 5.2.4. withdraw from the Meeting room in accordance with the Authority’s Procedure Rules whenever it becomes apparent that the business is being considered; and
- 5.2.5. not seek improperly to influence a decision about that business.

- 5.3.** Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority [\(including making an executive decision\)](#), you must:

- 5.3.1. notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - 5.3.2. not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - 5.3.3. not seek improperly to influence a decision about the matter.
- 5.4.** Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
  - 5.4.1. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - 5.4.2. withdraw from the Meeting room in accordance with the Authority's Procedure Rules.
- 6. Sensitive Interests**
  - 6.1.** Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
  - 6.2.** You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6.1 is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
  - 6.3.** The rules relating to disclosure of Interests in paragraphs 5.2 and 5.3 will apply, save that you will not be required to disclose the nature of the

Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

## **7. Gifts & Hospitality**

**7.1.** You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

**7.2.** Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.

**7.3.** You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality

**7.4.** The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

## **8. Dispensation**

**8.1.** [The Audit, Governance and Standards Committee, or any sub-committee of that Committee, or the Monitoring Officer \(where authorized\)](#) may, on a written request [made to the Monitoring Officer \(as appointed Proper Officer for the receipt of applications for dispensation\)](#) by a Member with

an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

**8.2.** A dispensation may be granted only if, after having had regard to all relevant circumstances, [the Audit, Governance and Standards Committee, its sub-committee, or](#) the Monitoring Officer [where authorized](#)) considers that:

8.2.1. without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or

8.2.2. without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or

8.2.3. granting the dispensation is in the interests of persons living in the Authority's area; or

8.2.4. [without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or](#)

8.2.5. it is otherwise appropriate to grant a dispensation.

**8.3.** A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

**8.4.** Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

**ANNEX 1****THE SEVEN PRINCIPLES OF PUBLIC LIFE*****Annex 1: Nolan Principle***

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached. [The definitions of the Principles are as below, or as set out on the website of the Committee on Standards in Public Life.](#)

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

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

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

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

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

**HONESTY:** Holders of public office should be truthful.

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

**ANNEX 2****DISCLOSABLE PECUNIARY INTERESTS****~~Annex 2+ Disclosable Pecuniary Interests~~**

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**“the Act”** means the Localism Act 2011

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

**“director”** includes a member of the committee of management of an industrial and provident society

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

**“M”** means a Member of the relevant authority

**“member”** includes a co-opted member

**“relevant authority”** means the authority of which M is a Member

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**“securities”** means shares, debentures, debenture stock, loan stock, bonds,

units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

<b>Interest</b>	<b>Description</b>
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority; and</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> <li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li> <li>(b) either <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

## D2. CODE COMPLAINTS

### 1. Context

1.1. These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that Maidstone Borough Council has adopted for dealing with complaints that an elected Member or co-opted Member or Parish/Town Councillor or co-opted member has failed to comply with the Code of Conduct.

### 2. Interpretation

2.1. '**Borough Council**' means Maidstone Borough Council.

2.2. '**Code of Conduct**' means the Code of Conduct, which the Borough and Parish/Town Council have adopted under section 27(2) of the Localism Act 2011.

2.3. '**Complainant**' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.

2.4. '**Disclosable Pecuniary Interest**' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Members' Code of Conduct.

2.5. '**Hearing Panel**' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.

2.6. '**Independent Person**' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:

2.6.1. whose views are to ~~must~~ be sought and taken into account by the Borough Council before it makes its a decision ~~is made~~ on an allegation that it has decided to investigate and whose views may be sought by the Borough Council at any other stage ~~any complaint alleging a breach of the Code of Conduct by a Subject~~

~~Member;~~

2.6.2. who may be consulted by the Subject Member about the complaint.

**2.7. 'Investigating Officer'** means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior Officer of the [Borough Council](#), an Officer of another authority or an external investigator.

**2.8.** The **'Monitoring Officer'** is a senior Officer ~~appointed by~~ of the [Borough Council](#) who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other Officer ~~or other person~~ of the Borough Council nominated by the Monitoring Officer to act on their behalf.

**2.9.** **'Parish/Town Council'** means the relevant ~~p~~[Parish/Town](#) ~~c~~[Council](#) within the Borough of Maidstone.

**2.10. 'Parties'** means the Complainant, Subject Member and the Investigating Officer, as appropriate.

**2.11. 'Subject Member'** means an elected member or co-opted member of the Borough or [Parish/Town Council](#) against whom a complaint has been made alleging a breach of the Members' Code of Conduct.

### **3. Appointment of Independent Person**

**3.1.** The [Borough Council](#) shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.

**3.2.** The Independent Person (and any substitute) shall be treated as if they were a Member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members ~~and in respect of the receipt of allowances.~~

#### **4. Making a complaint**

**4.1.** A complaint alleging a breach of the Code of Conduct by a Subject Member must be made [either](#)

4.1.1. in writing and addressed to the Monitoring Officer using the Complaint Form [included within](#) ~~at the end of~~ Annex 1 to these Arrangements [or](#).

4.1.2. [via the Council's website using the on-line complaint form provided there.](#)

Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), [should inform the Monitoring Officer of any such difficulty and the Monitoring Officer will arrange for assistance to be offered](#) ~~will be offered assistance.~~

**4.2.** The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 1 to these Arrangements).

**4.3.** The Monitoring Officer will normally acknowledge receipt of a complaint within [15](#) working days of receiving it. At the same time (and subject to ~~paragraph~~ 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph [12](#) of Annex 1 to these Arrangements.

#### **5. Criminal conduct**

**5.1.** In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

5.1.1. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;

5.1.2. fail to notify the Monitoring Officer of a Disclosable Pecuniary

Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;

- 5.1.3. fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.4. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.5. take part in discussions or vote at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- 5.1.6. knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

**5.2.** Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4.4 of Annex 1 to these Arrangements.

## **6. Anonymous complaints**

**6.1.** Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer, ~~in consultation with the Independent Person,~~ providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint. [The Monitoring Officer may consult the Independent Person.](#)

## **7. Role of Independent Person**

The Independent Person must be consulted and have their views taken into account before the [Borough Council Authority](#) makes a finding as to

whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

## **8. Preliminary tests**

**8.1.** The Monitoring Officer will, ~~in consultation with the Independent Person,~~ put the complaint through a number of preliminary tests, in accordance with paragraph ~~2~~<sup>1</sup> of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

**8.2.** In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph ~~2~~<sup>1</sup> of Annex 1 may either be extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.

## **9. Informal resolution**

**9.1.** The Monitoring Officer, ~~in consultation with the Independent Person,~~ may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

## **10. Investigation**

**10.1.** If the Monitoring Officer, ~~in consultation with the Independent Person,~~ decides that the complaint merits formal investigation, they will, normally within ~~1~~<sup>30</sup> working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

**10.2.** The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements.

## **11. Hearing**

**12.** If the Monitoring Officer, in consultation with the Independent Person, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 3 to

these Arrangements.

### **13. Sanctions**

- 13.1.** Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 124 of Annex 3 to these Arrangements.

### **14. Appeal**

- 14.1.** There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

### **15. Discontinuance of Action**

- 15.1.** In the event that the Subject Member has died, is seriously ill or has ceased to be an elected member or co-opted member of the Borough or Parish/Town Council the Monitoring Officer may determine to end the complaints process.

### **16. Revision of these Arrangements**

- 16.1.** The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter, ~~in accordance with the principles of natural justice.~~

## **Annexes**

[Annex 1 - Procedure on Receipt of A Complaint](#)

[Annex 2 - Procedure For Investigating The Complaint](#)

[Annex 3 - Hearing Panel Procedure](#)

**ANNEX 1:****PROCEDURE ON RECEIPT OF A COMPLAINT**

~~Para. **Annex 1: Procedure on receipt of a complaint**~~

- 1. Notification of Complaint to Subject Member**
  - 1.1.** Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member and, if applicable, the Parish/Town Clerk of the complaint.
  - 1.2.** The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish/Town Clerk] to submit initial views on the complaint, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).
- 2. **Preliminary Tests****
  - 2.1.** The complaint will be assessed by the Monitoring Officer ~~in consultation with the Independent Person~~ against the legal jurisdiction test in paragraph ~~12.2~~ and, if applicable, the local assessment criteria test in paragraph ~~12.4~~ below. The Monitoring Officer may assess the complaint in consultation with the Independent Person.
  - 2.2.** Legal jurisdiction criteria test:
    - 2.2.1.** Did the alleged conduct occur before the adoption of the Code of Conduct? If the answer to this is 'Yes' the test is failed.
    - 2.2.2.** Was the person complained of a member of the Borough or Parish/Town Council at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
    - 2.2.3.** Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
    - 2.2.4.** Did the alleged conduct occur when the person complained of

was acting as a member of another authority? If the answer to this is 'Yes' the test is failed.

- 2.2.5. If the facts could be established as a matter of evidence, could the alleged conduct be capable of supporting of a breach of the Code of Conduct? If the answer to this is 'No' the test is failed.
- 2.2.6. Is ~~the~~ complaint ~~is~~ about dissatisfaction with the Borough or Parish/Town Council's decisions, policies, ~~and~~ priorities, processes and governance etc.? If the answer to this is 'Yes' the test is failed and the matter should be raised by the complainant directly with the Borough or Parish/Town Council, via their general complaints process.

~~If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.~~

### 2.3. Local assessment criteria test:

If the complaint satisfies the legal jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- 2.3.1. The complaint is substantially the same as a complaint which has previously been made. ~~a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;~~
- 2.3.2. The complaint is anonymous, unless the Monitoring Officer is of the view, on the basis of corroborating evidence that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person. ~~supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;~~
- 2.3.3. No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;

- 2.3.4. The complaint is malicious or relatively minor, and, in the view of the Monitoring Officer, the public interest would not be served by taking further action., ~~trivial, politically motivated or 'tit for tat';~~
- 2.3.5. The Complainant is unreasonably persistent , ~~malicious~~ and/or vexatious .
- 2.3.6. The alleged misconduct happened more than 3 months prior to the submission of the complaint. ~~is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;~~
- 2.3.7. Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and Members' time. ~~The circumstances have changed so much that there would be little benefit arising from an investigation or other action;~~
- 2.3.8. The circumstances have changed so much that there would be little benefit arising from an investigation or other action. ~~The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken; or the alleged misconduct took place so long ago that the complaint should not be pursued;~~
- 2.3.9. The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken
- 2.3.10. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- 2.3.11. The complaint is about a deceased person;
- 2.3.12. The complaint is about a person who is no longer a Borough or Parish/Town Councillor or Co-opted Member.
- 2.4.** If the complaint fails one or more of the jurisdiction tests ~~local assessment criteria applies to the complaint~~, no further action will be taken by the

Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within ~~160~~ 60 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

### ~~Notification of complaint to Subject Member~~

~~Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk] of the complaint.~~

~~The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member [and/or Parish Clerk] after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.~~

### **3. Asking for additional information**

- 3.1.** The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish/Town Clerk] for additional information before deciding how to deal with the complaint.

### **4. What process to apply - informal resolution or investigation and/or no action?**

- 4.1.** The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough or Parish/Town Councillor make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 4.2.** The Monitoring Officer ~~in consultation with the Independent Person~~ may refer the complaint for investigation when:

- 4.2.1. It is serious enough, if proven, to justify the range of sanctions available to the Audit, Governance and Standards Committee (see paragraph [124](#) of Annex [3.4](#) to these Arrangements) ~~or~~;
- 4.2.2. The Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish/[Town](#) Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3.** Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4.** If the complaint identifies potential criminal conduct or a potential breach of other regulations by the Subject Member or any other person, the Complainant ~~may~~ will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. Alternatively, the Monitoring Officer will consider the complaint against the legal jurisdiction criteria test and if the complaint passes that test the Monitoring Officer may pass the complaint to the police. Where a complainant has been advised to refer a matter to the police or the Monitoring Officer has referred the matter to the police ~~In such cases,~~ the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and ~~, in consultation with the Independent Person,~~ will apply the local assessment criteria test in paragraph ~~12.4~~ 2.4 above.
- 4.5.** The Monitoring Officer may decide to ~~in consultation with the Independent Person,~~ will take no action or to defer further action on the complaint ~~when~~ whilst one or more of the following apply:
- 4.5.1. On-going criminal proceedings or a police investigation into the Subject Member's conduct ~~or where the complaint is suspended in accordance with paragraph 4.4 above;~~

- 4.5.2. Investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings.
- 4.5.3. The investigation might prejudice another investigation or court proceedings.
- ~~On-going investigation by another prosecuting or regulatory authority;~~
- 4.5.4. Genuine long term (3 months or more) unavailability of a key party.
- 4.5.5. Serious illness of a key party.
- 4.6.** Normally ~~W~~within 290 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member ~~and~~, if applicable, the Parish/~~Town~~ Clerk of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 12):
- 4.6.1. Not to refer the complaint for investigation.
- 4.6.2. ~~To r~~Refer the complaint for investigation.
- 4.6.3. ~~To a~~Apply the informal resolution process either before or after an investigation.
- ~~Following investigation, to refer the complaint to the Hearing Panel; or~~
- ~~To take no action and close the matter; or~~
- 4.6.4. To refer the complaint to the relevant political group leader for action.
- 4.7.** ~~The decision notice will be published on the Borough Council's website.~~ There is no right of appeal against the Monitoring Officer's decision. ~~However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case~~

~~it shall be treated as a fresh complaint.~~

## 5. Confidentiality

5.1. If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer ~~in consultation with the Independent Person~~ when they initially assess the complaint (see paragraph ~~1~~2 above). The Monitoring Officer may consult the Independent Person.

5.2. As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):

5.2.1. Is either vulnerable or at risk of threat, harm or reprisal.~~†~~

5.2.2. May suffer intimidation or be victimised or harassed.~~†~~

5.2.3. Works closely with the Subject Member and is afraid of the consequences, e.g. fear of losing their job.~~†~~

5.2.4. Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this).~~†~~

5.2.5. May receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish/Town Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish/Town Council.

OR where early disclosure of the complaint:

5.2.6. May lead to evidence being compromised or destroyed; or

5.2.7. May impede or prejudice the investigation; or

5.2.8. Would not be in the public interest.

**5.3.** Relevant public interest factors favouring disclosure (not an exhaustive list) include:

5.3.1. To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;

5.3.2. To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;

5.3.3. Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;

5.3.4. Bringing out in the open serious concerns about the behaviour/conduct of an individual.

**5.4.** ~~The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member.~~ If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, ~~within 15 working days of receipt of the complaint~~ by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

## **6. Informal resolution**

**6.1.** ~~These Arrangements enable t~~The Monitoring Officer, ~~in consultation with the Independent Person,~~ may seek to resolve complaints informally at any stage in the process, whether without the need for an investigation, either or before or after investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and

the Subject Member to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

**6.2.** Informal resolution may be the simplest and most cost-effective way of resolving the complaint and may be appropriate where:

6.2.1. The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough or Parish/[Town](#) Council procedures; or

6.2.2. There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or

6.2.3. The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to lead to further misconduct or allegations of misconduct; or

6.2.4. The conduct complained of appears common to a number of members of the Borough or Parish/[Town](#) Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough or Parish/[Town](#) Council procedures etc.; or

6.2.5. The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or

6.2.6. The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough or Parish/[Town](#) Council; or

6.2.7. The Complainant and the Subject Member are amenable to engaging in an informal resolution; or

6.2.8. The complaint consists of allegations and retaliatory allegations between Members; or

6.2.9. The complaint consists of allegations about how formal meetings are conducted; or

6.2.10. The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

**6.3.** Informal resolution may consist of one or more of the following actions,

which do not have to be limited to the Subject Member, but may extend to other Members including the whole Borough or Parish/Town Council where it may be useful to address systemic behaviour:

- 6.3.1. Training~~..7~~
  - 6.3.2. Conciliation/mediation~~..7~~
  - 6.3.3. Mentoring~~..7~~
  - 6.3.4. Apology~~..7~~
  - 6.3.5. Instituting changes to the Borough or Parish/Town Council's Procedures~~..7~~
  - 6.3.6. Conflict management~~..7~~
  - 6.3.7. Development of the Borough or Parish/Town Council's protocols~~..7~~
  - 6.3.8. Other remedial action by the Borough or Parish/Town Council~~..7~~
  - 6.3.9. Other steps (other than investigation) if it appears appropriate to the Monitoring Officer ~~in consultation with the Independent Person.~~
- 6.4.** If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer ~~may will~~ report the matter to the Audit, Governance and Standards Committee ~~[and, if applicable, the Parish/Town Council]~~ for information, but will take no further action against the Subject Member.
- 6.5.** Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Audit, Governance and Standards Committee.

## **COMPLAINT FORM**

[To be completed]

*[**NOTE:** To be finalised and circulate as Urgent Update. This is also in the process of being digitised.]*

## **EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g., REFERRAL FOR INVESTIGATION**

*Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature or may be personal information.*

**Complaint No:** *[insert]*

### **Complaint**

On *[insert date]*, the Monitoring Officer considered a complaint from *[insert name of complainant]* concerning the alleged conduct of *[insert name of councillor]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

### **Complaint summary**

*[Summarise complaint in numbered paragraphs]*

### **Consultation with Independent Person**

*[Summarise the Independent Person's views in numbered paragraphs]*

### **Decision**

*[Having consulted and taken into account the views of the Independent Person]*, the Monitoring Officer decided to refer the complaint for investigation.

### **Potential breaches of the Code of Conduct identified**

At this stage, the Monitoring Officer is not required or able to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed *[insert name]* as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

*[detail relevant Code of Conduct paragraphs]*

### **Notification of decision**

This decision notice is sent to the:

- Complainant.
- Member against whom the complaint was made.
- [Clerk to the relevant Parish/Town or Town Council].
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both ~~District~~ Borough and County level*).

**What happens now**

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

**Appeal**

There is no right of appeal against the Monitoring Officer's decision.

**Additional Help**

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

**Signed:****Date****Print name:**

Monitoring Officer of ~~xxxxxx District~~ [Maidstone Borough](#) Council

Address:

[Maidstone Borough Council](#)

[Maidstone House](#)

[King Street](#)

[Maidstone](#)

[Kent ME15 6JQ](#)

**ANNEX 2****PROCEDURE FOR INVESTIGATING THE COMPLAINT****~~Para. ———— Annex 2: Procedure for Investigating the Complaint~~****1. Preliminaries**

- 1.1.** The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under [UK General Data Protection Regulation and](#) the Data Protection Act ~~2018~~1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2.** The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3.** The Subject Member and the Complainant will be advised that the investigation is for ~~fact finding purposes only~~ [the purposes of establishing facts and making recommendations as to whether the facts disclose a breach of the relevant code of conduct.](#)
- 1.4.** Witnesses will be identified at the investigation stage and [wherever possible](#) their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5.** The Investigating Officer will not make recommendations on sanctions.
- 1.6.** ~~Within 10 working days of being appointed, t~~he Investigating Officer will notify the Subject Member and the Complainant of their appointment, [normally within 20 working days of being appointed](#) and:
  - 1.6.1. Provide details of the complaint to the Subject Member;
  - 1.6.2. Detail the procedure to be followed in respect of the investigation

and the relevant timescales for responses and concluding the investigation;

- 1.6.3. Detail the sections of the Code of Conduct that appear to be relevant to the complaint;
  - 1.6.4. Request contact details of any potential witnesses;
  - 1.6.5. Require that confidentiality is maintained [throughout the duration of the investigation and the procedures contemplated by this Annex](#) and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7.** It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8.** The Investigating Officer may [conclude](#) ~~terminate~~ their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the ~~[Monitoring Officer]~~ ~~[Hearing Panel]~~.
- 2.** [Evidence of New Breaches](#)
- 2.1.** [The Investigating Officer may find evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to them. Their powers as an Investigating Officer relate only to the allegation that they been given. While that means that the Investigating Officer may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, they may also find evidence of a possible breach that does not directly relate to the allegation being investigated. If this happens, the Investigating Officer should tell the person they obtained the information from that they cannot investigate the possible breach as part of their existing investigation. The Investigating Officer should advise them that they are able to make a separate complaint to the Monitoring Officer.](#)
- 3.** [Referring Cases Back to the Monitoring Officer](#)

- 3.1.** During the course of an investigation, it may be necessary for the Monitoring Officer to consider whether the investigation should continue, for example, if:
- 3.1.1. Evidence suggests a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not.
  - 3.1.2. It emerges during the investigation that the conduct under investigation was not conduct by the Subject Member in their role as a councillor but rather in a private capacity.
  - 3.1.3. Evidence indicates something which is potentially more serious which should be referred to the police.
  - 3.1.4. The Subject Member has died, is seriously ill, has resigned from the authority, or is otherwise reasonably unable to take part in the process for the foreseeable future and it is considered that it is no longer appropriate to continue with the investigation.
  - 3.1.5. The Subject Member has indicated that they wish to make a formal apology or take other action which should resolve the matter.
- 3.2.** In this context 'seriously ill' means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. The Investigating Officer would be expected to establish this from a reliable independent and authoritative source other than the Subject Member. This would include where a councillor claims they are suffering from stress brought on by the investigation.
- 3.3.** Ultimately it will be for the Monitoring Officer to conclude whether the investigation should continue. In reaching that decision, the Monitoring Officer may consult with the Independent Person before deciding to defer or end the investigation.
- 3.4.** If the investigation has been deferred or ended the Subject Member and the complainant should be notified of the decision and where possible provided with timescales within which the matter will be dealt with if it has been deferred. This would not always be possible, however, particularly if the matter has been referred to the police.

**4. Deferring an Investigation**

- 4.1.** An investigation should be deferred when any of the following conditions are met:
- 4.1.1. There are ongoing criminal proceedings or a police investigation into the Subject Member's conduct.
- 4.1.2. The investigation might prejudice another investigation or court proceeding.
- 4.2.** An investigation may also need to be deferred for any of the reasons set out in paragraph 4.5 of Annex 1.
- 4.3.** When it is clear that there is an ongoing police or other investigation, or related court proceedings, the Investigating Officer should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.
- 4.4.** If at any time during the investigation the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred, the Investigating Officer should notify the Monitoring Officer who should determine whether there should be a deferral. The Monitoring Officer may also wish to consult with the Independent Person.
- 4.5.** In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The Investigating Officer should highlight those areas where investigation may be possible in the investigation plan.
- 4.6.** The Monitoring Officer or the Investigating Officer should ask the police, other relevant organisation or individual, in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. Any important dates, for example of committal hearings should be noted in the investigation plan review.
- 4.7.** A deferred investigation should be kept under regular review, in the interests of natural justice.
- 4.8.** Once a decision is taken to begin the investigation again the Investigating Officer should notify in writing: the Subject Member; the complainant; the

relevant Independent Person; and the relevant Parish/Town council if the Subject Member is a Parish/Town councillor.

- 4.9.** The investigation plan should be reviewed in the light of the outcome of any police investigation or court proceedings.

**5. The draft report**

- 5.1.** On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT' and 'CONFIDENTIAL') to the Monitoring Officer for review.

- 5.2.** Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'DRAFT' and 'CONFIDENTIAL' and will detail:

- 5.2.1. The relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- 5.2.2. A summary of the complaint;
- 5.2.3. The Subject Member's response to the complaint;
- 5.2.4. Relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- 5.2.5. A list of any documents relevant to the matter;
- 5.2.6. A list of those persons/organisations who have been interviewed;
- 5.2.7. A statement of the Investigating Officer's draft findings of fact and reasons;
- 5.2.8. The Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- 5.2.9. That the Investigating Officer will present a final report once they have considered any comments received on the draft.

- 5.3.** Once the Investigating Officer has received any responses from the

Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL' and 'CONFIDENTIAL'.

## **6. Consideration of Investigating Officer's final report**

**6.1.** The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

**6.2.** Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

**6.3.** Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

6.3.1. Take no action; or

6.3.2. Seek informal resolution; or

6.3.3. Refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

## **7. Confidentiality**

**7.1.** The procedures detailed in this Annex are all treated as confidential to those involved in the process. Some details (which would include names and addresses) may be personal data, subject to data protection laws, some content of statements or reports may be otherwise private or confidential or, may be potentially defamatory if published.

**7.2.** Whilst non-members are not covered by the Code of Conduct (e.g., members of the public, witnesses and non-councillor complainants) if,

they do decide to publish details of the complaint they may expose themselves to liability in defamation (if information turns out to be untrue) or to other liabilities e.g., for breach of confidence, or for breach of data protection laws which could arise even where the information is true. Non-members may wish to seek their own legal advice.

**ANNEX 3****HEARING PANEL PROCEDURE**

~~Para.~~ ~~*Annex 3: Hearing Panel Procedure*~~

**1. Pre-Hearing Procedure**

**1.1.** In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:

1.1.1. Which facts in the investigation report are agreed and which are in dispute.

1.1.2. Whether there is fresh evidence not mentioned in the investigation report which will be put before the hearing.

1.1.3. Whether there is documentary evidence which a party intends to put before the hearing.

1.1.4. Whether the parties intend to attend, whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom, the number and identity of witnesses to be called.

1.1.5. Whether the Subject Member requests the whole or any part of the hearing to be held in private.

1.1.6. Whether the Subject Member requests the whole or any part of the investigation report or other relevant documents to be withheld from the public.

**1.2.** The Monitoring Officer will notify the parties of the date, time, and place for the hearing.

**2. Rules of procedure**

**2.1.** The Hearing Panel consists of three voting elected Members ~~plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint~~ drawn from the Audit, Governance and Standards Committee, one of whom shall be elected as Chairman.

- 2.2.** The quorum for a meeting of the Hearing Panel is three elected Members ~~plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint.~~
- 2.3.** The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
- 2.4.** The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The [presumption is that the hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member.](#) Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel ~~where it is likely that confidential or exempt information will be disclosed.~~
- 2.5.** Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 2.6.** All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 2.7.** Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is

in the public interest to hear the allegations expeditiously.<sup>1</sup>

### **3. Right to be accompanied by a representative**

**3.1.** The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing~~accompanied and/or represented at the Hearing Panel by a fellow-Member, friend or colleague.~~

### **4. Order of Business~~The conduct of the hearing~~**

**4.1.** Subject to paragraph ~~3~~4.2 below, the order of business will be as follows:

4.1.1. Elect a Chairman;

4.1.2. Apologies for absence;

4.1.3. Declarations of interests;

4.1.4. In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);

4.1.5. Introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;

4.1.6. To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;

4.1.7. To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

**4.2.** The Chairman may exercise their discretion and amend the order of

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<sup>1</sup> [Janik v Standards Board for England & Adjudication Panel for England \(2007\)](#)

business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

**4.3.** The Hearing Panel may adjourn the hearing at any time.

## **5. Presentation of the complaint**

**5.1.** [The Monitoring Officer, legal advisor, or chairman may make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.](#)

**5.2.** The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.<sup>27</sup>

**5.3.** The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer.<sup>27</sup>

**5.4.** The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

## **6. Presentation of the Subject Member's case**

**6.1.** The Subject Member or their representative presents their case and calls their witnesses.<sup>27</sup>

**6.2.** The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.<sup>27</sup>

**6.3.** The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

## **7. Summing up**

**7.1.** The Investigating Officer sums up the complaint.<sup>27</sup>

**7.2.** The Subject Member or their representative sums up their case.

## **8. Views/Submissions of the Independent Person**

**8.1.** The Chairman will invite the Independent Person to express their view on

whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

## **9. Deliberations of the Hearing Panel to be in Private**

**9.1.** The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.

**9.2.** The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

## **10. Announcing Decision on Facts Found**

**10.1.** The Hearing Panel will reconvene the hearing in public ([if the public have not been excluded from the proceedings](#)) and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct

**10.2.** Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.

**10.3.** When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

10.3.1. What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish/[Town](#) Council's Code of Conduct?

- 10.3.2. Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- 10.3.3. Has there been a breach of trust?
- 10.3.4. Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- 10.3.5. What was the result/impact of failing to follow the Borough or Parish/[Town](#) Council's Code of Conduct?
- 10.3.6. How serious was the incident?
- 10.3.7. Does the Subject Member accept that they were at fault?
- 10.3.8. Did the Subject Member apologise to the relevant persons?
- 10.3.9. Has the Subject Member previously been reprimanded or warned for similar misconduct?
- 10.3.10. Has the Subject Member previously breached of the Borough or Parish/[Town](#) Council's Code of Conduct?
- 10.3.11. Is there likely to be a repetition of the incident?

**10.4.** [Mitigating factors may include:](#)

- 10.4.1. [An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.](#)
- 10.4.2. [A councillor's previous record of good service.](#)
- 10.4.3. [Substantiated evidence that the councillor's actions have been affected by ill-health.](#)
- 10.4.4. [Recognition that there has been a failure to follow the Code.](#)
- 10.4.5. [Co-operation in rectifying the effects of that failure.](#)
- 10.4.6. [An apology to affected persons where that is appropriate.](#)
- 10.4.7. [Self-reporting of the breach by the councillor.](#)

10.4.8. [Compliance with the Code since the events giving rise to the complaint.](#)

**10.5.** [Aggravating factors may include:](#)

10.5.1. [Dishonesty or breaches of trust.](#)

10.5.2. [Tying to gain an advantage or disadvantage for themselves or others.](#)

10.5.3. [Bullying.](#)

10.5.4. [Continuing to deny the facts despite clear contrary evidence.](#)

10.5.5. [Seeking unfairly to blame other people.](#)

10.5.6. [Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.](#)

10.5.7. [Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.](#)

**10.6.** [Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.](#)

~~If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.~~ **Final**

**Decision**

**10.7.** Where the complaint has a number of [elements](#)~~aspects~~, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.

**10.8.** The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

**10.9.** Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the

Chairman will announce:

- 10.9.1. ~~¶~~The Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision.~~¶~~
- 10.9.2. ~~¶~~The sanctions (if any) to be applied.~~¶~~
- 10.9.3. ~~¶~~The recommendations (if any) to be made to the Borough or Parish/Town Council or Monitoring Officer.~~¶~~
- 10.9.4. ~~¶~~That there is no right of appeal against the Panel's decision and/or recommendations.

## **11. Range of possible sanctions**

### **11.1.** Where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

- 11.1.1. Report its findings in respect of the subject member's conduct to the Council (or the relevant Parish Council).
- 11.1.2. Issue (or recommend to the Parish Council to issue) a formal censure (i.e., the issue of an unfavourable opinion or judgement or reprimand).
- 11.1.3. Recommend to the leader of the authority that the Subject Member be removed from positions of responsibility.
- 11.1.4. Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member.
- 11.1.5. Recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish Council).
- 11.1.6. Recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access.

- 11.1.7. Recommend to Council (or recommend to the Parish Council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings, and/or restricts contact with officers to named officers only.
- 11.1.8. If relevant recommend to Council that the Subject Member be removed from their role as leader of the authority.
- 11.1.9. If relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
- 11.1.10. Recommend that the Subject Member make an apology in respect of the conduct or take some other action to resolve the matter.

~~Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:—~~

~~11.1.11. Censuring the Subject Member or;~~

~~11.1.12. Recommending to the Subject Member's Group Leader or Parish Council, or in the case of an ungrouped Subject Member, to the Borough or Parish Council that they be removed from committees or sub-committees of the Council;~~

~~11.1.13. Instructing the Monitoring Officer [or recommending to the Parish Council] to arrange training for the Subject Member;~~

~~11.1.14. Recommending to the Borough or Parish Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the Borough or Parish Council;~~

~~11.1.15. Recommending to the Borough or Parish Council that it withdraws facilities provided to the Subject Member by the~~

~~Council, such as a computer, website and/or email and internet access;~~

~~11.1.16. Recommending to the Borough or Parish Council the exclusion of the Subject Member from the Borough or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough or Parish Council committee and sub-committee meetings;~~

~~11.1.17. Reporting the Panel's findings to the Borough or Parish Council for information;~~

~~11.1.18. Instructing the Monitoring Officer to apply the informal resolution process;~~

~~11.1.19. Sending a formal letter to the Subject Member;~~

~~11.1.20. Recommending to the Borough or Parish Council to issue press release or other form of publicity;~~

~~11.1.21. Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.~~

**11.2.** Where the Subject Member is a Parish or Town councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction. The Town or Parish Council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

**11.3.** Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.

**11.4.** The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

- 11.5.** The Hearing Panel may specify or recommend that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

~~**Publication and notification of the Hearing Panel’s decision and recommendations**~~

~~Within 10 working days of the Hearing Panel’s announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel’s decision and recommendations and reasons for the decision and recommendations on the Borough Council’s website.~~

~~Within 10 working days of the announcement of the Hearing Panel’s decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:~~

~~11.5.1. The Subject Member;~~

~~11.5.2. The Complainant;~~

~~11.5.3. the Clerk to the Parish Council;~~

~~11.5.4. Kent County Council’s Standards Committee (applicable only where the Subject Member is serving at both Borough and County level);~~

~~11.5.5. the Borough Council’s Audit, Governance and Standards Committee (applicable only where the Subject Member is serving at both Borough and County level).~~

~~The Monitoring Officer will report the Hearing Panel’s decision and recommendations to the next ordinary meeting of the Audit, Governance and Standards Committee for information.~~

~~[1] Janik v Standards Board for England & Adjudication Panel for England (2007)~~

**12. Publicising the Findings**

- 12.1.** The Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned. A template decision notice is appended which may be used for these purposes.
- 12.2.** If the panel finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.
- 12.3.** If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should:
- 12.3.1. Say that the councillor failed to follow the Code, but that no action needs to be taken.
  - 12.3.2. Outline what happened.
  - 12.3.3. Give reasons for the panel's decision not to take any action.
- 12.4.** If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:
- 12.4.1. Say that the councillor failed to follow the Code.
  - 12.4.2. Outline what happened.
  - 12.4.3. Explain what sanction has been imposed.
  - 12.4.4. Give reasons for the decision made by the panel.
- 12.5.** The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.
- 13.** **Appeals**
- 13.1.** Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

## TEMPLATE - DECISION NOTICE (of Hearing Panel)

**Complaint No:** [\[insert\]](#)~~xxxx~~

On *[insert date]*, the Hearing Panel of Maidstone Borough Council considered a report of an investigation into the alleged conduct of *[insert name of councillorMember]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

### Complaint summary

*[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]*

### Consultation with Independent Person

*[Summarise the Independent Person's views in numbered paragraphs]*

### Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

*[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]*

The Hearing Panel also made the following recommendation(s)

*[Detail recommendations]*

### Sanctions applied

The breach of the *[insert authority name]* Code of Conduct warrants a *[detail sanctions applied]*.

### Appeal

There is no right of appeal against the Hearing Panel's decision.

### Notification of decision

This decision notice is sent to the:

- [CouncillorMember](#)–[name of [CouncillorMember](#)]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/[Town](#) Council];

- Kent County Council's Monitoring Officer [*applicable only where the [Councillor Member](#) is serving at both Borough and County level*]

### **Additional help**

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [*insert telephone number*] or email [*insert email address*].

**Signed:**

**Date:**

**Print name:**

Chairman of the Hearing Panel

# Agenda Item 13

## **AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

**15 January 2024**

### **Information Governance Report – Annual Report for 2022-2023**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Wider Leadership Team	12/12/2023
Audit Governance and Standards Committee	15/01/2024

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Audit, Governance and Standards Committee
<b>Lead Head of Service</b>	Angela Woodhouse Director of Strategy, Insight & Governance
<b>Lead Officer and Report Author</b>	Anna Collier Insight Communities and Governance Manager and Georgia Harvey Senior Information Governance Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

The Information Governance Team oversees the management of complaints, compliments, information requests (Freedom of Information (FOI) & Environmental Information Regulation Requests (EIR)), MP correspondence, data protection including subject access requests (SAR), information sharing requests as well as handling data breaches. This report provides performance data on the management of information governance to ensure corporate oversight and minimise risk to the Council. The report also includes details concerning the Ombudsman's new complaint handling code which will come into effect in April 2024.

#### **This report makes the following recommendations to this Committee:**

To note the report.

# Information Governance Report – Annual Report

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Accepting the recommendations will materially improve the Council’s ability to achieve all corporate priorities. We set out the reasons other choices will be less effective in section 2.</p>	Anna Collier, Insight Communities and Governance Manager
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendation(s) supports the achievement(s) of all cross cutting objectives by ensuring strong information governance practices across the Council.</p>	Anna Collier, Insight Communities and Governance Manager
<b>Risk Management</b>	Already covered in the risk section	Anna Collier, Insight Communities and Governance Manager
<b>Financial</b>	<p>The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.</p> <p>However, the new Code of Complaints Handling could lead to an increase in</p>	Liza Sedge, Finance Officer

	financial reparations.	
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Anna Collier, Insight Communities and Governance Manager
<b>Legal</b>	This report provides a review of information governance including complaint handling. There is no statutory duty to report regularly to Committee on the Council's performance. However, under Section 3 of the Local Government Act 1999 (as amended) a best value authority has a statutory duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness.	Team Leader (Contentious and Corporate Governance)
<b>Information Governance</b>	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes.	Anna Collier, Insight Communities and Governance Manager
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Nicola Toulson, Equalities and Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Shafiqullah Hemat, Senior Public Health Officer
<b>Crime and Disorder</b>	There are no implications to Crime and Disorder	Anna Collier, Insight Communities and Governance Manager
<b>Procurement</b>	There are no implications to Procurement.	Anna Collier, Insight Communities and Governance Manager

<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered and there are no implications on biodiversity and climate change.	Anna Collier, Insight Communities and Governance Manager
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**1. INTRODUCTION AND BACKGROUND**

- 1.1. The Information Governance Team are responsible for managing:
- The complaints process including unreasonable and unreasonably persistent persons,
  - Logging and responding to information requests (also known as Freedom of Information - FOI and Environmental Information Regulation - EIR),
  - Data protection (including subject access requests, CCTV requests, data protection impact assessments, data sharing, and records of processing activities),
  - Records management, and
  - Correspondence with members of parliament.
- 1.2. Performance data for 2022-2023 for information management can be seen at Appendix 1.

Information Requests

- 1.3. The term 'information requests' covers both Freedom of Information (FOI) and Environmental Information Regulation (EIR).
- 1.4. The time limits for responding to these requests are set out in statute as 20 working days, subject to qualifying criteria. If the Council doesn't hold the information requested or doesn't believe it should be shared, then an exemption (FOI) or exception (EIR) can be applied to all or part of the request.
- 1.5. The total number of FOI and EIR requests received in 2022-2023 was 898. For context the total for 2021-2022 was 899.

<b>Year</b>	<b>FOI</b>	<b>EIR</b>	<b>Total</b>
2021-2022	465	434	899
2022-2023	579	319	898

- 1.6. A target of 100% of responses sent on time is set to reflect the requirements by law, however it is highly ambitious. The ICO accept that Councils won't always achieve this and concentrates its investigations and penalties on those organisations with backlogs. Performance per quarter in 2022-2023 is shown in the grid below. The reduced performance in Q2 is attributed to staff leave over this period, resulting in reduced capacity within the team.

	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>
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<b>Requests Received</b>	243	202	210	244
<b>Response Rate</b>	90%	82%	90%	96%

- 1.7. If the requestor doesn't agree with the Council's decision, then they can appeal via internal review, and these are reviewed by Legal Services. The requestor can further complain to the Information Commissioner's Office (ICO), who will make the ultimate decision.
- 1.8. The total number of internal review requests received in 2022-2023 was 9. For context the total for 2021-2022 was 15. This decrease is attributed to a change in process implemented during the year, which requires responses to be approved by the Senior Information Governance Officer before being sent.

### Complaints

- 1.9. The Council operates a three stage complaints process:
1. All stage 1 complaints will be investigated by the service manager and responded to within 10 working days.
  2. Customers have the right to take the complaint to stage 2 for an independent assessment by the Information Governance Team. The Information Governance team will then undertake an assessment of the complaint, within 5 working days, in order to determine whether a full investigation would be able to add anything to the stage 1 response and/or achieve the desired outcome. If the assessment concludes that further investigation is warranted, then a full response is sent within 20 working days.
  3. If, after following our complaints process, customers are still unhappy, they can contact the Local Government and Social Care Ombudsman (LGO), an independent service set up by the Government to investigate complaints about most council matters. The Ombudsman will not investigate complaints until they have been through both stages of the Council's complaints process.
- 1.10. The total number of stage 1 complaints received in 2022-2023 was 677. For context the total for 2021-2022 was 681.
- 1.11. The total number of stage 2 assessments received in 2022-2023 was 144. For context the total for 2021-2022 was 139. The target for stage 2 assessment to be completed within 5 working days is 100%. The on-time completion rate stands at 75% for 2022-2023. This is a decrease from previous year, which was 96%. This decrease, although not quantifiable, is attributed to an increase in more complex queries. To ensure these are addressed additional time is spent seeking and reviewing information in order to make decision about whether to escalate the complaint to a stage 2. The stage 2 assessment looks at whether a full investigation will be able to add anything to the stage 1 response and/or achieve the outcome being

sought. Where possible we try to resolve the matter with the service area at stage 2 assessment.

- 1.12. After completing the stage 2 assessments, a total of 63 complaints were escalated for a full stage 2 investigation. This equates to 9% of all stage 1 complaints. For context the total for 2021-2022 was 95.
- 1.13. The target of 80% of stage 2 responses sent on time is considered good performance. Last year we achieved this target in Q1 and Q4.
- 1.14. Household Waste continues to receive the most complaints at both stage 1 and stage 2. The Waste Team provide a service that affects every household in the Borough, so it is expected that this service will receive more complaints than others by nature of its size alone.
- 1.15. To further understand the cause of household waste complaints, in 2022-2023 we collected and analysed complaints by the type of waste (refuse, recycling, garden etc) and location to better understand the nature of the complaints. The data shows the most common type of waste complaints were general waste (213), garden waste (133). This data will continue to be collected in 2023-2024 and will be used to inform complaint handling.

### **Local Government and Social Care Ombudsman**

- 1.16. Each year the Local Government and Social Care Ombudsman (LGSO) produces statistics for each local authority showing how many complaints it received, what they were about and how they were resolved. The report provides insight about how we approach to complaints and the findings from the LGSO. The 2022/23 annual letter from the LGSO is enclosed at Appendix 2.
- 1.17. As a summary, in 2022-2023 the LGSO received 22 complaints for the Council and decided 23 complaints (5 complaints resolved in the year were from 2021-22). Of the complaints received by the LGSO in 2022-2023, 3 are awaiting a final decision. The remaining 18 relate to 2022-2023 and, of these, 14 were closed without our involvement, or knowledge. In total, the LGO upheld 6 complaints against us in 2021-2022 (out of 693) and 3 in 2022-2023 (out of 672). This equates to 0.87% and 0.45% respectively. Further analysis is enclosed at Appendix 3.

### New Joint Complaint Handling Code

- 1.18. The Local Government and Social Care Ombudsman (LGSCO) has developed a Joint Complaint Handling Code with the Housing Ombudsman Service (HOS). The new code will result in changes to our current Complaints Policy and processes, which must take effect from April 2024. More information on the joint code can be seen in Appendix 4, and a summary is provided below along with an assessment of impact for the Council's processes. Whilst a review of our processes has been undertaken the final version of the code is not due to be released until early 2024 so we will wait to implement to ensure our documentation reflects the latest information. Training for staff on the new complaints process is scheduled for March 2023.

1.19. The proposed key changes to note are:

*6.8 If an organisation has got something wrong it must record the complaint as being upheld, even if there are elements of the complaint it has not upheld. It is not appropriate to record a complaint as being partially upheld. – IMPACT: we often have small recommendations on elements of a complaint which are currently recorded as partially upheld, this change may have a negative effect on the number of complaints shown as upheld.*

*6.9 Where individuals raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related, and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being investigated, or it would unreasonably delay the response, the new issues must be logged as a new complaint. – IMPACT: this removes some of our control in the way we manage our processes and will likely impact our delivery of complaints in time and the volume of complaints.*

*6.22 If a complaint is upheld at stage 1, and the stage 2 response agrees with those findings, the complaint must be recorded as upheld. This is the case even if the stage 2 response finds no fault in the way the stage 1 complaint was handled. – IMPACT: this will impact how we report complaints and the volume of complaints showing upheld at stage 2, additional analysis and context will need to be completed in our reports to reflect this requirement.*

*7.2 Any remedy offered must reflect the impact on the individual as a result of any fault identified. – IMPACT: this could result in cost implications, and we will need to review our remedy policy to ensure we fully comply with the guidance.*

*8.1 a) the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements. – IMPACT: a self-assessment will be required, and this will now be part of annual report.*

*8.2 The annual complaints performance and service improvement report must be reported to its governing body (or equivalent) and published on the section of its website relating to complaints. The governing body's response to the report must be published alongside this. – IMPACT: we will review where this will be reported once we have additional guidance from the LGSO and make appropriate amendments to our constitution.*

*8.3 Organisations must also carry out a self-assessment following a significant restructure, merger and/or change in procedures. – IMPACT: review with the Head of Human Resources to identify any change required to policies and processes and reporting for the annual self-assessment.*

*9.5 In addition to this a member of the governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints (The Member). – IMPACT: This would be the Cabinet Member for Corporate Services.*

9.7 As a minimum, the Member and the governing body (or equivalent) must receive:

- a) regular updates on the volume, categories, and outcomes of complaints, alongside complaint handling performance.
  - b) regular reviews of issues and trends arising from complaint handling; and
  - c) the annual complaints performance and service improvement report.
- IMPACT: we will review where this will be reported once we have additional guidance from the LGSO and make appropriate amendments to our constitution. Performance reporting will probably need to increase to quarterly.

### Compliments

- 1.20. The Council records compliments received from members of the public.
- 1.21. The total number of compliments received in 2022-2023 was 42. For context the total for 2021-2022 was 61. The department with the highest number of recorded compliments was Waste, with 25.

### Data Incidents

- 1.22. A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- 1.23. All potential breaches are investigated by the Information Governance team and must be completed within 72 hours in case they need to be reported to the ICO. All breaches are signed off by the Data Protection Officer or Deputy Data Protection Officer and are reported to the Information Management Group, which meets quarterly.
- 1.24. The total number of data incidents reported in 2022-2023 was 53. This is an 83% increase from the previous year, where 29 data incidents were recorded.
- 1.25. Of the 53 reports, 14 did not constitute a data breach, 37 were assessed as low risk breaches and 2 were assessed as medium risk breaches. No incidents were reported to the supervisory authority (the Information Commissioner's Office). The increase in data breaches has been recognised by the Information Management Group, and action is being taken to raise this with managers to reduce the number of data incidents.
- 1.26. The Council has fostered a culture whereby employees actively report data breaches. This has been supported by additional team training provided by the Information Governance Team during the year to ensure employees understand their obligations. This combined approach means that employees report data breaches as soon as they are aware, which in turn enables the Council to react quickly to mitigate the impact.
- 1.27. Most data breaches are caused by human error, with no intended malice, resulting in a loss of confidentiality. This is typically as a result of post or e-mails being sent to the wrong person.

## Data Subject Rights Requests

- 1.28. There are seven types of rights requests we can receive including: subject access requests and erasure requests. All requests must be processed by the Information Governance team.
- 1.29. Rights requests can be extremely time consuming, due to the need to source and review all personal data to identify what information is in scope of the request and to undertake relevant redaction.
- 1.30. The total number of requests received in 2022-2023 was 66. For context the total for 2021-2022 was 40. This equates to a 65% increase. The breakdown for each type of request is below:

<b>Financial Year</b>	<b>Access</b>	<b>Erasure</b>	<b>Objection</b>	<b>Total</b>
2021-2022	38	1	1	40
2022-2023	62	4	0	66

- 1.31. The timeframe from responding requests is one calendar month, however in certain circumstances, this can be extended to up to 3 months. In 2022-2023, the average number of days taken to respond to a rights request was 37 days. For comparison, in 2021-2022 it was 16. This increase is attributed to the growing scope of requests; with customers more frequently asking for more complex and larger volumes of data.

## Information Sharing Requests

- 1.32. Information sharing requests from other organisations are requests for personal data where there is a legal basis to request it. In the main these are processed via the Information Governance Team, with the exception of Fraud and Compliance Team, who process requests directly given the nature of the role.
- 1.33. The total number of requests received in 2022-2023 was 510. For context the total for 2021-2022 was 318. This equates to a 60% increase. The breakdown per type of requesting organisation is below:

<b>Organisation Type</b>	<b>Total</b>
Law Enforcement Agency - Kent Police	267
Utility Company	144
Insurance Company	26
Local Authority	24
Law Enforcement Agency - Other (Not Kent Police)	16
Individual	12
Central Government/Government Department	10
Legal Firm	9
Housing Association	2
<b>Total</b>	<b>510</b>

1.34. The majority of requests are received from the police, predominantly for CCTV. The increase in requests is attributed to the rise in contact from utility companies, specifically South East Water. South East Water has a statutory power to charge and a corresponding obligation to collect charges and pursue debt under section 142 of the Water Industry Act 1991.

#### MP Correspondence

1.35. Correspondence both to and from members of parliament on behalf of constituents is recorded and monitored by the Information Governance Team; with requests assigned to the relevant departments to prepare any required responses. This does not include correspondence between departments and members of parliament to discuss and resolve Council matters.

1.36. The total number of recorded correspondence with MPs in 2022-2023 was 262. For context the total for 2021-2022 was 257. The department with the highest number of recorded correspondence was Housing & Inclusion & Health, with 120.

1.37. The target of 90% of responses sent within 20 days, is considered good performance. This target was met in Q1. The decrease in performance is attributed to the volume and complexity of request assigned to Housing & Inclusion & Health and Community Protection, which required additional time to investigate.

#### Summary

1.38. Overall, across the service, volumes continue to increase and scope of requests are becoming larger and more complex. There has been a change in the way that customers contact us, with an increasing volume of email contacts relating to a single issue which is harder to manage. This is reflected in the number of requests to manage customers under the Unreasonable or Unreasonably Persistent policy.

1.39. Performance in 2022-2023 has decreased from the previous year. In addition to volume and complexity of contacts, this is can also be attributed to changes made internal processes to improve compliance which whilst have increased the quality of work have increased the workload. This includes checking all responses before sending, additional time being spent seeking and reviewing information and following up mitigations on data breaches.

1.40. In addition, the team underwent a number of changes in staffing. The changes of staffing have also impacted team performance in 2023-2024, with arrangements in place to recruit a temporary member of staff to the vacant post.

#### Data Protection Action Plan

1.41. The Council continues to work proactively to improve how we manage and hold personal data in-line with the Data Protection Act and UK GDPR. The

Action Plan provides an update on key changes and highlights the areas where further work is required.

- 1.42. Key projects completed over the past year include creating a data protection risk register, creating webpages with answers to frequently asked FOI questions, undertaking data protection impact assessments on CCTV and working with departments to review privacy notices on the website.
- 1.43. An update on the Action Plan is enclosed at Appendix 5.
- 1.44. The Government has announced legislative changes to the UK, publishing the Data Protection and Digital Information Bill in July 2022. The Bill plans to reform the UK Data Protection regime following Brexit. The Bill can be accessed here at <https://bills.parliament.uk/bills/3322>.
- 1.45. In Q1 and Q2 of 2023-2024, we have continued to see a slight increase in requests for data protection impact assessments. Although not aligned to a particular department, the trend is linked to our growing use of data to automate processes and improve data collection and analysis. Whilst the numbers are relatively the same, the scale of the projects have grown which has increased the volume of work involved in risk assessing processes.

<b>Year</b>	<b>Q1</b>	<b>Q2</b>	<b>Total</b>
2021-2022	6	5	11
2022-2023	8	4	12
2023-2024	10	4	14

### **3. AVAILABLE OPTIONS**

- 3.1 Audit Governance and Standards Committee could choose not to receive or receive a reduced report on the performance of Information Governance activities in the Council however this wouldn't be recommended as good information governance protects the Council from risk.
- 3.2 The current report represents the broad spectrum of information governance and therefore the best practice.

### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 To continue to receive updates and note progress.
- 

### **5. RISK**

- 5.1 This report is presented for information only and has no risk management implications.
-

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 None

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 The next annual report will be provided for year 2024-2025.

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## **8. REPORT APPENDICES**

- Appendix 1: Information Governance Report – Annual Report 2022-2023
  - Appendix 2: LGO Annual Letter 2022-2023
  - Appendix 3: LGO Annual Complaints Analysis 2022/2023
  - Appendix 4: New Complaint Code of Conduct
  - Appendix 5: Data Protection Action Plan
- 

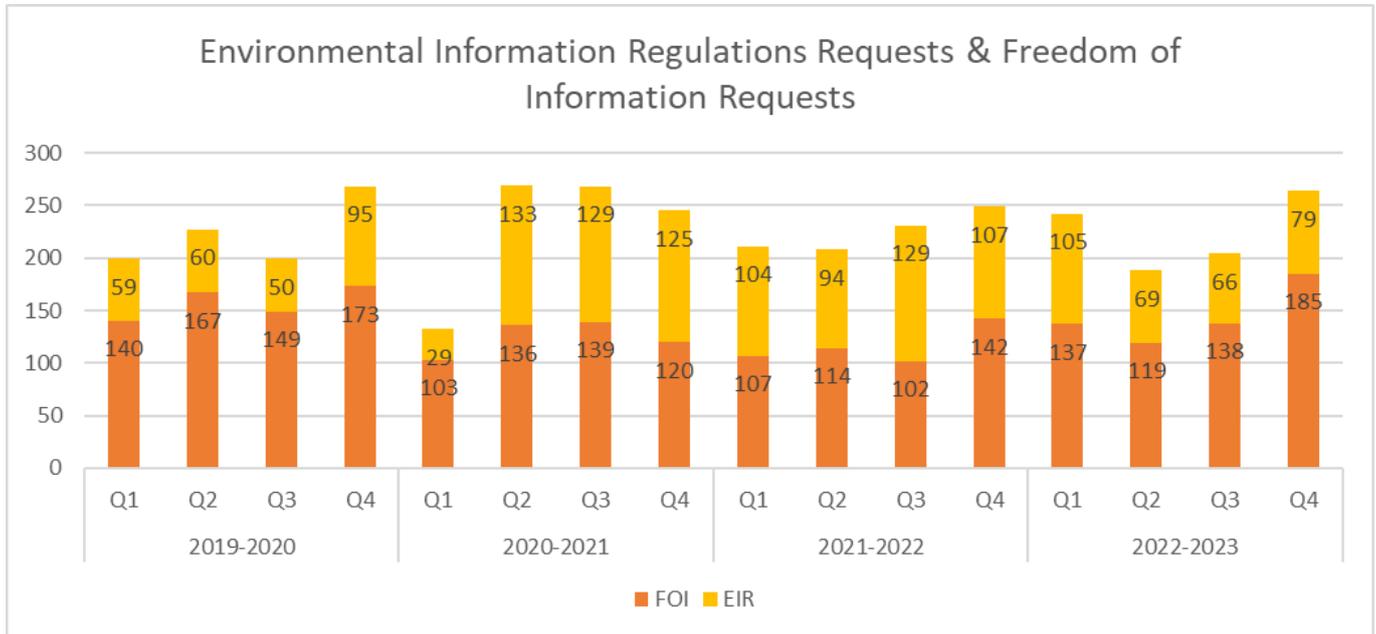
## **9. BACKGROUND PAPERS**

9.1 None

# **Information Governance Annual Report for 2022-2023**

# Information Requests

## REQUESTS

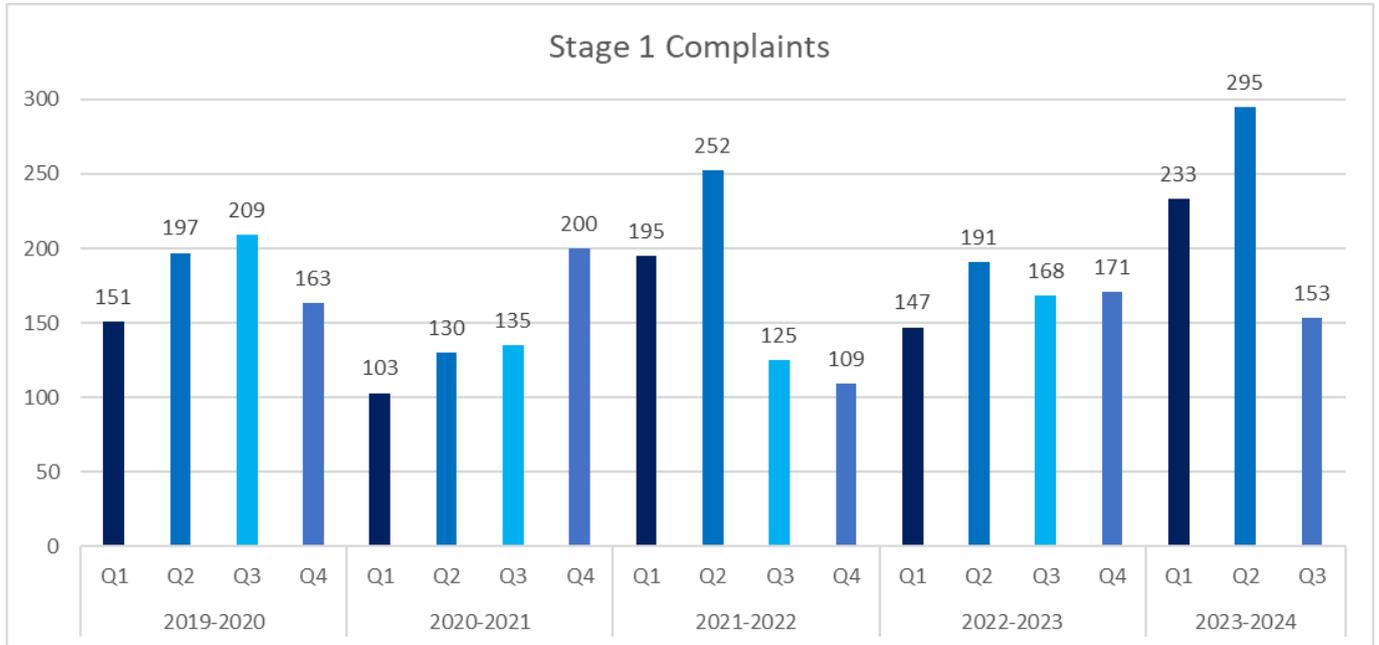


- The total number of requests in 2022-2023 was 898. In comparison, the total number of requests in 2021-2022 was 899.
- There is no consistent discernible trend for the number of information requests received per quarter.
- The Council receives more FOI requests than EIR, and following an increase between 2020-2022 this has return to the levels received in 2019-2020. This aligns with the housing rise and fall in house sales, with the majority of EIRs relating to request for information on houses prior to purchase.
- The following departments received the largest volume of requests in 2022-2023: 1. Land Charges, 2. KCC, 3. Housing & Inclusion & Health, 4. Community Protection, 5. Finance.
- The following departments received the largest volume of requests across all years: 1. Land Charges, 2. KCC, 3. Housing & Inclusion & Health, 4. Council Tax (Shared Service), 5. Community Protection.

# Complaints

## CURRENT PROCESS

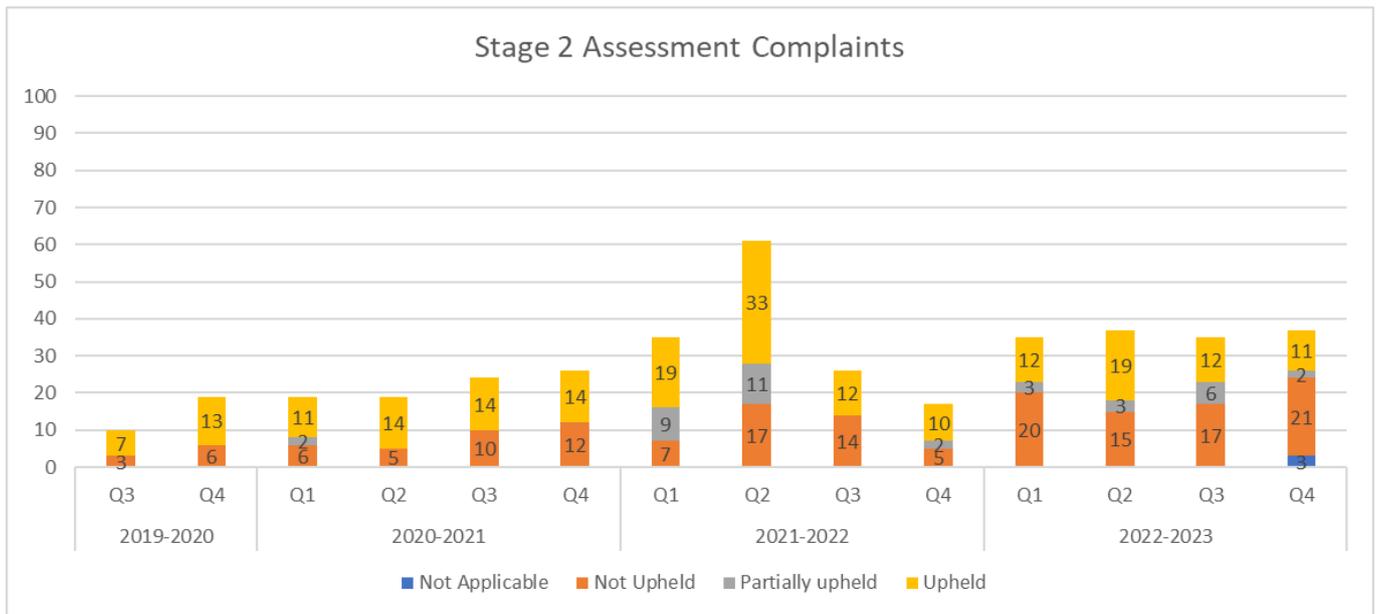
### STAGE 1



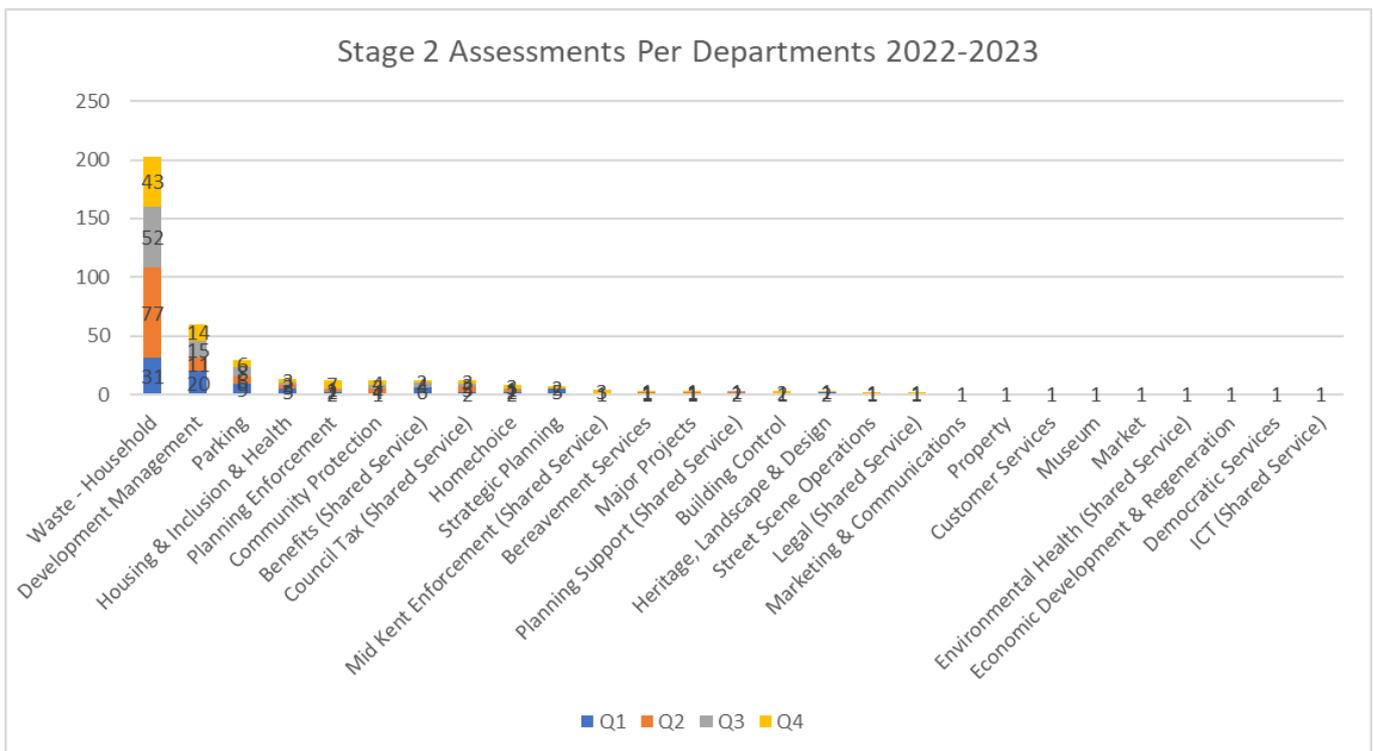
- The total number of stage 1 complaints in 2022-2023 was 677. In comparison, the total number of stage 1 complaints in 2021-2022 was 681.
- There is no consistent discernible trend for the number of complaints received per quarter.
- The following departments received the largest volume of requests in 2022-2023: 1. Waste – Household, 2. Parking, 3. Development Management, 4. Housing & Inclusion & Health, 5. Planning Enforcement.
- The following departments received the largest volume of requests across all years: 1. Waste – Household, 2. Parking, 3. Development Management, 4. Council Tax (Shared Service) and 5. Housing & Inclusion & Health.
- Waste - Household continues to receive more complaints per quarter than any other department. This is expected as waste affected every household in the Borough.

**Information Governance Report  
2022-2023**

**STAGE 2 ASSESSMENTS**



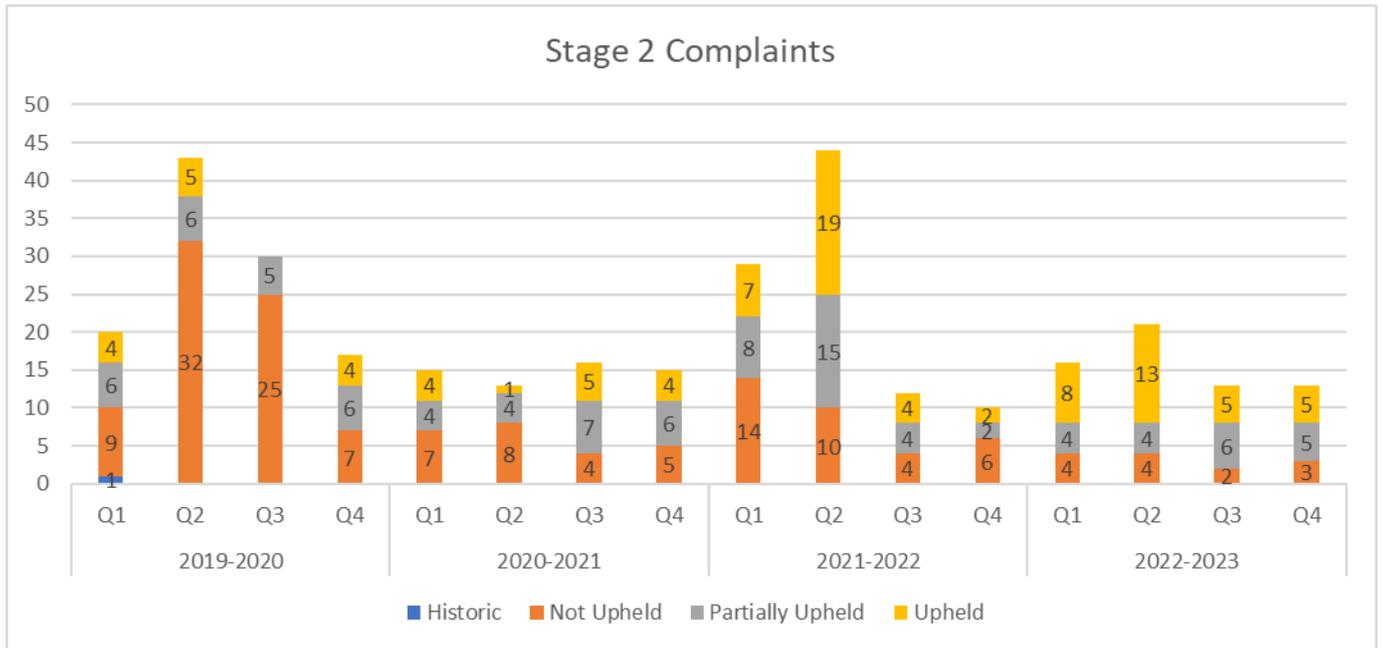
- The total number of stage 2 assessments in 2022-2023 was 144. In comparison, the total number of stage 2 assessments in 2021-2022 was 139.
- During 2022-2023, 51% of assessment has an outcome not upheld.



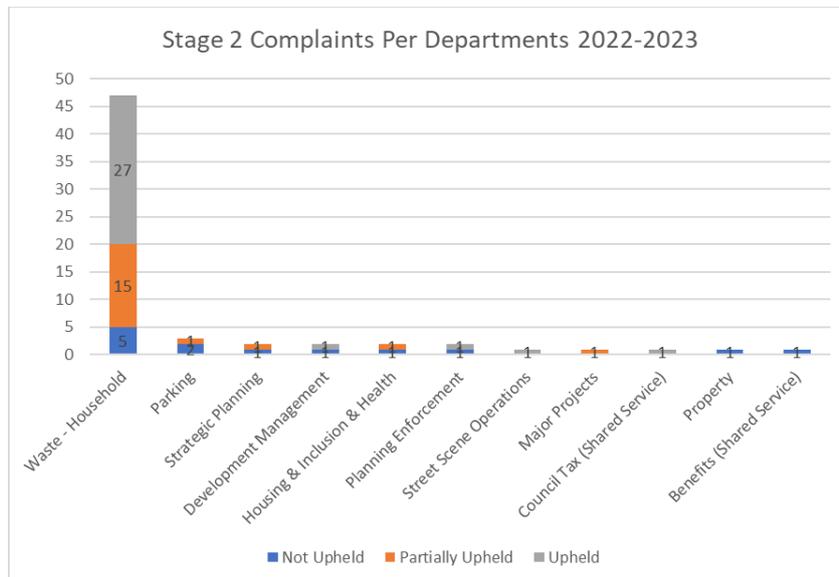
- The three departments with most stage 2 assessments remain consistent with Household Waste, Development Management and Parking, respectively taking the top three places.

**Information Governance Report  
2022-2023**

**STAGE 2**

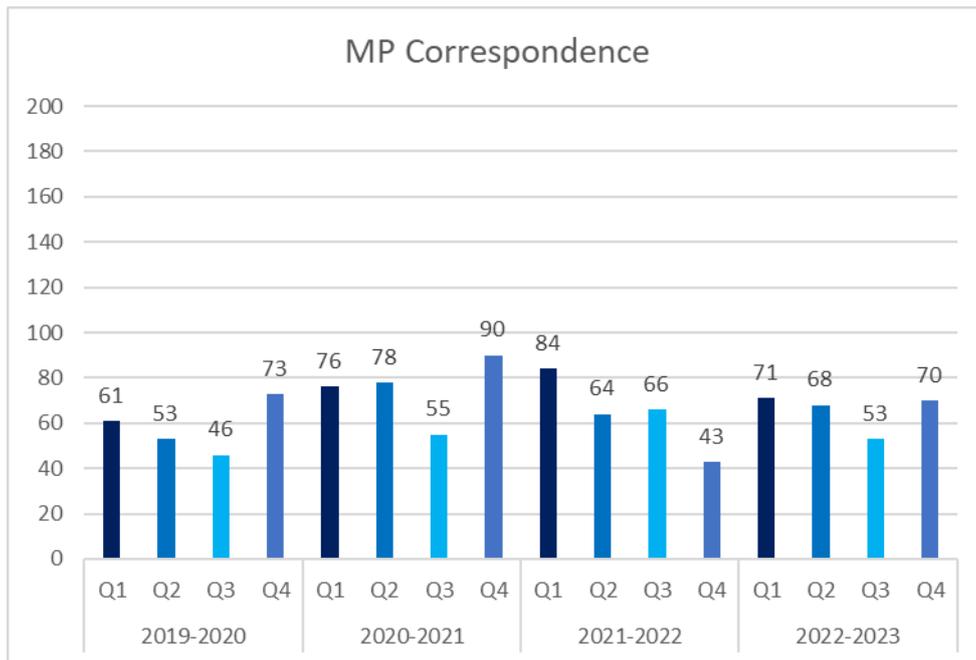


- The total number of stage 2 complaints in 2022-2023 was 63. In comparison, the total number of stage 2 complaints in 2021-2022 was 95.
- The number of stage 2 complaints has decreased in 2022-2023, from 95 to 63 owing to changes in the assessment process.
- Of the escalated complaints in 2022-2023 13 were not upheld. The remainder were either upheld (31) or partially upheld (19).

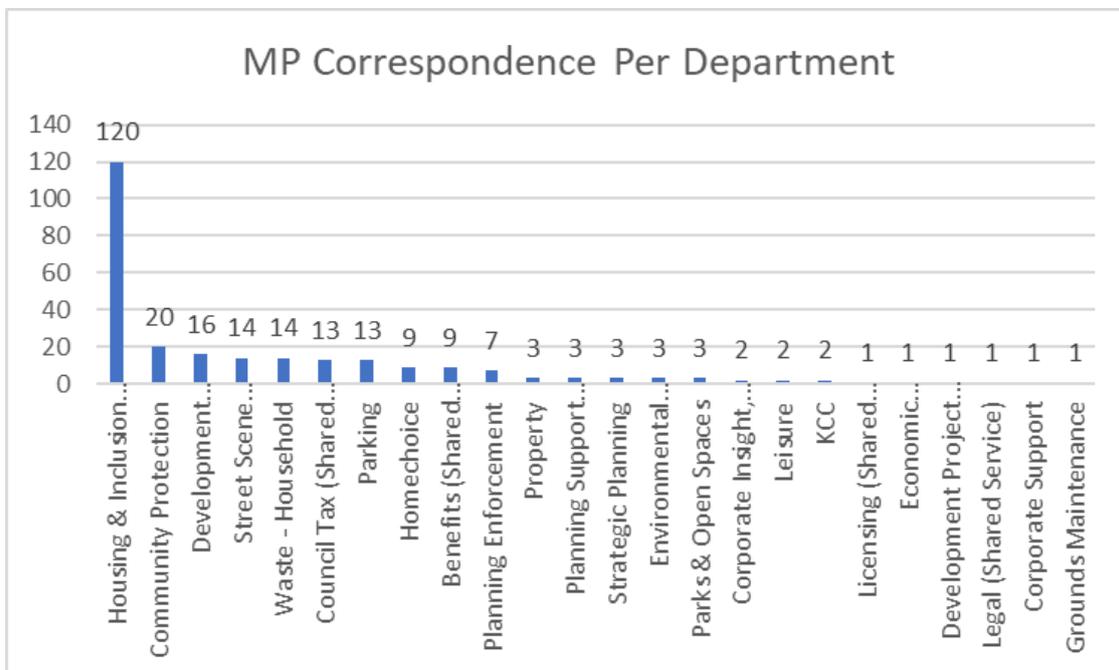


- The department with the highest number of upheld complaints is Household Waste. The number of complaints for Household Waste exceeds all others. Of those complaint for Household Waste, 5 were not upheld and the remainder were either upheld (15) or partially upheld (27).

# MP Correspondence



- The total number of correspondence in 2022-2023 was 262. In comparison, the total number of requests in 2021-2022 was 257.
- The total number of correspondence from MPs in each quarter of 2022-2023 ranged between 53-71. This equates to an average of 66 per quarter.

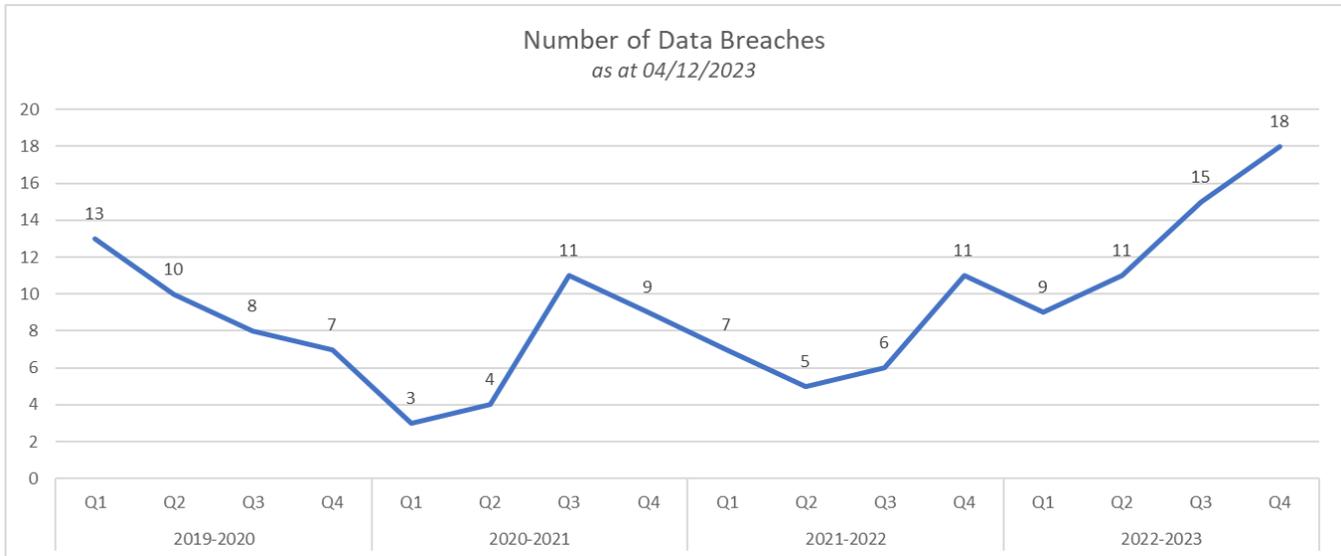


- The department with the highest number of recorded correspondence was Housing & Inclusion & Health, with 120.

**Information Governance Report  
2022-2023**

# Data Protection

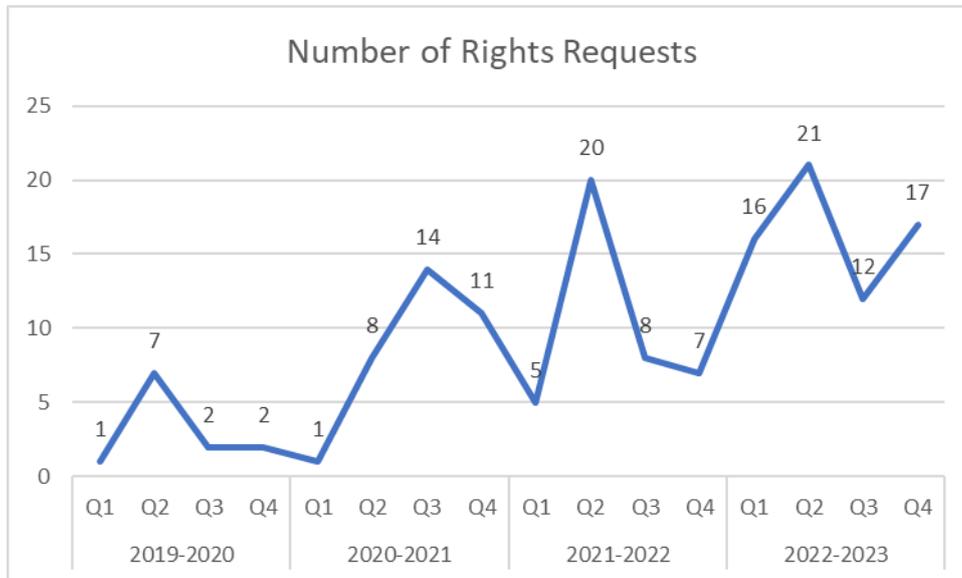
## BREACHES



- The total number of breaches in 2022-2023 was 53. In comparison, the total number of breaches in 2021-2022 was 29.
- The number of data breaches increased in 2022-2023. However, there are no discernible causes that attribute the number of breaches to a particular time of year.
- The most common cause for breaches is a loss of confidentiality. This is typically caused by post or e-mails being sent to the wrong person.
- Breaches are assessed on a risk matrix, as shown below, based on severity against likelihood of harm. The majority of Council breaches are low risk.

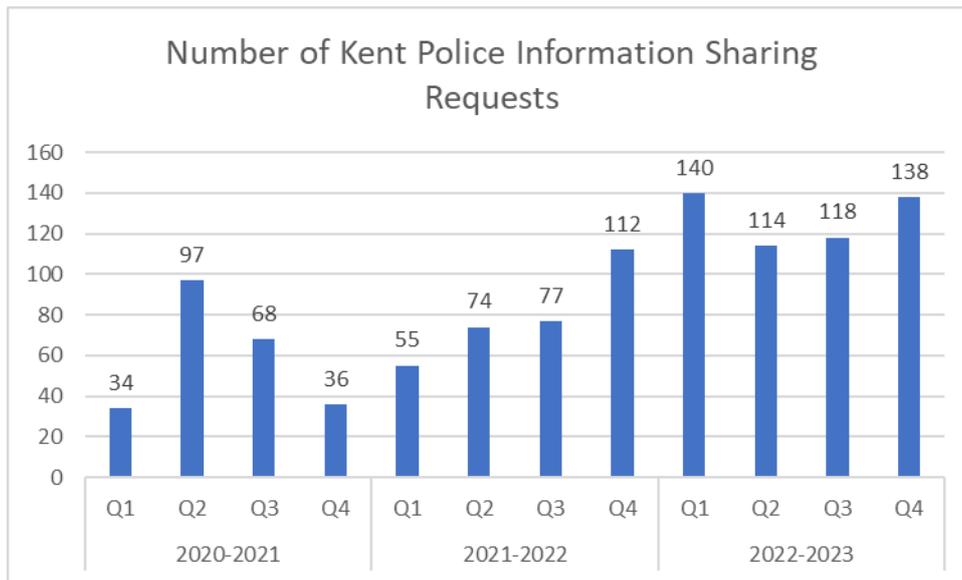
What is the overall level of residual risk after taking additional measures?				
	<b>Start Date</b>	01/04/2022	<b>End Date</b>	31/03/2023
	<b>14</b>	No risk - no data breach has not occurred.		
<b>SEVERITY OF IMPACT</b>	<b>Serious Harm</b>	Medium Risk <b>2</b>	High Risk <b>0</b>	High Risk <b>0</b>
	<b>Some Impact</b>	Low Risk <b>13</b>	Medium Risk <b>0</b>	Medium Risk <b>0</b>
	<b>Minimal Impact</b>	Very Low Risk <b>24</b>	Low Risk <b>0</b>	Low Risk <b>0</b>
		<b>Remote</b>	<b>Reasonable Possibility</b>	<b>More Likely Than Not</b>
		<b>LIKELIHOOD OF HARM</b>		

# Rights Requests

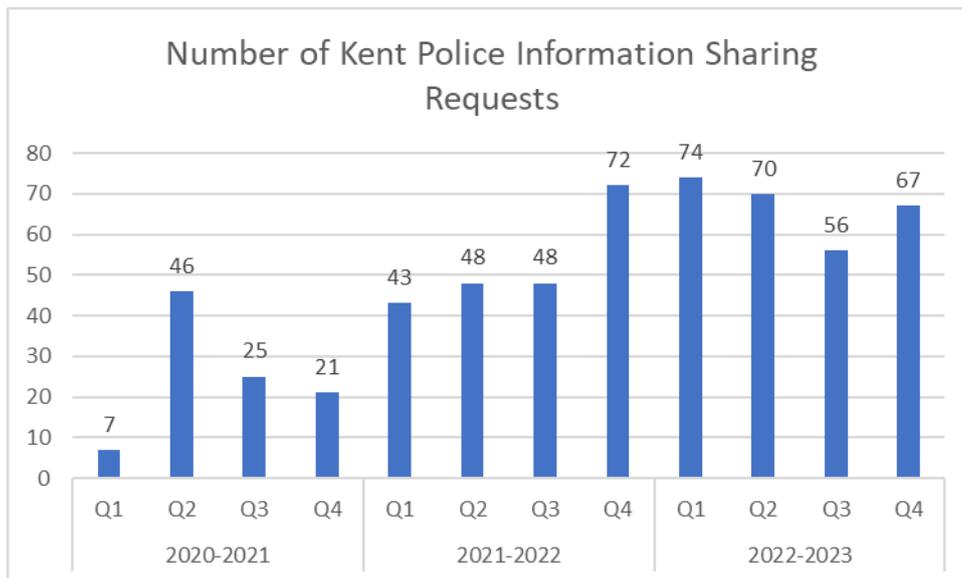


- There are 7 types of rights requests including: subject access requests and erasure requests. The Council received more subject access requests when compared to all the other types of rights requests.
- The total number of rights requests in 2022-2023 was 66. In comparison, the total number of rights requests in 2021-2022 was 40.
- The number of requests for these have steadily been increasing since the implementation of GDPR in May 2018.

# Information Sharing Requests



- The total number of sharing requests in 2022-2023 was 510. In comparison, the total number of sharing requests in 2021-2022 was 318.
- Over the past three years there has been an increase in the number of requests received. The majority of requests are received from the police.



- The total number of information sharing request received from Kent Police in 2022-2023 was 510, compared to 318 in the previous year.

19 July 2023

*By email*

Ms Broom  
Chief Executive  
Maidstone Borough Council

Dear Ms Broom

### **Annual Review letter 2022-23**

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2023. The information offers valuable insight about your organisation's approach to complaints. As always, I would encourage you to consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

The end of the reporting year, saw the retirement of Michael King, drawing his tenure as Local Government Ombudsman to a close. I was delighted to be appointed to the role of Interim Ombudsman in April and look forward to working with you and colleagues across the local government sector in the coming months. I will be building on the strong foundations already in place and will continue to focus on promoting improvement through our work.

### **Complaint statistics**

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

**Complaints upheld** - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.

Our average uphold rate for all investigations has increased this year and you may find that your organisation's uphold rate is higher than previous years. This means that comparing uphold rates with previous years carries a note of caution. Therefore, I recommend comparing this statistic with that of similar organisations, rather than previous years, to better understand your organisation's performance.

**Compliance with recommendations** - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the organisation upheld the complaint and we were satisfied with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

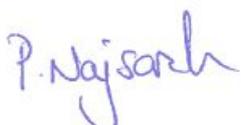
Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 26 July 2023. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

### **Supporting complaint and service improvement**

I know that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support you to do so, we have continued our work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. We will consult on the code and its implications prior to launch and will be in touch with further details.

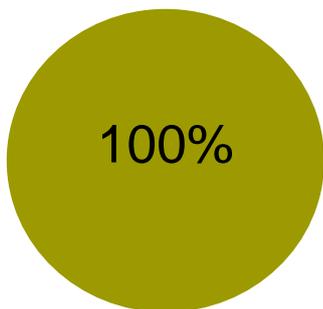
In addition, our successful training programme includes practical interactive workshops that help participants develop their complaint handling skills. We can also offer tailored support and bespoke training to target specific issues your organisation might have identified. We delivered 105 online workshops during the year, reaching more than 1350 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training) or get in touch at [training@lgo.org.uk](mailto:training@lgo.org.uk).

Yours sincerely,



Paul Najsarek  
Interim Local Government and Social Care Ombudsman  
Interim Chair, Commission for Local Administration in England

### Complaints upheld



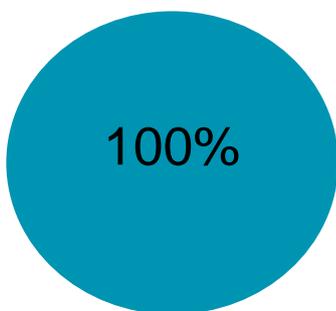
**100%** of complaints we investigated were upheld.

This compares to an average of **59%** in similar organisations.

**6**  
upheld decisions

Statistics are based on a total of **6** investigations for the period between 1 April 2022 to 31 March 2023

### Compliance with Ombudsman recommendations



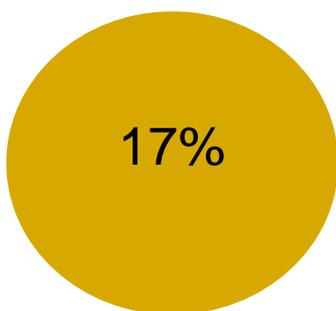
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **5** compliance outcomes for the period between 1 April 2022 to 31 March 2023

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

### Satisfactory remedy provided by the organisation



In **17%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **15%** in similar organisations.

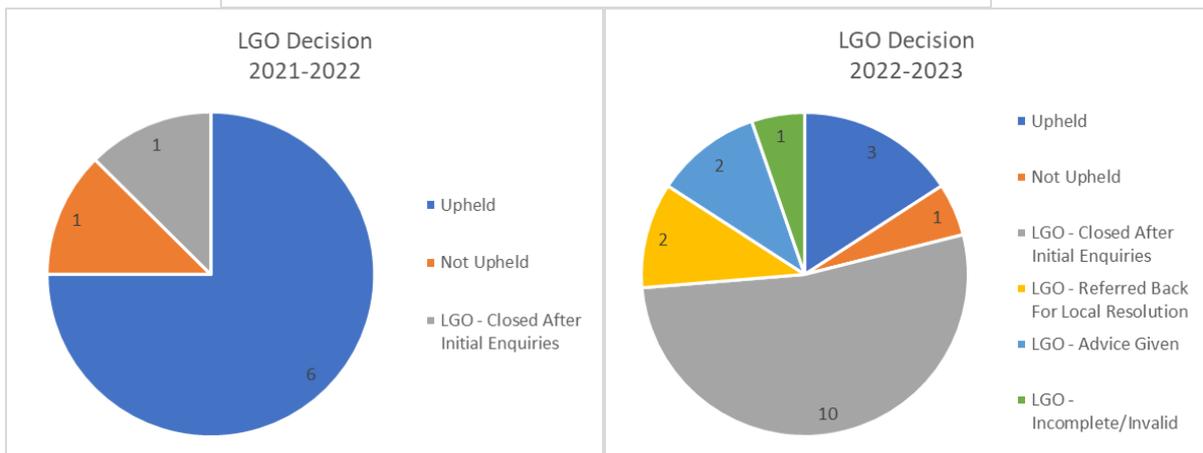
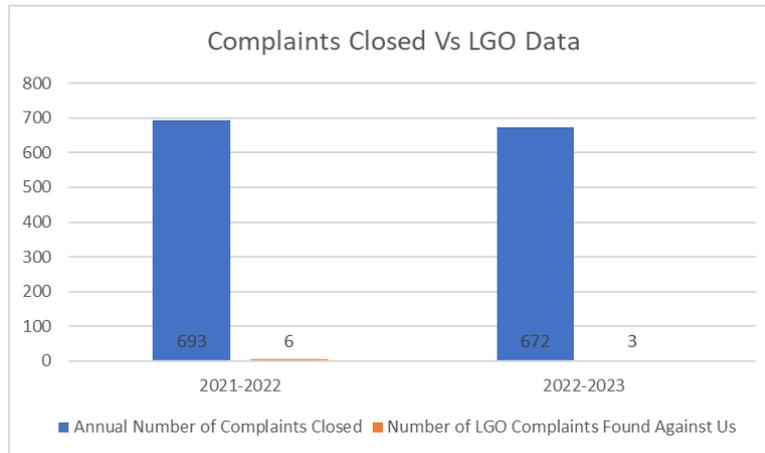
**1**  
satisfactory remedy decision

Statistics are based on a total of **6** upheld decisions for the period between 1 April 2022 to 31 March 2023

# Local Government and Social Care Ombudsman (LGO) Annual Complaints Data 2022/2023

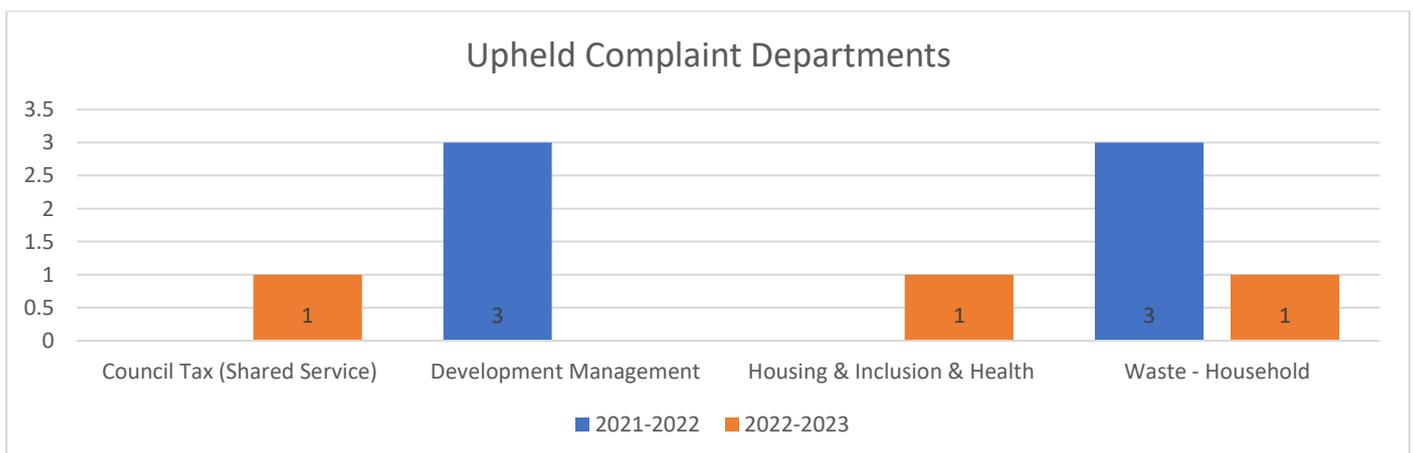
## Summary

In 2022-2023 the LGO received 22 complaints for the Council and decided 23 complaints (5 complaints resolved in the year were from 2021-22). Of the complaints received in 2022-2023, 3 are awaiting a final decision. The remaining 18 relate to 2022-2023 and, of these, 14 were closed without our involvement, or knowledge. In total, the LGO upheld 6 complaints against us in 2021-2022 (out of 693) and 3 in 2022-2023 (out of 672). This equates to 0.87% and 0.45% respectively.



## Upheld Complaints

The revised data for 2021-2022 shows 6 complaints were upheld; 3 for Development Management and 3 for Waste – Household. At the time of the LGO report 3 complaints had been upheld in 2022-2023; covering Council Tax, Housing & Inclusion & Health and Waste - Household. All remedies have been completed and the LGO have confirmed they are satisfied. A summary of the upheld complaints is provided in Appendix 1.



## Findings

There is no discernible trend or re-occurring theme in the complaints both received and decided by the LGO. It is expected that a greater number of complaints for Development Management and Household Waste will be referred to the LGO as they are the departments with the highest levels of complaints and have a high level of customer contact.

We have identified in the past year from reviewing stage 1 responses that a refresher session on responding to complaints would be of benefit to those writing responses. This has been raised with L&D and discussions on identifying training are ongoing.

The LGO have updated the [Manual for Councils](#). Based on this, it is prudent for a review of the complaints policy and procedures to ensure it reflects the following:

- The LGO have made some changes to their decision reasons to cover both maladministration and service failure. As a result, they have replaced the word maladministration with fault in all relevant decision reasons. This needs to be reflected in our stage 2 assessments, investigations and policies.
- Authorities can have up to two link officers. We will add an additional contact which uses a shared inbox to ensure continuous access.
- We need to update the text at the end of stage 2 complaint responses to reflect the revised wording provided for requesting the LGO to review the complaint.

## Quality Assurance

The data provided to use from the LGO is limited and this restricts our ability to interrogate the data further. There is no opportunity to challenge the data or review it before publication. As a result, there are discrepancies in the data published by the LGO for the Council, which does not reflect our engagement with both the LGO and customers. In particular, the following should be noted:

- One of the upheld complaints was resolved at stage 1, however because the complaint was escalated to the LGO and they agreed with our response, it is considered to be upheld.
- There were 14 complaints logged and actioned by the LGO in 2022-2023 that we had no knowledge of. The decisions for these vary, and we unable to establish the root cause as we do have any way to identify which complaints they relate to.
- When compared to our overall number of complaints, the volume that progress to this stage is less than 1%. This is not reflected in the headline figures published by the LGO.

## Appendix 1

Year	Department	Summary	Remedy
2021-2022	Development Management	Mr B complained about how the Council dealt with a planning application for development in the street where he lives, and his communications about the matter. We find no fault in how the planning application was dealt with. While there was some fault in subsidiary matters, Mr B was not caused significant injustice as a result.	None as no significant injustice as a result of any fault by the Council.
2021-2022	Development Management	Mrs C complained about the Council's handling of a planning application. We find Council was at fault for the delay in publishing the independent assessor's report on its website. However, this did not cause Mrs C a significant injustice. The Council was also at fault for failing to respond to Mrs C's queries. The Council has agreed to apologise to Mrs C for the injustice caused.	Apology
2021-2022	Waste - Household	Mr B says the Council failed to act when his neighbours continued to place refuse bins outside his property. There is no fault in how the Council dealt with that issue. However, the Council gave Mr B and his MP incorrect information and failed to respond to an email from Mr B. An apology and reminder to officers is satisfactory remedy.	Apology, Provide training and/or guidance - The Council will send a copy of my final decision statement to officers dealing with waste complaints so they are aware of the provisions of the Environmental Protection Act.
2021-2022	Development Management	Mr X complains that the Council failed to take enforcement action against his neighbour when their development was not permitted development. The Council is at fault as it delayed investigating Mr X's complaint of an increased roof height and delayed making a decision as to whether it was expedient to take enforcement action. The delay caused avoidable uncertainty and frustration to Mr X which the Council should apologise for.	Apology
2021-2022	Waste - Household	Mr X complained the Council have repeatedly failed to return his bins in accordance with its assisted waste collection service. Mr X is disabled and has difficulty moving his bins himself. Mr X says the Council's failure to return his bins often prevents access to and from his drive. Based on the information available, I have found fault in the Council's repeated failure to return Mr X's bins to their collection point. This fault has caused Mr X an injustice, and the Council have agreed to our proposed recommendations.	Apology, Financial redress: Avoidable distress/time and trouble, Financial redress: Loss of service, Procedure or policy change/review - Explain what the Council will do to improve how it monitors properties on its monitoring list, it should ensure the monitoring is both meaningful and proactive. The monitoring should at least record whether any required actions at a property have or have not been successfully completed.
2021-2022	Waste - Household	Mrs B complained about how the Council handled its green bin service. There were missed collections, the Council failed to correct the information it holds on its website about the collection day and the Council	Apology, Financial redress: Avoidable distress/time and trouble and provide services to person affected

		delayed extending Mrs B's subscription for the green bin service to reflect the issues she had experienced. An apology, payment to Mrs B, a change to the information on the Council's website about the bin collection day, an investigation into the issues with continuing missed collections and an action plan to deal with those is satisfactory remedy.	
2022-2023	Household Waste	Mr X complained he paid for a garden waste collection service which the Council failed to provide several times. He said this matter has caused him significant stress and inconvenience. The Council was at fault for consistently neglecting to provide the service Mr X paid for and providing unclear responses to Mr X's complaints about this. This caused Mr X avoidable distress and financial loss. The Council has agreed to provide an apology and provide a £150 goodwill award.	Apology, Financial redress: Avoidable distress/time and trouble.
2022-2023	Housing & Inclusion & Health	Mrs X complained the Council failed to properly consider her housing application and supporting evidence, told her incorrect information and failed to deal with her application for a Discretionary Housing Payment. Mrs X also said it has prevented her from moving to suitable accommodation. We find fault with the Council for misfiling Mrs X's Discretionary Housing Payment application however this did not cause a significant injustice. We do not find fault with the Council for how it considered Mrs X's housing application.	Council was at fault for misfiling application find this did not cause a significant injustice No fault was found for how the Council considered the housing application.
2022-2023	Council Tax (Shared Service)	We will not investigate this complaint about money taken from the complainant's bank account in error, by the Council, for council tax. This is because the Council provided an appropriate response and there is insufficient evidence of injustice.	Injustice remedied during organisations complaint processes. We do not have any further details on this as we were unaware this was under investigation.

# Joint Complaint Handling Code

**Date published: TBC**

**Date applicable: TBC**

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## Introduction

Good complaint handling requires effective procedures and well-trained staff alongside a positive complaints culture that enables those procedures to achieve maximum impact. This code sets out what an organisation must do procedurally to handle complaints. Compliance with the code is most effective within an organisation that is fair, puts things right, and learns from outcomes.

Organisations must embrace complaints through increased transparency, accessibility, and complaint handling governance. Demonstrating that individuals are at the heart of its service delivery and good complaint handling is central to that.

Some organisations see complaints as a form of negative feedback. However, there are many benefits to be gained from having an effective and efficient complaints process:

- Good complaint handling promotes a positive relationship between an organisation and service users.
- Complaints allow an issue to be resolved before it becomes worse. Those issues not resolved quickly can take significant resource and time to remedy.
- Involvement in complaint resolution develops staff ownership, decision-making and engagement.
- Complaints provide senior staff with essential insight into day-to-day operations, allowing them to assess effectiveness and drive a positive complaint handling culture.
- Data collected about complaints can be analysed and used to inform key business decisions to drive improvement in service provision.

The Joint Complaint Handling Code ('the Code'), from the Housing Ombudsman and Local Government and Social Care Ombudsman, sets out requirements for organisations that will allow them to respond to complaints effectively and fairly. The purpose of the Code is to enable organisations to resolve complaints raised by individuals quickly, and to use the data and learning from complaints to drive service improvements. It will also help to create a positive complaint handling culture amongst staff and individuals.

Non-compliance with the Code could result in the relevant Ombudsman taking further action. The Housing Ombudsman has a duty to monitor compliance with the Code and the power to issue Complaint Handling Failure Orders. The Local Government and Social Care Ombudsman has the power to issue public reports about the actions of individual organisations.

Organisations will be asked to self-assess against the Code annually on a 'comply or explain' basis, and publish this on their website or appropriate public forum if an organisation does not host a website. The self-assessment provides a snapshot of not just compliance with the Code, but the culture of an organisation.

The Code will act as a guide for individuals setting out what they can and should expect from an organisation when they make a complaint. The requirements in the

Code also provide individuals with information about how to make a complaint and how to progress it through an organisation’s internal complaints procedure.

Organisations should seek feedback from individuals in relation to their complaint handling as part of the drive to encourage a positive complaint and learning culture.

The Code supports the regulatory approach to complaints by ensuring that an organisation’s approach to complaints is clear, simple, and accessible, and that complaints are resolved promptly, politely and fairly.

Organisations must have a single policy for dealing with complaints covered by the Code. Individuals must not be treated differently based on the service they are complaining about.

## **Powers**

### **The Housing Ombudsman**

The Code is statutory under the Housing Ombudsman’s powers in the Housing Act 1996, as amended by the Social Housing (Regulation) Act 2023.

By issuing a statutory Code, landlords have a duty to comply with it and the Housing Ombudsman has a duty to monitor compliance against it. This will be delivered through individual investigation findings, submissions of the Code self-assessment and monitoring relevant data, including complaint handling performance.

Under paragraphs 13-15 of the Housing Ombudsman Scheme, the Housing Ombudsman has the power to issue, and publish, Complaint Handling Failure Orders (CHFOs) for failing to comply with the Code.

The Code applies to all member landlords of the Housing Ombudsman Scheme.

### **The Local Government and Social Care Ombudsman**

The Code is issued under the Local Government and Social Care Ombudsman’s powers to provide “guidance about good administrative practice” to organisations under section 23(12A) of the Local Government Act 1974.

The Local Government and Social Care Ombudsman may consider failure to comply with the Code as maladministration or service failure.

The Local Government and Social Care Ombudsman considers that the Code applies to all local authorities in England, as well as other specified bodies. The Code does not replace any statutory complaint processes such as The Children Act 1989 Representations Procedure (England) Regulations 2006 or Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

## **Compliance with the Code**

Organisations must comply with the Code.

Where an organisation's policy does not comply with the Code the organisation must provide a satisfactory explanation for non-compliance in their self-assessment and, where appropriate, the date by which the organisation intends to comply.

Where an organisation is unable to comply with the Code when dealing with an individual complaint, the individual must be provided with a suitable explanation and signposted to the relevant Ombudsman. We describe this as 'comply or explain' throughout the Code, and this relates only to individual cases. An organisation's complaints policy and any associated procedures must comply with the Code.

Where an organisation is unable to comply with the Code due to exceptional circumstances, such as a cyber incident they must inform the relevant Ombudsman and provide information to individuals who may be affected, and publish this on their website if they have one. Organisations must provide a timescale for returning to compliance with the Code.

Where the relevant Ombudsman finds an organisation has deviated from the Code without good reason, it may use its powers to put matters right and ensure compliance with the Code. The Code must be considered along with accompanying guidance setting out how each Ombudsman will use its powers in relation to this Code.

# The Complaint Handling Code

## The complaints process

### 1. Definition of a complaint

- 1.1 Effective complaint handling enables individuals to be heard and understood. The starting point for this is a shared understanding of what constitutes a complaint.
- 1.2 A complaint must be defined as:  
*'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals.'*
- 1.3 An individual does not have to use the word 'complaint' for it to be treated as such. A complaint that is submitted via a third party or representative must still be handled in line with the organisation's complaints policy.
- 1.4 Organisations must recognise the difference between a **service request** and a **complaint**. This must be set out in their complaints policy. A service request is a request from an individual to the organisation requiring action to be taken to put something right. Service requests are not complaints, but must be recorded, monitored and reviewed regularly. A complaint must be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. An organisation must not stop its efforts to address the service request if the individual complains.
- 1.5 Where an organisation asks for feedback about its services through a survey, it must provide details of how individuals can complain so they can pursue any dissatisfaction if they so wish.

### 2. Exclusions

- 2.1 An organisation must accept a complaint unless there is a valid reason not to do so. If the organisation decides not to accept a complaint it must be able to evidence its reasoning. Each complaint must be considered on its own merits.
- 2.2 Organisations must accept complaints referred to them within 12 months of the issue occurring, or the individual becoming aware of the issue. Organisations must consider whether to apply discretion to accept complaints made outside this time limit where there are good reasons to do so.
- 2.3 Organisations must not exclude complaints about safeguarding or health and safety issues.
- 2.4 A complaints policy must set out the circumstances in which a matter might not be considered or escalated. Organisations must ensure that these are reasonable, and in line with guidance issued by the relevant Ombudsman.

Members of the Housing Ombudsman can refer to the Scheme for explanations about exclusions.

- 2.5 If an organisation decides not to accept a complaint, a detailed explanation must be provided to the individual setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the relevant Ombudsman. If the relevant Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may tell the organisation to take on the complaint.
- 2.6 Organisations must not take a blanket approach to excluding complaints; they must consider the individual circumstances of each complaint.

### **3. Accessibility and awareness**

- 3.1 Organisations must make it easy for individuals to complain by providing different channels through which they can make a complaint. Organisations must consider their duties under the Equality Act 2010 and anticipate the needs and reasonable adjustments of individuals who may need to access the complaints process.
- 3.2 Individuals must be able to raise their complaints in any way and with any member of staff. This includes complaints made directly to the organisation via social media. All staff must be aware of the complaints process and be able to pass details of the complaint to the appropriate person within the organisation.
- 3.3 High volumes of complaints must not be seen as a negative, as they can be indicative of a well-publicised and accessible complaints process. Low complaint volumes are potentially a sign that individuals are unable to complain.
- 3.4 Organisations must make their complaint policy available in a clear and accessible format for all individuals. This will detail the number of stages involved, what will happen at each stage, and the timeframes for responding. The policy must also be published on the organisation's website.
- 3.5 The policy must explain how the organisation will publicise details of the complaints policy, including information about relevant Ombudsman schemes and this Code.
- 3.6 Organisations must give individuals the opportunity to have a suitable representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the organisation.
- 3.7 Organisations must provide individuals with information on their right to access the relevant Ombudsman service and how the individual can engage with the relevant Ombudsman about their complaint.

#### **4. Complaint handling staff**

- 4.1 Organisations must have a person or team assigned to take responsibility for complaint handling, including liaison with the relevant Ombudsman and ensuring complaints are reported to the governing body (or equivalent). This Code will refer to that person or team as the “*complaints officer*”. This role may be in addition to other duties.
- 4.2 The complaints officer must have access to staff at all levels to facilitate the quick resolution of complaints and report on complaint handling performance. They must also have the authority and autonomy to act to resolve disputes quickly and fairly.
- 4.3 Organisations are expected to prioritise complaint handling and a culture of learning from complaints. All relevant staff must be suitably trained in the importance of complaint handling. It is important that complaints teams are seen as a core service, and not given any additional roles that impact their ability to handle complaints effectively.

#### **5. The complaint handling process**

- 5.1 Organisations must have a single policy for dealing with complaints covered by the Code. Individuals must not be treated differently based on the service they are complaining about.
- 5.2 The early and local resolution of issues between organisations and individuals is key to effective complaint handling. Organisations must ensure that there is one policy in place for complaints covered by this Code. It is not appropriate to have extra named stages (such as ‘stage 0’ or ‘informal complaint’) as this causes unnecessary confusion.
- 5.3 When an individual expresses dissatisfaction, organisations must register the issue as a complaint. Organisations must then set out their understanding of the complaint and the outcomes the individual is seeking. This Code will refer to this as “the complaint definition”. If any aspect of the complaint is unclear, the individual must be asked for clarification.
- 5.4 The complaint handler must:
  - a) clarify with the individual any aspects of the complaint they are unclear about;
  - b) deal with complaints on their merits, act independently, and have an open mind;
  - c) give the individual a fair chance to set out their position;
  - d) take measures to address any actual or perceived conflict of interest; and
  - e) consider all relevant information and evidence carefully.

- 5.5 When defining a complaint, organisations must be clear which aspects of the complaint they are, and are not, responsible for and clarify any areas where this is not clear.
- 5.6 Communication with the individual must not identify individual members of staff or contractors, except in exceptional circumstances, as their actions are undertaken on behalf of the organisation.
- 5.7 Where a response to a complaint will fall outside the timescales set out in this Code the organisation must agree with the individual suitable intervals for keeping them informed about their complaint.
- 5.8 Organisations must make reasonable adjustments for individuals where appropriate under the Equality Act 2010. Organisations must keep a record of any reasonable adjustments agreed, as well as a record of any disabilities an individual has disclosed. Any agreed reasonable adjustments must be kept under active review.
- 5.9 Organisations must not refuse to escalate a complaint through all stages of the complaints procedure unless it has valid reasons to do so. Organisations must clearly set out these reasons, and they must align with the exclusions permitted under section 2 above.
- 5.10 A full record must be kept of the complaint, and the outcomes at each stage. This must include the original complaint and the date received, all correspondence with the individual, correspondence with other parties, and any relevant supporting documentation such as reports or surveys.
- 5.11 Organisations must have systems in place to ensure that a complaint can be remedied at any stage of its complaints process. Organisations must ensure that appropriate remedies can be provided at any stage of the complaints process without the need for escalation.
- 5.12 Organisations must have policies and procedures in place for managing unacceptable behaviour from individuals and/or their representatives. Organisations must be able to evidence reasons for putting any restrictions in place and must keep an individual's restrictions under regular review.
- 5.13 Any restrictions placed on an individual's contact due to unacceptable behaviour must be proportionate and demonstrate regard for the provisions of the Equality Act 2010.

## **6. Complaints stages**

### **Stage 1**

- 6.1 Organisations must have processes in place to consider which complaints can be responded to as early as possible, and which require further investigation. Organisations must consider factors such as the complexity of the complaint and whether the individual is vulnerable or at risk. Most stage 1 complaints can

be resolved quickly and an explanation, apology or resolution provided to the individual.

- 6.2 Complaints must be acknowledged and logged at stage 1 of the complaints procedure **within five working days of the complaint being received**.
- 6.3 Organisations must issue a full response to stage 1 complaints **within 10 working days** of the complaint being received.
- 6.4 Organisations must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform individuals of the expected timescale for response. Any extension must be no more than 10 working days without good reason, and the reason(s) must be clearly explained to the individual.
- 6.5 When an organisation informs an individual about an extension to these timescales, they must be provided with the contact details of the relevant Ombudsman.
- 6.6 A complaint response must be sent to the individual when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the individual.
- 6.7 Organisations must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
- 6.8 If an organisation has got something wrong it must record the complaint as being upheld, even if there are elements of the complaint it has not upheld. It is not appropriate to record a complaint as being partially upheld.
- 6.9 Where individuals raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being investigated, or it would unreasonably delay the response, the new issues must be logged as a new complaint.
- 6.10 Organisations must confirm the following in writing to the individual at the completion of stage 1 in clear, plain language:
  - a) the complaint stage;
  - b) the complaint definition;
  - c) the decision on the complaint;
  - d) the reasons for any decisions made;
  - e) the details of any remedy offered to put things right;
  - f) details of any outstanding actions; and

g) details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.

6.11 Organisations must have systems in place to ensure that a complaint can be remedied at any stage of its complaints process. Individuals must not be required to escalate a complaint in order to get an appropriate remedy.

### **Stage 2 Review**

6.12 If all or part of the complaint is not resolved to the individual's satisfaction at stage 1, it must be progressed to stage 2 of the organisation's procedure. Stage 2 is the organisation's final response and must be sent by a staff-member authorised to speak on its behalf.

6.13 Requests for stage 2 must be acknowledged and logged at stage 2 of the complaints procedure within five working days of the escalation request being received.

6.14 Individuals must not be required to explain their reasons for requesting a stage 2 consideration. Organisations are expected to make reasonable efforts to understand why an individual remains unhappy as part of its stage 2 response.

6.15 Stage 2 consideration must be a review of the adequacy of the stage 1 response, as well as any new and relevant information not previously considered. Stage 2 must not be a more thorough, detailed investigation of the complaint. It is expected that this will have happened at stage 1.

6.16 On receipt of the escalation request, organisations must set out their understanding of any outstanding issues and the outcomes the individual is seeking. If any aspect of the complaint is unclear, the individual must be asked for clarification.

6.17 The person considering the complaint at stage 2 must not be the same person that considered the complaint at stage 1.

6.18 Organisations must issue a final response to the stage 2 review **within 20 working days** of the complaint being escalated by the individual.

6.19 Organisations must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform individuals of the expected timescale for response. Any extension must be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the individual.

6.20 When an organisation informs an individual about an extension to these timescales they must be provided with the contact details of the relevant Ombudsman.

6.21 Organisations must confirm the following in writing to the individual at the completion of stage 2 in clear, plain language:

- a) the complaint stage;
- b) the complaint definition;

- c) the decision on the complaint;
- d) the reasons for any decisions made;
- e) the details of any remedy offered to put things right;
- f) details of any outstanding actions; and
- g) details of how to escalate the matter to the relevant Ombudsman Service if the individual remains dissatisfied.

6.22 If a complaint is upheld at stage 1, and the stage 2 response agrees with those findings, the complaint must be recorded as upheld. This is the case even if the stage 2 response finds no fault in the way the stage 1 complaint was handled.

### **Further stage**

6.23 Stage 2 is the organisation's final response and must involve all suitable staff members needed to issue such a response.

6.24 A process with more than two stages is not acceptable under any circumstances as this will make the complaint process unduly long and delay access to the relevant Ombudsman.

6.25 Where an organisation's complaint response is handled by a third party (e.g. a contractor) or independent adjudicator at any stage, it must form part of the two stage complaints process set out in this Code. Individuals must not be expected to go through two complaints processes.

6.26 Organisations are responsible for ensuring that any third parties handle complaints in line with the Code.

## **7. Putting things right**

7.1 Where something has gone wrong an organisation must acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:

- Apologising;
- Acknowledging where things have gone wrong;
- Providing an explanation, assistance or reasons;
- Taking action if there has been delay;
- Reconsidering or changing a decision;
- Amending a record or adding a correction or addendum;
- Providing a financial remedy;
- Changing policies, procedures or practices.

7.2 Any remedy offered must reflect the impact on the individual as a result of any fault identified.

7.3 The remedy offer must clearly set out what will happen and by when, in agreement with the individual where appropriate. Any remedy proposed must be followed through to completion.

7.4 Organisations must take account of the guidance issued by the relevant Ombudsman when deciding on appropriate remedies.

## 8. **Self-assessment, reporting and compliance**

8.1 Organisations must produce an annual complaints performance and service improvement report for scrutiny and challenge, which must include:

- a) the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements.
- b) a qualitative and quantitative analysis of the organisation's complaint handling performance. This must also include a summary of the types of complaints the organisation has refused to accept;
- c) any findings of non-compliance with this Code;
- d) the service improvements made as a result of the learning from complaints;
- e) any annual report about the organisation's performance from the relevant Ombudsman; and
- f) any other relevant reports or publications produced by the relevant Ombudsman in relation to the work of the organisation.

8.2 The annual complaints performance and service improvement report must be reported to its governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.

8.3 Organisations must also carry out a self-assessment following a significant restructure, merger and/or change in procedures.

8.4 Organisations may be asked to review and update the self-assessment following an Ombudsman investigation.

8.5 If an organisation is unable to comply with the Code due to exceptional circumstances, such as a cyber incident they must inform the relevant Ombudsman, provide information to individuals who may be affected, and publish this on their website if they have one. Organisations must provide a timescale for returning to compliance with the Code.

## 9. **Scrutiny & oversight: continuous learning and improvement**

9.1 Organisations must look beyond the circumstances of the individual complaint and consider whether service improvements can be made as a result of any learning from the complaint.

- 9.2 A positive complaint handling culture is integral to the effectiveness with which organisations resolve disputes. Organisations must use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.
- 9.3 Accountability and transparency are also integral to a positive organisational culture. Organisations must report back on wider learning and improvements from complaints to stakeholders, such as citizens' or residents' panels, staff and relevant committees.
- 9.4 The organisation must appoint a suitably senior executive to oversee its complaint handling performance. This person must assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.
- 9.5 In addition to this a member of the governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints (The Member).
- 9.6 The Member will be responsible for ensuring the governing body receives regular information on complaints that provides insight on the organisation's complaint handling performance. This person must have access to suitable information and staff to perform this role and report on their findings.
- 9.7 As a minimum, the Member and the governing body (or equivalent) must receive:
- a) regular updates on the volume, categories, and outcomes of complaints, alongside complaint handling performance.
  - b) regular reviews of issues and trends arising from complaint handling; and
  - c) the annual complaints performance and service improvement report.
- 9.8 Organisations must have a standard objective in relation to complaint handling for all relevant employees or third parties that reflects the need to:
- have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments;
  - take collective responsibility for any shortfalls identified through complaints, rather than blaming others; and
  - act within the professional standards for engaging with complaints as set by any relevant professional body.

## Appendix A – Self-Assessment

This self-assessment must be completed and must be shared with the organisation’s governing body (or equivalent) annually as part of the complaints performance and service improvement report.

Evidence must be included to demonstrate compliance in practice as part of the other elements of the annual complaints performance and service improvement report with additional commentary as necessary. For example, this could include records of quality assurance checks on complaint responses, exclusions and feedback from relevant staff. If the failure to meet a requirement only relates to one service area or department this must be made clear in the commentary section.

When completing the self-assessment, organisations should not focus on the number of complaints received. Recording a high number of complaints may be an indication that the organisation welcomes complaints and that individuals are able to access the complaints process easily. Organisations should focus on timescales for responding to complaints and complaint outcomes.

Members of the Housing Ombudsman must submit a copy of their self-assessment as part of their annual complaints performance and service improvement report, following the guidance for submissions. The submissions will be used to assess the organisation’s compliance with the Code in line with the Housing Ombudsman’s duty to monitor against this.

The Local Government and Social Care Ombudsman may consider the complaints performance and service improvement report as part of an investigation or its own annual review of complaints.

## Self assessment

### Section 1 - Definition of a complaint

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
1.2/ 1.4	Complaints are defined in line with the Code and we recognise the difference between a service request and a complaint.			
1.3	Complaints submitted via a third party or representative are handled in line with our complaints policy.			
1.5	Individuals completing surveys are made aware of how to complain.			

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## Section 2 – Exclusions

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
2.1	Our policy clearly states that complaints will be accepted unless there is a valid reason not to do so.			
2.2	Complaints are accepted when referred to us within 12 months of the issue occurring, or the individual becoming aware of the issue.			
2.3	We do not exclude complaints about safeguarding, or health and safety issues.			
2.4	Our policy sets out the circumstances in which a matter might not be considered or escalated.			
2.5	Where we decline to consider a complaint we explain our reasons to the individual and signpost them to the relevant Ombudsman.			

### Section 3 - Accessibility and awareness

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
3.1	We provide different channels through which individuals can make a complaint. We have considered our duties under the Equality Act 2010 and anticipated the needs of individuals who may need to access the complaints process.			
3.2	Individuals can raise their complaints in any way and with any member of staff. This includes complaints made directly to the organisation via social media. All staff are aware of the complaint process and able to pass details of the complaint to the appropriate person.			
3.3	We do not view high volumes of complaints as a negative. We analyse areas where there are low volumes of complaints to ensure individuals are able to complain.			

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<b>Code section</b>	<b>Code requirement</b>	<b>Comply: Yes/No</b>	<b>Explanations and Commentary</b>	<b>Evidence</b>
3.4	Our complaints policy is available in a clear and accessible format for all individuals. The policy is published on our website.			
3.5	Our complaints policy explains how we will publicise details of the complaints policy and information about the relevant Ombudsman schemes.			
3.6	We give individuals the opportunity to have a suitable representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with us.			
3.7	We provide individuals with information on their right to access the relevant Ombudsman service and how the individual can engage with the relevant Ombudsman about their complaint.			

## Section 4 - Complaint handling staff

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
4.1	We have a person or team assigned to take responsibility for the complaint handling process, including liaison with the relevant Ombudsman and ensuring that complaints are reported to our governing body (or equivalent).			
4.2	The complaints officer has access to staff at all levels to facilitate the quick resolution of complaints and report on complaint handling performance. They have the authority and autonomy to act to resolve disputes quickly and fairly.			
4.3	We prioritise complaint handling and a culture of learning from complaints.  All staff are suitably trained in the importance of complaint handling.  Complaints teams are seen as a core service and not given additional roles that impact their ability to handle complaints effectively.			

## Section 5 - Complaint handling process

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
5.1	We have a single policy for dealing with complaints covered by the Code.			
5.2	We do not have extra named stages (such as 'stage 0' or 'informal complaint').			
5.3	We register complaints when an individual expresses dissatisfaction. We then set out our understanding of the complaint and the outcomes the individual is seeking. We seek clarification from individuals if the complaint is unclear.			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
5.4	Our complaint handlers: <ul style="list-style-type: none"> <li>a) clarify with the individual any aspects of the complaint they are unclear about;</li> <li>b) deal with complaints on their merits, act independently, and have an open mind;</li> <li>c) give individuals a fair chance to set out their position;</li> <li>d) take measures to address any actual or perceived conflict of interest; and</li> <li>e) consider all relevant information and evidence carefully.</li> </ul>			
5.5	We are clear with individuals about which aspects of the complaint we are not responsible for.			
5.6	Our communication with individuals does not generally identify individual members of staff or contractors.			

<b>Code section</b>	<b>Code requirement</b>	<b>Comply: Yes/No</b>	<b>Explanations and Commentary</b>	<b>Evidence</b>
5.7	Where a response to a complaint will fall outside the timescales set out in the Code we agree with individual suitable intervals for keeping them informed about their complaint.			
5.8	We make reasonable adjustments for individuals where appropriate under the Equality Act 2010. We keep a record of agreed reasonable adjustments and keep these under review.			
5.9	We do not refuse to escalate complaints unless there are valid reasons for doing so.			
5.10	We keep a full record of the complaint, and the outcomes at each stage. This includes the original complaint and the date received, all correspondence with the individual, correspondence with other parties and any relevant supporting documentation such as reports or surveys.			
5.11	We have systems in place to ensure that a complaint can be remedied at any stage of our complaints process.			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
5.12	We have a policy and procedure in place for managing unacceptable behaviour from individuals and/or their representatives. We are able to evidence reasons for putting any restrictions in place and keep these restrictions under review. Restrictions are subject to an annual review as a minimum.			
5.13	Any restrictions placed on an individual's contact due to unacceptable behaviour are proportionate and have regard to the provisions of the Equality Act 2010.			

**Section 6 - Complaint stages**

<b>Code section</b>	<b>Code requirement</b>	<b>Comply: Yes/No</b>	<b>Explanations and Commentary</b>	<b>Evidence</b>
Stage 1				
6.1	We have processes in place that allow us to identify whether complaints can be responded to quickly or whether they require further consideration.			
6.1	We take account of the complexity of the complaint and whether individuals are vulnerable or at risk when deciding how quickly we should respond to a complaint.			
6.2	Complaints are acknowledged and logged within five working days of receipt.			
6.3	We issue a final response to stage 1 complaints <u>within 10 working days</u> of the complaint being received.			

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Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
6.4	<p>Any extension to this timescale is taken in line with the “comply or explain” principles set out in the Code and clearly communicated to the complainant.</p> <p>Extensions to timescales for responding do not exceed 10 days.</p>			
6.5	<p>When we inform an individual about an extension to these timescales we provide them with the contact details of the relevant Ombudsman.</p>			
6.6	<p>A complaint response is sent to individuals when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions are tracked and actioned promptly with appropriate updates provided to the individual.</p>			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
6.7	We address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.			
6.8	Where we have got something wrong we record the complaint as “upheld” even if there are elements of the complaint which are not “upheld”. We do not record complaints as being “partially upheld”.			
6.9	We deal with additional complaints raised during the investigation or after a stage 1 response has been issued in line with the requirements of the Code.			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
6.10	<p>We confirm the following in writing to individuals at the completion of stage 1 in clear, plain language:</p> <ul style="list-style-type: none"> <li>a. the complaint stage;</li> <li>b. the complaint definition</li> <li>c. the decision on the complaint;</li> <li>d. the reasons for any decisions made;</li> <li>e. the details of any remedy offered to put things right;</li> <li>f. details of any outstanding actions; and</li> <li>g. details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.</li> </ul>			
6.11	<p>We have systems in place to ensure that a complaint can be remedied at any stage of our complaints process.</p>			

Stage 2 Review				
6.12	We progress complaints to stage 2 where all or part of the complaint has not been resolved to the individual's satisfaction. This is sent by a staff-member authorised to speak on behalf of the organisation.			
6.13	Requests for stage 2 are acknowledged and logged at stage 2 of the complaints procedure within five working days of receipt.			
6.14	Individuals do not have to explain their reasons for wanting a stage 2, simply that they remain unhappy.			
6.15	Stage 2 consideration is a review of the adequacy of the stage 1 response as well as any new and relevant information not previously considered. Stage 2 is not a more thorough, detailed investigation of the complaint.			

6.16	<p>If any aspect of the complaint is unclear, we ask the individual for clarification.</p> <p>On receipt of the escalation request, we set out our understanding of any outstanding issues and the outcomes the individual is seeking.</p>			
6.17	<p>The person considering the complaint at stage 2 is never the same person that considered the complaint at stage 1.</p>			
6.18	<p>We respond to the stage 2 reviews <u>within 20 working days</u> of the complaint being escalated by the individual.</p>			
6.19	<p>Extensions to the stage 2 timescale are taken in line with the “comply or explain” principles set out in the Code and clearly communicated to the complainant.</p>			
6.19	<p>Extensions to the timescale for a response do not exceed 20 working days.</p>			

6.20	When we inform an individual about an extension to stage 2 timescales they are provided with the contact details of the relevant Ombudsman.			
6.21	<p>We confirm the following in writing to the individual at the completion of stage 2 in clear, plain language:</p> <ul style="list-style-type: none"> <li>a. the complaint stage;</li> <li>b. the complaint definition;</li> <li>c. the decision on the complaint;</li> <li>d. the reasons for any decisions made;</li> <li>e. the details of any remedy offered to put things right;</li> <li>f. details of any outstanding actions; and</li> <li>g. details of how to escalate the matter to the relevant Ombudsman Service if the individual remains dissatisfied.</li> </ul>			

6.22	If a complaint is upheld at stage 1, and the stage 2 response agrees with those findings, we record the complaint as upheld. This is the case even if the stage 2 response finds no fault in the way the stage 1 complaint was handled.			
Further stages				
6.24	Our complaint process has no more than two stages.			
6.25	Complaints handled by third parties on our behalf (e.g contractors) follow the two stage process set out in the code. Individuals are not expected to go through two complaints processes.			
6.26	We ensure that any third parties handle complaints in line with the Code			

## Section 7 - Putting things right

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
7.1	Where something has gone wrong we acknowledge this and set out the actions we have already taken, or intend to take, to put things right.			
7.2	Remedies offered reflect the impact on the individual as a result of any fault identified.			
7.3	Remedies offered clearly set out what will happen and by when, in agreement with the individual where appropriate. Any remedy proposed is followed through to completion.			
7.4	Remedies take account of the guidance on remedies issued by the relevant Ombudsman when deciding on appropriate remedies.			

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Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
8.1	<p>We produce an annual complaints performance and service improvement report for scrutiny and challenge, which include:</p> <ul style="list-style-type: none"> <li>a) the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements.</li> <li>b) a qualitative and quantitative analysis of the organisation's complaint handling performance. This must also include a summary of the types of complaints the organisation has refused to accept;</li> <li>c) any findings of non-compliance with this Code;</li> <li>d) the service improvements made as a result of the learning from complaints;</li> <li>e) any annual report about the organisation's performance</li> </ul>			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
	<p>from the relevant Ombudsman; and</p> <p>f) any other relevant reports or publications produced by the relevant Ombudsman in relation to the work of the organisation.</p>			
8.2	<p>Our annual complaints performance and service improvement report is reported to our governing body (or equivalent) and published to residents.</p> <p>The governing body's response to the report is published alongside this</p>			

**Section 8 - Self-assessment, reporting and compliance**

**Section 9 – Scrutiny & oversight: Continuous learning and improvement**

<b>Code section</b>	<b>Code requirement</b>	<b>Comply: Yes/No</b>	<b>Explanations and Commentary</b>	<b>Evidence</b>
9.1	We look beyond the circumstances of the individual complaint and consider whether any service improvements should be made as a result of any learning.			
9.2	We use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.			
9.3	We report back on wider learning and improvements from complaints in an annual report and more frequently to other stakeholders, such as individuals, staff and relevant committees or panels.			
9.4	A suitably senior executive oversees our complaint handling performance. They assess any themes or trends to identify potential systemic issues, serious risks or policies and procedures that require revision.			

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Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
9.5	A member of the governing body (or equivalent) has been appointed to have lead responsibility for complaints to support a positive complaint handling culture.			
9.6	The appointed person ensures the governing body (or equivalent) receives regular information on complaints that provides insight on the organisation's complaint handling performance. This person has access to suitable information and staff to perform this role and report on their findings.			
9.7	Our governing body (or equivalent) receives the information required under this section of the Code.			

Code section	Code requirement	Comply: Yes/No	Explanations and Commentary	Evidence
9.8	<p>We have a standard objective in relation to complaint handling for all employees that reflects the need to:</p> <ul style="list-style-type: none"> <li>• have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments;</li> <li>• take collective responsibility for any shortfalls identified through complaints rather than blaming others; and</li> <li>• act within the professional standards for engaging with complaints as set by any relevant professional body.</li> </ul>			

# Maidstone Borough Council

## Data Protection Action Plan

Last Updated: 23 November 2023

Ref No.	Action	ICO Description	Priority (RAG)	Start Date	End Date	Responsible	Status
DP13	Undertake programme of information audits.	Audits should include: an audit of all forms to ensure privacy statement is correct, an audit of privacy notices, an audit of all systems to review progress in erasure, anonymisation, introduce regular survey as part of the programme of ongoing audits, Review use of consents, and audit of the asset register, and agreements with any third parties used to transfer business information between your organisation and third parties. Audits should added to the agenda for operational meetings and information management group, the ROPA should be updated alongside the audits .	Low	01/01/2023	31/12/2023	Deputy Data Protection Officer	In Progress
DP15	Audit Privacy Notices.	Privacy Notices should be: held in a structured way, including log of former Privacy notices. Review use of consents	Medium	01/01/2023	03/03/2023	Data Protection Officer	Complete
DP17	Develop regular programmed points of review of the ROPA in line with audits and survey of officers.		Medium	01/01/2023	31/12/2023	Data Protection Officer	Complete
DP18	Review Procurement and Data Protection risks.		Medium	TBC	TBC	Data Protection Officer	In Progress
DP21	Publish DPIAs on website.		Low	01/11/2022	31/03/2024	Deputy Data Protection Officer	Complete
DP23	Retention schedule review.		Medium	01/01/2023	31/12/2023	Data Protection Officer	Complete
DP24	Introduce retention review programme.		Medium	01/01/2023	31/12/2023	Data Protection Officer	Complete
DP25	Review log of access to systems holding data.		Medium	01/01/2023	31/12/2023	Data Protection Officer	Complete
DP32	Complete CCTV Review.		High	15/11/2022	31/03/2023	Data Protection Officer	Complete

# Agenda Item 14

## **Audit, Governance & Standards Committee**

**15 January 2024**

### **External Auditor's Audit Plan 2022/23**

<b>Final Decision-Maker</b>	Audit, Governance & Standards Committee
<b>Lead Head of Service</b>	Mark Green, Director of Finance, Resources and Business Improvement
<b>Lead Officer and Report Author</b>	Adrian Lovegrove, Head of Finance
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

This report from the Council's External Auditor, Grant Thornton provides an overview of the planned scope and timings of the statutory audit of the 2022/23 Statement of Accounts.

Representatives from Grant Thornton will be in attendance at the meeting to present their report and respond to questions.

#### **Purpose of Report**

Noting

#### **This report makes the following recommendations to this Committee:**

1. That the external auditor's Audit Plan for year 2022/23, attached at Appendix A be noted.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Audit, Governance & Standards Committee	15 January 2024

# External Auditor's Audit Plan

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's ability to discharge its responsibilities in relation to the 2022/23 financial statements audit and value for money conclusion.	Director of Finance, Resources and Business Improvement
<b>Cross Cutting Objectives</b>	The recommendations set out above will not have any material impact on the cross-cutting objectives.	Director of Finance, Resources and Business Improvement
<b>Risk Management</b>	This report is presented for information only and has no decisions which give rise to risk management implications.	Director of Finance, Resources and Business Improvement
<b>Financial</b>	The Statement of Accounts provides an overview of income and expenditure for the financial year to 31 March 2023, and details the council's assets, liabilities and reserves at this date. The work of the external auditor provides independent assurance over this information.	Director of Finance, Resources and Business Improvement
<b>Staffing</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Legal</b>	The Local Audit and Accountability Act 2014 sets out the framework for audit of local authorities.	Team Leader (Contentious and Corporate Governance)

<b>Privacy and Data Protection</b>	None identified.	Director of Finance, Resources and Business Improvement
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Equalities & Communities Officer
<b>Public Health</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Crime and Disorder</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Procurement</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Biodiversity and Climate Change</b>	There are no implications on biodiversity and climate change.	Biodiversity and Climate Change Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Council is required to have its audited Statement of Accounts approved by the Audit, Governance & Standards Committee. For 2021/22 that was completed with the audited accounts being presented to AGS on 13 November 2023. However, Members will be aware from previous meetings that the plan for completing the 2022/23 audit was scheduled to potentially commence in January 2024.
- 2.2 We can confirm the external auditors started the planning work in mid-December and are now progressing the field work. The attached report sets out Grant Thornton's audit plan. It is planned that the audited accounts be

presented at the March 2024 AGS meeting. Representatives from Grant Thornton will be present at the meeting to present the report and answer any questions.

---

### **3. AVAILABLE OPTIONS**

- 3.1 As the committee charged with responsibility for overseeing the financial reporting process, the Audit, Governance and Standards Committee is asked to consider and note this report. The committee could choose not to consider this report; however, this option is not recommended since the report is intended to assist the committee in discharging its responsibilities in relation to external audit and governance.
- 

### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The committee is asked to note this report. The report provides details of the external auditor's audit plan for the statutory audit of the 2022/23 Statement of Accounts and it is considered appropriate for the committee to receive this information at this time.
- 

### **5. RISK**

- 5.1 This report is presented for information only and has no decisions which give rise to risk management implications.
- 

### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 No consultation has been taken in relation to this report.
- 

### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The planned timings of the Audit should allow the 2022/23 Audited Financial Accounts to be presented for approval at the March AGS meeting.
- 

### **8. REPORT APPENDICES**

- Appendix A: External Auditor's Audit Plan for year 2022/23
- 

### **9. BACKGROUND PAPERS**

None

# Maidstone Borough Council audit plan

Year ending 31 March 2023

January 2024

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# Contents



## Your key Grant Thornton team members are:

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Audit Manager

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Section	Page	
Key matters	3	The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.
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Communication of audit matters with those charged with governance	22	

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# Key matters



## National context

For the general population, rising inflation rates, in particular for critical commodities such as energy, food and fuel, is pushing many households into poverty and financial hardship, including those in employment. At a national government level, recent political changes have seen an emphasis on controls on spending, which in turn is placing pressure on public services to manage within limited budgets.

Local Government funding continues to be stretched with increasing cost pressures due to the cost of living crisis, including higher energy costs, increasing pay demands, higher agency costs and increases in supplies and services. Local authority front-line services play a vital role in protecting residents from rising costs; preventing the most vulnerable from falling into destitution and helping to build households long-term financial resilience. At a local level, councils are also essential in driving strong and inclusive local economies, through their economic development functions and measures like increasing the supply of affordable housing, integrating skills and employment provision, and prioritising vulnerable households to benefit from energy saving initiatives. Access to these services remains a key priority across the country, but there are also pressures on the quality of services. These could include further unplanned reductions to services and the cancellation or delays to major construction projects such as new roads, amenities and infrastructure upgrades to schools, as well as pothole filling.

Our recent value for money work has highlighted a number of governance and financial stability issues at a national level, which is a further indication of the mounting pressure on audited bodies to keep delivering services, whilst also managing transformation and making savings at the same time.

In planning our audit, we will take account of this context in designing a local audit programme which is tailored to the Council's risks and circumstances.

## Audit reporting delays

In a report published in January 2023 the NAO have highlighted that since 2017-18 there has been a significant decline in the number of local government body accounts including an audit opinion published by the deadlines set by government. The NAO outline a number of reasons for this and proposed actions. In March 2023, we issued [About time?](#), which explored the reasons for delayed publication of audited local authority accounts. In our view, it is critical to early sign off that draft local authority accounts are prepared to a high standard and supported by strong working papers.

# Key matters



## Our responses

- As a firm, we are absolutely committed to audit quality and financial reporting in the local government sector. Our proposed work and fee, as set out further in this audit plan.
- We will consider your arrangements for managing and reporting your financial resources as part of our audit in completing our Value for Money work.
- Our value for money work will also consider your arrangements relating to governance and improving economy, efficiency, and effectiveness.
- We will continue to provide you with sector updates providing our insight on issues from a range of sources and other sector commentators via our audit committee update reports.
- We hold annual financial reporting workshops for our audited bodies to access the latest technical guidance and interpretation, discuss issues with our experts and create networking links with other audited bodies to support consistent and accurate financial reporting across the sector.

# Introduction and headlines

## Purpose

This document provides an overview of the planned scope and timing of the statutory audit of Maidstone Borough Council ('the Council') for those charged with governance.

## Respective responsibilities

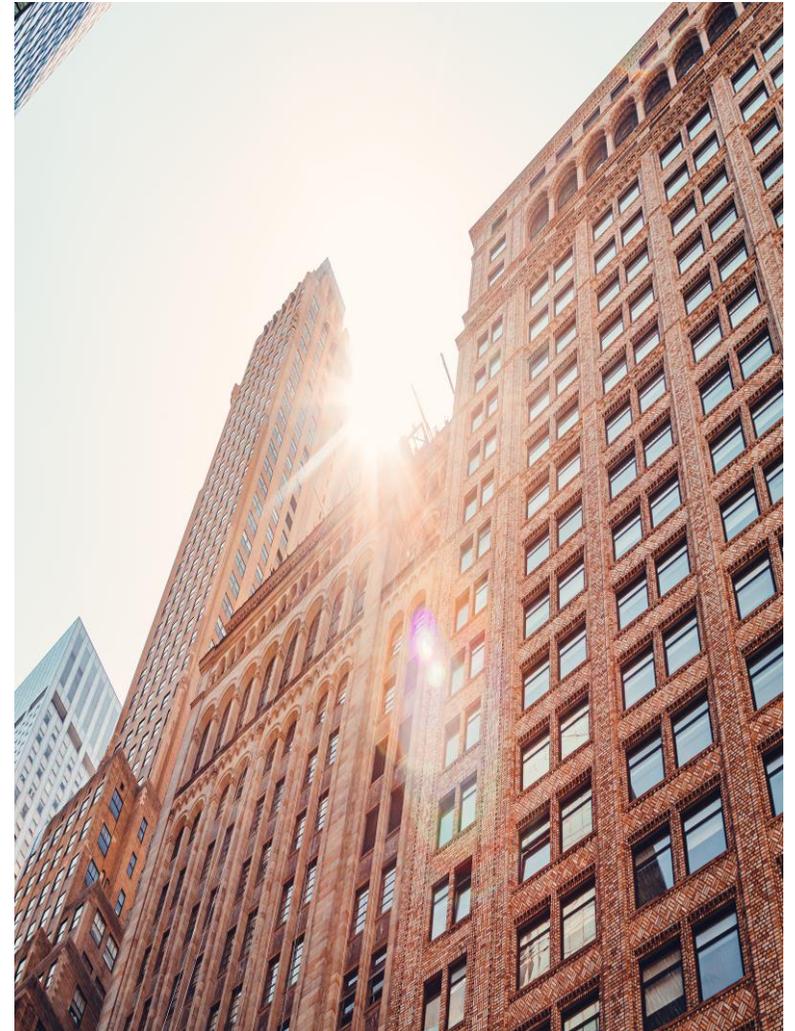
The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the agreed in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Maidstone Borough Council. We draw your attention to both of these documents.

## Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Council's financial statements that have been prepared by management with the oversight of those charged with governance the Audit, Governance and Standards Committee; and we consider whether there are sufficient arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently in order to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or Audit, Governance and Standards Committee of your responsibilities. It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the Council's business and is risk-based.



# Introduction and headlines

## Significant risks

Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

- The revenue cycle includes fraudulent transactions (rebutted)
- Management override of controls
- Valuation of the pension fund net liability
- Valuation of land and buildings, including investment properties

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

## Materiality

We have determined planning materiality to be £1.841m (PY £2.05m) for the Council, which equates to 2% of your draft gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £92k (PY £102k).

## Value for Money (VFM) arrangements

At the time of writing, our work for the joint year 2021-22 and 2022-23 Auditor's Annual Report (AAR) is ongoing. We did not identify any risks of significant weakness in our planning and risk assessment work or in the VFM work conducted to date.

We will issue the joint year AAR in February 2024.

## New auditing standards

There are two auditing standards which have been significantly updated this year. These are ISA 315 (Identifying and assessing the risks of material misstatement) and ISA 240 (the auditor's responsibilities relating to fraud in an audit of financial statements). We provide more detail on the work required later in this Plan.

## Audit logistics

Our planning visit took place in December 2023 and our final accounts visit will take place in January to February 2024. Our key deliverables are this Audit Plan, our Audit Findings Report and Auditor's Annual Report.

Our proposed fee for the audit will be £64,715 (PY: £80,666) for the Council, subject to the Council delivering a good set of financial statements and working papers and no significant new financial reporting matters arising that require additional time and/or specialist input.

We have complied with the Financial Reporting Council's Ethical Standard (revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

# Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
<b>The revenue cycle includes fraudulent transactions (rebutted)</b>	<p>Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.</p> <p>Having considered the risk factors set out in ISA (UK) 240 and nature of the revenue streams at Maidstone Borough Council, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> <li>• there is little incentive to manipulate revenue recognition;</li> <li>• opportunities to manipulate revenue recognition are very limited; and</li> <li>• the culture and ethical frameworks of local authorities, including Maidstone Borough Council, mean that all forms of fraud are seen as unacceptable.</li> </ul> <p>We do not consider this to be a significant risk for Maidstone Borough Council.</p>	
<b>Management over-ride of controls</b>	<p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management override of controls is present in all entities. The Council faces external scrutiny of its spending, and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates, and transactions outside the course of business as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>To address this risk we will:</p> <ul style="list-style-type: none"> <li>• Evaluate the design effectiveness of management controls over journals.</li> <li>• Analyse the journals listing and determine the criteria for selecting high risk unusual journals.</li> <li>• Test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration.</li> <li>• Gain an understanding of the accounting estimates and critical judgements applied by management and consider their reasonableness with regard to corroborative evidence.</li> <li>• Evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.</li> </ul>

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# Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
<b>Valuation of the pension fund net liability</b>	<p>The Council's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Council's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement. We have pinpointed this significant risk to the actuary assumptions applied by the professional actuary in their calculation of the net liability, noting that the impact of the Local Government Pension Scheme in 2022 triennial valuation will impact the Council's 2022-23 pension fund net liability.</p> <p>We have concluded that there is not a significant risk of material misstatement due to the source data used by the actuary in their calculation. We will reconsider this if it becomes apparent at the year-end that there are significant special events relating to the source data (such as bulk transfers, redundancies or other significant movements of staff) which would need to be given special consideration during the audit. Despite not being considered a significant risk we still carry out testing and consideration of the source data to obtain sufficient and appropriate audit evidence that there is no material misstatement.</p>	<p>To address this risk we will:</p> <ul style="list-style-type: none"> <li>• Update our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluate the design of the associated controls.</li> <li>• Evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work.</li> <li>• Assess the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation.</li> <li>• Assess the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability.</li> <li>• Test the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary.</li> <li>• Undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report.</li> <li>• Obtain assurances from the auditor of Kent County Council Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund; and the fund assets valuation in the pension fund financial statements.</li> </ul>

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# Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
<b>Valuation of land and buildings</b> (including investment properties)	<p><b>Other land and buildings:</b></p> <p>The Council revalues its land and buildings on a rolling five-yearly basis to ensure that carrying value is not materially different from fair value. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved and the sensitivity of this estimate to changes in key assumptions.</p> <p><b>Investment properties:</b></p> <p>The Council revalues its investment properties on an annual basis at fair value.</p> <p>Additionally, management will need to ensure the carrying value of assets not revalued as at 31 March 2023 in the Council's financial statements is not materially different from the current value, or the fair value for investment properties, at the financial statements date, where a rolling programme is used.</p> <p>We therefore identified valuation of land and buildings and investment properties, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>To address this risk we will:</p> <ul style="list-style-type: none"> <li>• Evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work.</li> <li>• Evaluate the competence, capabilities and objectivity of the valuation expert.</li> <li>• Write to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code are met.</li> <li>• Challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding, the valuer's report and the assumptions that underpin the valuation.</li> <li>• Test revaluations made during the year to see if they had been input correctly into the Council's asset register and financial statements.</li> <li>• Evaluate the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value at year end.</li> </ul>

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'Significant risks often relate to significant non-routine transactions and judgmental matters. Non-routine transactions are transactions that are unusual, due to either size or nature, and that therefore occur infrequently. Judgmental matters may include the development of accounting estimates for which there is significant measurement uncertainty.' (ISA (UK) 315)

# Other risks identified

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings Report.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
173 <b>Fraud in expenditure recognition</b>	<p>As most public bodies are net spending bodies, the risk of material misstatement due to fraud relating to expenditure may be greater than the risk of fraud relating to revenue.</p> <p>There is a risk the Council may manipulate expenditure to that budgeted by under-accruing non-pay expense incurred during the period or not record expenses accurately to improve financial results.</p> <p>In line with the Public Audit Forum Practice Note 10, having considered the risk in relation to fraud in expenditure recognition and the nature of the Council's expenditure streams, we determine that the risk of fraud arising from expenditure can be rebutted because:</p> <ul style="list-style-type: none"> <li>• There is little incentive to manipulate expenditure recognition.</li> <li>• Opportunities to manipulate expenditure are very limited.</li> <li>• The culture and ethical framework of local authorities, including Maidstone Borough Council, mean that all forms of fraud are seen as unacceptable.</li> </ul> <p>However, we have identified that due to the level of estimation involved in manual accruals of expenditure, and the potential volume of large accruals at year-end, there is an increased risk of error in the completeness of expenditure recognition.</p>	<p>To address this risk we will:</p> <ul style="list-style-type: none"> <li>• Inspect transactions incurred around the end of the financial year to assess whether they had been included in the correct accounting period.</li> <li>• Inspect a sample of accruals made at year end for expenditure but not yet invoiced to assess whether the valuation of the accrual was consistent with the value billed after the year-end. We will also compare size and nature of accruals at year-end to the prior year to help ensure completeness of accrued items.</li> <li>• Investigate manual journals posted as part of the year-end accounts preparation that reduce expenditure, to assess whether there is appropriate supporting evidence for the transaction.</li> </ul>

'In respect of some risks, the auditor may judge that it is not possible or practicable to obtain sufficient appropriate audit evidence only from substantive procedures. Such risks may relate to the inaccurate or incomplete recording of routine and significant classes of transactions or account balances, the characteristics of which often permit highly automated processing with little or no manual intervention. In such cases, the entity's controls over such risks are relevant to the audit and the auditor shall obtain an understanding of them.' (ISA [UK] 315)

# Other matters

## Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement to check that they are consistent with the financial statements on which we give an opinion and our knowledge of the Council.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with requirements set by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- 174 We consider our other duties under legislation and the Code, as and when required, including:
  - giving electors the opportunity to raise questions about your 2022-23 financial statements, consider and decide upon any objections received in relation to the 2022-23 financial statements;
  - issuing a report in the public interest or written recommendations to the Council under section 24 of the Local Audit and Accountability Act 2014 (the Act);
  - application to the court for a declaration that an item of account is contrary to law under section 28 or a judicial review under section 31 of the Act; and
  - issuing an advisory notice under section 29 of the Act.
- We certify completion of our audit.

## Other material balances and transactions

Under International Standards on Auditing, 'irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure'. All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

# Progress against prior year audit recommendations

We identified the following issues in our 2021-22 audit of the Council's financial statements, which resulted in two recommendations being reported in our 2021-22 Audit Findings Report. We have followed up on the implementation of our recommendations, one or which is still in progress.

Assessment	Issue and risk previously communicated	Update on actions taken to address the issue
175 Ongoing	The Council does not currently have an accounting policy on asset componentisation and does not apply componentisation when depreciating its assets.	Management: We intend to develop a policy for the 2022-23 accounts. Assets will be aligned to this new policy over a staged period. Maidstone Leisure Centre is already componentised. Maidstone Museum will be completed 2022-23. Other assets of significant value will be introduced in 2023-24 which covers Maidstone House, Lock Meadow and the Innovation Centre.
Implemented	The Council's infrastructure assets include two steel footbridges which are almost fully depreciated as at 31 March 2022. We understand that the most recent technical assessment of the bridges has concluded that they continue to be in good condition but did not provide an estimate of future useful life.	Management have now decided that the two footbridges should be depreciated over a period of 50 years. The 2021-22 accounts were amended for this. The impact was to increase the total for infrastructure assets by £1.890m.

# Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Matter	Description	Planned audit procedures
1	<p><b>Determination</b></p> <p>We have determined financial statement materiality based on a proportion of the gross expenditure of the group and Council for the financial year. Materiality at the planning stage of our audit is £1.841m (PY £2.05m), which equates to 2% of your draft gross expenditure for the period.</p>	<p>We determine planning materiality in order to:</p> <ul style="list-style-type: none"> <li>– establish what level of misstatement could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements;</li> <li>– assist in establishing the scope of our audit engagement and audit tests;</li> <li>– determine sample sizes; and</li> <li>– assist in evaluating the effect of known and likely misstatements in the financial statements.</li> </ul>
2	<p><b>Other factors</b></p> <p>An item does not necessarily have to be large to be considered to have a material effect on the financial statements.</p>	<p>An item may be considered to be material by nature where it may affect instances when greater precision is required.</p> <ul style="list-style-type: none"> <li>– We have identified senior officer remuneration (including termination benefits) as a balance which is material by nature, as these are considered sensitive disclosures.</li> </ul>
3	<p><b>Reassessment of materiality</b></p> <p>Our assessment of materiality is kept under review throughout the audit process.</p>	<p>We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.</p>
4	<p><b>Other communications relating to materiality we will report to the Audit, Governance and Standards Committee</b></p> <p>Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Audit, Governance and Standards Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) ‘Communication with those charged with governance’, we are obliged to report uncorrected omissions or misstatements other than those which are ‘clearly trivial’ to those charged with governance. ISA 260 (UK) defines ‘clearly trivial’ as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria.</p>	<p>We report to the Audit, Governance and Standards Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work.</p> <p>In the context of the group and the Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £92k (PY £102k). If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Audit, Governance and Standards Committee to assist it in fulfilling its governance responsibilities.</p>

# Our approach to materiality

	Amount (£)	Qualitative factors considered
Materiality for the Council financial statements	1,841,000	This is approximately 2% of the draft gross expenditure.
Performance materiality	1,289,000	Calculated as 70% of headline materiality. This is a measure used in audit testing based upon our assessment of the likelihood of a material misstatement in the financial statements.
Trivial matters	92,000	This is 5% of materiality.
Materiality for disclosures relating to officer's remuneration and exit packages	50,000	Additional inherent sensitivity around such disclosures.



# IT audit strategy

In accordance with ISA (UK) 315 Revised, we are required to obtain an understanding of the relevant IT and technical infrastructure and details of the processes that operate within the IT environment. We are also required to consider the information captured to identify any audit relevant risks and design appropriate audit procedures in response. As part of this we obtain an understanding of the controls operating over relevant Information Technology (IT) systems i.e., IT general controls (ITGCs). Our audit will include completing an assessment of the design and implementation of relevant ITGCs. We say more about ISA 315 Revised on [page 18](#).

The following IT system is judged to be in scope for our audit and based on the planned financial statement audit approach we will perform the indicated level of assessment:

IT system	Audit area	Planned level IT audit assessment
178 Agresso	Financial reporting – general ledger	<ul style="list-style-type: none"> <li>• Obtain an understanding of the information technology general controls over the general ledger and review design and implementation of those controls.</li> <li>• Review any local controls which are managed within the Council (design and implementation of control).</li> </ul>

We have not identified significant changes during the period affecting the IT controls of the Council and therefore no additional audit procedures will be completed.

# Value for Money arrangements

Approach to Value for Money work for the period ended 31 March 2023.

The National Audit Office issued its latest Value for Money guidance to auditors in January 2023. The Code expects auditors to consider whether a body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Auditors are expected to report any significant weaknesses in the body's arrangements, should they come to their attention. In undertaking their work, auditors are expected to have regard to three specified reporting criteria. These are as set out below:

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## Improving economy, efficiency and effectiveness

How the body uses information about its costs and performance to improve the way it manages and delivers its services.



## Financial Sustainability

How the body plans and manages its resources to ensure it can continue to deliver its services.



## Governance

How the body ensures that it makes informed decisions and properly manages its risks.

At the time of writing, our work for the joint year 2021-22 and 2022-23 Auditor's Annual Report (AAR) is ongoing. We did not identify any risks of significant weakness in our planning and risk assessment work or in the VFM work conducted to date. We will issue the joint year AAR in February 2024.

# Audit logistics and team



## Sophia Brown, Key Audit Partner

Sophia is responsible for the overall client relationship, quality control, provision of the audit opinion, meeting regularly with key internal stakeholders and final authorisation of reports. Sophia will share her wealth of knowledge and experience across the sector, providing challenge and sharing good practice. Sophia will ensure our audit is tailored specifically to you and is responsible for the overall quality of our audit work.



## Asad Khan, Audit Manager

Richmond will work with your finance team to ensure efficient delivery of testing and agreement of accounting issues on a timely basis. Richmond will undertake review of the team's work and draft reports. He is the key contact responsible for delivery of the audit.

## Audited body responsibilities

Where audited bodies do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other audits. Where the elapsed time to complete an audit exceeds that agreed due to a client not meeting its obligations, we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to a client not meeting their obligations, we are not able to guarantee the delivery of the audit to the agreed timescales. In addition, delayed audits will incur additional audit fees.

## Our requirements

To minimise the risk of a delayed audit, you need to ensure that you:

- produce draft financial statements of good quality by the agreed timetable you have agreed with us, including all notes, the Narrative Report and the Annual Governance Statement;
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you;
- ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples for testing;
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit; and
- respond promptly and adequately to audit queries.

# Audit fees and updated auditing standards including ISA 315 Revised

In 2017, PSAA awarded a contract of audit for Maidstone Borough Council to begin with effect from 2018-19. The fee agreed in the contract was £38,866. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISAs which are relevant for the 2022-23 audit. For details of the changes which impacted on years up to 2021-22 please see our prior year Audit Plans.

The major change impacting on our audit for 2022-23 is the introduction of ISA (UK) 315 (Revised) - Identifying and assessing the risks of material misstatement ('ISA 315'). There are a number of significant changes that will impact the nature and extent of our risk assessment procedures and the work we perform to respond to these identified risks. Key changes include:

- Enhanced requirements around understanding the Council's IT Infrastructure, IT environment. From this we will then identify any risks arising from the use of IT. We are then required to identify the IT General Controls ('ITGCs') that address those risks and test the design and implementation of ITGCs that address the risks arising from the use of IT.
- Additional documentation of our understanding of the Council's business model, which may result in us needing to perform additional inquiries to understand the Council's end-to-end processes over more classes of transactions, balances and disclosures.
- We are required to identify controls within a business process and identify which of those controls are controls relevant to the audit. These include, but are not limited to, controls over significant risks and journal entries. We will need to identify the risks arising from the use of IT and the general IT controls (ITGCs) as part of obtaining an understanding of relevant controls.
- Where we do not test the operating effectiveness of controls, the assessment of risk will be the inherent risk, this means that our sample sizes may be larger than in previous years.

These are significant changes which will require us to increase the scope, nature and extent of our audit documentation, particularly in respect of your business processes, and your IT controls. We will be unable to determine the full fee impact until we have undertaken further work in respect of the above areas. However, for an authority of your size, we estimate an initial increase of £3,000. We will let you know if our work in respect of business processes and IT controls identifies any issues requiring further audit testing. There is likely to be an ongoing requirement for a fee increase in future years, although we are unable yet to quantify that.

The other major change to Auditing Standards in 2022-23 is in respect of ISA 240 which deals with the auditor's responsibilities relating to fraud in an audit of financial statements. This Standard gives more prominence to the risk of fraud in the audit planning process. We will let you know during the course of the audit should we be required to undertake any additional work in this area which will impact on your fee.

Taking into account the above, our proposed work and fee for 2022-23, as set out overleaf and has been agreed with the Director of Finance, Resources & Business Improvement.

# Audit fees

	Actual fee 2021-22	Proposed fee 2022-23
Council audit	£80,666	£64,980
<b>Total audit fees (excluding VAT)</b>	<b>£80,666</b>	<b>£64,980</b>

## Assumptions

When setting the above fees, we have assumed that the Council will:

- prepare a good quality set of accounts, supported by comprehensive and well-presented working papers which are ready at the start of the audit;
- provide appropriate analysis, support and evidence to support all critical judgements and significant judgements made during the course of preparing the financial statements; and
- provide early notice of proposed complex or unusual transactions which could have a material impact on the financial statements.

## Relevant professional standards

In preparing our fee estimate, we have had regard to all relevant professional standards, including paragraphs 4.1 and 4.2 of the FRC's [Ethical Standard \[revised 2019\]](#) which stipulate that the Engagement Lead (Key Audit Partner) must set a fee sufficient to enable the resourcing of the audit with partners and staff with appropriate time and skill to deliver an audit to the required professional and Ethical standards.

# Audit fees – detailed analysis

Description	Proposed 2022-23 fee £
Revised 2022-23 scale fee published by PSAA	46,365
Additional work on Value for Money under the new NAO Code	9,000
Increased audit requirements of revised ISA 540	2,100
Increased journal testing procedures	3,000
103 New issues for 2022-23	
• Introduction of ISA 315	3,000
• Payroll change of circumstances procedures	500
• Collection Fund – reliefs testing	750
<b>Total proposed audit fee 2022-23 [excluding VAT]</b>	<b>64,715</b>

All variations to the scale fee are subject to approval by PSAA.

# Independence and non-audit services

## Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons. relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard (Revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit, we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council.

## Other services

The other services provided by Grant Thornton are set out in the table opposite.

The amounts detailed are fees agreed to-date for audit related and non-audit services to be undertaken by Grant Thornton UK LLP in the current financial year. These services are consistent with the Council's policy on the allotment of non-audit work to your auditors. Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

None of the services provided are subject to contingent fees.

Service	Fees £	Threats	Safeguards
<b>Audit-related</b>			
Housing Benefit (Subsidy) Assurance Process	TBC	Self-interest (because this is a recurring fee)	The level of this recurring fee taken on its own is not considered a significant threat to independence as the fee for this work is in comparison to the total fee of £64,715 for the audit and in particular relative to Grant Thornton UK LLP's turnover overall. Further, it is a fixed fee and there is no contingent element to it. These factors all mitigate the perceived self-interest threat to an acceptable level.

# Communication of audit matters with those charged with governance

Our communication plan	Audit Plan	Audit Findings	
Respective responsibilities of auditor and management/those charged with governance	•		ISA (UK) 260, as well as other ISAs (UK), prescribe matters which we are required to communicate with those charged with governance, and which we set out in the table here.
Overview of the planned scope and timing of the audit, form, timing and expected general content of communications including significant risks and Key Audit Matters	•		
Confirmation of independence and objectivity of the firm, the engagement team members and all other indirectly covered persons	•	•	This document, the Audit Plan, outlines our audit strategy and plan to deliver the audit, while the Audit Findings will be issued prior to approval of the financial statements and will present key issues, findings and other matters arising from the audit, together with an explanation as to how these have been resolved.
A statement that we have complied with relevant ethical requirements regarding independence. Relationships and other matters which might be thought to bear on independence. Details of non-audit work performed by Grant Thornton UK LLP and network firms, together with fees charged. Details of safeguards applied to threats to independence	•	•	
Significant matters in relation to going concern	•	•	We will communicate any adverse or unexpected findings affecting the audit on a timely basis, either informally or via an audit progress memorandum.
Significant findings from the audit		•	
Significant matters and issue arising during the audit and written representations that have been sought		•	<b>Respective responsibilities</b>
Significant difficulties encountered during the audit		•	As auditor we are responsible for performing the audit in accordance with ISAs (UK), which is directed towards forming and expressing an opinion on the financial statements that have been prepared by management with the oversight of those charged with governance.
Significant deficiencies in internal control identified during the audit		•	
Significant matters arising in connection with related parties		•	The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.
Identification or suspicion of fraud (deliberate manipulation) involving management and/or which results in material misstatement of the financial statements (not typically council tax fraud)		•	
Non-compliance with laws and regulations		•	
Unadjusted misstatements and material disclosure omissions		•	
Expected modifications to the auditor's report, or emphasis of matter		•	



## Audit, Governance & Standards Committee

**15 January 2024**

### External Audit - Progress Report & Sector Update

<b>Final Decision-Maker</b>	Audit, Governance & Standards Committee
<b>Lead Head of Service</b>	Mark Green, Director of Finance, Resources and Business Improvement
<b>Lead Officer and Report Author</b>	Adrian Lovegrove, Head of Finance
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

This report from the Council’s External Auditor, Grant Thornton provides an update on progress with auditing the 2022/23 Statement of Accounts and a summary of the emerging national issues and developments that may be relevant to the Council.

Representatives from Grant Thornton will be in attendance at the meeting to present their report and respond to questions.

#### **Purpose of Report**

Noting

#### **This report makes the following recommendations to this Committee:**

1. That the external auditor’s Audit Progress and Sector Update attached at Appendix A be noted.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Audit, Governance & Standards Committee	15 January 2024

# External Auditor - Progress Report & Sector Update

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's ability to discharge its responsibilities in relation to the 2022/23 financial statements audit and value for money conclusion.	Director of Finance, Resources and Business Improvement
<b>Cross Cutting Objectives</b>	The recommendations set out above will not have any material impact on the cross-cutting objectives.	Director of Finance, Resources and Business Improvement
<b>Risk Management</b>	This report is presented for information only and has no decisions which give rise to risk management implications.	Director of Finance, Resources and Business Improvement
<b>Financial</b>	The Statement of Accounts provides an overview of income and expenditure for the financial year to 31 March 2023, and details the council's assets, liabilities and reserves at this date. The work of the external auditor provides independent assurance over this information.	Director of Finance, Resources and Business Improvement
<b>Staffing</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Legal</b>	The Local Audit and Accountability Act 2014 sets out the framework for audit of local authorities.	Interim Team Leader (Contentious and Corporate Governance)
<b>Privacy and Data Protection</b>	None identified.	Director of Finance, Resources and Business

		Improvement
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Equalities & Communities Officer
<b>Public Health</b>	No implications identified.	Senior Public Health Officer
<b>Crime and Disorder</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Procurement</b>	No implications identified.	Director of Finance, Resources and Business Improvement
<b>Biodiversity and Climate Change</b>	There are no implications on biodiversity and climate change.	Biodiversity and Climate Change Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Council is required to have its audited Statement of Accounts approved by the Audit, Governance & Standards Committee. For 2021/22 that was completed with the audited accounts being presented to AGS on 13 November 2023. The 2022/23 audit is in progress and it is planned that the audited accounts be presented at the March 2024 AGS meeting.
- 2.2 The External Auditor has provided an update on the audit work and a summary of the emerging national issues and developments that may be relevant to the Council.

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## 3. AVAILABLE OPTIONS

- 3.1 As the committee charged with responsibility for overseeing the financial reporting process, the Audit, Governance and Standards Committee is asked to consider and note this report. The committee could choose not to consider this report; however, this option is not recommended since the

report is intended to assist the committee in discharging its responsibilities in relation to external audit and governance.

---

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 The committee is asked to note this report. The report provides an update on the external audit process for 2022/2023 and it is considered appropriate for the committee to receive this information at this time.

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#### **5. RISK**

5.1 This report is presented for information only and has no decisions which give rise to risk management implications.

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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 No consultation has been taken in relation to this report.

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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 Next steps are outlined within Appendix A.

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#### **8. REPORT APPENDICES**

- Appendix A: External Auditor Audit Progress Report and Sector Update
- 

#### **9. BACKGROUND PAPERS**

None

# Maidstone Borough Council Audit progress report and sector update

January 2024

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Introduction

## Your key Grant Thornton team members are:

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This paper provides the Audit, Governance & Standards Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes a summary of emerging national issues and developments that may be relevant to you as a local authority.

Members of the Audit, Governance & Standards Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications <https://www.grantthornton.co.uk/en/services/public-sector-services/>

If you would like further information on any items in this briefing or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either Sophia or Asad.

# Progress at January 2024

## Financial statements audit

Our planning and risk assessment work, carried out in November and December 2023, for the 2022-23 audit is near completion and in January we have commenced the final accounts audit.

Work carried out to date, as part of planning and risk assessment includes:

- Updated review of the Council's control environment
- Updated understanding of financial systems
- Review of internal audit reports on core financial systems
- Understanding how the Authority makes material estimates for the financial statements
- Early work on emerging accounting issues

The results of our work to date are included in this report.

Alongside this progress report we have issued a detailed audit plan, setting out our proposed approach to the audit of the Council's 2022-23 financial statements.

We will report our work in the Audit Findings Report at the 11 March 2024 Audit, Governance & Standards Committee meeting, and aim to give our opinion on the Statement of Accounts by the end of March 2024.

## Value for Money

Under the 2020 Code of Audit Practice, for local government bodies auditors are required to issue our Auditor's Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay.

The National Audit Office (NAO) have issued Auditor Guidance Note 3 (AGN 03) in relation to Auditors' Work on Value for Money (VFM) Arrangements for 22-23 audits.

The ongoing delays in local audit continue to significantly impact audited bodies and the financial reporting and auditing process, and may therefore affect the timing of when the work on VFM arrangements set out in AGN03 is performed and reported.

The guidance states that the auditor should perform the procedures required as part of their work on VFM arrangements under AGN 03 and issue their Auditor's Annual Report when their work is complete.

For 2022-23 audits, the NAO have confirmed that where the Auditor's Annual Report cannot be issued by 30 September it should be issued no more than three months after the date of the opinion on the financial statements for all local government bodies.

We anticipate issuing our joint 2021-22 and 2022-23 Auditor's Annual Report by end of March 2024.

# Progress at January 2024

## Other areas

### Meetings

We met with your Chief Executive and Director of Finance & Business Improvement in December as part of our regular liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

### Events

We provide a range of workshops, along with network events for members and publications to support the Council. Invitations to our 2024 Accounts Workshops will soon be sent to your finance team, where we will highlight financial reporting requirements for local authority accounts and give insight into elements of the audit approach.

Further details of the publications that may be of interest to the Council are set out in our Sector Update section of this report.

## Audit Fees

During 2017, PSAA awarded contracts for audit for a five year period beginning on 1 April 2018. 2022-23 is the fifth year of that contract. Since that time, there have been a number of developments within the accounting and audit profession. Across all sectors and firms, the Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing.

Our work in the Local Government sector in the period 2018-19 to 2021-22 has highlighted areas where financial reporting, in particular, property, plant and equipment and pensions, needs to improve. There is also an increase in the complexity of Local Government financial transactions and financial reporting. This combined with the FRC requirement that all Local Government audits are at or above the “few improvements needed” (2A) rating means that additional audit work is required.

We have reviewed the impact of these changes on both the cost and timing of audits. We have discussed this with your s151 Officer including any proposed variations to the scale fee set by PSAA Limited, and have communicated fully with the Audit, Governance & Standards Committee.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and local government financial reporting.

Over the page we have added a breakdown of additional fees for the 2021-22 financial statements audit, agreed with management and submitted to PSAA for approval.

# 2021-22 audit fees – detailed analysis

Description	Proposed 2021-22 fee £
Scale fee published by PSAA 2019	41,666
Annual increases due to regulatory changes, enhanced audit procedures, revised ISAs since 2019-20	
• Increased PPE revaluation procedures	3,000
• Increased pension liability procedures	4,000
• Increased procedures required to meet regulator challenge, including increased journal procedures	4,000
Additional work on Value for Money under the new NAO Code	9,000
Increased audit requirements of revised ISA 540	3,000
<b>Base audit fee 2021-22 per audit plan</b>	<b>64,666</b>
Revised IAS19 procedures relating to triennial pension fund valuation	6,000
Additional procedures/resource required:	
• Delays caused by external valuer and high volume of valuation issues – numerous meetings with valuer to chase information and extended timescales	2,000
• Additional work in respect of temporary housing accommodation assets – review and challenge of the valuation and desktop indexation exercise	3,000
• Testing of heritage asset valuation using the Collections Management System	2,000
• Multiple versions of the 21/22 financial statements and high volume of adjustments required	3,000
<b>Total proposed audit fee 2021-22 (excluding VAT)</b>	<b>80,666</b>

All variations to the scale fee are subject to approval by PSAA

# Audit deliverables

2022-23 deliverables	Planned date	Status
<p data-bbox="125 309 271 339"><b>Audit Plan</b></p> <p data-bbox="125 355 1559 459">We are required to issue a detailed audit plan to the Audit, Governance &amp; Committee setting out our proposed approach in order to give an opinion on the Council's 2022-23 financial statements and to issue a commentary on the Authority's value for money arrangements in the Auditor's Annual Report.</p>	January 2024	Completed
<p data-bbox="125 485 427 515"><b>Audit Findings Report</b></p> <p data-bbox="125 531 1520 563">The Audit Findings Report will be reported to the March Audit, Governance &amp; Standards Committee meeting.</p>	March 2024	Not yet due
<p data-bbox="125 588 344 619"><b>Auditors Report</b></p> <p data-bbox="125 635 831 667">This includes the opinion on your financial statements.</p>	March 2024	Not yet due
<p data-bbox="125 692 454 722"><b>Auditor's Annual Report</b></p> <p data-bbox="100 738 1520 807">This report communicates the key outputs of the audit, including our commentary on the Council's value for money arrangements.</p>	March 2024	Not yet due

# Sector update

Authorities continue to try to achieve greater efficiency in the delivery of public services, whilst facing challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- [Grant Thornton publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

A teal rectangular button with the text "Public Sector" in white, sans-serif font, centered within the button.

Public Sector

A dark purple rectangular button with the text "Local government" in white, sans-serif font, centered within the button.

Local  
government

# Exploring the reasons for delayed publication of audited local authority accounts in England – Grant Thornton

Recent performance against target publication dates for audited local authority accounts in England has been poor. There are some reasons for optimism that there will be an improvement in the timeliness of publication of audited accounts as foundations are being laid for the future.

In this report we explore the requirements for publication of draft and audited accounts and look at some of the reasons for the decline in performance against these requirements over time. Only 12% of audited accounts for 2021/22 were published by the target date of 30 November 2022. There is no single cause for the delays in completing local authority audits, and unfortunately there is no quick solution in a complicated system involving multiple parties. We consider a variety of factors contributing to delays, note the measures which have already been taken to support the local audit system and make recommendations for further improvement.

There are some reasons for cautious optimism that the system will begin to recover and there will be a gradual return to better compliance with publication targets. However, we consider that these are outweighed by a number of risk factors and that the September deadline for audited accounts set by DHLUC is not achievable in the short term and also not achievable until there is further significant change in local audit and local government.

We note the following matters that are yet to be tackled:

- clarity over the purpose of local audit
- the complexity of local government financial statements
- agreement on the focus of financial statements audit work
- an improvement in the quality of financial statements and working papers

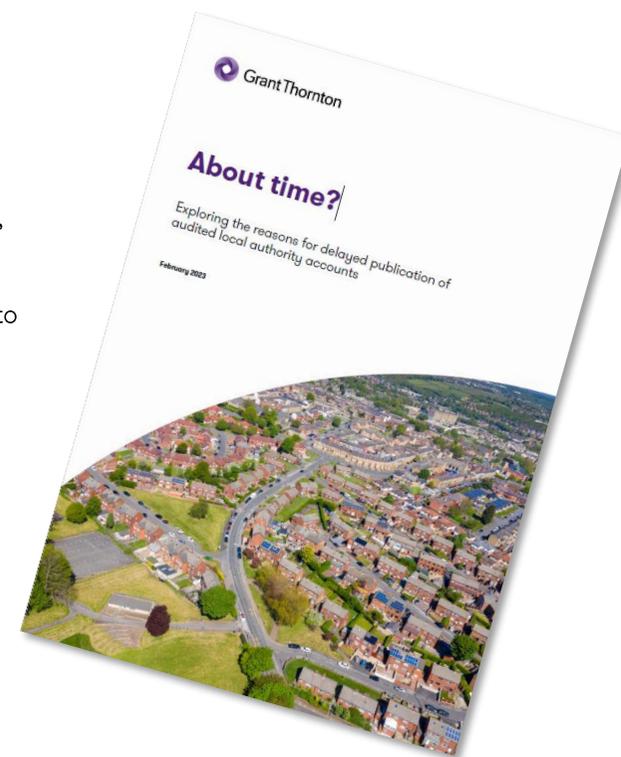
- an agreed approach to dealing with the backlog of local government audits
- Government intervention where there are significant failures in financial reporting processes

All key stakeholders including local audited bodies, the audit firms, the Department for Levelling Up Housing and Communities, PSAA, the NAO, the FRC and its successor ARGA, CIPFA and the Institute of Chartered Accountants in England and Wales will need to continue their efforts to support a coherent and sustainable system of local audit, acknowledging that it will take time to get things back on track.

We make recommendations in our report for various stakeholders, including Audit Committees and auditors, and include a checklist for consideration by management and Audit Committees within an Appendix to the report.

Read the full report here:

[Report: key challenges in local audit accounting | Grant Thornton](#)



# Current local audit deadline ‘unachievable’- Grant Thornton

Low capacity in council finance teams and the failure to deal with historic accounting issues mean the current September audit deadline is unlikely to be met.

The firm said the changes in recent years to council investment strategies have seen annual accounts become increasingly complex.

In evidence to a Public Accounts Committee inquiry, Grant Thornton said the increased workload and pressure on resources have complicated recruitment and compounded delays.

The auditors said it is unlikely firms will be able to meet the 30 September deadline for publishing opinions on 2022-23 financial statements, because they are still working on previous years' accounts.

The firm said one of the key issues causing delays is the lack of consensus over areas of audit focus, specifically over how land and buildings are audited.

“Too much audit resource is absorbed in dealing with longstanding financial reporting issues at poorly performing bodies,” the firm said.

In certain instances, audits are open as far back as 2017-18.

“Perhaps more importantly, there has not been enough debate with the sector on the purpose of local audit and the enhanced audit scrutiny it faces.

“This is particularly the case with the audit of property. Until these matters are resolved we do not consider that the September deadline is achievable.”



# Current local audit deadline ‘unachievable’- Grant Thornton (cont.)

Grant Thornton said that while audit firms can be sanctioned by the Financial Reporting Council for failing to comply with regulations, there are currently no punishments for public bodies that fail to meet requirements.

It said there should be interventions for audited bodies that show “significant failures in financial reporting and an unwillingness to improve”.

In its evidence the firm blamed a lack of council funding to bolster finance teams for a reduction in the quality of reporting, causing further delays.

“Unfortunately, the quality of too many financial statements and working papers are not adequate,” Grant Thornton said.

“Improvement in accounts preparation, and recruitment and investment in finance teams is essential if local government is to prepare consistently high-quality draft accounts and respond to the challenges presented by an enhanced audit regime.”

In December, local audit procurement body Public Sector Audit Appointments revealed that only 12% of local government audits for 2021-22 were completed by the 30 November deadline.

PSAA said that 630 opinions were outstanding from both 2021-22 and previous years, and the level of opinions completed on time has declined significantly from 45% in 2019-20.

Read the full report here:

[committees.parliament.uk/writtenevidence/118580/pdf/](https://committees.parliament.uk/writtenevidence/118580/pdf/)



# DLUHC proposals to clear audit backlog

A range of proposals and actions to address the backlog of local audits in England has been set out by the Department for Levelling Up, Housing and Communities (DLUHC).

These include setting statutory deadlines and issuing qualifications and disclaimers of opinion in the short term.

The proposals have been agreed in principle with key partners across the local audit system, DLUHC said. The National Audit Office (NAO) is considering whether to develop a replacement Code of Audit Practice to give effect to the changes, the department added.

In addition, DLUHC is considering whether legislative change is needed to set new statutory deadlines for local bodies to publish accounts to mirror the proposed changes to the Code of Audit Practice.

Legislative change may also be needed to address any knock-on effects of the proposals which may impact the audit of opening balances within the accounts for future years, the department said.

Under these proposals, section 151 officers will be expected to work with Audit Committee members (or equivalent) to approve the final accounts by the statutory deadline in order for the audit opinion to be issued at the same time.

Read the full proposal here:

[committees.parliament.uk/publications/40932/documents/199432/default/](https://committees.parliament.uk/publications/40932/documents/199432/default/)



# Call for sanctions for late accounts amid fears of 'more Wokings - public accounts committee (PAC)

The Commons' public accounts committee (PAC) published a report, Timeliness of local auditor reporting, which highlights problems caused by the delays to local audit.

Just 12% of local government bodies received their audit opinions in time to publish their 2021-22 accounts by the extended deadline. The committee warned that the problem is likely to get worse before it gets better.

The report points out that there are no sanctions for failing to produce accounts on time, for either auditors or councils.

The PAC and others have been concerned about the implications of audit delays and Sir Geoffrey Clifton-Brown said cases like that of Thurrock Council and Woking Borough Council demonstrate why this issue needs to be addressed. Both councils had years of unaudited accounts when they declared themselves effectively bankrupt due to excessive levels of debt.



# LGPS valuation gives ‘cause for optimism’ – Hymans Robertson

Many Local Government Pension Schemes are in a stronger position than three years ago to meet future member benefits, pension advisors have said following the most recent valuations.

Despite market instability brought on by Covid-19 and exacerbated by Russia’s invasion of Ukraine, the overall funding level rose to 107% of past service in March 2022, compared to 98.5% in 2019, Hymans Robertson said in a [report](#).

Analysts reviewed the triennial valuations of 73 of the 86 LGPS funds and said that on average fund asset values rose by 27.5% up to March 2022.

Hymans Robertson said the better-than-expected funding outlook has prompted a reduction in employer contributions, from 21.9% of pay in 2019 to 20.8% in 2022.

Robert Bilton, head of LGPS valuations at Hymans Robertson, said: “Our analysis gives cause for optimism that the outlook for the long-term funding sustainability of the LGPS is robust, not least due to the hard work that has taken place across all funds over the last decade and longer.”

“While the good news is welcome, the hard work doesn’t stop, and it is important that funds use the next two years to continue to systematically review their risks to keep them in the best place possible ahead of the valuations in 2025.”

The report said funding levels rose by the most for schemes that were already better-funded in 2019, but balances increased “across the board” in all funds that were reviewed.

Researchers said higher asset values mean funds will only need to deliver real investment returns of about 1.5% per year over the next 20 years to ensure they are fully funded.

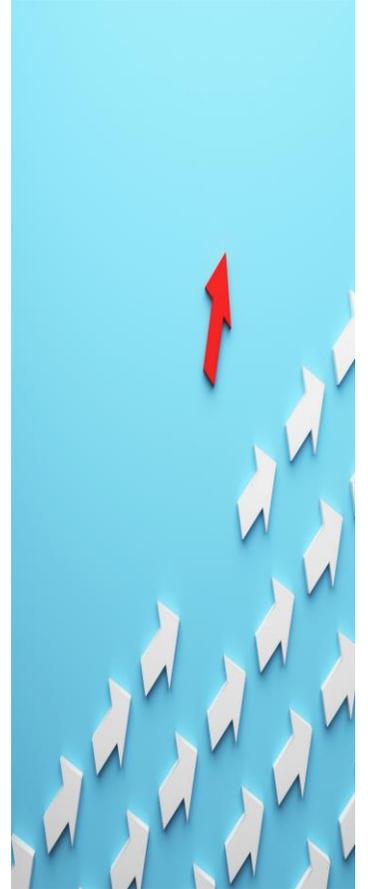
Hymans said it expects more than three-quarter (77%) of funds to be able meet the annual level of investment returns by 2040.

“This is a very positive funding position for the LGPS, Considering that, not so long ago, the Scheme Advisory Board had set up a ‘deficit working group’ and the significant market events that the LGPS has had to navigate in recent years.”

“Being in such a strong position is a testament to the diligent and hard work of administering authorities over the last decade.”

Read the full report here:

[LGPS 2022 Valuation - the big picture.pdf \[hymans.co.uk\]](#)



# Sustainability reporting in the public sector – CIPFA

CIPFA said, ‘Sustainability reporting in the public sector is in its infancy, and there is an evolutionary journey to be embarked upon – sooner rather than later.’

Sustainability reporting is the recording and disclosure of an organisation’s environmental impact caused by its activities. It has been widely adopted in the private sector, but in the public sector it is not the same story.

Having a clear understanding of the overall carbon footprint of the public sector is vital if we are to tackle climate change, find solutions and encourage sustainable development, said CIPFA.

CIPFA report states, ‘the answers and positive steps to addressing the most pressing challenges around public sector sustainability questions. The current patchwork of public sector sustainability reporting frameworks are inconsistent and confusing. The report draws on already existing standards and frameworks that are relevant and useful to the public sector, rather than trying to reinvent the wheel.’

## Alignment to financial reporting

The report recommends an approach that aligns sustainability reporting with the wider practice of financial reporting. The four key areas in this approach are governance, the management approach, performance and targets, and strategy. ‘Public sector sustainability reporting: time to step it up’ provides public finance professionals with a good understanding of what information needs to be disclosed and the process in producing a high quality report.

Read the full report from CIPFA here:

[Sustainability Reporting \[cipfa.org\]](https://www.cipfa.org)



# Agenda Item 16

## **AUDIT, GOVERNANCE & STANDARDS COMMITTEE**

**15<sup>th</sup> January 2024**

## **TREASURY MANAGEMENT, INVESTMENT AND CAPITAL STRATEGIES 2024/25**

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Adrian Lovegrove – Head of Finance
<b>Lead Officer and Report Author</b>	John Owen – Finance Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

This report sets out the draft Treasury Management, Investment and Capital Strategy for 2024/25 for consideration by the Audit, Governance & Standards Committee and recommendation to Council for adoption. The strategies are attached as Appendices A-B to this report.

### **Purpose of Report**

This report requires discussion from the Committee.

### **This report makes the following recommendations to this Committee:**

1. That the Treasury Management Strategy for 2024/25 attached as Appendix A to this report is agreed and recommended to Council for adoption, subject to any amendments arising from consideration of the Capital Programme by Cabinet at its meeting on 7<sup>th</sup> February 2024.
2. That the Capital Strategy for 2024/25 attached as Appendix B to this report is agreed and recommended to Council for adoption.

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Audit, Governance & Standards Committee	15 <sup>th</sup> January 2024
Corporate Services Policy Advisory Committee	17 <sup>th</sup> January 2024
Cabinet	7 <sup>th</sup> February 2024
Council	21st February 2024

# TREASURY MANAGEMENT AND CAPITAL STRATEGIES 2024/25

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The Treasury Management function ensures the safeguarding of Council finances and the liquidity of funds when liabilities become due to support the Strategic Plan objectives.	Head of Finance
<b>Cross Cutting Objectives</b>	The report recommendations support the achievements of the cross cutting objectives embedded within the Strategic Plan.	Head of Finance
<b>Risk Management</b>	Covered in Section 5 of this report.	Head of Finance
<b>Financial</b>	This report relates to the financial activities of the Council in respect of Treasury Management and specific financial implications are therefore detailed within the body of the report.	Section 151 Officer & Finance Team
<b>Staffing</b>	None	Head of Finance
<b>Legal</b>	The legal implications are detailed within the body of the report which is compliant with statutory and legal regulations such as the CIPFA Code of Practice on Treasury Management in Local Authorities.	Team Leader (Contentious and Corporate Governance)
<b>Privacy and Data Protection</b>	None	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Senior Public Health Officer
<b>Crime and Disorder</b>	None.	Head of Finance
<b>Procurement</b>	None.	Head of Finance

<b>Biodiversity and Climate Change</b>	There are no direct implications on biodiversity and climate change. Investment and capital strategy will be aligned and in keeping with the MBC Biodiversity and Climate Change Action Plan and MBC's Net Zero by 2030 commitment.	Biodiversity and Climate Change Manager
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## 2. INTRODUCTION AND BACKGROUND

2.1 The Council is required to operate a balanced budget, which broadly means that cash raised during the year must meet cash expenditure, to enable a best practice approach to longer term capital planning and to ensure the future success and wellbeing of the population, stakeholders and the area the Council serves. The Treasury Management, Investment and Capital Strategies assists the Council in achieving these objectives.

2.2 CIPFA have revised the Prudential Code in December 2021 and has stated that a formal adoption is required for the 2024/25 financial year. The attached Strategies comply with this Code. Some key features of the 2021 Code are as follows:

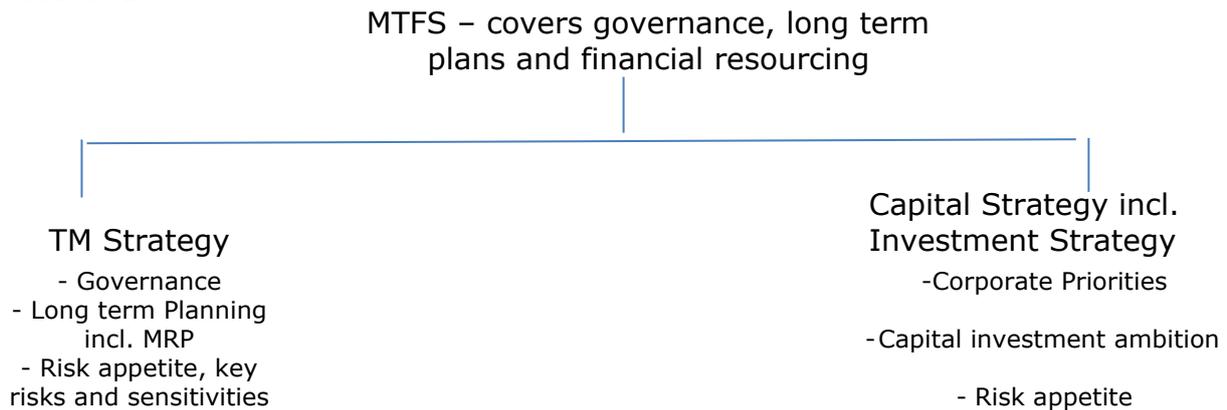
- *Further strengthening on matters to be taken into account when setting and revising prudential indicators particularly decision making on capital investment, determining a capital strategy, prudence and affordability.*
- *ESG in Capital Strategy – broadened to make clear the strategy should address environmental sustainability in a manner which is consistent with their own corporate policies on the issue.*
- *CIPFA key concern continues to be regarding leverage and borrowing to invest particularly for Commercial and Service Investment -with a clear statement regarding not being prudent to make any investment or spending decision that will increase capital financing requirement, and so lead to new borrowing, unless directly and primarily related to the functions of the authority and where any financial returns are either related to the financial viability of the project in question or otherwise incidental to the primary purpose.*
- *Further clarification on ESG within TMP1 Credit and Counterparty Risk Management.*
- *Increases in the CFR and borrowing are undertaken solely for purposes directly and primarily related to the functions of the authority. Where any financial returns are related to the financial viability of the project in question, they should be incidental to its primary purpose.*
- *Additional reporting of the Treasury Management requirements of the Treasury and Prudential indicators to Members on a quarterly basis.*

2.3 CIPFA's 2017 edition of the Code ensured that local authorities take into account the risks involved with non-treasury investments. CIPFA have therefore recommended that authorities development an Investment

Strategy and a Capital Strategy which set out the Council’s risk appetite and specific policies and arrangements for non-treasury investments. The Council’s Service Investments are deemed minimal and details of these can be found within the Capital Strategy.

2.4 The strategy documents are linked and support the overall Medium Term Financial Strategy (MTFS), alluding to the risk appetites around capital investment priorities and funding decisions including borrowing. Below is an illustration of how these documents are linked:

Table A.



## 2.5 Treasury Management Strategy Statement 2024/25

2.5.1 The first function of the Council’s Treasury Management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low-risk counterparties or instruments commensurate with the Council’s low risk appetite, providing adequate liquidity initially before considering investment return.

2.5.2 The second function of the Treasury Management operation is the funding of the Council’s capital plans. The capital plans provide a guide to the borrowing need of the Council, so this means longer term cash flow planning to ensure that the Council can meet its capital spending obligations. The management of longer-term cash may involve arranging long or short-term loans or using longer term cash flow surpluses. On occasion, any debt previously drawn may be restructured to meet Council risk or cost objectives.

2.5.3 The current 2023/24 Treasury Management Strategy (TMS) was reviewed by this Committee and agreed by Council in February 2023. The current Strategy is to:

- Utilise cash balances rather than loan debt to finance the capital programme in the short term, due to low investment returns and high counterparty risk in the current economic climate;

- Further diversify its portfolio, as far as is operationally feasible, ensuring that a combination of secured and unsecured investments is considered;
- Keeping investments short term to meet demand of liabilities when due.

2.5.4 A mid-year monitoring report is also being considered by this Committee.

2.5.5 Essentially the Council is taking a similar stance with its Strategy for 2024/25. However, the authority will review the spending pattern of the Capital Programme to see if funds can be invested slightly longer term (greater than 1 year) and if further borrowing is required. The Council will continue to assess the appropriate funding (short term/long term) in line with the proposed capital programme.

2.5.6 The Treasury Management Strategy for 2024/25 is set out at **Appendix A** to this report. It is consistent with the requirements of the CIPFA and The Department of Levelling Up, Housing and Communities (DLUHC) and has been developed in line with currently approved spending and financing proposals.

2.5.7 Current Treasury Management investments as at 31st December 2023 total £18.185m. A list of these can be found within **Appendix C**.

2.5.8 The Council has long term borrowings of £5m with the PWLB and short term borrowing with other Local Authorities of £4m. Details can be found within **Appendix C**. At the beginning of 2022/23, the Council procured £80m of future long term borrowing due to forecasts of interest rates increasing throughout the year. The first tranche of £40m will be received in February 2024 with £20m arriving in the following two financial years. These have been locked in at an interest rate of 2.89% over 50 year terms (current 50 year PWLB rates are 5.24%). The Council is reviewing investment options for the first £40m in February 2024 in line with the Capital Programme spending.

2.5.9 The Council will be spreading the risk of borrowing with a mixture of long term and short term funding to ensure lower borrowing costs along with weighing up the risk of refinancing.

2.5.10A list of the counterparties the Council has on its lending list and the colour criteria can be found in **Appendix D**. The Council current account with Lloyds Bank is not included within the counterparty limits as it cannot be predicted what funds are accumulating during a day. The Treasury Management Practices (TMPs) ensure that the current account is kept to a minimum at the start of each working day.

## 2.6 Capital Strategy

2.6.1 The Capital Strategy 2024/25 can be found in **Appendix B** which gives a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of local public services along with an overview of how associated risk is managed and the implications for future financial sustainability.

- 2.6.2 The investment Strategy is also included within Capital Strategy document, however the Council does not currently have any investments in property that are considered to be purely commercial in nature, i.e. primarily for yield. The Council has made loans to Kent Savers for £25,000 in 2017/18 which is repayable in 2027/28 at an interest rate of 1%. A loan to Cobtree Manor Estates Trust towards the construction of the new car park which had been agreed in 2019/20 for an amount of £323,000 repayment over 5 years at an annual interest rate of 3%. Current balance owing is £139,293. There has been no agreement to enter into further service loans in the immediate future.
- 2.6.3 The strategy forms part of the Council's integrated revenue, capital and balance sheet planning and requires annual approval by full Council. It sets out the long term context in which capital expenditure and investment decisions are made, and considers risk, reward and impact on the achievement of the Council's priority outcomes identified within the strategic plan.
- 2.6.4 The strategy for 2024/25 is an update with the latest capital proposal plans for the Council subject to review.
- 2.6.5 The Executive will consider a capital programme for the period 2024/25 to 2027/28 at its meeting on 25 January 2023. The attached Strategy includes assumptions about the Capital Programme and it is not anticipated that the Capital Programme as finally agreed will differ significantly from these.
- 2.6.6 The following table shows the expected borrowing required to fund the draft capital programme over the next 5 years. External funding consists of S106 contributions and grant funding where internal funding is through New Homes Bonus, internal borrowing and MRP.

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
	£000	£000	£000	£000	£000	£000
External sources	1,605	5,421	2,979	13,486	21,356	9,963
Own resources - incl Internal borrowing/MRP	2,647	4,780	6,684	8,680	9,940	10,370
External Borrowing	37,673	85,560	80,888	46,637	20,046	38,238
<b>TOTAL</b>	<b>41,924</b>	<b>95,761</b>	<b>90,551</b>	<b>68,803</b>	<b>51,342</b>	<b>58,571</b>

### 3. AVAILABLE OPTIONS

- 3.1 **Option 1:** The Committee could decide not to recommend the strategies to Council. The Council must adopt strategies for 2024/25 and should the Committee decide not to recommend it would need to recommend an alternative to Council. The strategies are in line with the necessary codes and practice guides and take a low risk approach favouring liquidity and security

over return. As such the approach set out within the strategy is considered suitable for this Council.

- 3.2 **Option 2:** Subject to any legal obligations placed upon the Council, the Committee could amend the strategies prior to recommendation to Council. The Committee would need to provide Council with detailed reasons for the amendments and the risks and benefits that the proposed amendments provide in order for the Council to make a fully informed decision on the recommendation.
- 3.3 **Option 3:** The Committee could agree the attached strategies and recommend them to Council. The attached strategies have been produced in line with current guidance from CIPFA and the Department of Levelling Up, Housing and Communities (DLUHC). They have also been developed in line with advice and guidance from the Council's Treasury Management Advisors, Link Asset Services.
- 

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The recommended option is Option 3, to recommend to Council the Treasury Management Strategy and the Capital Strategy for 2024/25.
- 

#### **5. RISK**

- 5.1 Detailed risk management policies are included within the Treasury Management Practices and have been included in both investment strategies and capital strategies to which the Council adheres. A brief description of these risks along with the Council's actions to mitigate these risks are as follows:

**Liquidity Risk** - Liquidity risk is the risk that cash will not be available when it is required. The Council has sufficient standby facilities to ensure that there is always sufficient liquidity to deal with unexpected occurrences. The Council also has the option of short-term borrowing.

**Interest Rate Risk** - Interest rate risk is the risk that unexpected changes in interest rates expose the Council to greater costs or a shortfall in income than have been budgeted for. This risk is mitigated by borrowing and lending on a fixed rate basis. The Council will also seek to minimise this risk by seeking expert advice on forecasts of interest rates from treasury management consultants and agreeing with them its strategy for the coming year for the investment and debt portfolios. It will also determine appropriate limits and trigger points which are set out in the annual Treasury Management Strategy.

**Exchange Rate Risk** - Exchange rate risk is the risk that unexpected changes in exchange rates expose the Council to greater costs or a shortfall in income than have been budgeted for. The Council has a minimal exposure to exchange rate risk as it has no powers to enter into loans or investments in foreign currency for treasury management purposes.

**Inflation Risk** - Inflation risk is the risk that unexpected changes in inflation expose the Council to greater costs or a shortfall in income than have been budgeted for. Inflation both current and projected will form part of the debt and investment decision-making criteria both within the strategy and operational considerations.

**Credit and Counterparty Risk** - Credit and counter-party risk is the risk of failure by a third party to meet its contractual obligations under an investment, loan or other commitment, especially one due to deterioration in its creditworthiness, which causes the Council an unexpected burden on its capital or revenue resources. Treasury management staff will add or delete counterparties to/from the approved counterparty list in line with the policy on criteria for selection of counterparties. Due to volatility of the financial market, Treasury Management staff will use information from various sources, e.g. brokers, Treasury Management Consultants and other local Authority experience to determine the credit worthiness of an institution and to decide if funds are at risk and agree best course of action with Director of Finance & Business Improvement.

**Refinancing Risk** - Refinancing risk is the risk that when loans or other forms of capital financing mature, that they cannot be refinanced where necessary on terms that reflect the assumptions made in formulating revenue and capital budgets. The Council currently borrows to fund a portion of its capital programme and will continue to do so in the coming years. In considering the affordability of its capital plans, the Council will consider all the resources currently available/estimated for the future together with the totality of its capital plans, revenue income and revenue expenditure forecasts for the forthcoming year and the two following years and the impact these will have on council tax. It will also take into account affordability in the longer term beyond this three year period.

**Legal and Regulatory Risk** - Legal and regulatory risk is the risk that either the Council, or a third party which it is dealing with in its treasury management activities, acts outside of its legal powers or regulatory requirements and as a result the Council incurs loss. The treasury management activities of the Council shall comply fully with legal statute, guidance, Codes of Practice and the regulations of the Council. The Authority will provide written evidence of its powers and authorities to any counterparty that requests us to do so. Counterparties will also provide their details to the Authority as a matter of course.

**Fraud, Error and Corruption Risk** - Fraud, error and corruption risk is the risk that the Council may fail to employ adequate systems, procedures and other arrangements which identify and prevent losses through such occurrences. The Council will seek to ensure an adequate division of responsibilities and maintenance at all times of an adequate level of internal checks which minimises such risks along with maintaining records of all treasury management transactions so that there is a full audit trail and evidence of the appropriate checks being carried out. Delegated members of staff have the responsibility for the treasury management function for the Council and the Director of Finance & Business Improvement authorises who these are. The Council also has a Fidelity Guarantee insurance policy with

Zurich Insurance which covers against loss of cash through fraud or dishonesty of employees.

**Risk Appetite** – The Council takes a slightly higher risk with its non-treasury investments compared to its treasury management investments due to the fact that treasury investments are mainly maintaining funds in high security instruments for when they are required and non-treasury decisions are for service delivery where there is a different risk profile.

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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 None

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 This report will be considered by the Corporate Services Policy Advisory Committee on 17th January 2024, Cabinet will agree the Capital Programme for 2024/25 to 2033/34 on 7th February 2024 and adopted by Council on 21st February 2024.

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## **8. REPORT APPENDICES**

8.1 The following documents are to be published with this report and form part of the report:

- Appendix A: Treasury Management Strategy 2024/25.
  - Appendix B: Capital Strategy 2024/25.
  - Appendix C: Investment and Borrowing Position as at 31st December 2023.
  - Appendix D: Counterparty List
- 

## **9. BACKGROUND PAPERS**

9.1 None

# **Treasury Management Strategy Statement**

Minimum Revenue Provision Policy Statement  
and Annual Investment Strategy

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2024/25

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## 1.1 Background

The Authority is required to operate a balanced revenue budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low-risk counterparties or instruments commensurate with the Authority's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the treasury management service is the funding of the Authority's capital plans. These capital plans provide a guide to the borrowing need of the Authority, essentially the longer-term cash flow planning, to ensure that it can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet risk or cost objectives.

The contribution the treasury management function makes to the Authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

CIPFA defines treasury management as:

*"The management of the local authority's borrowing, investments and cash flows, including its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."*

## 1.2 Reporting Requirements

### 1.2.1 Capital Strategy

The CIPFA 2021 Prudential and Treasury Management Codes require all local authorities to prepare a Capital Strategy report which will provide the following: -

- a high-level long-term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- an overview of how the associated risk is managed
- the implications for future financial sustainability

The aim of the strategy is to ensure that all the Authority's elected members fully understand the overall long-term policy objectives and resulting Capital Strategy requirements, governance procedures and risk appetite.

### 1.2.2 Treasury Management Reporting

The Authority is currently required to receive and approve, as a minimum, three main treasury reports each year, which incorporate a variety of policies, estimates and actuals.

- a. **Prudential and treasury indicators and treasury strategy** (this report) - The first, and most important report is forward looking and covers: -
  - the capital plans, (including prudential indicators)
  - a minimum revenue provision (MRP) policy, (how residual capital expenditure is charged to revenue over time)
  - the Treasury Management Strategy, (how the investments and borrowings are to be organised), including treasury indicators; and
  - an Annual Investment Strategy, (the parameters on how investments are to be managed)
- b. **A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision. In addition, this Authority will receive quarterly update reports.
- c. **An annual treasury report** – This is a backward-looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

#### Scrutiny

The above reports are required to be adequately scrutinised before being recommended to the Full Council. Under current constitutional arrangements this role is undertaken by the Audit Governance and Standards Committee.

**Quarterly reports** – In addition to the three major reports detailed above, from 2023/24 quarterly reporting (end of June/end of December) is also required. However, these additional reports do not have to be reported to full Council but do require to be adequately scrutinised. This role is undertaken by the Cabinet as part of quarterly Budget Monitoring. (The reports, specifically, should comprise updated Treasury/Prudential Indicators.)

### 1.3 Treasury Management Strategy for 2024/25

The strategy for 2024/25 covers two main areas:

#### Capital issues

- the capital expenditure plans and the associated prudential indicators
- the minimum revenue provision (MRP) policy

#### Treasury management issues

- the current treasury position

- treasury indicators which limit the treasury risk and activities of the Authority
- prospects for interest rates
- the borrowing strategy
- policy on borrowing in advance of need
- debt rescheduling
- the investment strategy
- creditworthiness policy; and
- the policy on use of external service providers

These elements cover the requirements of the Local Government Act 2003, DLUHC Investment Guidance, DLUHC MRP Guidance, the CIPFA Prudential Code and the CIPFA Treasury Management Code.

## **1.4 Training**

The CIPFA Treasury Management Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny.

Furthermore, pages 47 and 48 of the Code state that they expect “all organisations to have a formal and comprehensive knowledge and skills or training policy for the effective acquisition and retention of treasury management knowledge and skills for those responsible for management, delivery, governance and decision making.

The scale and nature of this will depend on the size and complexity of the organisation’s treasury management needs. Organisations should consider how to assess whether treasury management staff and board/ council members have the required knowledge and skills to undertake their roles and whether they have been able to maintain those skills and keep them up to date.

As a minimum, authorities should carry out the following to monitor and review knowledge and skills:

- Record attendance at training and ensure action is taken where poor attendance is identified.
- Prepare tailored learning plans for treasury management officers and board/council members.
- Require treasury management officers and board/council members to undertake self-assessment against the required competencies (as set out in the schedule that may be adopted by the organisation).
- Have regular communication with officers and board/council members, encouraging them to highlight training needs on an ongoing basis.”

In further support of the revised training requirements, CIPFA’s Better Governance Forum and Treasury Management Network have produced a ‘self-assessment by members responsible for the scrutiny of treasury management’, which is available from the CIPFA website to download.

Training on Treasury Management for members is carried out at least once a year, generally taking the form of a briefing from third party treasury experts in advance of members' consideration of the annual Treasury Management Strategy.

The training needs of treasury management officers are periodically reviewed.

A formal record of the training received by officers central to the Treasury function is maintained by the Head of Finance. Similarly, a formal record of the treasury management/capital finance training received by members is maintained by the Head of Finance.

### **1.5 Treasury Management Consultants**

The Authority uses Link Group, Link Treasury Services Limited as its external treasury management advisors.

The Authority recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisers.

It also recognises that there is value in employing external providers of treasury management services to acquire access to specialist skills and resources. The Authority will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented and subjected to regular review.

## 2. THE CAPITAL PRUDENTIAL INDICATORS 2024/25 – 2028/29

The Authority's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

### 2.1 Capital Expenditure and Financing

This prudential indicator is a summary of the Authority's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts: -

Capital Expenditure £m	2023/24 Forecast	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate	2028/29 Estimate
	41.924	95.661	86.551	62.803	49.342	59.571

The table shows how the above capital expenditure plans are being financed by capital or revenue resources. Any shortfall of resources results in a financing need.

Financing of capital expenditure £m	2023/24 Forecast	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate	2028/29 Estimate
Capital grants	1.100	3.098	1.379	13.086	20.956	9.563
Capital reserves	0.505	2.323	1.600	0.400	0.400	0.400
Revenue	2.649	4.553	6.568	8.477	9.611	9.993
<b>Net financing need for the year</b>	<b>37.670</b>	<b>85.687</b>	<b>77.004</b>	<b>40.840</b>	<b>18.376</b>	<b>39.615</b>

Other long-term liabilities - the above financing need excludes other long-term liabilities, such as PFI and leasing arrangements that already include borrowing instruments.

### 2.2 The Authority's Borrowing Need (the CFR)

The second prudential indicator is the Authority's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Authority's indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR.

The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with each asset's life, and so charges the economic consumption of capital assets as they are used.

The CFR includes any other long-term liabilities (e.g., PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Authority's borrowing requirement, these types of schemes include a borrowing facility by the PFI or lease provider and so the Authority is not required to separately borrow for these schemes. The Authority currently has £0.905m of such schemes within the CFR.

The Authority is asked to approve the CFR projections below:

£m	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
<b>Capital Financing</b>						
<b>Total CFR</b>	110.511	196.002	273.006	313.846	332.222	371.837
<b>Movement in CFR</b>	<b>36.271</b>	<b>82.578</b>	<b>71.685</b>	<b>33.613</b>	<b>10.015</b>	<b>30.872</b>

<b>Movement in CFR</b>						
<b>Net financing need for the year</b>	37.670	85.687	77.004	40.840	18.376	39.615
Less MRP/VRP and other financing movements	-1.399	-3.108	-5.318	-7.227	-8.361	-8.743
<b>Movement in CFR</b>	<b>36.271</b>	<b>82.578</b>	<b>71.685</b>	<b>33.613</b>	<b>10.015</b>	<b>30.872</b>

### 2.3 Affordability Prudential Indicators

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Authority's overall finances. The Authority is asked to approve the following indicators: -

#### Ratio of Financing Costs to Net Revenue Stream

This indicator identifies the trend in the cost of capital, (borrowing and other long-term obligation costs net of investment income), against the net revenue stream.

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Interest Paid £000	400	4,684	7,764	8,316	8,683	9,476
Interest Paid (Aviva) £000	0	1,146	1,707	2,268	2,243	2,243
Interest Received £000	-950	-320	-300	-280	-250	-250
Net Revenue Exp £000	6,093	25,810	26,518	27,245	27,993	27,993
%	<b>-9.03</b>	<b>21.35</b>	<b>34.59</b>	<b>37.82</b>	<b>38.14</b>	<b>40.97</b>

The estimates of financing costs include current commitments and the proposals in this budget report.

### **Maturity Structure of Borrowing**

These gross limits are set to reduce the Authority's exposure to large, fixed rate sums falling due for refinancing, and are required for upper and lower limits.

The Authority is asked to approve the following treasury indicators and limits: -

#### **Maturity structure of fixed interest rate borrowing 2024/25**

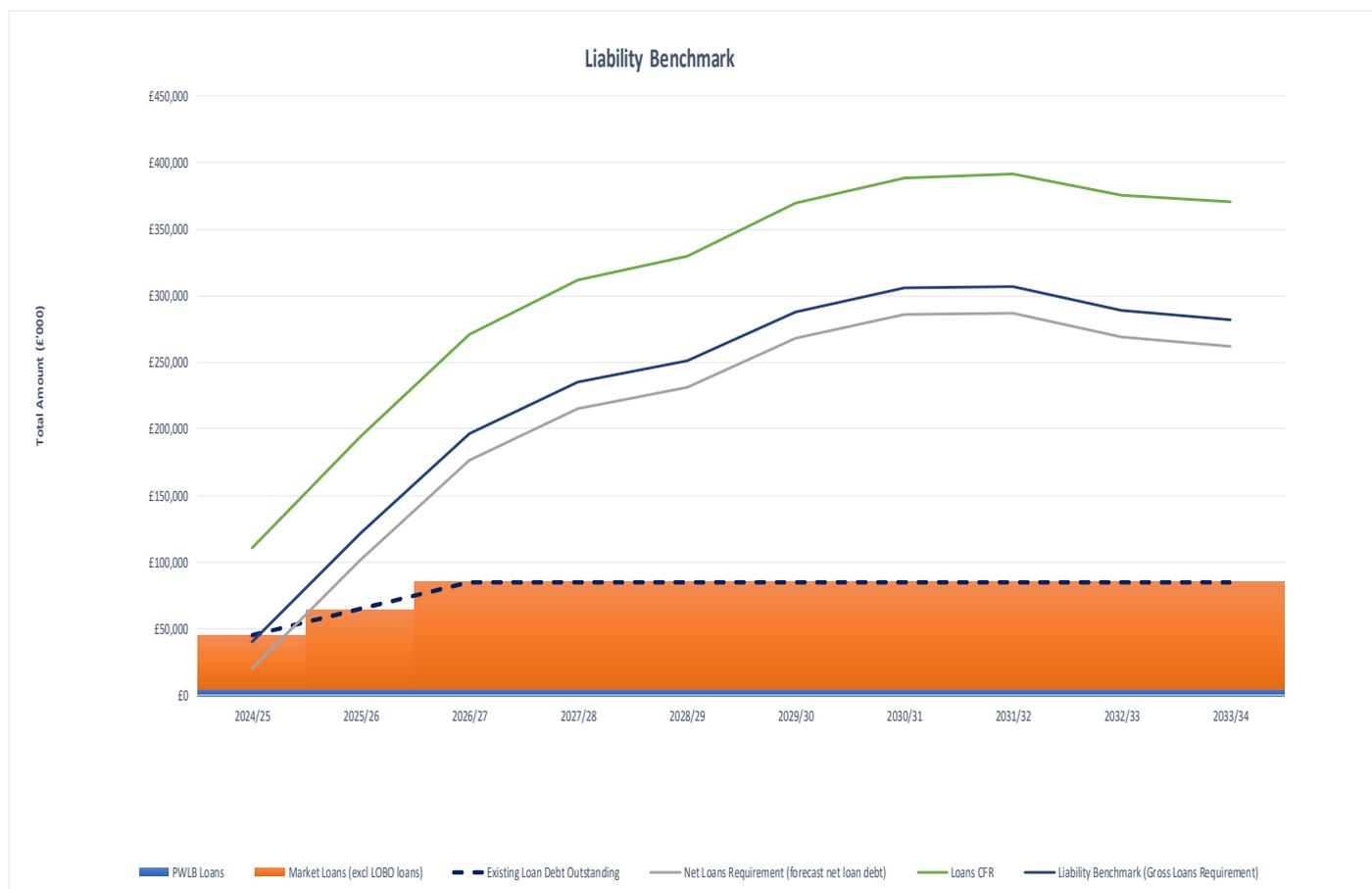
	<b>Upper Limit %</b>	<b>Lower Limit %</b>
Under 12 months	50	0
1 year to 5 years	50	0
5 years to under 10 years	100	0
10 years and within 20 years	100	0
20 years and within 30 years	100	0
30 years and within 40 years	100	0
40 years and within 50 years	100	0

## **2.4 Liability Benchmark**

The Authority is required to estimate and measure the Liability Benchmark (LB) for the forthcoming financial year and the following two financial years, as a minimum.

There are four components to the LB: -

1. **Existing loan debt outstanding:** the Authority's existing loans that are still outstanding in future years.
2. **Loans CFR:** this is calculated in accordance with the loans CFR definition in the Prudential Code and projected into the future based on approved prudential borrowing and planned MRP.
3. **Net loans requirement:** this will show the Authority's gross loan debt less treasury management investments at the last financial year-end, projected into the future and based on its approved prudential borrowing, planned MRP and any other major cash flows forecast.
4. **Liability benchmark** (or gross loans requirement): this equals net loans requirement plus short-term liquidity allowance.



There was a net borrowing position at the end of 2022/23 of £1.46m. Thereafter the Council borrowing position is due to increase as the Capital Programme ramps up. At present, the Council has only locked in £85 million of borrowing (£5m PWLB and £80m market loans), leaving a gap between the liability benchmark and borrowing from as early as 2025/26. In practice, further borrowing will be undertaken only if it meets the prudential criteria. If not, the capital spending profile of the council will be adjusted to defer investment until such time as it is affordable.

## 2.5 Core Funds and Expected Investment Balances

The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an ongoing impact on investments unless resources are supplemented each year from new sources (asset sales etc)

## 2.6 Minimum Revenue Provision (MRP) Policy Statement

Under Regulation 27 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, where the Authority has financed capital expenditure by borrowing it is required to make a provision each year through a revenue charge (MRP).

The Authority is required to calculate a prudent provision of MRP which ensures that the outstanding debt liability is repaid over a period that is reasonably

commensurate with that over which the capital expenditure provides benefits. The MRP Guidance (2018) gives four ready-made options for calculating MRP, but the Authority can use any other reasonable basis that it can justify as prudent.

The MRP policy statement requires full council approval (or closest equivalent level) in advance of each financial year.

The Authority is recommended to approve the following MRP Statement:

From 1 April 2008 for all unsupported borrowing the MRP policy will be:

- **Asset life method (straight line)** – MRP will be based on the estimated life of the assets;

Capital expenditure incurred during 2023/24 will not be subject to an MRP charge until 2024/25, or in the year after the asset becomes operational.

There is no requirement on the HRA to make a minimum revenue provision but there is a requirement for a charge for depreciation to be made.

MRP in respect of assets acquired under Finance Leases or PFI will be charged at an amount equal to the principal element of the annual repayment.

For capital expenditure on loans to third parties where the principal element of the loan is being repaid in annual instalments, the capital receipts arising from the principal loan repayments will be used to reduce the CFR instead of MRP.

Where no principal repayment is made in a given year, MRP will be charged at a rate in line with the life of the assets funded by the loan.

**MRP Overpayments** - Under the MRP guidance, charges in excess of the statutory MRP can be made, known as voluntary revenue provision (VRP).

VRP can be reclaimed in later years if deemed necessary or prudent. In order for these amounts to be reclaimed for use in the budget, this policy must disclose the cumulative overpayment made each year. There have been no overpayments of MRP to date and none are planned.

### 3. BORROWING

The capital expenditure plans set out in Section 2 provide details of the service activity of the Authority. The treasury management function ensures that the Authority's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Authority's Capital Strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions, and the Annual Investment Strategy.

#### 3.1 Current Portfolio Position

The overall treasury management portfolio as at 31<sup>st</sup> March 2023 and that for 31<sup>st</sup> December 2023 are shown below for both borrowing and investments.

TREASURY PORTFOLIO				
	actual 31.3.23	actual 31.3.23	current 31.12.23	current 31.12.24
	£000	%	£000	%
<b>Treasury investments</b>				
Banks	0	0%	0	0%
Building societies - unrated	0	0%	0	0%
Building societies - rated	0	0%	0	0%
Local authorities	0	0%	0	0%
DMADF (H.M.Treasury)	0	0%	0	0%
Money Market Funds	8,540	100%	18,185	100%
Certificates of Deposit	0	0%	0	0%
<b>Total managed in house</b>	<b>8,540</b>	<b>100%</b>	<b>18,185</b>	<b>100%</b>
Bond Funds	0	0%	0	0%
Property Funds	0	0%	0	0%
<b>Total managed externally</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0%</b>
<b>Total treasury investments</b>	<b>8,540</b>	<b>100%</b>	<b>18,185</b>	<b>100%</b>
<b>Treasury external borrowing</b>				
Local Authorities	5,000	50%	5,000	50%
PWLB	5,000	50%	5,000	50%
LOBOs	0	0%	0	0%
<b>Total external borrowing</b>	<b>10,000</b>	<b>100%</b>	<b>10,000</b>	<b>100%</b>
<b>Net treasury investments / (borrowing)</b>	<b>-1,460</b>	<b>0</b>	<b>8,185</b>	<b>0</b>

The Authority's forward projections for borrowing are summarised below. The table shows the actual external debt, against the underlying capital borrowing need, (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

£m	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
	Forecast	Estimate	Estimate	Estimate	Estimate	Estimate
<b>External Debt</b>						
Debt at 1 April	9.000	46.979	132.666	209.670	228.046	267.661
Expected change in Debt	37.670	85.687	77.004	18.376	39.615	19.544
Other long-term liabilities (OLTL)	0.905	0.309	0.000	0.000	0.000	0.000
Expected change in OLTL	-0.596	-0.309	0.000	0.000	0.000	0.000
Actual gross debt at 31 March	<b>46.979</b>	<b>132.666</b>	<b>209.670</b>	<b>228.046</b>	<b>267.661</b>	<b>287.205</b>
The Capital Financing Requirement	<b>110.511</b>	<b>196.002</b>	<b>273.006</b>	<b>313.846</b>	<b>332.222</b>	<b>371.837</b>
Under / (over) borrowing	<b>63.532</b>	<b>63.337</b>	<b>63.336</b>	<b>85.801</b>	<b>64.561</b>	<b>84.633</b>

Within the range of prudential indicators there are several key indicators to ensure that the Authority operates its activities within well-defined limits. One of these is that the Authority needs to ensure that its gross debt does not, except in the short-term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2024/25 and the following two financial years. This allows some flexibility for limited early borrowing for future years but ensures that borrowing is not undertaken for revenue or speculative purposes.

The Director of Finance, Resources and Business Improvement reports that the Authority complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes account of current commitments, existing plans and the proposals in this budget report.

### 3.2 Treasury Indicators: Limits to Borrowing Activity

**The Operational Boundary.** This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

	2023/24 £m	2024/25 £m	2025/26 £m	2026/27 £m	2027/28 £m	2028/29 £m
Ext Borrowing	50.000	140.687	222.690	268.530	291.906	336.521
Other LT Liab	0.905	0.309	0.000	0.000	0.000	0.000
Total	50.905	140.996	222.690	268.530	291.906	336.521

**The Authorised Limit for external debt.** This is a key prudential indicator and represents a control on the maximum level of borrowing. This represents a legal limit beyond which external debt is prohibited, and this limit needs to be set or

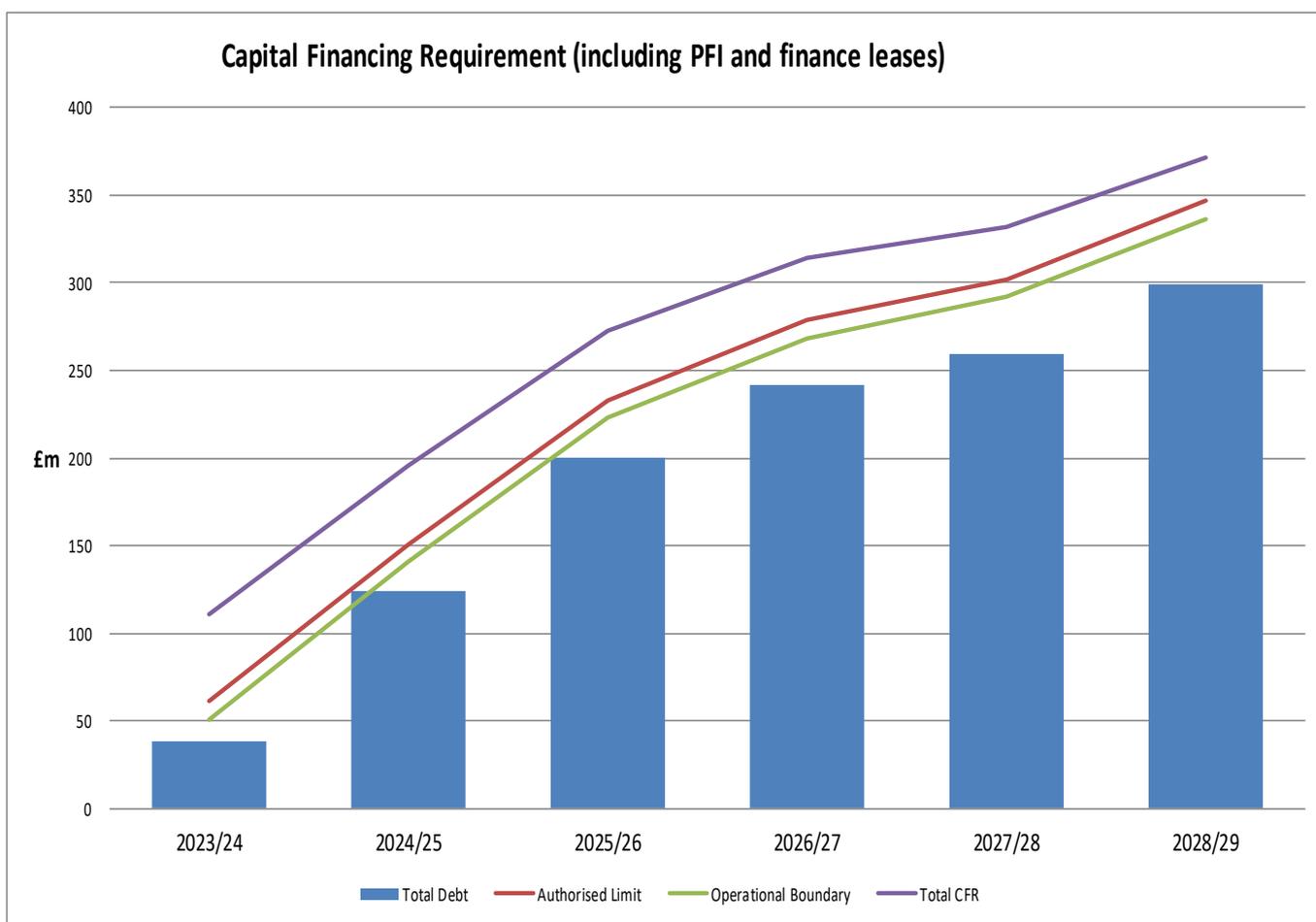
revised by the Full Council. It reflects the level of external debt which, while not desired, could be afforded in the short-term, but is not sustainable in the longer-term.

- This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all local authority plans, or those of a specific authority, although this power has not yet been exercised.
- The Authority is asked to approve the following Authorised Limit.

	<b>2023/24</b> <b>£m</b>	<b>2024/25</b> <b>£m</b>	<b>2025/26</b> <b>£m</b>	<b>2026/27</b> <b>£m</b>	<b>2027/28</b> <b>£m</b>	<b>2028/29</b> <b>£m</b>
Ext Borrowing	60.000	150.687	232.690	278.530	301.906	346.521
Other LT Liab	0.905	0.309	0.000	0.000	0.000	0.000
Total	60.905	150.996	232.690	278.530	301.906	346.521

The table and graph below summarise the Council's debt profile, Operational Boundary and Authorised Limit, and show that they remain below the Capital Financing Requirement.

<b>CAPITAL FINANCING REQUIREMENT including PFI and finance leases</b>						
	Est 2023/24	Est 2024/25	Est 2025/26	Est 2026/27	Est 2027/28	Est 2028/29
	£m	£m	£m	£m	£m	£m
GF CFR	110.5	196.0	273.0	313.8	332.2	371.8
<b>Total CFR</b>	<b>110.5</b>	<b>196.0</b>	<b>273.0</b>	<b>313.8</b>	<b>332.2</b>	<b>371.8</b>
External Borrowing	37.7	123.4	200.4	241.2	259.6	299.2
Other long term liabilities	0.9	0.3	0.0	0.0	0.0	0.0
<b>Total Debt</b>	<b>38.6</b>	<b>123.7</b>	<b>200.4</b>	<b>241.2</b>	<b>259.6</b>	<b>299.2</b>
<b>Authorised Limit</b>	60.9	151.0	232.7	278.5	301.9	346.5
<b>Operational Boundary</b>	50.9	141.0	222.7	268.5	291.9	336.5



### 3.3 Prospects for Interest Rates

The Authority has appointed Link Group as its treasury advisor and part of their service is to assist the Authority to formulate a view on interest rates. Link provided the following forecasts on 07 November 2023. These are forecasts for Bank Rate, average earnings and PWLB certainty rates, gilt yields plus 80 bps.

Link Group Interest Rate View	07.11.23												
	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26
<b>BANK RATE</b>	5.25	5.25	5.25	5.00	4.50	4.00	3.50	3.25	3.00	3.00	3.00	3.00	3.00
3 month ave earnings	5.30	5.30	5.30	5.00	4.50	4.00	3.50	3.30	3.00	3.00	3.00	3.00	3.00
6 month ave earnings	5.60	5.50	5.40	5.10	4.60	4.10	3.60	3.40	3.10	3.10	3.10	3.10	3.10
12 month ave earnings	5.80	5.70	5.50	5.20	4.70	4.20	3.70	3.50	3.30	3.30	3.30	3.30	3.30
5 yr PWLB	5.00	4.90	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.60	3.50	3.50	3.50
10 yr PWLB	5.10	5.00	4.80	4.70	4.40	4.20	4.00	3.80	3.70	3.70	3.60	3.60	3.50
25 yr PWLB	5.50	5.30	5.10	4.90	4.70	4.50	4.30	4.20	4.10	4.10	4.00	4.00	4.00
50 yr PWLB	5.30	5.10	4.90	4.70	4.50	4.30	4.10	4.00	3.90	3.90	3.80	3.80	3.80

*Additional notes by Link on this forecast table: -*

- Our central forecast for interest rates was previously updated on 25 September and reflected a view that the MPC would be keen to further demonstrate its anti-inflation credentials by keeping Bank Rate at 5.25% until at least H2 2024. We expect rate cuts to start when both the CPI inflation and wage/employment data are supportive of such a move, and that there is a likelihood of the overall economy enduring at least a mild recession over the coming months, although most recent GDP releases have surprised with their on-going robustness.
- Naturally, timing on this matter will remain one of fine judgment: cut too soon, and inflationary pressures may well build up further; cut too late and any downturn or recession may be prolonged.
- In the upcoming months, our forecasts will be guided not only by economic data releases and clarifications from the MPC over its monetary policies and the Government over its fiscal policies, but also international factors such as policy development in the US and Europe, the provision of fresh support packages to support the faltering recovery in China as well as the on-going conflict between Russia and Ukraine, and Gaza and Israel.
- On the positive side, consumers are still anticipated to be sitting on some excess savings left over from the pandemic, which could cushion some of the impact of the above challenges and may be the reason why the economy is performing somewhat better at this stage of the economic cycle than may have been expected. However, as noted previously, most of those excess savings are held by more affluent households whereas lower income families already spend nearly all their income on essentials such as food, energy and rent/mortgage payments.

#### **PWLB RATES**

- Gilt yield curve movements have broadened since our last Newsflash. The short part of the curve has not moved far but the longer-end continues to reflect inflation concerns. At the time of writing there is 60 basis points difference between the 5 and 50 year parts of the curve.

#### **The balance of risks to the UK economy:**

- The overall balance of risks to economic growth in the UK is to the downside.

**Downside risks to current forecasts for UK gilt yields and PWLB rates include:**

- **Labour and supply shortages** prove more enduring and disruptive and depress economic activity (accepting that in the near-term this is also an upside risk to inflation and, thus, could keep gilt yields high for longer).
- **The Bank of England** has increased Bank Rate too fast and too far over recent months, and subsequently brings about a deeper and longer UK recession than we currently anticipate.
- **UK / EU trade arrangements** – if there was a major impact on trade flows and financial services due to complications or lack of co-operation in sorting out significant remaining issues.
- **Geopolitical risks**, for example in Ukraine/Russia, the Middle East, China/Taiwan/US, Iran and North Korea, which could lead to increasing safe-haven flows.

**Upside risks to current forecasts for UK gilt yields and PWLB rates: -**

- Despite the recent tightening to 5.25%, the **Bank of England proves too timid** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to remain elevated for a longer period within the UK economy, which then necessitates Bank Rate staying higher for longer than we currently project.
- **The pound weakens** because of a lack of confidence in the UK Government's pre-election fiscal policies, resulting in investors pricing in a risk premium for holding UK sovereign debt.
- Longer-term **US treasury yields** rise strongly if inflation remains more stubborn there than the market currently anticipates, consequently pulling gilt yields up higher. (We saw some movements of this type through October although generally reversed in the last week or so.)
- Projected **gilt issuance, inclusive of natural maturities and QT**, could be too much for the markets to comfortably digest without higher yields compensating.

**LINK GROUP FORECASTS**

We now expect the MPC will keep Bank Rate at 5.25% for the remainder of 2023 and the first half of 2024 to combat on-going inflationary and wage pressures. We do not think that the MPC will increase Bank Rate above 5.25%, but it is possible.

**Gilt yields and PWLB rates**

The overall longer-run trend is for gilt yields and PWLB rates to fall back over the timeline of our forecasts, as inflation starts to fall through the remainder of 2023 and into 2024.

Our target borrowing rates are set **two years forward** (as we expect rates to fall back) and the current PWLB (certainty) borrowing rates are set out below: -

PWLB debt	Current borrowing rate as at 06.11.23 p.m.	Target borrowing rate now (end of Q3 2025)	Target borrowing rate previous (end of Q3 2025)
5 years	5.02%	3.80%	3.90%
10 years	5.15%	3.80%	3.80%
25 years	5.61%	4.20%	4.10%
50 years	5.38%	4.00%	3.90%

**Borrowing advice:** Our long-term (beyond 10 years) forecast for Bank Rate has increased from 2.75% to 3% and reflects Capital Economics' research that suggests AI and general improvements in productivity will be supportive of a higher neutral interest rate. As all PWLB certainty rates are currently significantly above this level, borrowing strategies will need to be reviewed in that context. Overall, better value can generally be obtained at the shorter end of the curve and short-dated fixed LA to LA monies should be considered. Temporary borrowing rates will remain elevated for some time to come but may prove the best option whilst the market continues to wait for inflation, and therefore gilt yields, to drop back later in 2024.

Our suggested budgeted earnings rates for investments up to about three months' duration in each financial year are rounded to the nearest 10bps and set out below. You will note that investment earnings have been revised somewhat higher for all years from 2025/26 as Bank Rate remains higher for longer.

Average earnings in each year	Now	Previously
2023/24 (residual)	5.30%	5.30%
2024/25	4.70%	4.70%
2025/26	3.20%	3.00%
2026/27	3.00%	2.80%
2027/28	3.25%	3.05%
Years 6 to 10	3.25%	3.05%
Years 10+	3.25%	3.05%

As there are so many variables at this time, caution must be exercised in respect of all interest rate forecasts.

Our interest rate forecast for Bank Rate is in steps of 25 bps, whereas PWLB forecasts have been rounded to the nearest 10 bps and are central forecasts within

bands of + / - 25 bps. Naturally, we continue to monitor events and will update our forecasts as and when appropriate.

### **3.4 Borrowing Strategy**

The Authority is currently maintaining an under-borrowed position. This means that the capital borrowing need, (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Authority's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as medium and longer dated borrowing rates are expected to fall from their current levels once prevailing inflation concerns are addressed by tighter near-term monetary policy. That is, Bank Rate remains elevated through to the second half of 2024.

Forward borrowing of £80 million has been undertaken in anticipation of significant capital expenditure over the next two years.

Against this background and the risks within the economic forecast, caution will be adopted with the 2024/25 treasury operations in relation to any further borrowing. The Director of Finance, Resources and Business Improvement will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant likelihood of a sharp FALL in borrowing rates, then further borrowing will be postponed.*
- *if it was felt that there was a significant risk of a much sharper RISE in borrowing rates than that currently forecast, consideration will be given to further forward borrowing whilst interest rates are lower than they are projected to be in the next few years.*

Any decisions will be reported to the Audit, Governance & Standards Committee at the next available opportunity.

### **3.5 Policy on Borrowing in Advance of Need**

The Authority will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure that value for money can be demonstrated and that the Authority can ensure the security of such funds.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

### **3.6 Rescheduling**

Rescheduling of current borrowing in our debt portfolio is not currently envisaged.

If rescheduling is to be undertaken, it will be reported to the Audit, Governance & Standards Committee, at the earliest meeting following its action.

### **3.7 Approved Sources of Long and Short-term Borrowing**

<b>On Balance Sheet</b>	<b>Fixed</b>	<b>Variable</b>
PWLB	●	●
UK Municipal Bond Agency	●	●
Local Authorities	●	●
Banks	●	●
Pension Funds	●	●
Insurance Companies	●	●
UK Infrastructure Bank	●	●
Market (long-term)	●	●
Market (temporary)	●	●
Market (LOBOs)	●	●
Stock Issues	●	●
Local Temporary	●	●
Local Bonds	●	
Local Authority Bills	●	●
Overdraft		●
Negotiable Bonds	●	●
Internal (capital receipts & revenue balances)	●	●
Commercial Paper	●	
Medium Term Notes	●	
Finance Leases	●	●

## 4 ANNUAL INVESTMENT STRATEGY

### 4.1 Investment Policy – Management of Risk

The Department of Levelling Up, Housing and Communities (DLUHC - this was formerly the Ministry of Housing, Communities and Local Government (MHCLG)) and CIPFA have extended the meaning of 'investments' to include both financial and non-financial investments. This report deals solely with treasury (financial) investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets and service investments, are covered in the Capital Strategy, (a separate report).

The Authority's investment policy has regard to the following: -

- DLUHC's Guidance on Local Government Investments ("the Guidance")
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2021 ("the Code")
- CIPFA Treasury Management Guidance Notes 2021

The Authority's investment priorities will be security first, portfolio liquidity second and then yield (return). The Authority will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity and with regard to the Authority's risk appetite.

In the current economic climate, it is considered appropriate to maintain a degree of liquidity to cover cash flow needs but to also consider "laddering" investments for periods up to 12 months with high credit rated financial institutions, whilst investment rates remain elevated, as well as wider range fund options.

The above guidance from the DLUHC and CIPFA places a high priority on the management of risk. This Authority has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

1. Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short-term and long-term ratings.
2. **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Authority will engage with its advisors to maintain a monitor on market pricing such as "**credit default swaps**" and overlay that information on top of the credit ratings.
3. **Other information sources** used will include the financial press, share price and other such information pertaining to the financial sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.

4. This Authority has defined the list of **types of investment instruments** that the treasury management team are authorised to use. There are two lists in use.

**Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year or have less than a year left to run to maturity, if originally they were classified as being non-specified investments solely due to the maturity period exceeding one year.

**Non-specified investments** are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use.

5. **Non-specified and loan investment limits.** The Authority has determined that it will set a limit to the maximum exposure of the total treasury management investment portfolio to non-specified treasury management investments of 25%.
6. **Lending limits**, (amounts and maturity), for each counterparty will be set through applying the matrix table in paragraph 4.2.
7. **Transaction limits** are set for each type of investment in 4.2.
8. This Authority will set a limit for its investments which are invested for **longer than 365 days**, (see paragraph 4.4).
9. Investments will only be placed with counterparties from countries with a specified minimum **sovereign rating**, (see paragraph 4.3).
10. This Authority has engaged **external consultants**, (see paragraph 1.5), to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this Authority in the context of the expected level of cash balances and need for liquidity throughout the year.
11. All investments will be denominated in **sterling**.
12. As a result of the change in accounting standards for 2023/24 under IFRS 9, this Authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund.

This Authority will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance, (see paragraph 4.5). Regular monitoring of investment performance will be carried out during the year.

#### **Changes in risk management policy from last year.**

The above criteria are unchanged from last year.

## 4.2 Creditworthiness Policy

This Authority applies the creditworthiness service provided by the Link Group. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard & Poor's. The credit ratings of counterparties are supplemented with the following overlays: -

1. "watches" and "outlooks" from credit rating agencies;
2. CDS spreads that may give early warning of changes in credit ratings;
3. sovereign ratings to select counterparties from only the most creditworthy countries.

This modelling approach combines credit ratings, and any assigned Watches and Outlooks, in a weighted scoring system which is then combined with an overlay of CDS spreads. The end-product of this is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Authority to determine the suggested duration for investments. The Authority will, therefore, use counterparties within the following durational bands.

- Yellow 5 years \*
- Dark pink 5 years for Ultra-Short Dated Bond Funds with a credit score of 1.25
- Light pink 5 years for Ultra-Short Dated Bond Funds with a credit score of 1.5
- Purple 2 years
- Blue 1 year (only applies to nationalised or semi nationalised UK Banks)
- Orange 1 year
- Red 6 months
- Green 100 days
- No colour not to be used

The Link creditworthiness service uses a wider array of information other than just primary ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preponderance to just one agency's ratings.

Typically, the minimum credit ratings criteria the Authority uses will be a short-term rating (Fitch or equivalents) of F1 and a long-term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances, consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

All credit ratings will be monitored daily. The Authority is alerted to changes to ratings of all three agencies through its use of the Link creditworthiness service.

- if a downgrade results in the counterparty / investment scheme no longer meeting the Authority's minimum criteria, its further use as a new investment will be withdrawn immediately.
- in addition to the use of credit ratings the Authority will be advised of information in movements in Credit Default Swap spreads against the iTraxx European Senior Financials benchmark and other market data on a daily basis via its Passport website, provided exclusively to it by Link. Extreme market

movements may result in downgrade of an institution or removal from the Authority's lending list.

Sole reliance will not be placed on the use of this external service. In addition, this Authority will also use market data and market information, as well as information on any external support for banks to help support its decision-making process.

Y	Pi1	Pi2	P	B	O	R	G	N/C
1	1.25	1.5	2	3	4	5	6	7
Up to 5yrs	Up to 5yrs	Up to 5yrs	Up to 2yrs	Up to 1yr	Up to 1yr	Up to 6mths	Up to 100days	No Colour

	Colour (and long-term rating where applicable)	Money and/or % limit	Transaction limit	Time limit
<b>Banks *</b>	<b>Yellow</b>	<b>£8m</b>	<b>£8m</b>	<b>5yrs</b>
<b>Banks</b>	<b>Purple</b>	<b>£7m</b>	<b>£7m</b>	<b>2 yrs</b>
<b>Banks</b>	<b>Orange</b>	<b>£5m</b>	<b>£5m</b>	<b>1 yr</b>
<b>Banks – part nationalised</b>	<b>Blue</b>	<b>£5m</b>	<b>£5m</b>	<b>1 yr</b>
<b>Banks</b>	<b>Red</b>	<b>£5m</b>	<b>£5m</b>	<b>6 mths</b>
<b>Banks</b>	<b>Green</b>	<b>£3m</b>	<b>£3m</b>	<b>100 days</b>
<b>Banks</b>	<b>No Colour</b>	<b>Not to be used</b>	<b>£0m</b>	
<b>Limit 3 category – Authority's banker (where "No Colour")</b>	<b>-</b>	<b>£1m</b>	<b>£1m</b>	<b>1 day</b>
<b>Other institutions limit</b>	<b>-</b>	<b>£3m</b>	<b>£3m</b>	<b>5yrs</b>
<b>DMADF</b>	<b>UK sovereign rating</b>	<b>unlimited</b>	<b>£5m</b>	<b>6 months</b>
<b>Local authorities</b>	<b>n/a</b>	<b>£8m</b>	<b>£8m</b>	<b>5yrs</b>
<b>Housing associations</b>	<b>Colour bands</b>	<b>£8m</b>	<b>£8m</b>	<b>As per colour band</b>
	Fund rating**	Money and/or % Limit		Time Limit
<b>Money Market Funds CNAV</b>	<b>AAA</b>	<b>£10m</b>	<b>£10m</b>	<b>liquid</b>
<b>Money Market Funds LVNAV</b>	<b>AAA</b>	<b>£10m</b>	<b>£10m</b>	<b>liquid</b>

<b>Money Market Funds VNAV</b>	<b>AAA</b>	<b>£10m</b>	<b>£10m</b>	<b>liquid</b>
<b>Ultra-Short Dated Bond Funds with a credit score of 1.25</b>	<b>Dark Pink / AAA</b>	<b>£8m</b>	<b>£8m</b>	<b>liquid</b>
<b>Ultra-Short Dated Bond Funds with a credit score of 1.50</b>	<b>Light Pink / AAA</b>	<b>£8m</b>	<b>£8m</b>	<b>liquid</b>

\* Please note: the yellow colour category is for UK Government debt, or its equivalent, money market funds and collateralised deposits where the collateral is UK Government debt – see appendix 5.4.

\*\* Please note: “fund” ratings are different to individual counterparty ratings, coming under either specific “MMF” or “Bond Fund” rating criteria.

### **Creditworthiness.**

Significant levels of downgrades to Short and Long-Term credit ratings have not materialised since the crisis in March 2020. In the main, where they did change, any alterations were limited to Outlooks. Nonetheless, when setting minimum sovereign debt ratings, this Authority will not set a minimum rating for the UK

### **CDS prices**

Although bank CDS prices, (these are market indicators of credit risk), spiked upwards during the days of the Truss/Kwarteng government in the autumn of 2022, they have returned to more average levels since then. However, sentiment can easily shift, so it will remain important to undertake continual monitoring of all aspects of risk and return in the current circumstances. Link monitor CDS prices as part of their creditworthiness service to local authorities and the Authority has access to this information via its Link-provided Passport portal.

## **4.3 Limits**

Due care will be taken to consider the exposure of the Authority’s total investment portfolio to non-specified investments, countries, groups and sectors.

- a. **Non-specified treasury management investment limit.** The Authority has determined that it will limit the maximum total exposure of treasury management investments to non-specified treasury management investments as being 25% of the total treasury management investment portfolio.
- b. **Country limit.** The Authority has determined that it will only use approved counterparties from the UK and from countries with a **minimum sovereign credit rating of AA-** from Fitch. The list of countries that qualify using this credit criteria as at the date of this report are shown in Appendix 5.6. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.

**Other limits.** In addition: -

- no more than 25% will be placed with any non-UK country at any time;
- limits in place above will apply to a group of companies/institutions;
- sector limits will be monitored regularly for appropriateness.

#### 4.4 Investment Strategy

**In-house funds.** Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e., rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. The current shape of the yield curve suggests that is the case at present, but there is the prospect of Bank Rate having peaked in the second half of 2023 and possibly reducing as early as the second half of 2024 so an agile investment strategy would be appropriate to optimise returns.

Accordingly, while most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer-term investments will be carefully assessed.

#### **Investment returns expectations.**

The current forecast shown in paragraph 3.3, includes a forecast for Bank Rate to have peaked at 5.25% in Q4 2023.

The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows: -

Average earnings in each year	
2023/24 (residual)	5.30%
2024/25	4.70%
2025/26	3.20%
2026/27	3.00%
2027/28	3.25%
Years 6 to 10	3.25%
Years 10+	3.25%

As there are so many variables at this time, caution must be exercised in respect of all interest rate forecasts.

For its cash flow generated balances, the Authority will seek to utilise its business reserve instant access and notice accounts, Money Market Funds and short-dated

deposits, (overnight to 100 days), in order to benefit from the compounding of interest.

**Investment treasury indicator and limit** - total principal funds invested for greater than 365 days. These limits are set with regard to the Authority's liquidity requirements and to reduce the need for early sale of an investment and are based on the availability of funds after each year-end.

The Authority is asked to approve the following treasury indicator and limit: -

<b>Upper limit for principal sums invested for longer than 365 days</b>			
<b>£m</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>
Principal sums invested for longer than 365 days	£5m	£5m	£5m
Current investments as at 31.12.23 in excess of 1 year maturing in each year	£0m	£0m	£0m

#### **4.5 Investment Performance / Risk Benchmarking**

This Authority will use an investment benchmark to assess the investment performance of its investment portfolio of 3 month SONIA Rate.

#### **4.6 End of Year Investment Report**

At the end of the financial year, the Authority will report on its investment activity as part of its Annual Treasury Report.

#### **4.7 External Fund Managers**

£18.185m of the Council's funds are externally managed within Money Market Funds with the following institutions:

- Aberdeen Standard Investments
- Federated Investors (UK) LLP
- CCLA – The Public Sector Deposit Fund

The Authority's external fund managers will comply with the Annual Investment Strategy. The agreements between the Authority and the fund managers additionally stipulate guidelines on duration and other limits in order to contain and control risk.

The Authority fully appreciates the importance of monitoring the activity and resultant performance of its appointed external fund manager. In order to aid this assessment, the Authority is provided with a suite of regular reporting from its manager.

## **5 APPENDICES**

1. Economic background
2. Approved countries for investments
3. Treasury management scheme of delegation
4. The treasury management role of the section 151 officer
5. Key Considerations

## 5.1 ECONOMIC BACKGROUND

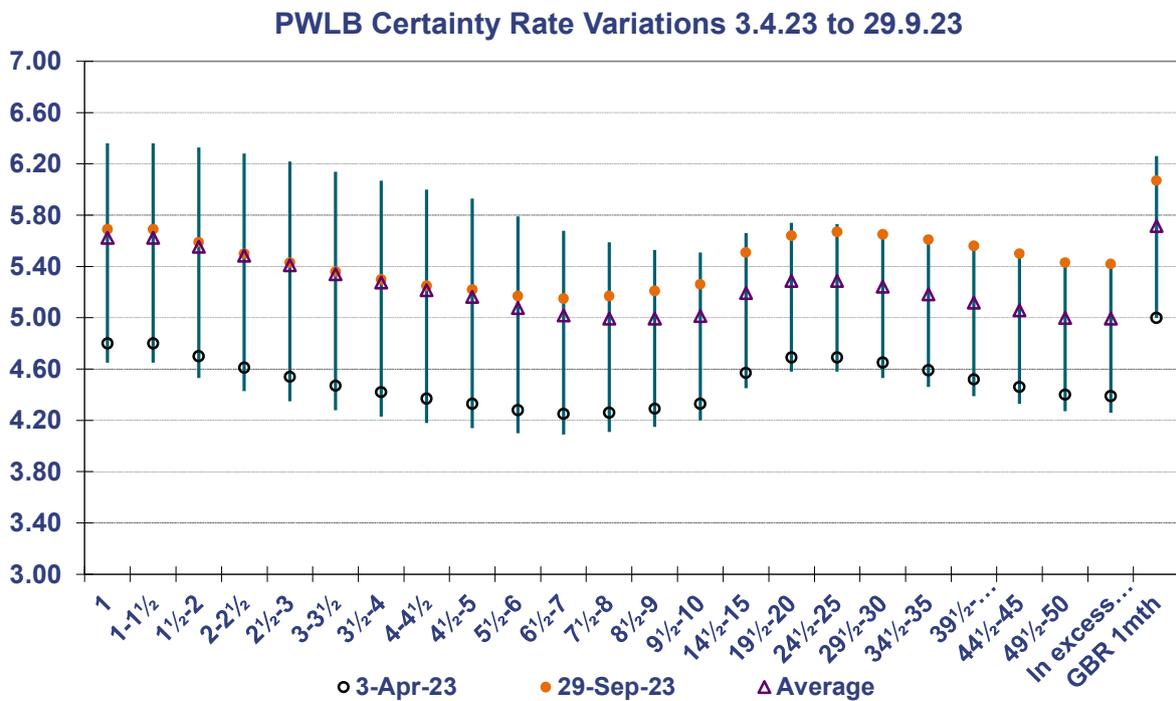
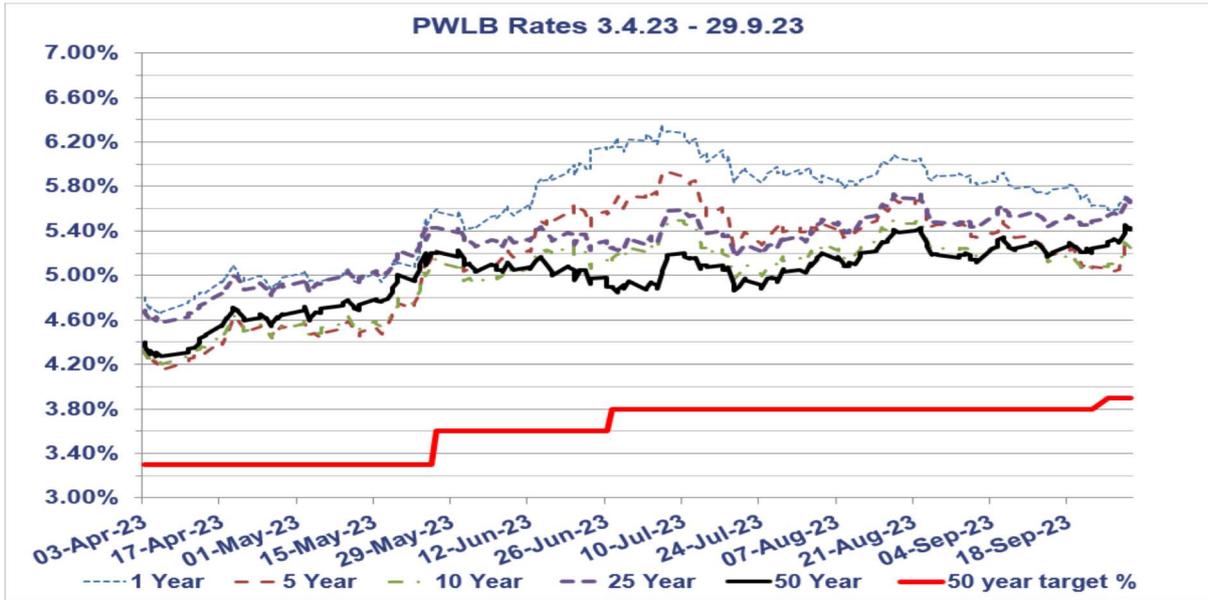
- The first half of 2023/24 saw:
  - Interest rates rise by a further 100bps, taking Bank Rate from 4.25% to 5.25% and, possibly, the peak in the tightening cycle.
  - Short, medium and long-dated gilts remain elevated as inflation continually surprised to the upside.
  - CPI inflation falling from 8.7% in April to 6.7% in September, its lowest rate since February 2022, but still the highest in the G7.
  - Core CPI inflation declining to 6.1% in September from 7.1% in April and May, a then 31 years high.
  - A cooling in labour market conditions, but no evidence yet that it has led to an easing in wage growth (as the 3myy growth of average earnings rose by 7.8% for the period June to August, excluding bonuses).
- The registering of 0% GDP for Q3 suggests that underlying growth has lost momentum since earlier in the year. Some of the weakness in July was due to there being almost twice as many working days lost to strikes in July (281,000) than in June (160,000). But with output falling in 10 out of the 17 sectors, there is an air of underlying weakness.
- The fall in the composite Purchasing Managers Index from 48.6 in August to 46.7 in September left it at its lowest level since COVID-19 lockdowns reduced activity in January 2021. At face value, it is consistent with the 0% q/q rise in real GDP in the period July to September, being followed by a contraction in the next couple of quarters.
- The 0.4% m/m rebound in retail sales volumes in August is not as good as it looks as it partly reflected a pickup in sales after the unusually wet weather in July. Sales volumes in August were 0.2% below their level in May, suggesting much of the resilience in retail activity in the first half of the year has faded.
- As the growing drag from higher interest rates intensifies over the next six months, we think the economy will continue to lose momentum and soon fall into a mild recession. Strong labour demand, fast wage growth and government handouts have all supported household incomes over the past year. And with CPI inflation past its peak and expected to decline further, the economy has got through the cost-of-living crisis without recession. But even though the worst of the falls in real household disposable incomes are behind us, the phasing out of financial support packages provided by the government during the energy crisis means real incomes are unlikely to grow strongly. Higher interest rates will soon bite harder too. We expect the Bank of England to keep interest rates at the probable peak of 5.25% until the second half of 2024. Mortgage rates are likely to stay above 5.0% for around a year.
- The tightness of the labour market continued to ease, with employment in the three months to July falling by 207,000. The further decline in the number of job vacancies from 1.017m in July to 0.989m in August suggests that the labour market has loosened a bit further since July. That is the first time it has fallen below 1m since July 2021. At 3.0% in July, and likely to have fallen to

2.9% in August, the job vacancy rate is getting closer to 2.5%, which would be consistent with slower wage growth. Meanwhile, the 48,000 decline in the supply of workers in the three months to July offset some of the loosening in the tightness of the labour market. That was due to a 63,000 increase in inactivity in the three months to July as more people left the labour market due to long term sickness or to enter education. The supply of labour is still 0.3% below its pre-pandemic February 2020 level.

- But the cooling in labour market conditions still has not fed through to an easing in wage growth. The headline 3myy rate rose 7.8% for the period June to August, which meant UK wage growth remains much faster than in the US and in the Euro-zone. Moreover, while the Bank of England's closely watched measure of regular annual average total pay growth for the private sector was 7.1% in June to August 2023, for the public sector this was 12.5% and is the highest total pay annual growth rate since comparable records began in 2001. However, this is affected by the NHS and civil service one-off non-consolidated payments made in June, July and August 2023. The Bank of England's prediction was for private sector wage growth to fall to 6.9% in September.
- CPI inflation declined from 6.8% in July to 6.7% in August and September, the lowest rate since February 2022. The biggest positive surprise was the drop in core CPI inflation, which declined from 6.9% to 6.1%. That reverses all the rise since March.
- In its latest monetary policy meeting on 06 November, the Bank of England left interest rates unchanged at 5.25%. The vote to keep rates on hold was a split vote, 6-3. It is clear that some members of the MPC are still concerned about the stickiness of inflation.
- Like the US Fed, the Bank of England wants the markets to believe in the higher for longer narrative. In terms of messaging, the Bank once again said that "further tightening in monetary policy would be required if there were evidence of more persistent inflationary pressures", citing the rise in global bond yields and the upside risks to inflation from "energy prices given events in the Middle East". So, like the Fed, the Bank is keeping the door open to the possibility of further rate hikes. However, it also repeated the phrase that policy will be "sufficiently restrictive for sufficiently long" and that the "MPC's projections indicate that monetary policy is likely to need to be restrictive for an extended period of time". Indeed, Governor Bailey was at pains in his press conference to drum home to markets that the Bank means business in squeezing inflation out of the economy.
- This narrative makes sense as the Bank of England does not want the markets to decide that a peak in rates will be soon followed by rate cuts, which would loosen financial conditions and undermine its attempts to quash inflation. The language also gives the Bank of England the flexibility to respond to new developments. A rebound in services inflation, another surge in wage growth and/or a further leap in oil prices could conceivably force it to raise rates in the future.

In the table below, the rise in gilt yields across the curve as a whole in 2023/24, and therein PWLB rates, is clear to see.

#### **PWLB RATES 01.04.23 - 29.09.23**



**HIGH/LOW/AVERAGE PWLB RATES FOR 01.04.23 – 29.09.23**

	1 Year	5 Year	10 Year	25 Year	50 Year
<b>Low</b>	4.65%	4.14%	4.20%	4.58%	4.27%
<b>Date</b>	06/04/2023	06/04/2023	06/04/2023	06/04/2023	05/04/2023
<b>High</b>	6.36%	5.93%	5.51%	5.73%	5.45%
<b>Date</b>	06/07/2023	07/07/2023	22/08/2023	17/08/2023	28/09/2023
<b>Average</b>	5.62%	5.16%	5.01%	5.29%	5.00%
<b>Spread</b>	1.71%	1.79%	1.31%	1.15%	1.18%

The peak in medium to longer dated rates has generally arisen in August and September and has been primarily driven by continuing high UK inflation, concerns

that gilt issuance may be too much for the market to absorb comfortably, and unfavourable movements in US Treasuries.

The S&P 500 and FTSE 100 have struggled to make much ground through 2023.

### **CENTRAL BANK CONCERNS**

Currently, the Fed has pushed up US rates to a range of 5.25% to 5.5%, whilst the MPC followed by raising Bank Rate to 5.25%. EZ rates have also increased to 4% with further tightening a possibility.

Ultimately, however, from a UK perspective it will not only be inflation data but also employment data that will mostly impact the decision-making process, although any softening in the interest rate outlook in the US may also have an effect (just as, conversely, greater tightening may also).

## 5.2 APPROVED COUNTRIES FOR INVESTMENTS

This list is based on those countries which have sovereign ratings of AA- or higher, (we show the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong and Luxembourg), have banks operating in sterling markets which have credit ratings of green or above in the Link creditworthiness service.

### *Based on lowest available rating*

#### **AAA**

- Australia
- Denmark
- Germany
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

#### **AA+**

- Canada
- Finland
- U.S.A.

#### **AA**

- Abu Dhabi (UAE)

#### **AA-**

- Belgium
- France
- Qatar
- **U.K.**

### **5.3 TREASURY MANAGEMENT SCHEME OF DELEGATION**

#### **(i) Full council**

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

#### **(ii) Audit Governance & Standards Committee/ Cabinet / Full Council**

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

#### **(iii) Audit Governance & Standards Committee**

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

## 5.4 THE TREASURY MANAGEMENT ROLE OF THE SECTION 151 OFFICER

### The S151 (responsible) officer

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit;
- recommending the appointment of external service providers.
- preparation of a Capital Strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long-term timeframe (*say 20+ years – to be determined in accordance with local priorities.*)
- ensuring that the Capital Strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
- ensure that the Authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
- ensuring the proportionality of all investments so that the Authority does not undertake a level of investing which exposes the Authority to an excessive level of risk compared to its financial resources
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long-term liabilities
- provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
- ensuring that members are adequately informed and understand the risk exposures taken on by the Authority
- ensuring that the Authority has adequate expertise, either in house or externally provided, to carry out the above
- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following: -
  - *Risk management (TMP1 and schedules), including investment and risk management criteria for any material non-treasury investment portfolios;*

- *Performance measurement and management (TMP2 and schedules), including methodology and criteria for assessing the performance and success of non-treasury investments;*
- *Decision making, governance and organisation (TMP5 and schedules), including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making;*
- *Reporting and management information (TMP6 and schedules), including where and how often monitoring reports are taken;*
- *Training and qualifications (TMP10 and schedules), including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.*



## Key Considerations

### **2021 revised CIPFA Treasury Management Code and Prudential Code – changes which will impact on future TMSS/AIS reports and the risk management framework**

CIPFA published the revised Codes on 20th December 2021 and stated that revisions need to be included in the reporting framework from the 2023/24 financial year. This Authority, therefore, has to have regard to these Codes of Practice when it prepares the Treasury Management Strategy Statement and Annual Investment Strategy, and also related reports during the financial year, which are taken to Full Council for approval.

### **The revised Treasury Management Code required all investments and investment income to be attributed to one of the following three purposes:**

-

#### **Treasury management**

Arising from the organisation's cash flows or treasury risk management activity, this type of investment represents balances which are only held until the cash is required for use. Treasury investments may also arise from other treasury risk management activity which seeks to prudently manage the risks, costs or income relating to existing or forecast debt or treasury investments.

#### **Service delivery**

Investments held primarily and directly for the delivery of public services including housing, regeneration and local infrastructure. Returns on this category of investment which are funded by borrowing are permitted only in cases where the income is "either related to the financial viability of the project in question or otherwise incidental to the primary purpose".

#### **Commercial return**

Investments held primarily for financial return with no treasury management or direct service provision purpose. Risks on such investments should be proportionate to an authority's financial capacity – i.e., that 'plausible losses' could be absorbed in budgets or reserves without unmanageable detriment to local services. An authority must not borrow to invest primarily for financial return.

### **The revised Treasury Management Code requires an authority to implement the following: -**

- 1. Adopt a liability benchmark treasury indicator** to support the financing risk management of the capital financing requirement; this is to be shown in chart form for a minimum of ten years, with material differences between the liability benchmark and actual loans to be explained;
- 2. Long-term treasury investments**, (including pooled funds), are to be classed as commercial investments unless justified by a cash flow business case;
- 3. Pooled funds** are to be included in the indicator for principal sums maturing in years beyond the initial budget year;

4. Amendment to the **knowledge and skills register** for officers and members involved in the treasury management function - to be proportionate to the size and complexity of the treasury management conducted by each authority;
5. **Reporting to members is to be done quarterly.** Specifically, the Chief Finance Officer (CFO) is required to establish procedures to monitor and report performance against all forward-looking prudential indicators at least quarterly. The CFO is expected to establish a measurement and reporting process that highlights significant actual or forecast deviations from the approved indicators. However, monitoring of prudential indicators, including forecast debt and investments, is not required to be taken to Full Council and should be reported as part of the authority's integrated revenue, capital and balance sheet monitoring;
6. **Environmental, social and governance (ESG)** issues to be addressed within an authority's treasury management policies and practices (TMP1).

**The main requirements of the Prudential Code relating to service and commercial investments are: -**

1. The risks associated with service and commercial investments should be proportionate to their financial capacity – i.e. that plausible losses could be absorbed in budgets or reserves without unmanageable detriment to local services;
2. An authority must not borrow to invest for the primary purpose of commercial return;
3. It is not prudent for local authorities to make any investment or spending decision that will increase the CFR, and so may lead to new borrowing, unless directly and primarily related to the functions of the authority, and where any commercial returns are either related to the financial viability of the project in question or otherwise incidental to the primary purpose;
4. An annual review should be conducted to evaluate whether commercial investments should be sold to release funds to finance new capital expenditure or refinance maturing debt;
5. A prudential indicator is required for the net income from commercial and service investments as a proportion of the net revenue stream;
6. Create new Investment Management Practices to manage risks associated with non-treasury investments, (similar to the current Treasury Management Practices).

**An authority's Capital Strategy or Annual Investment Strategy should include: -**

1. The authority's approach to investments for service or commercial purposes (together referred to as non-treasury investments), including defining the authority's objectives, risk appetite and risk management in respect of these investments, and processes ensuring effective due diligence;
2. An assessment of affordability, prudence and proportionality in respect of the authority's overall financial capacity (i.e., whether plausible losses could

be absorbed in budgets or reserves without unmanageable detriment to local services);

- 3.** Details of financial and other risks of undertaking investments for service or commercial purposes and how these are managed;
- 4.** Limits on total investments for service purposes and for commercial purposes respectively (consistent with any limits required by other statutory guidance on investments);
- 5.** Requirements for independent and expert advice and scrutiny arrangements (while business cases may provide some of this material, the information contained in them will need to be periodically re-evaluated to inform the authority's overall strategy);
- 6.** State compliance with paragraph 51 of the Prudential Code in relation to investments for commercial purposes, in particular the requirement that an authority must not borrow to invest primarily for financial return.

As this TMSS and AIS deals solely with treasury management investments, the categories of service delivery and commercial investments should be addressed as part of the Capital Strategy report.

However, as investments in commercial property have implications for cash balances managed by the treasury team, it will be for each authority to determine whether to add a high level summary of the impact that commercial investments have, or may have, if it is planned to liquidate such investments within the three year time horizon of this report, (or a longer time horizon if that is felt appropriate).

# **MAIDSTONE BOROUGH COUNCIL CAPITAL STRATEGY 2024/25**

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## 1. INTRODUCTION

- 1.1. CIPFA's Prudential Code, which governs the Council's capital investment and borrowing, requires councils to have a Capital Strategy. This document should provide a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of local public services, along with a description of how associated risk is managed and the implications for future financial sustainability.
- 1.2. Accordingly, the Capital Strategy articulates in a single place a number of strategies and policies that the Council already addresses elsewhere: it is an overarching document linking the Strategic Plan, the Medium-Term Financial Strategy, the Treasury Management Strategy and the Asset Management Plan.
- 1.3. The strategy focuses upon the long-term ambition of the Council for its local area, residents and business, and is aligned with the Strategic Plan in this regard. It is not purely a financial document but a whole organisation approach setting out how investment will support the delivery of the Council's strategic goals.

## **2. CAPITAL EXPENDITURE AND LINKS TO OTHER CORPORATE STRATEGIES**

### **Strategic Plan**

- 2.1. Capital expenditure at Maidstone Borough Council plays a vital part in the Council's Strategic Plan, since long term investment is required to deliver many of the objectives of the plan.
- 2.2. The current Strategic Plan went through a thorough process of discussion and refinement over the period June – October 2018 and was approved by Council on 12 December 2018. It sets out four objectives, as follows:
  - Embracing Growth and Enabling Infrastructure.
  - Homes and Communities.
  - A Thriving Place.
  - Safe, Clean and Green.

The ways in which capital expenditure can support these priorities are described below.

#### *Embracing Growth and Enabling Infrastructure*

- 2.3. The Council has a vital role in leading and shaping our borough as it grows. This means being proactive in policy and master planning for key sites in the borough, and where appropriate, investing directly ourselves.
- 2.4. Separate objectives, set out below, address specifically the development of new housing, and other investments intended to make Maidstone a thriving place. In order to enable these developments to take place, investment in infrastructure will be needed. In general, infrastructure schemes are funded from the benefits gained from the development. To address any potential funding gap, the Council will enable infrastructure spending, to the extent that it meets our strategic priorities.

#### *Home and Communities*

- 2.5. The Strategic Plan seeks to make Maidstone a place where people love to live and can afford to live. This means a range of different types of homes, including affordable housing.
- 2.6. We aim, and are required by law, to address homelessness and rough sleeping. The Council has invested in temporary accommodation for homeless families, thereby ensuring a good standard of accommodation and providing a more cost-effective solution than is offered by the private sector.

#### *A Thriving Place*

- 2.7. The Strategic Plan seeks to make Maidstone a borough that is open for business, attractive for visitors and is an enjoyable and prosperous place to live for our residents. This can be achieved through investment in the County town and rural service centres.
- 2.8. There are a number of ways in which the Council will take the lead, including working with partners and through direct investment ourselves. The Council has a successful track record of acquiring property within the borough to support wider regeneration objectives. These acquisitions both generate a return that supports the viability of the investment and contribute to making Maidstone a thriving place. We will continue to seek good quality investment opportunities which deliver value and support our strategic goals.
- 2.9. Where appropriate, we will seek to achieve the necessary scale of investment by identifying joint venture partners. The amount available for direct investment by Maidstone Council is governed by the overall size of the capital programme, but we will adopt a flexible approach within this constraint in order to take advantage of investment opportunities that meet our criteria.

*Safe, Clean and Green*

- 2.10. The Council seeks to protect and where possible enhance our environment and to make sure our parks, green spaces, streets and public areas are of a high quality.

### **Capital Programme Proposals**

- 2.11. Capital Programme proposals have been developed based on the principles set out above and reflect the strategic priorities agreed by Council when it set the current Strategic Plan. The Capital Programme 2024/25 to 2033/34 sets out the recommended programme for schemes which were programmed within the existing capital programme together with new schemes that it is now proposed to include within the capital programme. Details of some of the larger schemes are set out below.

Private Rented Sector Housing Programme - £99.8 million

This encompasses a number of schemes that are in the process of being identified and brought forward, where PRS housing will form part of a mix of tenures alongside Affordable Housing. This covers projects such as Maidstone East and Springfield library, but at this stage in the main are not contractually committed. These will be the subject of separate committee reports at the point a decision to proceed or not is required. All these PRS assets will be owned by the Council but leased (on a long-term basis) upon completion to Maidstone Property Holdings Limited to manage.

1,000 Homes Affordable Housing Programme - £155.7 million

In the Autumn of 2021, The Leader of the Council announced his ambition to build 1,000 affordable homes in the shortest period possible. A

development strategy setting out how this ambition can best be achieved was agreed by Policy & Resources Committee on 19th January 2022. It is likely that the whole programme will take ten years to deliver. The programme is likely to provide only Affordable Rented homes that will be let at 80% of market rent, capped at the Local Housing Allowance. The expenditure shown includes grant receipts from the likes of Homes England that will be necessary to deliver the programme. Assumptions have been made around the level of funding that could be received and this is dealt with in the funding section of this report. During 2023/24 a number of sites were identified and they are schemes that are now being actively developed.

#### Temporary Accommodation - £20.0 million

The Council has a programme to acquire housing on the open market for temporary accommodation, as it is more cost-effective to use our own property for this purpose and enables delivery of a revenue saving. It is proposed to buy further units in 2024/25 to help deal with the rising numbers of people who are being made homeless because of the current economic crisis.

#### Commercial and Community Developments £3.8m

The New Business and Housing Development team are in the process of preparing and submitting a planning application for the sites including Maidstone East, St Faiths Community Centre and Heather House Community Centre.

#### Disabled Facilities Grants - £8.0 million

The Council works with Kent County Council Social Services to deliver adaptations and facilities to enable disabled people to remain at home. This element of the capital programme therefore has a directly beneficial impact for individual local residents. Assistance under this budget is not funded by the Council but is funded from the Department of Health Better Care Fund (BCF) as a specific capital grant.

#### Parks Improvements - £1.1 million

This is an annual budget to allow for any works that are identified in the parks to be undertaken to improve the standard of the facilities for the public when they visit the parks.

#### Parks & Open Spaces Infrastructure Maintenance – £2.0 million

Ongoing investment in the infrastructure of the parks will enable the revenue budgets to remain focused on delivering the more regular maintenance such as shrub bed pruning, grass cutting, weeding etc and on ensuring the parks are safe and functional for residents and visitors. Poor maintenance of the parks infrastructure will also impact on the parks revenue budgets due to insurance claims or having to close sections of pathway.

#### Section 106 Funded Works Open Spaces – £4.0 million

This reflects open spaces capital projects that are funded by S.106 contributions. These works have been taking place for a number of years, but it is considered appropriate that the programme reflects this to show the total forecast capital expenditure.

Purchase of New Waste Collection Vehicles - £6.4 million

Funding is allocated within the Capital Programme for the purchase of the waste collection fleet that forms part of the new contract for Refuse Collection due to commence in March 2024. Replacement of the fleet is envisaged seven year later when the fleet acquired in March 2024 has reached the end of its useful life.

Existing Leisure Centre – Capital Improvements £2.2 million

Cabinet considered proposals for minor capital improvements to the Leisure Centre at its meeting on 8 February 2023. The purpose was to reduce costs and generate increased revenue over the likely extension period of the existing contract. This was agreed by Cabinet and built into the capital programme for 2023/24. As this work has been dependent on decisions about extension of the contract, it has not started as yet, and the majority of the expenditure is now likely to slip to 2024/25.

New Leisure Centre - £60.0 million

The Council is committed to providing leisure services that are accessible to all the borough's residents. This follows from the Council's strategic priorities, and in particular the cross-cutting priority of addressing and reducing health inequalities.

The existing Mote Park Leisure Centre is over 50 years old. It is becoming increasingly expensive to maintain and detracts from the Council's net zero carbon emissions objective. Modelling presented to this Committee's predecessor in February 2023 indicated that the optimum time for a replacement, or at the very least a significantly refurbishment, would be towards the end of the extension period for the existing leisure contract (which is subject to a separate report on this agenda). It was reported in February 2023 that projected capital costs for a new build leisure centre would be in the region of £40 million. A Passivhaus centre or more sophisticated design would cost in excess of £50m. Owing to the complexity of a major refurbishment, the capital costs arising would be at least £35 million, ie not significantly less than the cost of a complete replacement.

It is proposed to make provision in the capital programme for £60 million, which would offer the opportunity to build a new leisure centre commensurate with the Council's ambitions, given current prices. Expenditure is profiled over the next six years, with some initial investment in design and feasibility in 2024/25 and a build programme extending over the three years 2027/28 to 2028/29. All opportunities to source external funding to mitigate the cost to the Council will be explored. At this stage the proportion to be externally funded cannot be estimated, so the figure of £60 million represents the gross cost of a new leisure centre.

Asset Management / Corporate Property - £3.07 million

The Property Services section carries out a 5-year cycle of condition surveys of Council property which provide a costed programme of essential replacement or refurbishment of building elements to ensure the proper, compliant and efficient operation of the buildings in accordance

with the Asset Management Plan. There is no financial return from the projects, but they do eliminate the accumulation of a backlog of maintenance, reduce the risk of failure and interruption of service and the cost of reactive maintenance.

#### Corporate Property Acquisitions - £25.0 million

It is envisaged that the Council will continue to seek further suitable opportunities to acquire assets which help deliver the Council's strategic objectives, following the previous acquisitions of the Lockmeadow Leisure Complex, Maidstone House and various industrial units. The capital programme includes this fund which is intended to give the capacity to pursue opportunities to enhance the corporate property portfolio. The Council continues to work with selected agents to identify suitable opportunities and these will be brought forward for member approval when identified.

#### Infrastructure Delivery - £10.0 million

Infrastructure schemes as outlined in the Local Plan are in general funded directly from the benefits gained from the development. However, in some cases, it is appropriate for the Council to invest directly in infrastructure, for example where viability assessments indicate a funding gap and where it is appropriate for the Council to meet the shortfall in order to enable strategic priorities to be met. An annual amount of £1.0 million has been set aside within the capital programme for this purpose. Including rolled up unspent budget from previous years, this gives a total allocation of £6.2 million over the lifetime of the capital programme.

#### Biodiversity & Climate Change - £14.867 million

This funding will be used for a number of projects including the purchase of electric vehicles along with investment in charging infrastructure, carbon offsetting, solar investment and looking to make the Council's buildings more energy efficient with a view to reducing both costs and carbon emissions.

#### Fleet Vehicle Replacement Programme - £3.248 million

Vehicle purchases have been capitalised previously but not included on the programme. Funding comes from capital receipts including the sale of vehicles when they reach the end of their useful life.

Planning, Infrastructure & Economic Development

A full list of the Council's Capital Programme can be found within Table 1 on page 14.

## **Medium-Term Financial Strategy**

- 2.12. The Medium Term Financial Strategy (MTFS) sets out in financial terms how the Council will deliver its Strategic Plan over the next five years. The Council adopted a Strategic Plan for the period 2021 – 2045 in December 2018, and the existing MTFS for the period 2024/25 to 2028/29 reflects the Strategic Plan. The new MTFS will continue to reflect the Strategic Plan priorities.

- 2.13. The Strategic Plan depends on the Council's financial capacity and capability. Accordingly, the MTFs considers the economic environment and the Council's own current financial position. The external environment is challenging because of high inflation and the state of the UK's public finances. In assessing the Council's own financial position, attention is paid to its track record of budget management, current financial performance and the level of reserves that it holds. It is imperative that the MTFs both ensures Maidstone Council's continuing financial resilience and is sufficiently flexible to accommodate a range of potential scenarios. The Council has prepared financial projections under different scenarios, continuing a practice that has been followed for several years. The MTFs sets out financial projections based on the assumption that inflation will remain elevated and central government continues to give the council limited funding flexibility. The MTFs sets out a proposed approach which will address the budget gap in 2024/25. The position in future years is much more challenging and will require a more radical approach.
- 2.14. The Council's strategic priorities are met not only through day-to-day revenue spending but also through capital investment. The MTFs makes clear that the council's programme of building 1,000 Affordable Homes will be the principal element of the Capital Strategy.
- 2.15. Below is a table of the latest draft capital programme which is due to be discussed at Corporate Services Policy Advisory Committee on 17<sup>th</sup> January 2024.

The draft MTFs was approved by Cabinet on 20<sup>th</sup> September 2023.

### **Treasury Management Strategy**

- 2.16. The Treasury Management Strategy sets out how the Council manages its investments and cash flows, including banking, money market and capital market transactions, and how optimum performance is assured whilst managing the risks associated with these activities.
- 2.17. These specific aspects of the Treasury Management Strategy addresses the Council's capital expenditure plans and how borrowing needs are met. Capital expenditure is funded from the internal resources, borrowing and third party contributions such as Section 106 and Community Infrastructure Levy (CIL) payments on new developments and grant funding, eg from Homes England. The Council allocates some internal resources to fund capital expenditure, including revenue funding and internal borrowing, along with external funding via grant funding and borrowing externally. Long term borrowing costs have been budgeted for within the MTFs. The Council currently has £5m of long-term loans with the PWLB, and has also committed to £80m long term funding through Aviva Life & Pensions UK Limited, paid in tranches over the next 3 years, the first £40m being received in February 2024.

- 2.18. The Prudential Code 2021 requires that Authorities include a long-term projection of external debt and the capital financing requirement (CFR). This projection should enable review of how the level of underlying borrowing for capital purposes (the CFR) is offset by other cash flows and balances, which (in nearly all authorities) reduce the level of actual debt required. This can be found within the Treasury Management Strategy Statement (TMSS) 2024/25.

### **Asset Management Plan**

- 2.19. The longer term maintenance of the Council's capital assets is addressed by the Council's Asset Management Plan. The Asset Management Plan ensures that the Council's assets, as a resource, support the delivery of the Council's objectives by:-
- Providing a suitable standard of accommodation for services including those shared with other authorities
  - Maintaining property assets and ensuring that they continue to represent an appropriate investment for the Council
  - Providing an asset management service to the property holding company
  - Meeting the needs of the local community by maintaining assets in parks and open spaces and other community assets
  - Safeguarding local heritage through ownership and preservation of historic and scheduled ancient monuments.

The current capital programme includes a provision of £1.2 million for Corporate Property Improvements and improvements and £880k for works to industrial properties. There is also a provision of £2.75m for works to the offices of Maidstone House, based on the requirements of the Asset Management Plan.

The Asset Management Strategy is currently under review for the Council's Housing and Property Portfolios. This work is due to be completed during 2024.

## **3. GOVERNANCE FRAMEWORK**

### **Background**

- 3.1. Capital expenditure proposals are developed in response to the Council's strategic priorities, as described in the previous section. Individual schemes are incorporated in the capital programme, which is included within the Council's Medium Term Financial Strategy.
- 3.2. The MTFS states that capital schemes will be reviewed and developed so that investment is focused on strategic priorities. The MTFS is updated on an annual basis, as part of the annual budget cycle.

- 3.3. Subsequent to preparation of the MTFs and its approval by Council each year, capital estimates form part of the annual budget that is submitted to Council for approval.

### **Developing capital expenditure proposals**

- 3.4. The development of capital expenditure proposals follows certain core principles for the inclusion of schemes within the capital programme. Schemes may be included in the capital programme if they fall within one of the four following categories:
- (i) Required for statutory reasons, eg to ensure that Council property meets health and safety requirements;
  - (ii) Self-funding schemes focused on Strategic Plan priority outcomes;
  - (iii) Other schemes focused on Strategic Plan priority outcomes; and
  - (iv) Other priority schemes which will attract significant external funding.
- 3.5. All schemes within the capital programme are subject to appropriate option appraisal. Any appraisal must comply with the requirements of the Prudential Code and the following locally set principles:
- (a) Where schemes fit within a specific strategy and resources are available within the capital programme for that strategy, such as the Asset Management Plan, the schemes would also be subject to appraisal and prioritisation against the objectives of that strategy. These schemes must be individually considered and approved by the relevant service committee.
  - (b) Where schemes require the use of prudential borrowing, a business case must first be prepared setting out the viability and justification in terms of necessity or contribution to the delivery of strategic goals
  - (c) Where schemes might improve the Environmental, Social and Governance (ESG) issues that are important to the Council. Some examples would be:
    - Promoting greater environmental sustainability
    - Local Community benefits
    - Ethical sourcing practices
- 3.6. Where schemes do not fit within the criteria above but an appropriate option appraisal has been completed, they may still be included within the programme if they fall within one of the four categories set out above.
- 3.7. If, following all considerations, there are a number of approved schemes that cannot be accommodated within the current programme, a prioritised list of schemes that can be added to the programme as future resources permit will be created and approved by the relevant Committee, thus allowing officers to focus funding efforts on delivering schemes that are next in priority order.

- 3.8. The MTFS requires the Council to identify actual funding before commencement of schemes. Accordingly, while schemes may be prioritised for the programme, ultimately commencement of any individual scheme can only occur once all the necessary resources have been identified and secured.
- 3.9. The MTFS principles require that the Council will maximise the resources available to finance capital expenditure, in line with the requirements of the Prudential Code, through:
- (a) The use of external grants and contributions, subject to maintaining a focus on the priority outcomes of its own strategies;
  - (b) Opportunities to obtain receipts from asset sales as identified in the Asset Management Plan and approved for sale by Policy and Resources Committee;
  - (c) The approval of prudential borrowing when the following criteria also apply to the schemes funded by this method:
    - i. financial viability of the schemes can be clearly evidenced;
    - ii. the outcome returns economic value commensurate to the cost incurred by borrowing to fund the schemes;
    - iii. after covering the cost of funding, a further benefit accrues to the Council that directly or indirectly supports the objectives of the strategic plan or the medium term financial strategy.
  - (d) The use of residual one-off funding such as New Homes Bonus for capital purposes (after any topslice to support the revenue budget), in line with the Council's strategic plan priorities;
  - (e) Council's strategic plan priorities'. This is because NHB is now partially replaced by the Funding Guarantee, so we need to make the wording more generic ;
  - (f) The implementation of a community infrastructure levy (CIL) and the management of its use, along with other developer contributions (S106), to deliver the objectives of the infrastructure delivery plan.
- 3.10. Service managers submit proposals to include projects in the Council's capital programme. Bids are collated by the Finance Section who calculate the financing cost (which can be nil if the project is fully externally financed). Each Committee appraises the proposals with reference to corporate priorities set out in the strategic plan. Corporate Service Policy Advisory Committee recommends the capital programme which is then presented to Council in March each year.
- 3.11. Prior to any capital commitment being entered into, a detailed report setting out a full project appraisal and detailed financial projections is considered by the relevant service committee.
- 3.12. All capital expenditure must be financed, either from external sources (government grants and other contributions), the Council's own resources (revenue, reserves and capital receipts) or debt (borrowing, leasing and

Private Finance Initiative). Further details are set out in section 4 of the Capital Strategy.

### **Performance Monitoring**

- 3.13. The Council has a corporate project management framework that applies to most of the projects included within the capital programme. This provides for designation of a project manager and sponsor, and includes a mechanism for progress on corporate projects to be reported quarterly to a Corporate Projects Board.
- 3.14. The delivery of the capital programme and emerging schemes are also subject to oversight by the Strategic Investment Board, which meets regularly throughout the year. Membership of the board includes the Chief Executive (Chair), Director of Finance, Resources and Business Improvement, Director of Regeneration and Place, Monitoring Officer and Head of Finance.
- 3.15. Financial monitoring of capital projects is addressed by the Council's Financial Procedure Rules. Individual Member Service Committees receive quarterly reports on capital expenditure for the services for which they are responsible.

### **Capitalisation**

- 3.16. Accounting principles govern what counts as capital expenditure. Broadly, it must yield benefits to the Council and the services it provides, for a period of more than one year. This excludes expenditure on routine repairs and maintenance of non-current assets which are charged directly to service revenue accounts.
- 3.17. The Council has adopted a minimum threshold of £10,000 for capitalisation.

### **Asset Disposals**

- 3.18. The Council's policy for asset disposals is set out in a policy adopted by Policy and Resources Committee at its meeting on 25th July 2017.
- 3.19. The policy distinguishes between the following categories.
- Operational Property held and used by the Council for the direct delivery of services for which it has either a statutory or discretionary responsibility. Assets may be disposed of if they have reached the end of their economic or useful life.
  - Investment Property held by the Council for revenue generation purposes, which should be assessed by its potential for improved rates of return by either better asset management, or disposal and re-investment of the receipt.

- Community assets such as open space. The Council will not usually dispose of areas of parks or other areas which are classed as public open space.
- 3.20. Certain schemes within the capital programme are partially funded through sale of some of the completed asset(s) to partner organisations. In this case, the capital scheme value is shown net of these receipts in the capital programme, as the receipt is ringfenced for this purpose.

#### **4. FINANCING THE CAPITAL PROGRAMME**

- 4.1. Typically, local authorities fund capital expenditure by borrowing from the Public Works Loan Board, however there are various borrowing options within the commercial sector which is open to the Authority. All capital expenditure must be financed, either from external sources (government grants, including New Homes Bonus, and other contributions), the Council's own resources (revenue, reserves and capital receipts) or debt (borrowing, leasing and other long-term liabilities). The planned Capital Programme 2024/25 to 2033/34 is set out in Table 1 below along with the planned funding for the programme in Table 2.

**Table 1: Capital Programme 2024/25 to 2033/34**

	2024/25	2025/26	2026/27	2027/28	2028/29	5 Year Total	2029/30	2030/31	2031/32	2032/33	2033/34	10 Year Total
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Housing, Health &amp; Environment</b>												
Private Rented Sector Housing (Gross cost)	21,065	31,879	25,574	12,370	7,274	98,161	1,656					99,817
1,000 Homes Affordable Housing Programme (Gross cost)	31,096	42,722	25,921	13,908	14,995	128,643	10,251	4,711	5,487	4,026	2,576	155,693
Temporary Accommodation	20,000					20,000						20,000
Other Property - Community and Commercial	1,809	1,089	663	143	100	3,804						3,804
Housing - Disabled Facilities Grants Funding	800	800	800	800	800	4,000	800	800	800	800	800	8,000
Street Scene Investment	50	50	50	50	50	250	50	50	50	50	50	500
Flood Action Plan	200	150				350						350
Continued Improvements to Play Areas	50	60	70	80	80	340	80	80	80	80	80	740
Parks Improvements	260	70	80	90	100	600	100	100	100	100	100	1,100
Parks Improvements - Infrastructure Maintenance	200	200	200	200	200	1,000	200	200	200	200	200	2,000
Grounds Maintenance Machinery Replacement Programme	100	110	105	123	42	480	75	75	75	75	75	855
Waste Crime Team - Additional Resources	20	10	10			40						40
Open Spaces - Section 106 funded works	400	400	400	400	400	2,000	400	400	400	400	400	4,000
Improvements to Cemetery	120					120						120
Purchase of New Waste Collection Vehicles								6,380				6,380
<b>Total</b>	<b>76,170</b>	<b>77,540</b>	<b>53,873</b>	<b>28,163</b>	<b>24,041</b>	<b>259,787</b>	<b>13,612</b>	<b>12,796</b>	<b>7,192</b>	<b>5,731</b>	<b>4,281</b>	<b>303,398</b>
<b>Communities, Leisure &amp; Arts</b>												
Museum Development Plan	180					180						180
Leisure Provision	2,250					2,250						2,250
New Leisure Centre	500	500	2,000	15,000	29,000	47,000	13,000					60,000
Mote Park Kiosk Refurbishment & Extension	250					250						250
<b>Total</b>	<b>3,180</b>	<b>500</b>	<b>2,000</b>	<b>15,000</b>	<b>29,000</b>	<b>49,680</b>	<b>13,000</b>					<b>62,680</b>

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	2024/25	2025/26	2026/27	2027/28	2028/29	5 Year Total	2029/30	2030/31	2031/32	2032/33	2033/34	10 Year Total
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Corporate Services</b>												
Asset Management / Corporate Property	1,695	175	175	175	175	2,395	175	175	175	175	175	3,270
Corporate Property Acquisitions	2,500	2,500	2,500	2,500	2,500	12,500	2,500	2,500	2,500	2,500	2,500	25,000
Kent Medical Campus - Innovation Centre	350					350						350
Lockmeadow Ongoing Investment	100	100	100	100	100	500	100	100	100	100	100	1,000
Garden Community	1,187	630	83	82		1,982						1,982
Infrastructure Delivery	1,000	1,000	1,000	1,000	1,000	5,000	1,000	1,000	1,000	1,000	1,000	10,000
Other Property Works	800	200				1,000						1,000
Carbon Reduction to Maidstone B.C. Estate	5,542	2,616	2,493	1,641	1,075	13,367	300	300	300	300	300	14,867
Parkwood Property Investment to meet EPC targets	785	440				1,225						1,225
Feasibility Studies	50	50	50	50	50	250	50	50	50	50	50	500
Digital Projects	30	30	30	30	30	150	30	30	30	30	30	300
Software / PC Replacement	200	200	200	200	200	1,000	200	200	200	200	200	2,000
Maidstone House Works	400	100	100	100	100	800						800
Leeds Langley					1,000	1,000						1,000
Fleet Vehicle Replacement Programme	478	470	200	300	300	1,748	300	300	300	300	300	3,248
<b>Total</b>	<b>15,116</b>	<b>8,511</b>	<b>6,931</b>	<b>6,178</b>	<b>6,530</b>	<b>43,267</b>	<b>4,655</b>	<b>4,655</b>	<b>4,655</b>	<b>4,655</b>	<b>4,655</b>	<b>66,542</b>
<b>Planning, Infrastructure &amp; Economic Development</b>												
Public Realm & Greening relating to the Town Centre	1,000					1,000						1,000
Medway Street Car Park	195					195						195
<b>Total</b>	<b>1,195</b>					<b>1,195</b>						<b>1,195</b>
<b>TOTAL</b>	<b>95,661</b>	<b>86,551</b>	<b>62,803</b>	<b>49,342</b>	<b>59,571</b>	<b>353,928</b>	<b>31,267</b>	<b>17,451</b>	<b>11,847</b>	<b>10,386</b>	<b>8,936</b>	<b>433,814</b>

**Table 2: Capital Financing**

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/24	Total 24/25 to 33/34
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
External sources	1,605	5,421	2,979	13,486	21,356	9,963	1,200	1,200	13,900	1,200	1,200	71,905
Own resources - incl Internal borrowing/MRP	2,649	4,553	6,568	8,477	9,611	9,993	10,523	12,462	13,412	13,482	13,754	102,836
External Borrowing	37,670	85,687	77,004	40,840	18,376	39,615	19,544	3,789	-15,466	-4,297	-6,018	259,074
<b>TOTAL</b>	<b>41,924</b>	<b>95,661</b>	<b>86,551</b>	<b>62,803</b>	<b>49,342</b>	<b>59,571</b>	<b>31,267</b>	<b>17,451</b>	<b>11,847</b>	<b>10,386</b>	<b>8,936</b>	<b>433,814</b>

- 4.2. Debt is only a temporary source of finance, since loans and leases must be repaid, and this is therefore replaced over time by other financing, usually from revenue, which is known as minimum revenue provision (MRP). Alternatively, proceeds from selling capital assets (known as capital receipts) may be used to replace debt finance. Planned MRP is set out below; no assumptions have been made here about capital receipts.

**Table 3: Replacement of debt finance**

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	Total
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
MRP	1,399	3,108	5,318	7,227	8,361	8,743	9,273	11,212	12,162	12,232	12,504	91,540
Capital receipts	0	0	1,200	0	0	0	0	0	0	0	0	1,200
<b>TOTAL</b>	<b>1,399</b>	<b>3,108</b>	<b>6,518</b>	<b>7,227</b>	<b>8,361</b>	<b>8,743</b>	<b>9,273</b>	<b>11,212</b>	<b>12,162</b>	<b>12,232</b>	<b>12,504</b>	<b>92,740</b>

- 4.3. The Council's full minimum revenue provision statement is included within the Treasury Management Strategy.
- 4.4. The cumulative outstanding amount of debt finance is measured by the capital financing requirement (CFR). This increases with new debt-financed capital expenditure and reduces with MRP and capital receipts used to replace debt. The CFR is expected to increase by £258m over the next 10 years. Based on the above figures for expenditure and financing, the Council's estimated CFR is as follows:

**Table 4: Prudential Indicator: Estimates of Capital Financing Requirement**

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Brought forward	72,841	110,511	196,002	273,006	313,846	332,222	371,837	391,381	395,170	379,704	375,407
Capital Expenditure	41,924	95,661	86,551	62,803	49,342	59,571	31,267	17,451	11,847	10,386	8,936
External funding	-1,605	-5,421	-2,979	-13,486	-21,356	-9,963	-1,200	-1,200	-13,900	-1,200	-1,200
Own resources	-1,250	-1,250	-1,640	-1,250	-1,250	-1,250	-1,250	-1,250	-1,250	-1,250	-1,250
MRP	-1,399	-3,108	-5,318	-7,227	-8,361	-8,743	-9,273	-11,212	-12,162	-12,232	-12,504
<b>TOTAL CFR</b>	<b>110,511</b>	<b>196,392</b>	<b>272,616</b>	<b>313,846</b>	<b>332,222</b>	<b>371,837</b>	<b>391,381</b>	<b>395,170</b>	<b>379,704</b>	<b>375,407</b>	<b>369,390</b>

**Borrowing Strategy**

272 4.5. The Council's main objectives when borrowing are to achieve a low but certain cost of finance while retaining flexibility should plans change in future. Due to increasing interest rates, the Council secured £80m of long term borrowing through Aviva Life & Pensions UK Limited to fund the increasing capital programme at a cost of 2.89%. The first tranche totalling £40m is due to be received in February 2024, with the remainder on the following dates:

- February 2025      £20m
- February 2026      £20m

4.6. Projected levels of the Council's total outstanding debt (which comprises borrowing and other long-term liabilities) are shown below, compared with the capital financing requirement

**Table 5: Prudential Indicator: Gross Debt and the Capital Financing Requirement**

	31.03.24 budget £000	31.03.25 budget £000	31.03.26 budget £000	31.03.27 budget £000	31.03.28 budget £000	31.03.29 budget £000	31.03.30 budget £000	31.03.31 budget £000	31.03.32 budget £000	31.03.33 budget £000	31.03.34 budget £000
Debt (excl.PFI & leases)	37,670	123,356	200,360	241,200	259,576	299,191	318,735	322,524	307,058	302,761	296,743
Capital Financing Requirement	110,511	196,392	272,616	313,846	332,222	371,837	391,381	395,170	379,704	375,407	369,390

Statutory guidance is that debt should remain below the capital financing requirement, except in the short-term. As can be seen from table 5, the Council expects to comply with this.

- 4.7. The Council is legally obliged to set an affordable borrowing limit (also termed the authorised limit for external debt) each year. In line with statutory guidance, a lower “operational boundary” is also set as a warning level should debt approach the limit.

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**Table 6: Prudential Indicators: Authorised limit and operational boundary**

**Authorised Limit**

	31.03.24 budget £m	31.03.25 budget £m	31.03.26 budget £m	31.03.27 budget £m	31.03.28 budget £m	31.03.29 budget £m	31.03.30 budget £m	31.03.31 budget £m	31.03.32 budget £m	31.03.33 budget £m	31.03.34 budget £m
Borrowing	60.000	150.687	232.690	278.530	301.906	346.521	371.065	379.854	369.388	370.092	369.074
Other Long Term Liabilities	0.905	0.309	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
<b>Total</b>	<b>60.905</b>	<b>150.996</b>	<b>232.69</b>	<b>278.53</b>	<b>301.906</b>	<b>346.521</b>	<b>371.065</b>	<b>379.854</b>	<b>369.388</b>	<b>370.092</b>	<b>369.074</b>

## Operational Boundary

	31.03.24 budget £m	31.03.25 budget £m	31.03.26 budget £m	31.03.27 budget £m	31.03.28 budget £m	31.03.29 budget £m	31.03.30 budget £m	31.03.31 budget £m	31.03.32 budget £m	31.03.33 budget £m	31.03.34 budget £m
Borrowing	50.000	140.687	222.690	268.530	291.906	336.521	361.065	369.854	359.388	360.092	359.074
Other Long Term Liabilities	0.905	0.309	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
<b>Total</b>	<b>50.905</b>	<b>140.996</b>	<b>222.69</b>	<b>268.53</b>	<b>291.906</b>	<b>336.521</b>	<b>361.065</b>	<b>369.854</b>	<b>359.388</b>	<b>360.092</b>	<b>359.074</b>

- 4.8. Treasury investments arise from receiving cash before it is paid out again. Investments made for service reasons or for pure financial gain are not generally considered to be part of treasury management.
- 4.9. The Council's policy on treasury investments is to prioritise security and liquidity over yield, that is to focus on minimising risk rather than maximising returns. Cash that is likely to be spent in the short term is invested securely, for example with the government, other local authorities or selected high-quality banks, to minimise the risk of loss. Money that will be held for longer terms is invested more widely, including in bonds, shares and property, to balance the risk of loss against the risk of receiving returns below inflation. Both short-term and longer term investments may be held in pooled funds, where an external fund manager makes decisions on which particular investments to buy and the Council may request its money back at short notice.

**Table 7: Treasury management investments**

	31.03.24 budget £000	31.03.25 budget £000	31.03.26 budget £000	31.03.27 budget £000	31.03.28 budget £000	31.03.29 budget £000	31.03.30 budget £000	31.03.31 budget £000	31.03.32 budget £000	31.03.33 budget £000
Short-term investments	25,000	25,000	20,000	10,000	4,000	4,000	4,000	4,000	4,000	4,000
Longer-term investments	0	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
<b>Total</b>	<b>25,000</b>	<b>30,000</b>	<b>25,000</b>	<b>15,000</b>	<b>9,000</b>	<b>9,000</b>	<b>9,000</b>	<b>9,000</b>	<b>9,000</b>	<b>9,000</b>

- 4.10. In years 2023/24 to 2025/26, it is envisaged short term balances will be high due to the forward loans with Aviva Life & Pensions UK Ltd which will be received in February of each financial year. This is expected to be short term as the funds will be utilised within the capital programme.
- 4.11. Decisions on treasury management investment and borrowing are made daily and are therefore delegated to the Director of Finance, Resources and Business Improvement and staff, who must act in line with the treasury management strategy approved by council. Quarterly reports on treasury management activity are included within the budget monitoring reports which are presented to the Council's Corporate Services Policy Advisory Committee with the half yearly and annual reviews which are scrutinised by Audit, Governance and Standards Committee then recommending to Full council. The Audit, Governance and Standards Committee is responsible for scrutinising treasury management decisions.
- 4.12. Although capital expenditure is not charged directly to the revenue budget, interest payable on loans and MRP are charged to revenue, offset by any investment income receivable. The net annual charge is known as financing costs; this is compared to the net revenue stream i.e. the amount funded from Council Tax, business rates and general government grants. Full budget provision is made for capital financing costs within the Council's revenue budgets. This is based on estimates derived from the capital programme, and projected 50 year borrowing costs.

**Table 8: Prudential Indicator: Proportion of financing costs to net revenue stream**

	2023/24 budget	2024/25 budget	2025/26 budget	2026/27 budget	2027/28 budget	2028/29 budget
Financing costs (£m)	-0.550	5.510	9.171	10.304	10.676	11.469
Proportion of net revenue stream (%)	-9.026	21.350	34.586	37.819	38.139	40.969

- 4.13. Due to the very long-term nature of capital expenditure and financing, the revenue budget implications of expenditure incurred in the next few years will extend beyond 5 years into the future. The Director of Finance, Resources and Business Improvement is satisfied that the proposed capital programme is prudent, affordable and sustainable.
- 4.14. The Authority is required to estimate and measure the Liability Benchmark which

### **Other Long Term-Liabilities**

- 4.15. This section deals with other long term liabilities to which the Council has committed itself in order to secure capital investment. The Council has no Private Finance Initiative Schemes, but the following scheme is a similar contract as it is defined as a service concession arrangement.
- 4.16. The Council entered into an agreement during 2009/10 with Serco, the managing contractor of Maidstone Leisure Centre, to undertake a major

refurbishment of the centre. Under the terms of the agreement Serco have initially funded the cost of the works through a loan, and the Council are then repaying this loan over a 15 year term, by equal monthly instalments which is due to be finished in 2025/26. The principal element of this loan is reflected on the Council's Balance Sheet and will be written down annually by the amount of principal repaid. Interest paid on the loan is charged to revenue.

## **5. Investment Strategy**

### **Service Investments: Loans**

- 5.1. The Council can make investments to assist local public services, including making loans to local service providers, local small businesses to promote economic growth, Charities and the Council's subsidiaries that provide services. In light of the public service objective, the Council is willing to take more risk than with treasury investments, however it still plans for such investments to provide value for money to the tax payer.
- 5.2. The Council has made loans to Kent Savers for £25,000 in 2017/18 which is repayable in 2027/28 at an interest rate of 1%. A loan to Cobtree Manor Estates Trust towards the construction of the new car park which had been agreed in 2019/20 for an amount of £323,000 repayment over 5 years at an annual interest rate of 3%. Current balance owing is £139,293. There has been no agreement to enter into further service loans in the immediate future.
- 5.3. The main risk when making service loans is that the borrower will be unable to repay the principal lent and/or the interest due. Accounting standards require the Authority to set aside loss allowance for loans, reflecting the likelihood of non-payment. As these loans are very small materially, no loss allowance is required to be accounted for.
- 5.4. The Authority assesses the risk of loss before entering into a loan agreement assessing the borrower's ability to repay the loan, based on past financial performance. This is monitored over the period of the loan in line with the agreed repayment terms.

### **Commercial Investments: Property**

- 5.5. The Council does not currently have any investments in property that are considered to be purely commercial in nature, i.e. primarily for yield. Acquisitions are limited to properties situated within the borough, with the intention of supporting the local community, housing and regeneration objectives rather than for the exclusive purpose of generating profits. All property investments are therefore classified as general fund capital projects.
- 5.6. The Director of Finance, Resources and Business Improvements confirms the authority has complied with paragraphs 51 to 53 of the Prudential Code in relation to investments for commercial purposes, in particular the requirement that an authority must not borrow to invest for the primary purpose of financial return.

## **6. KNOWLEDGE AND SKILLS**

- 6.1. The Council employs professionally qualified and experienced staff in senior positions with responsibility for making capital expenditure, borrowing and investment decisions. The Director of Finance and Business Improvement is a qualified accountant with over 16 years' experience in local government, the Corporate Property Manager and the team are experienced in Property Management and the Council pays for junior staff to study towards relevant professional qualifications including CIPFA, ACT (treasury), and ACCA.
- 6.2. The Council also employs Link Asset Services for Treasury Management advice, who support with the provision of training to members.
- 6.3. Decisions on service investments are made by the relevant service manager in consultation with the Director of Finance, Resources and Business Improvement and relevant committee (where appropriate) and must meet the criteria and limits laid down in the investment strategy. Most loans are capital expenditure and purchases will therefore also be approved as part of the capital programme.
- 6.4. Staff are kept updated on latest developments on Treasury, Non-Treasury and Capital through email bulletins and training courses through the Council's advisors Link Asset Services. The Council is also part of the Kent Treasury Benchmarking Group which meet to discuss ongoing issues every 6 months.
- 6.5. Training is offered to all Members on Treasury, Non-Treasury and Capital to prior to decision making on the relevant Strategies. Training is arranged at least every year, maybe earlier for new Members.

## **7. RISK MANAGEMENT**

- 7.1. The capital programme forms an increasingly important part of the Council's strategy for delivering its overall priorities. Accordingly, it is of fundamental importance that the associated risks are managed actively. The Council has a comprehensive risk management framework, through which risk in relation to capital investment is managed at all levels.

### **Corporate**

- 7.2. Corporate risks are identified and reported on a quarterly basis to the Corporate Leadership Team and Policy and Resources Committee. Risks are owned by named Directors and controls developed to mitigate risk. Risks at this level may be generic, relating to a number of capital projects, although it is possible that a single capital project could pose a corporate risk.

### **Financial**

- 7.3. A Budget risk register seeks to capture all known budget risks and to present them in a readily comprehensible way. The budget risk register is

updated regularly and is reviewed by the Audit, Governance and Standards Committee at each meeting.

- 7.4. Typically, risks in this area would relate to funding of the capital programme and over/underspending on individual capital projects.
- 7.5. For all risks shown on the Budget Risk Register, appropriate controls have been identified and their effectiveness is monitored on a regular basis.

### **Service**

- 7.6. Individual service areas maintain risk registers, with identified risk owners and details of controls to mitigate risk.

### **Project**

- 7.7. The Council's project management framework requires managers to maintain risk registers at a project level.

## Maidstone Borough Council Investments/Borrowing as at 31st December 2023

### Investments

Counterparty	Type of Investment	Principal £	Start Date	Maturity Date	Rate of Return	MBC Credit Limits	
						Maximum Term	Maximum Deposit
Aberdeen Standard Liquidity Fund	Money Market Fund	7,590,000			5.27%		£10,000,000
Fund	Money Market Fund	7,080,000			5.39%		£10,000,000
CCLA Public Sector Deposit Fund	Money Market Fund	3,515,000			5.35%		£10,000,000
Total Investments		18,185,000					

### Borrowing

Counterparty	Type of Institution	Principal £	Start Date	Maturity Date	Interest Rate
Public Works Loans Board	Central Government	2,000,000	11/11/2021	11/11/2071	1.73%
Public Works Loans Board	Central Government	3,000,000	30/12/2021	30/12/2071	1.56%
North Northamptonshire Council	Local Government	2,000,000	23/06/2023	23/02/2024	5.32%
Humber Bridge Board - Kingston Upon Hull	Local Government	2,000,000	03/10/2023	03/01/2024	5.38%
Total Loans		9,000,000			

### Committed Borrowing

Counterparty	Type of Institution	Principal £	Start Date	Maturity Date	Interest Rate
Aviva Life & Pensions UK Limited	Corporate Lender	20,000,000	13/02/2024	13/02/2064	2.87%
Aviva Life & Pensions UK Limited	Corporate Lender	20,000,000	13/02/2024	13/02/2074	2.87%
Aviva Life & Pensions UK Limited	Corporate Lender	20,000,000	13/02/2025	13/02/2075	2.87%
Aviva Life & Pensions UK Limited	Corporate Lender	20,000,000	13/02/2026	13/02/2076	2.87%
Total		80,000,000			
Total Committed Borrowing		89,000,000			

	Fitch Rating		Moody's Ratings		Standard & Poors Ratings		Suggested Duration
	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term	
<b>Australia</b>	AAA		Aaa		AAA		Not Applicable
Australia and New Zealand Banking Group Ltd.	A+	F1	Aa3	P-1	AA-	A-1+	O - 12 mths
Commonwealth Bank of Australia	A+	F1	Aa3	P-1	AA-	A-1+	O - 12 mths
Macquarie Bank Ltd.	A	F1	A2	P-1	A+	A-1	R - 6 mths
National Australia Bank Ltd.	A+	F1	Aa3	P-1	AA-	A-1+	O - 12 mths
Westpac Banking Corp.	A+	F1	Aa3	P-1	AA-	A-1+	O - 12 mths
<b>Belgium</b>	AA-		Aa3		AA		Not Applicable
BNP Paribas Fortis	A+	F1	A1	P-1	A+	A-1	R - 6 mths
KBC Bank N.V.	A+	F1	A1	P-1	A+	A-1	O - 12 mths
<b>Canada</b>	AA+		Aaa		AAA		Not Applicable
Bank of Montreal	AA-	F1+	Aa2	P-1	A+	A-1	O - 12 mths
Bank of Nova Scotia	AA-	F1+	Aa2	P-1	A+	A-1	O - 12 mths
Canadian Imperial Bank of Commerce	AA-	F1+	Aa2	P-1	A+	A-1	O - 12 mths
National Bank of Canada	A+	F1	Aa3	P-1	A	A-1	R - 6 mths
Royal Bank of Canada	AA-	F1+	Aa1	P-1	AA-	A-1+	O - 12 mths
Toronto-Dominion Bank	AA-	F1+	Aa1	P-1	AA-	A-1+	O - 12 mths
<b>Denmark</b>	AAA		Aaa		AAA		Not Applicable
Danske A/S	A	F1	A2	P-1	A+	A-1	R - 6 mths
<b>Finland</b>	AA+		Aa1		AA+		Not Applicable
Nordea Bank Abp	AA-	F1+	Aa3	P-1	AA-	A-1+	O - 12 mths
OP Corporate Bank plc	WD	WD	Aa3	P-1	AA-	A-1+	O - 12 mths
<b>France</b>	AA		Aa2		AA		Not Applicable
BNP Paribas	A+	F1	Aa3	P-1	A+	A-1	O - 12 mths
Credit Agricole Corporate and Investment Bank	A+	F1	Aa3	P-1	A+	A-1	O - 12 mths
Credit Agricole S.A.	A+	F1	Aa3	P-1	A+	A-1	O - 12 mths
Credit Industriel et Commercial	A+	F1	Aa3	P-1	A+	A-1	O - 12 mths
Societe Generale	A-	F1	A1	P-1	A	A-1	R - 6 mths
<b>Germany</b>	AAA		Aaa		AAA		Not Applicable
Bayerische Landesbank	A-	F1	Aa3	P-1	NR	NR	R - 6 mths
Commerzbank AG	WD	WD	A1	P-1	BBB+	A-2	G - 100 days
Deutsche Bank AG	BBB+	F2	A1	P-1	A-	A-2	N/C - 0 mths
DZ BANK AG Deutsche Zentral-Genossenschaftsbank	AA-	F1+	Aa2	P-1	A+	A-1	O - 12 mths
Landesbank Baden-Wuerttemberg	A-	F1	Aa3	P-1	NR	NR	R - 6 mths
Landesbank Berlin AG			Aa3	P-1			O - 12 mths
Landesbank Hessen-Thueringen Girozentrale	A+	F1+	Aa3	P-1	NR	NR	O - 12 mths
Landwirtschaftliche Rentenbank	AAA	F1+	Aaa	P-1	AAA	A-1+	P - 24 mths
Norddeutsche Landesbank Girozentrale	A-	F1	A3	P-2	NR	NR	G - 100 days
NRW.BANK	AAA	F1+	Aa1	P-1	AA	A-1+	P - 24 mths
<b>Netherlands</b>	AAA		Aaa		AAA		Not Applicable
ABN AMRO Bank N.V.	A	F1	A1	P-1	A	A-1	R - 6 mths
Bank Nederlandse Gemeenten N.V.	AAA	F1+	Aaa	P-1	AAA	A-1+	P - 24 mths
Cooperatieve Rabobank U.A.	A+	F1	Aa2	P-1	A+	A-1	O - 12 mths
ING Bank N.V.	AA-	F1+	Aa3	P-1	A+	A-1	O - 12 mths
Nederlandse Waterschapsbank N.V.			Aaa	P-1	AAA	A-1+	P - 24 mths

	Fitch Rating		Moody's Ratings		Standard & Poors Ratings		Suggested Duration
	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term	
<b>Norway</b>	AAA		Aaa		AAA		Not Applicable
DNB Bank ASA			Aa2	P-1	AA-	A-1+	O - 12 mths
<b>Qatar</b>	AA-		Aa3		AA		Not Applicable
Qatar National Bank	A	F1	Aa3	P-1	A+	A-1	R - 6 mths
<b>Singapore</b>	AAA		Aaa		AAA		Not Applicable
DBS Bank Ltd.	AA-	F1+	Aa1	P-1	AA-	A-1+	O - 12 mths
Oversea-Chinese Banking Corp. Ltd.	AA-	F1+	Aa1	P-1	AA-	A-1+	O - 12 mths
United Overseas Bank Ltd.	AA-	F1+	Aa1	P-1	AA-	A-1+	O - 12 mths
<b>Sweden</b>	AAA		Aaa		AAA		Not Applicable
Skandinaviska Enskilda Banken AB	AA-	F1+	Aa3	P-1	A+	A-1	O - 12 mths
Svenska Handelsbanken AB	AA	F1+	Aa2	P-1	AA-	A-1+	O - 12 mths
Swedbank AB	AA-	F1+	Aa3	P-1	A+	A-1	O - 12 mths
<b>Switzerland</b>	AAA		Aaa		AAA		Not Applicable
Credit Suisse AG	BBB+	F2	A3	P-2	A-	A-2	N/C - 0 mths
UBS AG	AA-	F1+	Aa2	P-1	A+	A-1	O - 12 mths
<b>United Arab Emirates</b>	AA		Aa2		AA		Not Applicable
First Abu Dhabi Bank PJSC	AA-	F1+	Aa3	P-1	AA-	A-1+	O - 12 mths
<b>United Kingdom</b>	AA-		Aa3		AA		Not Applicable
Collateralised LA Deposit*							Y - 60 mths
Debt Management Office							Y - 60 mths
Multilateral Development Banks							Y - 60 mths
Supranationals							Y - 60 mths
UK Gilts							Y - 60 mths
Al Rayan Bank Plc			A1	P-1			R - 6 mths
Bank of Scotland PLC (RFB)	A+	F1	A1	P-1	A+	A-1	R - 6 mths
Barclays Bank PLC (NRFB)	A+	F1	A1	P-1	A	A-1	R - 6 mths
Barclays Bank UK PLC (RFB)	A+	F1	A1	P-1	A	A-1	R - 6 mths
Close Brothers Ltd	A-	F2	Aa3	P-1			R - 6 mths
Clydesdale Bank PLC	A-	F2	A3	P-2	A-	A-2	G - 100 days
Co-operative Bank PLC (The)	B+	B	Ba1	NP			N/C - 0 mths
Goldman Sachs International Bank	A+	F1	A1	P-1	A+	A-1	R - 6 mths
Handelsbanken Plc	AA	F1+			AA-	A-1+	O - 12 mths
HSBC Bank PLC (NRFB)	AA-	F1+	A1	P-1	A+	A-1	O - 12 mths
HSBC UK Bank Plc (RFB)	AA-	F1+	A1	P-1	A+	A-1	O - 12 mths
Lloyds Bank Corporate Markets Plc (NRFB)	A+	F1	A1	P-1	A	A-1	R - 6 mths
Lloyds Bank Plc (RFB)	A+	F1	A1	P-1	A+	A-1	R - 6 mths
National Bank Of Kuwait (International) PLC	A+	F1			A	A-1	R - 6 mths
NatWest Markets Plc (NRFB)	A+	F1	A1	P-1	A-	A-2	R - 6 mths
Santander Financial Services plc (NRFB)	A+	F1	A1	P-1	A-	A-2	R - 6 mths
Santander UK PLC	A+	F1	A1	P-1	A	A-1	R - 6 mths
SMBC Bank International Plc	A-	F1	A1	P-1	A	A-1	R - 6 mths
Standard Chartered Bank	A+	F1	A1	P-1	A+	A-1	R - 6 mths
Coventry Building Society	A-	F1	A2	P-1			R - 6 mths

	Fitch Rating		Moody's Ratings		Standard & Poors Ratings		Suggested Duration
	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term	
Leeds Building Society	A-	F1	A3	P-2			G - 100 days
Nationwide Building Society	A	F1	A1	P-1	A+	A-1	R - 6 mths
Principality Building Society	BBB+	F2	Baa2	P-2			N/C - 0 mths
Skipton Building Society	A-	F1	A2	P-1			R - 6 mths
West Bromwich Building Society			Ba3	NP			N/C - 0 mths
Yorkshire Building Society	A-	F1	A3	P-2			G - 100 days
National Westminster Bank PLC (RFB)	A+	F1	A1	P-1	A	A-1	B - 12 mths
The Royal Bank of Scotland Plc (RFB)	A+	F1	A1	P-1	A	A-1	B - 12 mths
<b>United States</b>	AAA		Aaa		AA+		Not Applicable
Bank of America N.A.	AA	F1+	Aa2	P-1	A+	A-1	O - 12 mths
Bank of New York Mellon, The	AA	F1+	Aa1	P-1	AA-	A-1+	P - 24 mths
Citibank N.A.	A+	F1	Aa3	P-1	A+	A-1	O - 12 mths
JPMorgan Chase Bank N.A.	AA	F1+	Aa1	P-1	A+	A-1	O - 12 mths
Wells Fargo Bank, NA	AA-	F1+	Aa1	P-1	A+	A-1	O - 12 mths

**Key**

Duration	Limit
Y - 60 mths	£ 8,000,000
P - 24 mths	£ 7,000,000
B - 12 mths	£ 5,000,000
O - 12 mths	£ 5,000,000
R - 6 mths	£ 5,000,000
G - 100 days	£ 3,000,000
N/C - 0 mths	£ -

## AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

**15 January 2024**

### Budget Strategy – Risk Assessment Update

<b>Final Decision-Maker</b>	Audit, Governance and Standards Committee
<b>Lead Head of Service/Lead Director</b>	Mark Green, Director of Finance, Resources and Business Improvement
<b>Lead Officer and Report Author</b>	Mark Green, Director of Finance, Resources and Business Improvement
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

Demand for temporary accommodation continues to pose a significant budget risk in the current financial year to 31 March 2024. An overspend of £800,000 for the year is projected currently, although this could increase if numbers in temporary accommodation rise.

Budget planning for next year (2024/25) assumes that numbers in temporary accommodation will continue at the current levels. Given this, and a range of other assumptions, the budget for next year can be balanced. The provisional Local Government Finance Settlement, announced just before Christmas 2023, has confirmed this position.

The Council has an ambitious capital programme. The report outlines a number of risks associated with the programme. However, funding is in place which should allow the first phase of 1,000 Affordable Homes schemes to progress.

#### **This report makes the following recommendations to this Committee:**

That the Audit Governance and Standards Committee notes the risk assessment of the Budget Strategy provided at Appendix A.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Audit, Governance and Standards Committee	15 January 2024

# Budget Strategy – Risk Assessment Update

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	The Medium Term Financial Strategy and the budget are a re-statement in financial terms of the priorities set out in the strategic plan. They reflect the Council’s decisions on the allocation of resources to all objectives of the strategic plan.	Director of Finance, Resources and Business Improvement
<b>Cross Cutting Objectives</b>	The cross cutting objectives are reflected in the MTFS and the budget.	Director of Finance, Resources and Business Improvement
<b>Risk Management</b>	Matching resources to priorities in the context of the significant pressure on the Council’s resources is a major strategic risk. Specific risks are set out in Appendix A.	Director of Finance, Resources and Business Improvement
<b>Financial</b>	The budget strategy and the MTFS impact upon all activities of the Council. The future availability of resources to address specific issues is planned through this process.	Director of Finance, Resources and Business Improvement
<b>Staffing</b>	The process of developing the budget strategy will identify the level of resources available for staffing over the medium term.	Director of Finance, Resources and Business Improvement
<b>Legal</b>	The Council has a statutory obligation to set a balanced budget and development of	Director of Finance, Resources and

	the MTFS and the strategic revenue projection in the ways set out in this report supports achievement of a balanced budget.	Business Improvement
<b>Information Governance</b>	No implications.	Director of Finance, Resources and Business Improvement
<b>Equalities</b>	The Council's budgeted expenditure will have a positive impact as it will enhance the lives of all members of the community through the provision of resources to core services. In addition it will affect particular groups within the community. It will achieve this through the focus of resources into areas of need as identified in the Council's strategic priorities.	Director of Finance, Resources and Business Improvement
<b>Public Health</b>	None identified.	Director of Finance, Resources and Business Improvement
<b>Crime and Disorder</b>	None identified.	Director of Finance, Resources and Business Improvement
<b>Procurement</b>	None identified.	Director of Finance, Resources and Business Improvement
<b>Biodiversity and Climate Change</b>	None identified.	Director of Finance, Resources and Business Improvement

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 The remit of the Audit Governance and Standards Committee includes consideration of risk. Members have requested that the Budget Risk Matrix and Risk Register be updated and reported to each meeting of the Committee, so that it continues to be fully briefed on factors likely to affect the Council's budget position.

### **Current position**

- 2.2 The Council produced a balanced budget for both revenue and capital income and expenditure for 2023/24. The main threat to delivery of an outturn in line with the budget is the increase in numbers in temporary accommodation compared with last year. Currently an overspend of £800,000 is projected under this heading, which assumes that numbers in temporary accommodation remain at current levels for the remainder of the year.
- 2.3 With offsetting underspends elsewhere, this has led to a projected overspend of just under £300,000 for the Council overall for the year. Work continues to try and mitigate this overspend and deliver an overall performance in line with budget.
- 2.4 There is nevertheless a risk that numbers in temporary accommodation could increase, which would lead to a higher overspend for the year. This is captured within the budget risk register heading 'Failure to contain expenditure within agreed budgets'.

### **Future position – 2024/25 and subsequent years**

- 2.5 A draft Medium Term Financial Strategy was presented to Policy Advisory Committees in September 2023, setting out the likely position for the 5-year planning period. The Strategy document explained that the external environment is challenging, with the UK economy facing low growth prospects and continued high inflation. This limits the scope for any increase in public expenditure, which in turn will affect the Council, because it gives the government little scope to flex the funding framework for local government to alleviate financial pressures caused by expenditure growth. Any assistance is likely to benefit upper tier or single tier authorities, not lower tier authorities like Maidstone.
- 2.6 Financial projections, based on a realistic scenario of continued high inflation and limited funding flexibility, were included in the MTFs and showed a budget gap of £925,000 for 2024/25 and significantly higher figures in subsequent years. These projections assumed that Council Tax income is increased by the maximum possible given the referendum limit, and fees and charges are increased in line with inflation. In all cases, the budget gap would be greater if these measures were not taken.
- 2.7 The budget risk register includes the risks 'Inflation rate is higher than 2% government target' and 'Constraints on council tax increases', which reflect the fact the referendum limit of 3% has been lower than the rate of inflation. Inflation is now falling, albeit it has not yet reached the

government's target, so it is appropriate to downgrade the inflation risk in the risk register.

- 2.8 Budget proposals have been put forward which would deliver sufficient savings and were presented to members in September. Cabinet approved these savings at its meeting on 25<sup>th</sup> September 2023. It is therefore anticipated that proposals for a balanced budget can be presented to Council at its budget setting meeting on 21<sup>st</sup> February 2024.

### **Local Government Finance Settlement 2024/25**

- 2.9 The assumptions underlying the MTFs financial projections have been confirmed by the provisional local government finance settlement, announced just before Christmas 2023. The settlement confirmed a Council Tax referendum threshold of 3% for district councils. Thresholds for upper tier authorities and police authorities are 5% and £13 respectively. Assuming that Kent County Council and Kent Police increase their precepts by the maximum permitted, ie by 5% and 5.35% respectively, Maidstone Borough Council's proportion of the overall Council Tax bill would fall from 13.2% to 13%.
- 2.10 The local government finance settlement also incorporated a guaranteed increase in Core Spending Power, before any increase in Council Tax, of 3%. (Core Spending Power is the measure used by government to evaluate what they consider to be the underlying financial position of local authorities.) This means that Maidstone's funding will be topped up by a Funding Guarantee payment of £3.3 million.
- 2.11 The Funding Guarantee is a one-off grant. It has been used by the government in 2023/24 and now in 2024/25 as a mechanism for giving more money to local authorities pending the much-delayed radical reshaping of the local government funding regime. Note that the Funding Guarantee cannot be relied on in the future. The new 'fair funding' regime is likely to have a detrimental effect on relatively well-off areas like Maidstone. However, for the time being, Maidstone has benefited from significant one-off funding in the form of New Homes Bonus and the Funding Guarantee, and has used this principally to support the 1,000 Affordable Homes programme by setting up a Housing Investment Fund.
- 2.12 A further helpful feature of the funding settlement was confirmation that our application, along with other Kent authorities, to continue with the Kent Business Rates pool has been approved. This means that, collectively, the levy of 50% that pool authorities would otherwise have paid on growth in business rates above the government's baseline will be reduced to 0.7%. Growth in business rates remains positive, so it is appropriate to downgrade the budget risk register heading 'Business Rates Pool fails to generate sufficient growth'.

### **Capital Programme**

- 2.13 The Council has an ambitious capital programme, which includes plans to deliver 1,000 new affordable homes over the next ten years. Funding this will require an increase in long term debt from £9 million today to around

£300 million in 2028/29, with the revenue cost of capital increasing accordingly.

2.14 There are a number of risks associated with the capital programme which potentially will impact the revenue account, to the extent that capital expenditure is abortive or leads to the write-down of capital investments:

- Construction prices increasing
- Contractor failure / liquidation
- Availability / cost of finance.

2.15 Currently the Council has locked in £80 million of its future borrowing requirement at the relatively low rate of 2.89%. Capital expenditure will need to be carefully monitored to ensure that expenditure above and beyond the amount to be funded from this initial £80 million meets the prudential affordability requirement. This in turn depends on the future availability and cost of finance. Whilst interest rates are projected to reduce compared to their current rates, the speed of the reduction is uncertain.

2.16 This risk has been captured in the risk register under the heading 'Capital Programme cannot be funded'. Given the broader risks around the capital programme, it is proposed to change this wording to 'Capital Programme cannot be delivered given available budgets and funding'.

2.17 There is a specific requirement in relation to the Affordable Housing programme to provide the necessary subsidy for tenants. The requirement for a subsidy arises because affordable housing (ie housing to be let at a rent of no more than 80% of the Local Housing Allowance) does not achieve the rate of return that is required on Council investments in order to satisfy the prudential borrowing rules. The Council is using its Housing Investment Fund (see paragraph 2.10 above) to provide this subsidy. There is a risk that, if the necessary subsidy is not available, the Council will not be able to achieve the targeted number of affordable homes.

2.18 In light of the risks described above, the following changes are proposed to the budget risk register.

Ref	Risk	Factor considered	Implications for risk profile
G	Inflation rate is higher than 2% government target	Inflation is now falling, although it has not yet reached 2%.	Impact – major (no change) Likelihood – probable (reduced)
J	Capital programme cannot be funded	Broader risks around capital programme recognised by changing wording to 'Capital Programme cannot be	-

Ref	Risk	Factor considered	Implications for risk profile
		delivered given available budgets and funding'	
M	Business Rates pool fails to generate sufficient growth	Pool membership has been confirmed for 2024/25 and business rates growth remains positive	Impact – moderate (no change) Likelihood – possible (reduced)

2.19 Details are set out in Appendix A, which lists the budget risks in the form of a Risk Matrix and Risk Register. Additionally, at the Committee's request, the possible monetary impact of the risks has been indicated. Note that it is very difficult to quantify the financial impact of risks in precise terms. The information is provided simply to give an indication of the order of the risks' financial magnitude. The information is also set out in the form of a bar chart.

2.20 Members are invited to consider further risks or to propose varying the impact or likelihood of any risks.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option 1 - The Committee may wish to consider further risks not detailed in Appendix A or vary the impact or likelihood of any risks. This may impact the Council's service planning and/or be reflected in the developing Medium Term Financial Strategy.
- 3.2 Option 2 - The Committee notes the risk assessment set out in this report and makes no further recommendations.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option 2 – It is recommended that the Committee notes the risk assessment.

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### **5. RISK**

- 5.1 Risk is addressed throughout this report, so no further commentary is required here.
-

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Each year the council as part of the development of the MTFS and the budget carries out consultation on the priorities and spending of the council. A Residents' Survey has been carried out for the 2024/25 budget and the results have been reported to Members as part of the budget setting process.
- 

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The Audit, Governance and Standards Committee plans to continue keeping the budget risk profile under review at subsequent meetings.
- 

## **8. REPORT APPENDICES**

The following document is to be published with this report and forms part of the report:

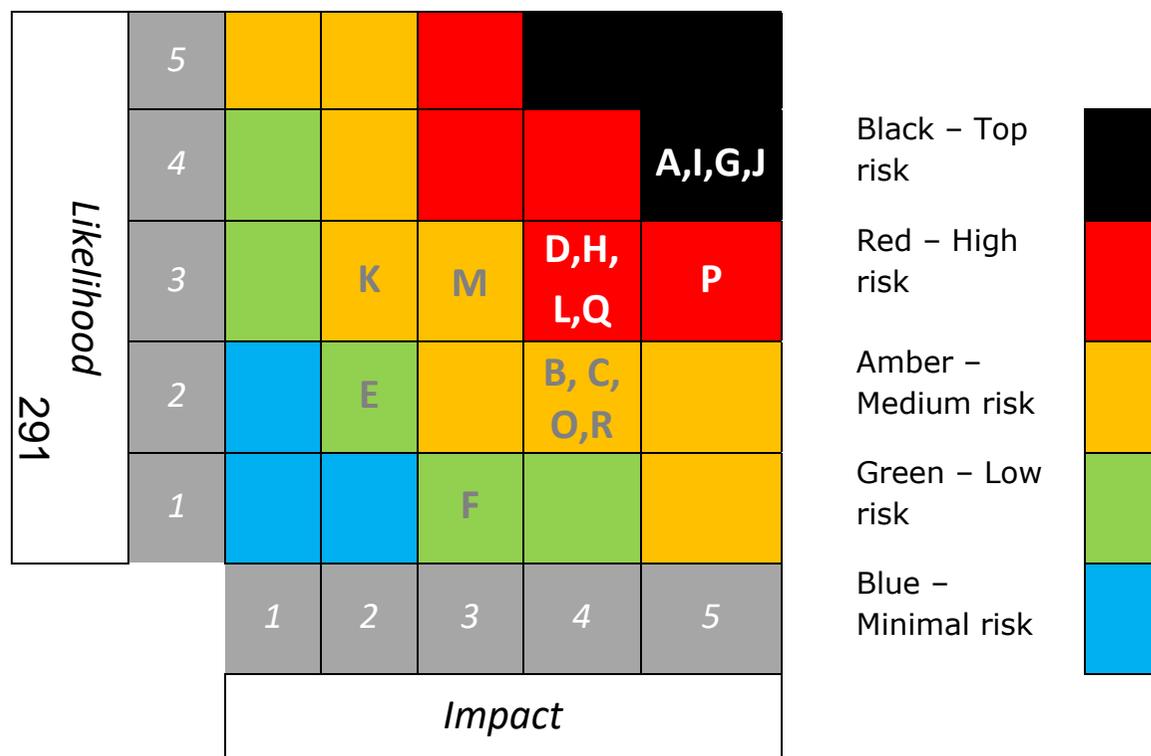
- Appendix A: Budget Strategy Risks
- 

## **9. BACKGROUND PAPERS**

None.

## Budget Strategy Risks

The risk matrix below provides a summary of the key budget risks. The risk register that follows provides more detail.

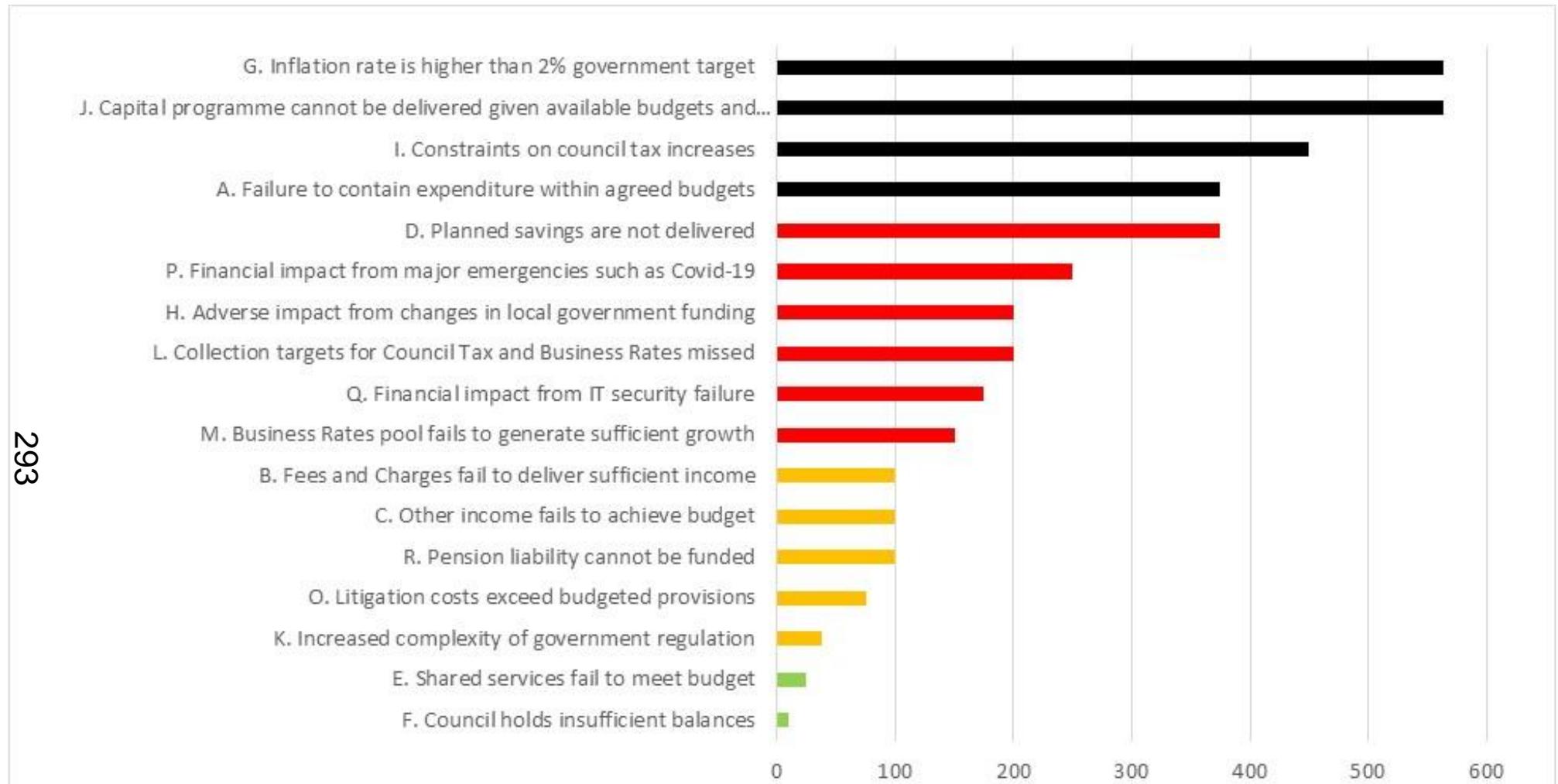


<b>A. Failure to contain expenditure within agreed budgets</b>	<b>J. Capital programme cannot be delivered given available budgets and funding</b>
<b>B. Fees and Charges fail to deliver sufficient income</b>	<b>K. Increased complexity of government regulation</b>
<b>C. Other income fails to achieve budget</b>	<b>L. Collection targets for Council Tax and Business Rates missed</b>
<b>D. Planned savings are not delivered</b>	<b>M. Business Rates pool fails to generate sufficient growth</b>
<b>E. Shared services fail to meet budget</b>	<b>O. Litigation costs exceed budgeted provisions</b>
<b>F. Council holds insufficient balances</b>	<b>P. Financial impact from major emergencies such as Covid-19</b>
<b>G. Inflation rate is higher than 2% government target</b>	<b>Q. Financial impact from IT security failure</b>
<b>H. Adverse impact from changes in local gov't funding</b>	<b>R. Pension liability cannot be funded</b>
<b>I. Constraints on council tax increases</b>	

The budget risks may be ranked, based on the scores shown below, as follows:

Risk	Ranking	Financial impact (in any one financial year)				
		Lower £000	Upper £000	Mid-point £000	Likelihood %	Weighted £000
G. Inflation rate is higher than 2% government target	1=	500	1,000	750	75	563
J. Capital programme cannot be delivered given available budgets and funding	1=	500	1,000	750	75	563
I. Constraints on council tax increases	3	400	800	600	75	450
A. Failure to contain expenditure within agreed budgets	4	200	800	500	75	375
D. Planned savings are not delivered	5	250	750	500	75	375
P. Financial impact from major emergencies such as COVID-19	6	250	750	500	50	250
H. Adverse impact from changes in local government funding	7=	100	900	400	50	200
L. Collection targets for Council Tax and Business Rates missed	7=	200	600	400	50	200
Q. Financial impact from IT security failure	9	100	600	350	50	175
M. Business Rates pool fails to generate sufficient growth	10	150	450	300	50	150
B. Fees and Charges fail to deliver sufficient income	11=	200	600	400	25	100
C. Other income fails to achieve budget	11=	200	600	400	25	100
R. Pension liability cannot be funded	11=	200	600	400	25	100
O. Litigation costs exceed budgeted provisions	14	100	500	300	25	75
K. Increased complexity of government regulation	15	50	100	75	50	38
E. Shared services fail to meet budget	16	50	150	100	25	25
F. Council holds insufficient balances	17	100	300	200	5	10

## Chart - Budget risks



## Budget Strategy Risk Register

The following risk register sets out the key risks to the budget strategy. The register sets out the consequences of each risk and the existing controls in place.

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
294	<p><b>A</b></p> <p><b>Failure to contain expenditure within agreed budgets</b> The Council overspends overall against its agreed budget for the year</p>	<p>Failure to meet the budget makes it more likely that the Council will have to rely on short term expedients to balance the budget from year to year, rather than following a coherent long term strategy.</p>	<ul style="list-style-type: none"> <li>- Embedded and well established budget setting process</li> <li>- Medium Term Financial Strategy</li> <li>- Balanced budget agreed by Council for 2023/24.</li> <li>- Strong controls over expenditure and established process for recovering from overspends</li> </ul>	5	4	20
	<p><b>B</b></p> <p><b>Fees &amp; Charges fail to deliver sufficient income</b> Fee charging services may be affected if there is a downturn in the economy, resulting in Fees and Charges failing to deliver the expected level of income.</p>	<p>The total value of all Council income from fees and charges is around £20 million. A loss of income for service budgets will require restrictions on expenditure levels and delivery of all objectives may not be met.</p>	<ul style="list-style-type: none"> <li>- Fees and charges are reviewed each year, paying careful attention to the relevant market conditions</li> <li>- Where the Council is operating in a competitive market, the aim is to ensure price sensitivity does not lead to a loss of income.</li> <li>- Procedures are in place to ensure that fees and charges are billed promptly (or in advance) and that collection is maximised.</li> </ul>	4	2	8
	<p><b>C</b></p> <p><b>Other income fails to achieve budget</b> In addition to fees and charges, the Council relies on other income from capital investment, which may not deliver the expected level of income.</p>	<p>The medium term financial strategy includes a contribution from investment opportunities, so any shortfall would have an impact on the overall strategy.</p> <p>Income generation from investment activities supports the revenue budget and is required in ordered to pay back capital investment.</p>	<ul style="list-style-type: none"> <li>- Individual risks associated with specific projects within the capital strategy will be assessed, both as part of the project appraisal process and during the course of delivering the projects.</li> </ul>	4	2	8

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
D	<p><b>Planned savings are not delivered</b></p> <p>Failure to deliver savings and / or failure to monitor savings means that the Council cannot deliver a balanced budget</p>	<p>The level of saving required to achieve a balanced budget is significant and non-delivery of these savings will have a major consequence on managing financial viability of the organisation.</p> <p>Not achieving savings will impact the overall delivery of the Medium Term Financial Strategy and would require appropriate action, which might include the suspension of some Council services, redundancies, etc.</p>	<ul style="list-style-type: none"> <li>- The risks associated with delivery of savings proposed in the current Medium Term Financial Strategy have been reviewed as part of the budget setting process.</li> <li>- Savings proposals are separately identified and monitored in the Council's general ledger.</li> <li>- The ability to achieve the targeted savings is monitored quarterly in budget monitoring reports to the Corporate Leadership Team and to Service Committees.</li> </ul>	4	3	12
295 E	<p><b>Shared Services</b></p> <p>Shared services, which are not entirely under the Council's control, fail to perform within budgeted levels.</p>	<p>Failure of a shared service to manage within the existing budget will have the same consequences as for any overspending budget, ie it would require appropriate action, which might include the suspension of some Council services, redundancies, etc.</p>	<p>The arrangements governing shared services include a number of controls that minimise the risk of budget overspends and service failure, including quarterly reporting to a Shared Service Board comprising representatives of the authorities involved. The shared services are required to report regularly on financial performance and key indicators.</p>	2	2	4
F	<p><b>Insufficient Balances</b></p> <p>Minimum balance is insufficient to cover unexpected events</p> <p>OR</p> <p>Minimum balances exceed the real need and resources are held without identified purpose with low investment returns</p>	<p>Additional resources would be needed which would result in immediate budget reductions or use of earmarked reserves.</p> <p>The Council would not gain best value from its resources as Investment returns are low in the current market.</p>	<ul style="list-style-type: none"> <li>- The Council has set a lower limit below which General Fund balances cannot fall of £4 million.</li> <li>- At the beginning of the 2023/24 financial year unallocated General Fund reserves are projected to be £11 million.</li> </ul>	3	1	3
G	<p><b>Inflation rate is higher than 2% government target</b></p> <p>Actual levels are significantly above target</p>	<p>Continued high inflation will create an unbudgeted drain upon resources and the Council may not achieve its objectives without calling upon balances.</p> <p>Services have supported the budget strategy through savings. Levels below those expected would result in</p>	<ul style="list-style-type: none"> <li>- Allowances for inflation are developed from three key threads: <ul style="list-style-type: none"> <li>o The advice and knowledge of professional employees</li> <li>o The data available from national projections</li> </ul> </li> </ul>	5	4	20

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
		an increase in balances or unused resources that could be used to achieve strategic priorities.	<ul style="list-style-type: none"> <li>○ An assessment of past experience both locally and nationally</li> </ul> <p>- MTFS core inflation projections will be increased to 5% for 2024/25.</p>			
H	<p><b>Adverse impact from changes in local government funding</b></p> <p>The financial implications of the new local government funding regime, now unlikely to be introduced until 2026/27, remain unclear.</p>	The Council no longer receives Revenue Support Grant (RSG), but the amount of Business Rates that it retains depends on the funding regime set by central government.	<p>- The Medium Term Financial Strategy to 2027/28 includes an adverse scenario which allows for a significant impact on the Council's resources,</p> <p>- The Council has developed other sources of income to ensure it can maximise its resources while dealing with the consequences of government strategy.</p>	4	3	12
296 I	<p><b>Constraints on council tax increases</b></p> <p>The limit on Council Tax increases means that the Council must manage expenditure pressures even if these potentially give rise to cost increases greater than the referendum limit.</p>	The limit on Council Tax increases means that inflation levels in excess of the referendum limit have to be absorbed by making savings elsewhere.	<p>- The budget for 2023/24 incorporates a Council Tax increase of 3%.</p> <p>- Budget planning is based around the assumption that Council Tax increases will be maximised within the constraints of the referendum limit in subsequent years.</p>	5	4	20
J	<p><b>Capital Programme cannot be funded</b></p> <p>Reduction or total loss of funding sources means that the capital programme cannot be delivered or demands on funding exceed available supply</p>	<p>The main sources of funding are:</p> <ul style="list-style-type: none"> <li>○ Internal borrowing</li> <li>○ PWLB borrowing</li> <li>○ New Homes Bonus</li> <li>○ Capital Grants</li> <li>○ Developer contributions (\$106)</li> </ul> <p>A reduction in this funding will mean that future schemes cannot be delivered.</p>	<p>- Council has access to borrowing.</p> <p>- Council has confirmed in the past that borrowing is acceptable if it meets the prudential criteria.</p> <p>- Capital expenditure is monitored carefully against the borrowing limits that the Council sets itself.</p>	5	4	20

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
K	<p><b>Increased volume and complexity of government regulation</b></p> <p>Covid-19 and the range of government support for local authorities and the community have led to a rapid increase in the volume and complexity of reporting and regulation.</p>	<p>Scaling up administrative resources to address the increased volume and complexity of reporting and regulation may divert attention from other priorities.</p> <p>Ultimately, failure to comply with new regulatory requirements could pose financial and reputational risk for the Council.</p>	<p>- The Council has formal procedures for monitoring new legislation, consultations and policy / guidance documents.</p> <p>- Our relationships with organisations such as the Council's external auditor provide access to additional knowledge regarding relevant future events.</p>	2	3	6
297 <sub>L</sub>	<p><b>Business Rates &amp; Council Tax collection</b></p> <p>Council fails to maintain collection targets for business rates and council tax</p>	<p>Failure to achieve collection targets will reduce the level of key resources to ensure a balanced budget. This will mean further cuts in other budgets or the cost of financing outgoing cash flow to other agencies in relation to taxes not yet collected.</p> <p>Business rates amount to around £50 million in 2023/24 and Council Tax due amounts to around £120 million.</p>	<p>- The Council has a good track record of business rates and Council Tax collection.</p> <p>- Steps are taken to maximise collection rates, such as active debt collection, continual review of discounts, etc.</p>	4	3	12
M	<p><b>Business Rates pool</b></p> <p>Changes to rateable value (RV) or instability of business rates growth within the pool may not generate projected levels of income</p>	<p>Changes in RV or instability in growth will result in a reduction in income from business rates and a potential consequence for the Council.</p>	<p>- The pool is monitored quarterly Kent wide and Maidstone is the administering authority. The projected benefit of the pool across Kent as a whole is projected to be around £14m in 2023/24.</p> <p>- Provisions have been made when projecting business rates income for bad debts and losses on appeal so any loss of income would relate to the excess over the provisions already made.</p>	3	3	9
O	<p><b>Litigation costs exceed budgeted provisions.</b></p> <p>The Council is often engaged in litigation and generally the costs of any award against the Council and associated costs of legal advice can</p>	<p>Costs in excess of budget would require a drawing on reserves and the identification of savings in</p>	<p>- Corporate Leadership Team is updated regularly on outstanding legal cases.</p>	4	2	8

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
	be met from within budgets. However, it is prudent to acknowledge the risk that provisions may not in fact be sufficient to cover all likely costs.	subsequent years in order to replenish the level of reserves.	- Appropriate professional advice is taken at all times.			
P	<p><b>Financial impact from emergencies such as COVID-19</b></p> <p>A resurgence of the pandemic or a similar emergency would see similar impact to those experienced in the first wave, eg reduction in fees and charges income arising from lower levels of economic activity and the effect of a broad reduction in economic growth on public finances.</p>	In the short term the Council would need to draw on reserves to cover the financial costs, but in the longer term savings would be required to replenish reserves.	<ul style="list-style-type: none"> <li>- Senior officer group mobilised to address short term impacts</li> <li>- Mitigations to be developed over longer term</li> </ul>	5	3	15
298 <sup>Q</sup>	<p><b>Financial impact from IT security failure</b></p> <p>Local authorities have been subject to cyber attacks over the past few years, often with severe financial and service implications.</p>	The Council might have to suspend normal financial transactions for a period of time.	<ul style="list-style-type: none"> <li>- Anti-virus software</li> <li>- Regular communications with staff to warn about risks</li> <li>- Back-up arrangements with neighbouring authorities</li> </ul>	4	3	12
R	<p><b>Pension liability cannot be funded</b></p> <p>There are a range of risks associated with the pension liability, including pension fund investment performance, inflation in salaries and pensions, changes in longevity, and capacity of the organisation to support pension fund contributions.</p>	Additional revenue costs will arise from an increased pension liability	<ul style="list-style-type: none"> <li>- Regular actuarial valuations</li> <li>- Mitigating actions in the form of increases to employer pension contributions</li> </ul>	4	2	8

# Impact & Likelihood Scales

## RISK IMPACT

Level	Service risk	Reputation Risk	H&S	Legal Risk	Financial Risk	En'ment Risk
<b>Catas-trophic (5)</b>	Ongoing failure to provide an adequate service	Perceived as failing authority requiring intervention	Responsible for death	Litigation almost certain and difficult to defend. Breaches of law punishable by imprisonment or significant fines	Uncontrollable financial loss or overspend over £500k	Permanent, major environmental or public health damage
<b>Major (4)</b>	Failure to deliver Council priorities Poor service. Disrupted 5 days+	Significant adverse national publicity	Fails to prevent death, causes extensive perm injuries or LT sick	Litigation expected, but defensible Breaches of law punishable by fines	Financial loss or overspend greater than £250k	Long term major public health or environmental incident (1yr+)
<b>Moderate (3)</b>	Unsatisfactory performance Service disrupted/ stopped 3-5 days	Adverse national publicity or significant adverse local publicity	Fails to prevent extensive, permanent injuries or LT sickness	Complaint likely, litigation possible Breaches of regs or standards	Financial loss or overspend greater than £50k	Medium term major public health or environmental incident (up to 1yr)
<b>Minor (2)</b>	Marginal reduction in performance Service disrupted/ stopped 1-2 days	Minor adverse local publicity	Medical treatment required, potential long term injury or sickness	Unlikely to cause complaint Breaches of local procedures	Financial loss or overspend greater than £10k	Short term public health or environmental incident (weeks)
<b>Minimal (1)</b>	No significant service impact Service disruption up to 1 day	Unlikely to cause adverse publicity	First aid level injuries	Unlikely to cause complaint Breaches of local procedures	Financial loss or overspend under £10k	Environmental incident with no lasting detrimental effect

## RISK LIKELIHOOD

Type	Probability	Detail description
Almost certain (5)	90%+	Without action is likely to occur; frequent similar occurrences in local government/Council history
Probable (4)	60%-90%	Strong possibility; similar occurrences known often in local government/Council history
Possible (3)	40%-60%	Might occur; similar occurrences experienced in local government/Council history
Unlikely (2)	10%-40%	Not expected; rare but not unheard of occurrence in local government/Council history
Rare (1)	0%-10%	Very unlikely to occur; no recent similar instances in local government/Council history

## Audit, Governance and Standards Committee

**15 January 2024**

### Independent Member

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Audit Governance and Standards Committee	15 January 2024
Council	21 February 2024

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Mark Green, Director of Finance, Resources and Business Improvement
<b>Lead Officer and Report Author</b>	Mark Green, Director of Finance, Resources and Business Improvement Katherine Woodward, Head of Mid Kent Audit
<b>Classification</b>	Public report with exempt appendices  Exempt Appendix 1: Curriculum Vitae Exempt Appendix 2: References  This appendix contains exempt information as classified in paragraph 1 of part 1 of schedule 12A to the Local Government Act 1972 in that it contains information relating to any individual.  The public interest in maintaining this exemption outweighs the public interest in its disclosure.
<b>Wards affected</b>	All

#### **Executive Summary**

The Constitution adopted by the Council at its meeting on 19<sup>th</sup> April 2023 makes provision for the co-option of an Independent Member to the Audit, Governance and Standards Committee. This report sets out a process for identifying and co-opting a suitable person to the Committee.

#### **Purpose of Report**

Decision.

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**This report makes the following recommendations to this Committee:**

1. That the Committee recommends that Council co-opt the person proposed by the selection panel as an Independent Member of the Committee.

## Independent Member

### 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p>	Director of Finance, Resources and Business Improvement
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>There will be no material impact on these objectives.</p>	Director of Finance, Resources and Business Improvement
<b>Risk Management</b>	Already covered in the risk section.	Director of Finance, Resources and Business Improvement
<b>Financial</b>	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Director of Finance, Resources and Business Improvement

<b>Legal</b>	<ul style="list-style-type: none"> <li>The co-option of an independent member of the audit committee is authorised under the council's constitution.</li> </ul>	Team Leader (Contentious and Corporate Governance)
<b>Privacy and Data Protection</b>	No implications	Director of Finance, Resources and Business Improvement
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
<b>Public Health</b>	No implications.	Director of Finance, Resources and Business Improvement
<b>Crime and Disorder</b>	No implications.	Director of Finance, Resources and Business Improvement
<b>Procurement</b>	No implications.	Director of Finance, Resources and Business Improvement
<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered and there are no implications on biodiversity and climate change.	Biodiversity and Climate Change Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Constitution adopted by the Council at its meeting on 19<sup>th</sup> April 2023 makes provision for the co-option of an Independent Member to the Audit, Governance and Standards Committee. This is in line with best practice and with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). This report describes the process of selecting an Independent Member and makes a recommendation to Council.
- 2.2 Note that the Independent Member will be in addition to the two Parish Representatives who already sit on the Audit, Governance and Standards Committee. Like the Parish Representatives, the Independent Member will not have voting rights.

- 2.3 In order to ensure that a wide range of potential candidates was alerted to the opportunity, the role was advertised on LinkedIn, PF Jobs and the Council's own website. In the end, six applications were received. A panel comprising the Chair, Vice-Chair, Director of Finance, Resources and Business Improvement and Head of Mid-Kent Audit reviewed the applications for the role and agreed a shortlist of four. Two candidates were interviewed in person by the Chair, the Director of Finance, Resources and Business Improvement, the Head of Mid-Kent Audit and the Council's HR Manager, the other two candidates being unavailable for interview.
- 2.4 Both candidates seen by the panel submitted strong applications and performed well in interview. On the basis of a structured interview assessment, the panel agreed unanimously that the candidate whose curriculum vitae is included as an appendix to this report scored most strongly in relation to the requirements of the role.
- 2.5 Two references were sought on the proposed candidate. Only one of these had been received when this matter was considered at the meeting of the Committee on 13 November, so a decision on whether to recommend the candidate to Council was deferred to this meeting.
- 2.6 Both references have now been received and are included at Appendix 2.
- 2.7 If the proposed candidate is approved by the Committee, they will be put forward for Council to agree their co-option as an Independent Member of the Committee at its meeting on 21 February 2024.
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### **3. AVAILABLE OPTIONS**

#### 3.1 Option 1

The recommended candidate is put forward for approval by Council.

#### 3.2 Option 2

The recommended candidate is not put forward and the recruitment process starts again.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 It is recommended that Option 1 is chosen. The preferred candidate has excellent experience, of considerable relevance for the Committee, and meets the requirements for the role.
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### **5. RISK**

- 5.1 The overall impact of the course of action proposed in the report is likely to be to mitigate the risks faced by the Council, in that it will add an informed and independent element to the work of the Committee.

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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The proposal to co-opt an Independent Member was considered by Democracy and General Purposes Committee prior to Council adopting the current constitution, and was generally welcomed.
- 6.2 This Committee agreed the process for selecting an Independent Member at its meeting on 24 July 2023. The matter was considered at the Committee's meeting on 13 November 2023, but no decision was made as only one reference on the preferred candidate had been received of the two requested.

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 See paragraph 2.7 above.

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## **8. REPORT APPENDICES**

- Exempt Appendix 1: Curriculum Vitae of recommended candidate
- Exempt Appendix 2: References

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## **9. BACKGROUND PAPERS**

None.