

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

14 June 2023

Dear Councillor

You are summoned to attend the meeting of the;

STRATEGY AND RESOURCES COMMITTEE

on **THURSDAY 22 JUNE 2023 at 7.30 pm**

in the **Council Chamber, Maldon District Council Offices, Princes Road, Maldon.**

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can continue to do so via Microsoft Teams.

To register your request to speak please submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

| | |
|------------------|--|
| CHAIRPERSON | Councillor M F L Durham, CC |
| VICE-CHAIRPERSON | Councillor A Fittock |
| COUNCILLORS | D O Bown J Driver A S Fluker K Jennings A M Lay R H Siddall W Stamp, CC M E Thompson S White |





AGENDA STRATEGY AND RESOURCES COMMITTEE

THURSDAY 22 JUNE 2023

1. **Chairman's Notices**

2. **Apologies for Absence**

3. **Minutes of the Last meeting** (Pages 5 - 10)

To consider the Minutes of the Strategy and Resources Committee held on 16 March 2023 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Public Participation**

To receive the views of members of the public, of which prior notification in writing has been received (no later than noon on the Tuesday prior to the day of the meeting).

Should you wish to submit a question please complete the online form at:
www.maldon.gov.uk/publicparticipation.

6. **Annual report in relation to the Regulation of Investigatory Powers Act 2000 (RIPA)** (Pages 11 - 42)

To consider the report of the Director of Service Delivery, (copy enclosed).

7. **Fees and Charges Update** (Pages 43 - 50)

To consider the report of the Interim Chief Finance Officer, (copy enclosed).

8. **Supplementary Estimates, Virements, Procurement Exemptions and Use of Reserves** (Pages 51 - 54)

To consider the report of the Interim Chief Finance Officer, (copy enclosed).

9. **Provisional Outturn 2022 / 23** (Pages 55 - 66)

To consider the report of the Interim Chief Finance Officer (copy enclosed).

10. **Area of Special Control for Advertisements** (Pages 67 - 78)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).

11. **Business Rates Discretionary Rate Relief** (Pages 79 - 136)

To consider the report of the Director of Service Delivery (copy enclosed).

12. **Appointment of Representatives on Outside Bodies and Working Groups**
(Pages 137 - 138)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).

13. **Any other items of business that the Chairman of the Committee decides are urgent**

14. **Exclusion of the Public and Press**

To resolve that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 2, 3 and 5 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

15. **Legal Action** (Pages 139 - 140)

To consider the report of the Director of Service Delivery (copy enclosed).

NOTICES

Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

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Health and Safety

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**MINUTES of
STRATEGY AND RESOURCES COMMITTEE
16 MARCH 2023**

PRESENT

| | |
|-------------|---|
| Chairman | Councillor S White |
| Councillors | Mrs P A Channer, A S Fluker, K M H Lagan, N G F Shaughnessy, R H Siddal, C Swain and Mrs M E Thompson |
| Substitutes | Councillor S J N Morgan |

643. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

644. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICE

Apologies for absence were received from Councillors M F L Durham CC and W Stamp. In accordance with notice duly given Councillor S J N Morgan was attending as a substitute for Councillor Durham.

645. ADJOURNMENT OF THE MEETING

RESOLVED that the meeting be adjourned at 19:32 to resolve a technical problem with sound on the YouTube live stream.

646. RESUMPTION OF BUSINESS IN OPEN SESSION

RESOLVED that the meeting resumes at 19:39 in open session.

647. MINUTES - 26 JANUARY 2023

RESOLVED that the Minutes of the meeting of the Committee held on 26 January 2023 be approved and confirmed.

648. MINUTES - 9 FEBRUARY 2023 (CONTINUATION OF MEETING ON 26 JANUARY 2023)

In response to a question regarding whether the Senior Specialist – Legal had been present at this meeting it was confirmed that she had been in attendance.

RESOLVED that the Minutes of the meeting of the Committee held on 9 February 2023 be approved and confirmed.

649. DISCLOSURE OF INTEREST

There were none.

650. PUBLIC PARTICIPATION

No requests had been received.

651. CLIMATE ACTION PLAN FOR 2023 / 24

The Committee considered the report of the Director of Service Delivery updating Members on the Council's annual Climate Action Plan for 2023 / 24.

Members were reminded that following the Council declaring a Climate Emergency in February 2021 a Climate Action Strategy (CAS) had been adopted (December 2021) and contained 60 actions along with five pledges which were outlined in the report. In addition, the Council had committed to producing an annual Climate Action Plan (CAP) and Appendix 1 to the report set out the CAP for 2023 / 24 identifying each of the priority actions aligned to each of the CAS Pledges. The CAP would inform, help enable and update the Maldon District community about the Council's work on the climate emergency.

The Committee congratulated and thanked the Strategy, Policy and Communications Manager and her team for the report and work undertaken.

A lengthy debate ensued, during which a number of questions were raised and to which the Strategy, Policy and Communications Manager provided detailed responses including:

- The CAP related to the next 12 months and would be an annual Plan delivering against what the Council was hoping to achieve over that period. However, in addition to the short-term actions identified Officers had included details of medium- and long-term actions.
- Training had been provided to staff and Members and a number of changes to current procedures within the Council had been amended to ensure consideration was always given to the CAS.
- The Officer outlined the budget approved in relation to the CAP and how these monies provided an Officer resource as well as enabling the Council to work with community groups and partners to engage and promote the work. The CAP set out those organisations the Council was working with to progress not only the work of the CAS but also ensure that the District received any funding allocated and was included in the roll out of any wider initiatives.
- The Strategy Theme Lead worked with national cycle paths to ensure there was connectivity across the district and beyond. The Council was working with Essex County Council (ECC) in its work to create a Strategic Transport Strategy. Emissions along with 20 mile per hour zones would feed into this work and marking of cycle paths on roads had been highlighted by Officers but likely to be on a scheme-by-scheme basis.

- The Director of Service Delivery confirmed that the Council's Countryside and Coast Officer had started this week and one of their objectives would be to deliver against the CAP as well as completing other work such as the Green Infrastructure Strategy.
- The Council was working with housing partners to ensure they had a decarbonisation plan, applying for decarbonisation funds and were improving the fabric of their housing stock both in terms of making housing sound but also sustainable in the future. In respect of retrofitting, the Council was expecting the providers to have clear plans as to how this would be done. In addition, work with ECC to ensure skills and training for such work to be done locally was ongoing.
- Although the Council was not promoting veganism, it was providing residents with a choice and the skills to be involved in different initiatives along with community projects, such as grow your own, to give better health outcomes. This work was carried out through the Council's health and wellbeing work and One Maldon ensuring that any climate action fed into such initiatives.

In addition to the additional information provided by the Officer, a number of other comments were raised by Members, these included:

- Encouraging Parish Councils to access free initiatives which were available from ECC.
- With regards to procurement the Council should be encouraging contractors to use biofuels or other greener options and looking at how they are going to operate.
- Air quality, specifically in relation to Market Hill, Maldon and Latchingdon should be addressed.
- The Council should look to introduce a policy to encourage people to have electric or dual fuel cars and install car chargers.
- Concern regarding how some statements within the CAP may conflict with other Council policies and the Medium-Term Financial Strategy.
- The Council should prosecute people who drop litter, fly tip etc.
- Consideration should be given to removing co-mingled waste collections for apartment blocks.
- Farmers had recently lost European Union (EU) Grants and it was questioned whether they would sign up to sustainable farming without further support and investment. Although noted that a large number were environmentally friendly. The Department for the Environment, Food and Rural Affairs should be in charge of the use of chemicals, particularly in relation to sustainable farming.
- In respect of pledging less waste, it was noted Maldon was the best Local Authority for waste collection in Essex.
- Rather than deterring car use in Maldon Town Centre, the Council should look at ways of encouraging low emission cars into Council Car parks.
- The Plan should be outcome based and have local Maldon outcomes not necessarily Essex wide ones.

The Chairman proposed an amendment to the recommendation, that all the thoughts and responses from this Committee were built into the quarterly performance report. This was duly seconded and agreed.

RESOLVED

- (i) that the Council's annual Climate Change Action Plan (CAP) for 2023 / 24 be noted;
- (ii) that the CAP be monitored quarterly via quarterly performance reports to the Performance, Governance and Audit Committee and these reports include the thoughts and comments raised at this meeting by the Strategy and Resources Committee.

652. DELIVERING THE CORPORATE PLAN 2023 - 2027 PRIORITY - 'HELPING THE ECONOMY TO THRIVE'

The Committee considered the report of the Director of Strategy, Performance and Governance updating Members regarding the ongoing and new activity to deliver the Corporate Priority 'Helping the Economy to Thrive'.

The report set out the four areas of achievement under this corporate priority and provided an update from Officers on work being undertaken under each area. This included:

- Launch of the District's Investment Prospectus, Local Maldon District (LMD). This would provide the Council with a coordinated approach to supporting inward investment and maximising business growth.
- The Council had supported the formation of the Maldon District Tourism Group (T23) which would assist in the development of a new Tourism Framework. This Framework would provide clarity on the core tourism functions of the Council.
- How the Supporting Local Business Programme would build on the most successful parts of the former Sense of Place Business Network.
- How the UK Shared Prosperity Fund (UKSPF) and Rural England Prosperity Fund (REPF) presented significant opportunity for the Council to support the District's economy and businesses. Together with the Rural Community Council of Essex the council would be proposing a partnership bid to the Magnox Socio-Economic fund to support and enhance the delivery.
- As part of the UKSPF's year one Investment Plan the Maldon Market recovery commission would be exploring options to invest in a new and improved Maldon Town market.

In response to a question regarding an indoor market for Maldon, the Strategy Theme Lead: Prosperity advised that although an attractive idea there would be significant revenue costs, and this was not currently with the budget allocation Officers were working with.

A lengthy debate ensued and in response to comments and questions the Strategy Theme Lead: Prosperity provided the following information to Members:

- The current location of the Maldon market was the location considered most viable by consultants following a report undertaken last year. The Council was exploring options for a market however no funds were being committed at this time.
- £25,000 had been allocated into an investment plan for the shared prosperity fund but this would only be used if, following a soft market engagement exercise, viable business cases came forward. The Chairman requested that

before any monies were spent on any feasibility study that this should come back to this Committee as her opinion was that any company wishing to run the market should be able to run their own feasibility study.

- The Council actively promoted the area for film presentation and were working with the newly establish Essex County Council film office to do this. In addition, the Council had a specific page on the visit Maldon District website regarding filming in the District.
- Member briefings had been arranged, starting the following week, covering three areas (as detailed in the recommendation set out in the report) and a reminder would be sent out to Members. It was confirmed that the session recordings and materials would be shared with Members and further time offered if requested.

Councillor A S Fluker proposed that the recommendations as set out in the report be agreed. The Chairman moved the recommendations, and these were duly agreed.

RESOLVED

- (i) That Members note further Member briefings will be offered regarding:
 - Supporting local businesses and inward investment;
 - Tourism and the visitor economy;
 - UK Shared Prosperity Fund (UKSPF) and Rural England Prosperity Fund (REPF) funded activity.
- (ii) that Members note the Council's Maldon District Tourism Group (T23) has commenced;
- (iii) That the delivery of the UKSPF year one Maldon Market recovery project and the partnership with Rural Community Council of Essex to deliver the REPF be endorsed.

653. EXCLUSION OF THE PUBLIC AND PRESS

In response to a Point of Order the Chairman advised the Committee that Agenda Item 11 – Burnham-on-Crouch – Long Lease Agreement had been withdrawn from this agenda.

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

654. LEGAL ACTION AND DEBT RECOVERY

The Committee considered the report of the Director of Resources seeking Members' agreement of recovery action for licence fees.

The report detailed background information regarding a licence and agreements in place regarding payment of the licensing fee. The Senior Specialist – Legal provided Members with a detailed update regarding the licence, legal position and payment options.

In response to a question regarding boats having insurance the Officer advised she did not have this information and would have to ask the relevant Officers to respond to Members.

Following further discussion the Chairman put the recommendations as set out in the report. This was duly seconded and agreed.

RESOLVED

- (i) That delegated authority be granted to the Director of Resources, in consultation with the Chairman of this Committee, to enter into negotiations to agree a monthly licence fee as set out in the report;
- (ii) That if no agreement can be made as set out in (i) above any outstanding payment is written off as unrecoverable, in line with the Council's Financial Procedure Rules.

655. BURNHAM-ON-CROUCH - LONG LEASE AGREEMENT

The Chairman provided the Committee with further detail regarding the withdrawal of this report.

In response to a discussion regarding this report coming back to the Committee as the lease had only recently been agreed the Chairman proposed that the matter be referred to the Overview and Scrutiny Committee. This was duly seconded. Councillor A S Fluker proposed that the Monitoring Officer be asked to provide a report regarding this matter. This proposal was duly seconded. The Chairman then put each of the proposals to the Committee but following a separate vote being taken on each they were declared lost.

There being no other items of business the Chairman closed the meeting at 9.01 pm.

S WHITE
CHAIRMAN



REPORT of DIRECTOR OF SERVICE DELIVERY

to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023

ANNUAL REPORT IN RELATION TO THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

1. PURPOSE OF THE REPORT

- 1.1 To note the activity of the Council in relation to the Regulation of Investigatory Powers Act (RIPA) for the financial year 2022 / 23 and consider the recommendations of the desktop review conducted by the Investigatory Powers Commissioner's Office (IPCO) in November 2022.

2. RECOMMENDATIONS

- (i) That Members note the activity of the Council in relation to the Regulation of Investigatory Powers Act (RIPA) and agree to receive a review report and policy review on an annual basis going forward;
- (ii) That Members approve the new RIPA Policy for the Council (**APPENDIX 1**) and note the Action Plan (**APPENDIX 2**) agreed with the Investigatory Powers Commissioner's Office (IPCO).

3. SUMMARY OF KEY ISSUES

3.1 Summary

- 3.1.1 The Regulation of Investigatory Powers Act (RIPA) 2000 sets out the reasons for which the use of directed surveillance and Covert Human Intelligence Source (CHIS) may be authorised. Local Authorities' abilities to use these investigation methods are restricted in nature and may only be used for the prevention and detection of crime or the prevention of disorder. Local Authorities are not able to use intrusive surveillance. The use of directed surveillance or CHIS on a regular basis requires detailed specialist training, and any use must be necessary and proportionate. Full details on the act can be found at: [Regulation of Investigatory Powers Act 2000 \(RIPA\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/legislation/regulation-of-investigatory-powers-act-2000)
- 3.1.2 The Council was subject to an Investigatory Powers Commissioner's Office (IPCO) inspection in 2018 and recommendations were made. Following the inspection, the Council underwent a restructure and the person responsible for RIPA compliance on a day-to-day basis left the authority. The Community Safety Manager was asked to provide support for the virtual desktop review and act as RIPA coordinator which was conducted in November 2022. The information provided as part of this review has been considered and removes, for the present, the requirement for a further physical inspection. The Maldon District Council (MDC) RIPA Policy has now amended to ensure that it is now compliant and that it is current for the existing staffing structure.

This policy is attached as **APPENDIX 1**. It should be noted that this authority is a low user if these powers and that there has been no activity for the period 1 April 2022 – 31 March 2023. A copy of the formal response (Action Plan) to IPCO is attached as **APPENDIX 2**.

3.1.3 Areas of non-compliance and observations were provided in a document presented to the Director of Resources on 15 November 2022. A summary of the findings is detailed below:

- A record of all RIPA authorisations is to be maintained in accordance with paragraph 8.1 of the Covert Surveillance and Property Interference (CSPI) Code of Practice (2018).
- The MDC RIPA Policy (Code of Practice on Covert Surveillance, A guide to the Council's approach to the Regulation of Investigatory Powers Act 2000) was produced in March 2015. A review is being undertaken, although it requires corporate sign off and a change in review frequency to be brought in line with the annual RIPA Working Group meetings. Notwithstanding the review that is underway, the need to progress this work is re-enforced with an observation that all references to the Office of Surveillance Commissioners (OSC) should be replaced with reference to the Investigatory Powers Commissioner's Office. Additionally, the RIPA Policy should be updated to incorporate any legislative changes and in particular, the impact of the Investigatory Powers Act 2016, as well as the updated Codes of Practice for both Covert Surveillance and Property Interference and Covert Human Intelligence Sources.
- Paragraph 4.47 of the CSPI Code of Practice explains that Elected Members of a local authority should review the authority's use of the powers and set the policy at least once a year. This requirement may be satisfied soon by the proposed submissions to the Strategy and Resources Committee. However, no evidence of previous reporting has been found by the RIPA Coordinator since 2018.
- MDC does not carry out any test purchase activity. If there is a need to consider test purchase or CHIS activity, those considerations will be made in partnership with a larger local authority or the Police.
- An Information Security Policy, as well as the RIPA Policy, is available to staff on the MDC intranet site. Although the Information Security Policy explains that staff should only access systems and information for which staff are authorised, no specific guidance was found in that policy to guard against the risk of inadvertent drift into RIPA territory while conducting desktop research or online activity. Observation – the RIPA Senior Responsible Officer (SRO) and Coordinator should review guidance in place to ensure that staff are clear regarding RIPA considerations associated with the level and frequency of online activity or desktop research that they may conduct domestic abuse awareness week
- MDC outsources the CCTV monitoring service to Chelmsford City Council and all CCTV staff have received training that includes a RIPA module.
- A budget for RIPA training has been approved and 20 e-learning licences have been secured from a RIPA training provider. This is an appropriate level of training for authorising officers and practitioners
- Regarding Data Assurance Safeguards, a SharePoint site has been set up specifically for RIPA material with access limited to appropriate staff. The policy is that RIPA material is recorded on a retention schedule and reviewed on an annual basis.

4. CONCLUSION

- 4.1 The approval of the RIPA policy and completion of the Action Plan by 30 September 2023 will make this authority compliant with current legislation and the annual reporting process will put this authority in a good place moving forward for future inspections.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

- 5.1 This report and the contents within contribute to the Council's Community Strategy and sets out the vision to achieve a "Sustainable Council – Prosperous Future".

6. IMPLICATIONS

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – As set out in RIPA Policy (**APPENDIX 1**).
- (iv) **Impact on Resources (financial)** – Budget for RIPA training to be allocated.
- (v) **Impact on Resources (human)** – Staff roles as per RIPA Policy.

Background Papers:

APPENDIX 1 (Maldon DC RIPA Policy)

APPENDIX 2 (Maldon DC IPCO Response)

Enquiries to: Spencer Clarke, Community Safety Manager, (Tel: 01245 606477).

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REGULATION OF INVESTIGATORY POWERS ACT 2000

POLICY & PROCEDURAL GUIDANCE ON THE USE OF COVERT SURVEILLANCE



| | |
|--|-----------|
| 1. Introduction | 5 |
| Context | |
| Why is RIPA Important? | |
| What RIPA does and Does Not Do | |
| 2. Scope of the RIPA Investigation process | 7 |
| Reason for the Guidance | |
| Training | |
| Home Office Guidance | |
| 3. Meaning of Surveillance | 8 |
| What is Surveillance? | |
| Examples of Different Types of Surveillance | |
| What is Overt Surveillance? | |
| What is Covert Surveillance? | |
| What is Directed Surveillance? | |
| Limitations on the Use of Directed Covert Surveillance | |
| What is Intrusive Surveillance? | |
| What is Private Information and why is this Important? | |
| 4. When is a RIPA Authorisation required? | 13 |
| CCTV Systems | |
| An Example of the Use of Directed Surveillance | |
| Grounds for Making an Authorisation under RIPA | |
| Core Functions | |
| The Conduct of Covert Human Intelligence Sources | |

| | |
|--|----|
| Management of Covert Human Intelligence Sources | |
| The Acquisition of Communications Data | |
| 5. The Procedure for Obtaining Authorisations ‘Directed Surveillance’ | 17 |
| Making an Application for an Authorisation | |
| Submitting the Application for an Authorisation | |
| Responsibilities of the Authorising Officer | |
| Necessity & Proportionality | |
| Avoiding Common Mistakes in RIPA Forms | |
| Obtaining Court Approval for Authorisations | |
| Expiry of Authorisations | |
| Review of Authorisations | |
| Obligations of the Authorising Officer Relating to the Renewal of Authorisations | |
| Cancellation of Authorisations | |
| Maintaining Records of Authorisations, Renewals and Cancellations | |
| Role of the RIPA Senior Responsible Officer | |
| Role of the RIPA Co-Ordinating Officer | |
| Role of the Assistant RIPA Co-Ordinating Officer | |
| Regulation of Use of Authorisations | |
| 6. Further Information and how to Make a Complaint | 25 |
| Appendix A | 26 |

1. Introduction

Context

- 1.1. This document sets out the Council's approach to ensure-
- 1.2. Council Investigations are conducted in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and guidance issued by the various statutory agencies, specifically the Home Office Code of Practice for Covert Surveillance and Property Interference at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf
- i) The Council can justify the need for covert investigation techniques, which by their very nature may otherwise be in breach of the Human Rights Act 1998, and that appropriate controls are in place to ensure that the activities are properly controlled and monitored.

Why is RIPA important?

- 1.3. The provisions of RIPA are designed to regulate any act of covert investigation or surveillance carried out by a local authority. These terms are explained below.
- 1.4. RIPA was enacted to provide a lawful procedure for public bodies to carry out covert investigations without the risk of a claim being made under the Human Rights Act 1998, against either that body or the Investigating Officer, by the person subject to such an investigation.
- 1.5. The Human Rights Act introduced a remedy for persons claiming that their privacy had been breached. The right to privacy contained in the European Convention on Human Rights (ECHR) is not an absolute right. It is a qualified right and will not apply in the circumstances set out in Article 8.2 of the ECHR.
- 1.6. The provisions of Article 8.2 of the ECHR have been incorporated into English law by the enactment of Part II of RIPA. The effect of Part II of RIPA is to provide protection to the local authority itself and to the individual officer against any claim for breach of privacy, provided they can demonstrate that they have fully complied with the procedures prescribed by RIPA.
- 1.7. If an investigation is carried out in accordance with RIPA procedures, then any possible resultant breach of the subject's privacy rights would not be actionable as a civil claim. In addition, in criminal proceedings arising from the investigation, the evidence gathered will not be challengeable under Section 78 of the Police & Criminal Evidence Act 1984, on the ground that it is a breach of privacy rights.
- 1.8. The protection afforded by RIPA also extends to complaints made to the Investigatory Powers Tribunal and to the Local Government Ombudsman. Strict

adherence to the requirements of RIPA therefore provides a defence to any civil proceedings and claims for damages for breach of privacy.

- 1.9. It is therefore crucial that all Investigating Officers adhere to the requirements of RIPA.

What RIPA Does and Does Not Do

- 1.9 RIPA does:

- i) Require prior authorisation of directed surveillance;
- ii) Prohibit the Council from carrying out intrusive surveillance;
- iii) Require authorisation of the conduct and use of a Covert Human Intelligence Source (CHIS); and
- iv) Require safeguards for the conduct and use of a CHIS.

- 1.10 RIPA does not:

- i) Make conduct unlawful which would otherwise be lawful; and
- ii) Prejudice or dis-apply any existing powers available to the Council to obtain information by any means not involving conduct that may be authorised under this Act. For example, it does not affect the Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.

2. Scope of the RIPA Investigation process

Reason for the Guidance

- 2.1 This policy is intended to assist any employee of the Council who acts as an Enforcement (Investigating) Officer in any capacity or who acts as an Authorising Officer. It will direct officers from the start of the investigation to the point at which the legal process will begin which is beyond the scope of this guidance. It does not replace the need for proper training in investigation techniques.
- 2.2 If the Authorising Officer or any Applicant is in any doubt, s/he should ask the Authorising Officer or BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

Training

- 2.3 The RIPA Co-ordinating Officer will ensure refresher training for those officers whose work involves, or is likely to involve, the use of the RIPA regime every 12 months.

The RIPA Co-ordinator has responsibility for arranging training for Authorising Officers with respect to Covert Human Intelligence Sources “CHIS” and for raising awareness more generally among staff with investigative roles.

- 2.4 New members of staff for whom the above is applicable should access the RIPA on-line “Act Now” training module once approved by their manager (<https://www.actnow.org.uk/ripaessentials>). Human Resources maintain records of formal RIPA training.
- 2.5 There should be regular updates at team meetings on the use of RIPA. Guidance with respect to Covert Human Intelligence Sources is available both on the intranet and from the RIPA Co-ordinating officer.

Home Office Guidance

- 2.6 The Home Office provides guidance on the use by public authorities of RIPA legislation in its Code of Practice. It is important that officers involved with RIPA are familiar with this code, particularly Authorising Officers as public authorities may be required to justify, with regard to the code, the use or granting of authorisations in general or the failure to use or grant authorisations where appropriate.

3. Meaning of Surveillance

- 3.1 RIPA provides for the authorisation of covert surveillance by public authorities, where the surveillance is likely to result in the obtaining of private information about a person. It does so by establishing a procedure for authorising covert surveillance. It prescribes the office, rank and position of those permitted to authorise covert surveillance. From 1st November 2012 any authorisation cannot be granted by a local authority unless it is first approved by the Magistrates' Court.

What is Surveillance?

- 3.2 Surveillance includes:-

- i) Monitoring, observing or listening to persons, their movements, their conversations or any of their activities or communications
- ii) Recording anything monitored, observed or listened to in the course of surveillance
- iii) Surveillance by or with the assistance of any surveillance device.

Examples of Different Types of Surveillance:

| Type of Surveillance | Examples |
|---|---|
| Overt Eg Officers on patrol (community engagement officers/environmental health officers) | <ul style="list-style-type: none"> • Signposted Town Centre CCTV cameras (in normal use) • Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. |
| Covert but do not require prior authorisation | <ul style="list-style-type: none"> • CCTV cameras providing general traffic, crime or public safety information • Most test purchases where the officer does not identify themselves upon entry and views activity as if they are a member of the public. |
| Directed must be RIPA authorised | <ul style="list-style-type: none"> • Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or off long-term sick from employment. • Test purchases where the officer has a hidden camera or other recording device to record information which |

| | |
|--------------------------------------|---|
| | might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner. |
| Intrusive Council cannot do this! | <ul style="list-style-type: none"> Planting a listening or other device (bug) in a person's home or in their private vehicle. |

What is Overt Surveillance?

- 3.3 Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine, or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public and/or will be going about Council business openly.
- 3.4 Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met.)

What is Covert Surveillance?

- 3.5 Covert Surveillance is any surveillance which is carried out in a manner calculated to ensure that the subject is unaware it is or may be taking place. The provisions of RIPA authorise the following forms of covert surveillance:
- i) Directed surveillance;
 - ii) Intrusive surveillance; and
 - iii) The conduct and use of covert human intelligence sources (CHIS).

- 3.6 RIPA does not enable a local authority to make any authorisations to carry out intrusive surveillance. This type of surveillance is considered in more detail in paragraphs 3.11- to 3.15 below

What Is Directed Surveillance?

Local authorities are permitted under RIPA to authorise directed covert surveillance on the grounds that such surveillance is necessary for the prevention or detection of crime. Surveillance is directed if it is covert but not intrusive and is undertaken:

- i) For the purpose of a specific investigation or a specific operation;
- ii) In such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- iii) Otherwise, and by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under RIPA to be sought for the carrying out of the surveillance.

Limitations on the Use of Directed Covert Surveillance

- 3.7 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (SI 2012/1500) (2012 Order) came into force on 1 November 2012. It restricts Authorising Officers in a local authority in England or Wales, from authorising the carrying out of directed surveillance unless it is for the purpose of preventing or detecting a serious criminal offence or for preventing public disorder and meets the following conditions:

- i) That the criminal offence to be prevented or detected is punishable by a maximum term of at least six months' imprisonment; or
- ii) It constitutes an offence under sections 146, 147 or 147A of Licensing Act 2003 (sale of alcohol to children) or section 7 of the Children and Young Persons Act 1933 (sale of tobacco to children under 18 years old).
- iii) In the case of preventing public disorder, if it involves a criminal offence punishable by a maximum term of six months.

- 3.8 It is therefore essential that Investigating Officers consider the penalty attached to the criminal offence which they are investigating, before considering whether it may be possible to obtain an authorisation for directed surveillance. The maximum sentence should be indicated on the RIPA application form.
- 3.9 In addition, Intrusive Surveillance cannot be authorised for use by the Council.

What is Intrusive Surveillance?

- 3.10 This is surveillance which is covert surveillance that:
- i) Is carried out in relation to anything taking place in any residential premises or any private vehicle; and
 - ii) Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- 3.11 Residential premises include a rental flat occupied for residential purposes, a police cell and a hotel bedroom. However, examples of places which may not be regarded as residential premises are a communal stairway in a block of flats or the front garden of premises readily visible to the public.
- 3.12 Therefore, it is important to note that not all surveillance of a suspect's home or vehicle is likely to amount to intrusive surveillance. For example, if an Investigating Officer observes a suspect leaving his home from the street using binoculars, this is unlikely to be intrusive, unless the quality of the image obtained is of the same quality as might be expected to be obtained from a device actually present on the premises.
- 3.13 There are also a number of exceptions applicable to the use of certain monitoring equipment some of which are not considered to constitute the use of intrusive surveillance. But the intrusiveness of the surveillance proposed must be considered before any surveillance operation takes place. Therefore, advice should be sought in advance before such surveillance is contemplated or it may not be admissible as evidence and may also be a breach of RIPA.
- 3.14 For the avoidance of doubt, surveillance that enables an Investigating Officer to view or monitor anything going on inside a dwelling is almost certainly going to be regarded as intrusive and conduct of that nature cannot be authorised by a local authority.

What is Private Information and why is this Important?

- 3.15 Information is considered to be private information if it includes any information relating to the subject's private or family life or the private or family life of any other person. It would include any aspect of a person's private or personal relationship with others, including family and professional or business relationships. Private information may include personal data for example names, telephone numbers and address details.
- 3.16 It is important to understand this as Enforcement Officers may obtain information of this nature as part of an investigation for which a RIPA authorisation is not needed. However, if officers as part of that investigation obtained private information, a RIPA authorisation would be required to use it.
- 3.17 For example, if Enforcement Officers photographed the exterior of business premises, this in itself would not amount to surveillance requiring a RIPA authorisation. However, if officers also wanted to establish a pattern of occupancy of those premises by any person and took photographs on a number of occasions, it is likely that private information would be obtained and therefore a RIPA authorisation would be required. Care is therefore needed in deciding the ultimate purpose of the surveillance and what evidence officers are seeking to capture.
- 3.18 Private information may also be acquired through covert surveillance even where a person is in a public place and may have a reduced expectation of privacy. For example, where two people hold a conversation on the street they may have a reasonable expectation of privacy over the contents of that conversation. A directed surveillance authorisation may therefore be required if a public authority records or listens to the conversation as part of a specific investigation or operation.
- 3.19 In addition, the totality of the information relating to the private life of an individual may constitute private information, even if the individual records do not, and in this case an authorisation is required. For example where-
- i) A number of records are analysed together; or
 - ii) A number of pieces of information are obtained, covertly, for the purpose of making a record about a person or for data processing to generate further information.

4. When is a RIPA Authorisation required?

- 4.1 As explained in section 1 of this guidance, interference with any individual's rights under the HRA is a statutory offence. Whilst the provisions of RIPA provide lawful reasons to do so officers need to be aware that they need to assess in all cases if their surveillance or other actions might breach any of the HRA rights.
- 4.2 Officers must assess whether an individual's human rights may be breached and provide justification for doing so based on the relevant tests in the HRA. For example, surveillance that falls into the following categories will not be covered by RIPA:
- (i) Crimes not carrying six months imprisonment
 - (ii) Employee Surveillance
- 4.3 In addition some surveillance activity does not constitute directed surveillance at all for the purposes of RIPA and no authorisation can be provided for such activity under that act. These activities include:
- i) Covert surveillance by way of an immediate response to events;
 - ii) Covert surveillance as part of general observation activities;
 - iii) Covert surveillance not relating to the prevention or detection of crime or the prevention of disorder; and
 - iv) Overt surveillance by CCTV.
- 4.4 For example, enforcement officers attending a market where it is suspected that counterfeit goods are being sold, may not be carrying out surveillance of any particular individual as their intention is to identify and tackle offenders generally. In these circumstances this forms part of the general duties of the public authority and the obtaining of private information is unlikely. In such a case a directed surveillance authorisation is not required, but an assessment of any interference under the HRA is still necessary.
- 4.5 Covert surveillance undertaken without a RIPA authorisation will not have the protection of RIPA but it will still be able to be undertaken as long as it is done in accordance with the European Convention on Human Rights (ECHR), which is directly enforceable against public authorities pursuant to the HRA. Article 8 of the ECHR states:
- “everyone has the right to respect for his private and family life his home and his correspondence; and***
- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the rights and freedoms of others”***

- 4.6 To satisfy Article 8 the covert surveillance must be both necessary and proportionate. In deciding whether it is, the same factors need to be considered as when authorising surveillance regulated by RIPA.
- 4.7 It is just as important to have a written record of non-RIPA authorisation. Accordingly, officers who wish to undertake any surveillance must complete a RIPA authorisation form. This must then be passed to an authorising officer who will consider whether or not to authorise it as non-RIPA surveillance or advise that RIPA applies. The process for seeking this authorisation is set out in Section 5A below.

CCTV Systems

- 4.8 Where overt surveillance equipment is used for example in town centres, members of the public will be aware of their use and no RIPA authorisation is required.
- 4.9 If, however, CCTV cameras are used in a covert, pre-planned manner as part of a specific investigation or operation for the surveillance of a particular individual, then an authorisation for directed surveillance may be required. Such surveillance is likely to result in the obtaining of private information about a person, that is, a record of his movements and activities.

An Example of the Use of Directed Surveillance

- 4.10 This type of surveillance may be used to gather evidence for an offence such as a breach of the Trade Marks Act 1994. An Investigating Officer may need to carry out surveillance of a suspect's home to obtain information about their contacts and work patterns.
- 4.11 This would be directed surveillance as it would result in obtaining private information. A RIPA authorisation should be obtained. The Investigating Officer would need to demonstrate that such surveillance was necessary and proportionate. The Authorising Officer must be satisfied that the action proposed would not amount to intrusive surveillance, and place conditions on the conduct to avoid this happening prior to authorising the application or decline to authorise as necessary.
- 4.12 Note that if the surveillance involves the use of a surveillance device, that provides detail of the same quality as may be expected to be obtained by a device located on the premises, this may amount to intrusive surveillance. No RIPA authorisation may be given for intrusive surveillance.

Grounds for Making an Authorisation under RIPA

- 4.13 The grounds on which a local authority may make an authorisation permitting the use of directed surveillance under RIPA are limited to the prevention or detection of serious crime or the prevention of disorder. If directed surveillance is carried

out for any other purpose, then an authorisation under RIPA cannot be granted.

Core Functions

- 4.14 The Council can only make authorisations under RIPA when performing its core functions. Those are the specific public functions undertaken by the local authority as opposed to its ordinary functions which are undertaken by all public authorities.
- 4.15 For example, an authorisation under RIPA cannot be used when the principal purpose of an investigation is for taking disciplinary action against an employee, as the disciplining of an employee is not a core function. It may, however, be appropriate to seek an authorisation under RIPA if there are associated criminal investigations.

The Conduct of Covert Human Intelligence Sources

- 4.16 A local authority may grant an authorisation under RIPA for the use of a covert human intelligence source (a "CHIS".) The City Council had decided as a matter of policy not to undertake this type of surveillance but it is now accepted that RIPA should only be authorised in exceptional circumstances and only after the Authorising Officer has agreed this with the RIPA Senior Responsible Officer (SRO).
- 4.17 A person is considered to be a CHIS if:
- i) They establish or maintain a personal or other relationship with a person for the covert purpose of doing anything falling within paragraphs (ii) or (iii) below;
 - ii) They covertly use such a relationship to obtain information or provide access to any information to another person;
 - iii) They covertly disclose information obtained by the use of the said relationship, or as a consequence of the existence of such a relationship.
- 4.18 The type of conduct that could be authorised is any that:
- i) Is comprised in any such activity including the conduct of CHIS or use of CHIS, as are specified in the authorisation;
 - ii) Consists in conduct by or in relation to a person who is so specified or described as a person as to whose actions as a CHIS the authorisation relates;
 - iii) Is carried out for the purposes of or in connection with the investigation or operation so specified or described; and
 - iv) Is necessary and proportionate to the intelligence dividend that it seeks to achieve.

Management of Covert Human Intelligence Sources

- 4.19 As indicated, it is the Council's policy to only use CHIS in exceptional

circumstances. In adopting this policy the Council recognises that there may be occasions when obtaining information by use of a CHIS is required.

- 4.20 Should an Investigating Officer believe that a CHIS should be used, an initial discussion should be conducted with an appropriate Authorising Officer who, if in agreement, will discuss the matter with the Senior Responsible Officer.
- 4.21 In deciding whether the use of a CHIS is appropriate, due regard will be had for the Home Office CHIS Code of Practice which all officers involved in the use of CHIS should be familiar with, and the relevant RIPA legislation.
- 4.22 It is important that all aspects of CHIS takes account of and complies with the Code of Practice:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code.pdf)

The Acquisition of Communications Data

- 4.23 Before considering submitting an application for the acquisition of communications data, all officers must first refer the matter to the Senior Responsible Officer or the RIPA Co-Ordinating Officer
- 4.24 Communications Data ('CD') is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person's communications.
- 4.25 Part 3 of the Investigatory Powers Act 2016 replaced Part 1 Chapter 2 of RIPA in relation to the acquisition of communications data and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as "entity" data) such as the registered user of a telephone number or email address. Under the Investigatory Powers Act 2016, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as "events" data.
- 4.26 A new threshold for which "events" data can be sought has been introduced under the Investigatory Powers Act as "applicable crime". Defined in section 86(2A) of the Act this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy. Further guidance can be found in paragraphs 3.3 to 3.13 of CD

Code of Practice.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications Data Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf)

- 4.27 The Investigatory Powers Act has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire communications data. All such applications must now be processed through NAFN and will be considered for approval by the independent Office of Communication Data Authorisation (OCDA). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the CD Code of Practice).

“DP’s” To be a DP for the purposes of a Local Authority an individual must be either a Director, Head of Service, or Service Manager or equivalent. At Maldon District Council these are Richard Holmes, Director of Service Delivery and Head of Paid Service, Emma Holmes, Senior Legal Specialist and Data Protection Officer, and Grant Hulley, Lead ICT Specialist and Senior Information Risk Manager.

Maldon District Council is a member of National Anti – Fraud Network (NAFN) and all applications for data communications are made to this organisation which acts as the Council’s Single Point of Contact (SPOC) and “gate keepers” ensuring that all applications are reviewed for legal compliance prior to being submitted for approval to the Council’s DP.

All the appropriate forms are available on the NAFN website which also provides guidance for their completion at:-

<http://www.nafn.gov.uk>

5.The Procedure for Obtaining Authorisations- Directed Surveillance

- 5.1 Each form of covert surveillance subject to RIPA must be authorised in accordance with the provisions of RIPA.
- 5.2 Regulations prescribe that within a local authority, Authorising Officers must hold the rank of Director, Head of Service, Service Manager or equivalent (eg Lead Specialist). The following post holders are designated as Authorising Officers.
- 5.3 The officers appointed by the District Council are-
 - i) Director of Service Delivery
 - ii) Senior Legal Specialist (DPO)
 - iii) Lead ICT Specialist (SIRO)
 - iv) Lead Specialist Community
 - v) Resources Specialist Service Manager
 - vi) Community Safety Manager

Making an Application for an Authorisation

- 5.4 The Council is also required to have a designated RIPA Senior Responsible Officer who has primary responsibility for the integrity of the RIPA scheme and is responsible for the administration of the policy and procedures. At the District Council this is the Community Safety Manager.
- 5.5 The Investigating Officer must complete all the information required by the appropriate prescribed form.
- 5.6 The forms, guidance for completing the forms and the RIPA manual can be found on Fresh Service here -
- 5.7 The Investigating Officer must obtain a unique reference number for the form from the RIPA Co-ordinating Officer and must note it on the appropriate form. The form must also include:
 - i) Precisely what type of surveillance is to be authorised and against which subjects, the property or location and the techniques and equipment to be used and the maximum penalty applicable for the offence to be investigated;
 - ii) The reason why the directed surveillance is necessary i.e. it is needed for the detection or prevention of crime or disorder and why it is necessary for the investigation of this specific case;

- iii) Officers should, particularly, indicate on the application form the offences relied upon to found necessity;
- iv) The reason why it is considered that the use of the surveillance requested is proportionate to the objective to be achieved i.e. what is sought to be achieved by carrying out the covert surveillance and why that objective cannot be achieved through any other means- see below;
- v) How collateral intrusion (interference with the privacy rights of others not subject to the surveillance) will be minimised;
- vi) Where collateral intrusion is unavoidable, a risk assessment should be carried out and a mechanism put in place to disregard any information not relevant to the case;
- vii) That any local community conditions or sensitivities have been considered; and
- viii) The form should be completed electronically but if necessary may be handwritten.

Submitting the Application for an Authorisation

- 5.8 The Authorisation form must be submitted in writing to the appropriate Authorising Officer and signed by the Authorising Officer, in all but the most urgent cases.

Responsibilities of the Authorising Officer

- 5.9 The Authorising Officer must ascertain that the Investigating Officer has completed all relevant sections of the appropriate authorisation form. S/He must also be satisfied that all of the matters detailed in the paragraph headed "Making an Application" above, have been properly considered and set out in sufficient detail on the form.
- 5.10 In particular, the Authorising Officer must be satisfied that the surveillance proposed may infringe the human rights of its subject or of others. S/He must also be satisfied that the covert surveillance for which the authorisation is sought is proportionate i.e. that the information could not be obtained by any other means and that it is necessary to further the objectives of the investigation. S/He should consider whether the benefits of obtaining the information are significant rather than marginal. S/He must also consider the risk of collateral intrusion into the privacy of other persons.
- 5.11 The Authorising Officer should clearly set out what activity and surveillance equipment is authorised so that the investigating Officer is certain what has been sanctioned.
- 5.12 If the Authorising Officer is not completely satisfied that the form has been properly completed, s/he should liaise with the Investigating Officer to obtain further information.

- 5.13 The Authorising Officer must also determine if the activity requires authorisation under RIPA at all. If not they will nevertheless:
- i) Assess whether the activity should be sanctioned;
 - ii) Complete the HRA assessment and the mark the application form as non-RIPA and whether approved; and
 - iii) Indicate on the form whether interference with the human rights of the individual is accepted or not and the reasons why and clearly mark the form as non-RIPA using a watermark where appropriate.

Necessity and Proportionality

- 5.14 The 2000 Act stipulates that the person granting an authorisation or warrant for directed or intrusive surveillance, or interference with property, must believe that the activities to be authorised are necessary on one or more statutory grounds.
- 5.15 If the activities are deemed necessary on one or more of the statutory grounds, the person granting the authorisation or warrant must also believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.
- 5.16 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.
- 5.17 The following elements of proportionality should therefore be considered:
- i) Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - ii) Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others;
 - iii) Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; and
 - iv) Evidencing, as far as reasonably practicable, what other methods have been considered and why they were not implemented.

Avoiding Common Mistakes in RIPA Forms

- 5.18 Investigating and Authorising Officers can avoid making common mistakes when completing RIPA forms by referring to page 37 of the Covert Surveillance Policy and Procedures Toolkit available on FreshService at

Obtaining Court Approval for Authorisations

- 5.19 Authorising Officers must when making authorisations be aware that each authorisation (or renewal of an authorisation) will be subject to court approval. The Protection of Freedoms Act 2012 amends RIPA, to require that where an Authorising Officer has granted an authorisation for the use of directed surveillance or for the use of covert human intelligence sources, court approval will be required. The Authority will be required to make an application, without giving notice, to the Magistrates' Court. The Magistrates will give approval if, at the date of the grant of authorisation or renewal of an existing authorisation, they are satisfied that:

- i) There were reasonable grounds for believing that obtaining the covert surveillance or use of a human covert intelligence source was reasonable and proportionate and that these grounds still remain.
- ii) The "relevant conditions" were satisfied in relation to the authorisation.
- iii) Relevant conditions include that:
 - a. The relevant person was designated as an Authorising Officer.
 - b. It was reasonable and proportionate to believe that using covert surveillance or a covert human intelligence source was necessary and that the relevant conditions have been complied with.
 - c. The grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under section 25(3) of RIPA.
 - d. Any other conditions provided for by an order made by the Secretary of State were satisfied.

- 5.20 Once the application form has been signed by the authorising officer it should be passed to the RIPA Co-ordinating Officer who will ensure that the application is RIPA compliant

- 5.21 If RIPA compliance is satisfactory the Co-ordinating Officer will liaise with the court and the Investigating Officer to obtain a date and time on which the application can be heard.

- 5.22 If the Magistrates' Court refuses to approve the grant of the authorisation, then it may make an order to quash that authorisation.

- 5.23 No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the Magistrates' Court has approved its use.
- 5.24 Authorising Officers should be aware that they may be required to attend court with the Investigating Officer in order to support the application for authorisation.
- 5.25 The Co-ordinating Officer will usually attend court with the Investigating Officer in order to provide legal assistance if required.

Expiry of Authorisations

- 5.26 Written authorisations under RIPA cease to have effect 3 months after the authorisation by the court unless renewed (12 months for applications under CHIS). The three-month authorisation is mandatory and cannot be restricted. The Authorising Officer must ensure that the correct expiry date is recorded on the authorisation form. For example, an authorisation given on 1st April will expire on 30th June. Authorisations cease at 23:59 on the last day, so it is not necessary to specify a time.

Review of Authorisations

- 5.27 Regular reviews of authorisations which have been granted should be undertaken by the Investigating Officer to ascertain whether it is necessary for the authorisation to continue. Authorisations may be renewed at any time by any person who would be entitled to grant a new authorisation in the same terms.

Obligations of the Authorising Officer Relating to the Renewal of Authorisations

- 5.28 When considering an application for renewal of an authorisation the Authorising Officer must consider whether surveillance is still necessary and proportionate.
- 5.29 Renewals become effective on the day on which the existing authorisation expires. Renewals of authorisations will also be subject to approval by the Magistrates' Court and the Authorising Officer must provide the RIPA Co-ordinating Officer with the appropriate forms in good time to obtain a renewal if that is required.

Cancellation of Authorisations

- 5.30 Authorisations under RIPA do not lapse automatically. They continue for the statutory 3 month's period from the date on which the court gives authorisation, unless cancelled earlier. Once an investigation has been completed or the circumstances of the case dictate that it must be closed, the Investigating Officer must complete a cancellation of authorisation form and submit it to the Authorising Officer who granted or last renewed the authorisation.

- 5.31 Even if an authorisation has expired it must still be cancelled.
- 5.32 The Authorising Officer may cancel the authorisation if he considers that the requirements of the authorisation are no longer satisfied.
- 5.33 All of the information relating to the authorisation will form part of the records of the investigation and must be kept on the appropriate file for 5 years or longer if appeals are made.
- 5.34 Information that may be of value in connection with concurrent investigations may be kept, but information not relevant to those enquiries must be destroyed.

Maintaining Records of Authorisations, Renewals and Cancellations

- 5.35 The Authorising Officer must send the originals of all records of authorisations, renewals and cancellations to the RIPA Senior Responsible Officer who will keep a central record.
 - i) The Authorising Officer should diarise the dates for review of each authorisation; and
 - ii) Review the authorisations / renewals made on a regular basis to ensure that such authorisations/renewals are made properly, are appropriate and that all forms have been fully completed.
- 5.36 The Investigating Officer should keep the following record and diarise the dates for renewal and cancellation:
 - i) A copy of the authorisation together with supporting documents and specifically any Court Order approving the use of the authorisation;
 - ii) A copy of any renewal of any authorisation together with supporting documents;
 - iii) Any authorisation which was granted or renewed orally (an urgent case) and the reason why the case was considered to be urgent ;
 - iv) A record of the results of any reviews of the authorisation;
 - v) The reasons for not renewing an authorisation;
 - vi) The reasons for cancelling an authorisation; and
 - vii) The Investigating Officer should diarise the dates for review of each authorisation.

Role of the RIPA Senior Responsible Officer

- 5.37 In accordance with the Home Office Code of Conduct the Council designates a Senior Responsible Officer in relation to RIPA powers and delegations. The SRO

has overarching responsibility for the RIPA scheme, and in particular:

- i) To ensure the integrity of the process to authorise directed surveillance, compliance with the Act and the Codes of Practice;
- ii) To engage with the Commissioners and Inspectors when they conduct inspections, to oversee the implementation of any post-inspection action plan recommended or approved by an inspector;
- iii) To review the operation of RIPA and report to the Governance Committee on a quarterly basis to ensure that the scheme is being used in accordance with the Council's policy and to provide statistical information with respect to its use.
- iv) To prepare and submit an annual report to the Governance Committee in order for the Committee to ensure RIPA policy; remains "fit for purpose".
- v) To convene a meeting with the RIPA administrative personnel every six months to review its operation.

Role of the RIPA Co-Ordinating Officer

5.38 The RIPA Co-Ordinating Officer will be the litigation lawyer who has primary responsibility for criminal litigation, and will exercise the following delegated responsibilities:

- i) To ensure that a central record of all RIPA authorisations, renewals and cancellations are maintained. That paperwork is renewed prior to RIPA applications being made to the Magistrates' Court and ensure that all renewals and cancellations are RIPA compliant;
- ii) To regularly review the RIPA scheme to ensure that it is compliant with the Act and the Codes of Practice;
- iii) To be the legal advisor with respect to RIPA and ensure day to day compliance with the requirements of this policy ;
- iv) To provide advice to Investigating and Authorising Officers; and
- v) To review training requirements every 18 months and ensure that, where appropriate, training is undertaken.
- vi) Provide a Unique Reference Number for each RIPA application upon request by an Investigating Officer; and
- vii) Maintain a central record of all RIPA authorisations, renewals and cancellations.

Regulation of Use of Authorisations

5.39 The Investigatory Powers Commissioner reviews the exercise and performance of the use of authorisations by public bodies. Information must be provided on

request to enable the inspections that will be carried out regularly by the Surveillance Commissioner.

- 5.40 A tribunal has been established to consider and determine complaints relating to the exercise of RIPA powers by any person aggrieved. The tribunal deals with these matters in a similar manner to the courts when dealing with judicial review cases. Complaints must be lodged with the tribunal within one year unless the tribunal determines it is just and equitable to extend that period.
- 5.41 The tribunal may order the quashing or cancellation of any authorisation, records or information obtained by use of an authorisation.
- 5.42 The Council is under a duty to disclose to the tribunal all documents that may be required relating to the authorisation.

6. Further Information and how to make a complaint

6.1 Further information is available from:

- [The Regulation of Investigatory Powers Act 2000](#)
- [RIPA Explanatory Notes](#)
- RIPA Statutory Codes of Practice:
 - a. Covert Surveillance and Property interference – see para 1.2 of this policy
 - b. Covert Human Intelligence Sources – see para 4.22 of this policy
 - c. Acquisition and Disclosure of Communications Data – see para 4.26 of this policy
- [SI 2000 No.20793 The Regulation of Investigatory Powers \(Juveniles\) Order 2000](#)
- [SI 2010 No.480 Regulation of Investigatory Powers \(Communications Data\) Order 2010](#)
- [SI 2010 No.521 Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010](#)
- [SI 2010 No. 461 Regulation of Investigatory Powers \(Extension of Authorisation Provisions: Legal Consultations\) Order 2010](#)
- [SI 2012 No. 1500 Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012](#)
- i) The Investigatory Powers Commissioner's Office:

PO Box 29105
London
SW1V 1ZU

[email: info@ipco.org.uk](mailto:info@ipco.org.uk)

6.2 Complaints can be made to:

Maldon District Council, RIPA Senior Responsible Officer

(Who will ensure that they are passed to the relevant Authorising Officer for an initial response.)

Maldon District Council
Princes Road
Maldon
Essex
CM9 5DL
Tel: 01621 854477

The Investigatory Powers Tribunal:
PO Box 3322
London, SW1H 9ZQ
Tel: 0207 035 3711 www.ipt-uk.com

APPENDIX A**RIPA ADMINISTRATION:**

Senior Responsible Officer
Richard Holmes

Director of Service Delivery and Head of Paid Service

Tel: 01621 854477 or 732767

Email: richard.holmes@maldon.gov.uk

RIPA Co-ordinating Officer

Spencer Clarke: Community Safety Manager (and Deputy Safeguarding Lead)

Tel: 01245 606477

Email: spencer.clarke@maldon.gov.uk

AUTHORISING OFFICERS:

Damien Ghela

Lead Specialist Community (and safeguarding Lead Officer)

Tel: 01621 854447

Email: damien.ghela@maldon.gov.uk

Annette Cardy

Resources Specialist Service Manager

Tel 2727

Email: annett.cardy@maldon.gov.uk

DESIGNATED OFFICERS:

Emma Holmes

Senior Legal Specialist and Data Protection Officer

Tel: 01621 732732

Email: emma.holmes@maldon.gov.uk

Grant Hulley

Senior ICT Specialist and Senior Information Responsible Officer

Tel: 07783 999804

Email: grant.hulley@maldon.gov.uk

MALDON DISTRICT
COUNCIL

Princes Road
Maldon
Essex CM9 5DL

www.maldon.gov.uk



Enquiries to: Richard Holmes
Email: Richard.holmes@maldon.gov.uk

25 April 2023

The Rt. Hon. Sir Brian Leveson
The Investigatory Powers Commissioner
PO Box 29105
London
SW1V 1ZU

FAO – Mr Fletcher (info@ipco.org.uk)

Dear Sir Brian

Re: IPCO Surveillance and CHIS Inspection – Maldon District Council

I thank you for your letter dated 15 November 2022 and I apologise for the delay in responding in full, my colleague Spencer Clarke has been in contact with officers representing IPCO by email since the inspection date with updated information.

We made a corporate decision to delay some of the areas flagged for non-compliance due to an internal staffing restructure and the forthcoming local election on 4 May 2023. We wanted to make sure that appropriate staff were in place in terms of ongoing responsibility for RIPA inclusive of training, and that the incoming administration had the opportunity to consider RIPA early in their term. A copy of the Maldon District Council RIPA Policy will be taken to the first available committee meeting on the 8th of June 2023: Strategy and Resources Committee. This meeting will also act as the annual update for elected members to review the authority's use of the powers.

I have responded to the observations made by your inspector Mr Nicholas Fletcher and the timescales for completion which can be taken as this authority's action plan for delivery.

1. No CHIS or directed surveillance authorisations have been granted since the last full inspection in 2018. Maldon RIPA Working Group will meet on a bi-annual basis following the policy sign off in June 2023 with all members having access to the SharePoint site. This will act as record of authorisations.
2. The Maldon RIPA policy has been refreshed in line with the comments made in your letter dated 15 November 2023. This policy will be considered at the forthcoming Strategy and Resources Committee on 8 June 2023 together with staff additions following the restructure. Meetings have been held with the Maldon Safeguarding Group and Corporate Leadership Team to discuss the refreshed policy.
3. The committee identified above will also act as the annual review to elected members.
4. Maldon District Council does not carry out test purchase activity. We may contact Essex County Council in relation to underage sales on an occasional basis and have a signed Information Sharing Agreement (ISA) with Essex Police in relation to data sharing should we raise this with them as community safety partners.
5. A review of the Information Security Policy will commence in June 2023 and will be completed by 30 September 2023. Guidance will be changed in relation to RIPA following the policy sign off.
6. Maldon District Council continues to outsource the CCTV monitoring service to Chelmsford City Council. All staff have completed SIA CCTV training and Essex Police CSAS training both of which include RIPA modules. In addition to this, Community Engagement Officers (Maldon) who may

request information have also been accredited with Essex Police CSAS (most recent accreditations completed on 23 February 2023).

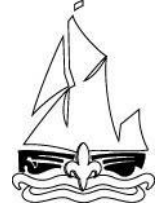
7. A training budget for twenty (20) e-learning module licences has been approved for 2023/24. All staff identified for training will need to complete the module by 30 September 2023.
8. A review of the use of communications data will be conducted by an appropriate person within the authority and completed by 30 September 2023.
9. SharePoint site is set up and all completed documents will be available for appropriate staff with access rights.

I hope this information provides the assurances that progress has been made since the desktop inspection in November 2022 and that the delay in reporting to elected members is a justified corporate decision based on the internal staffing restructure and forthcoming election. If you require any further information, please do not hesitate to contact me or my colleague Spencer Clarke. We will of course contact you again soon after 30 September 2023 to update you of all outstanding actions that your inspector considered to be either non-compliance or in need of improvement.

Yours sincerely



Richard Holmes
Director of Service Delivery
& Head of Paid Service



REPORT of INTERIM CHIEF FINANCE OFFICER

**to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023**

FEES AND CHARGES UPDATE

1. PURPOSE OF THE REPORT

- 1.1 To seek Member approval for:
- a. revised Fees and Charges related to Building Control Services;
 - b. Permit Charge for Public / Commercial use of Council Offices Car Park;
 - c. expansion of the existing High Street Off-Peak Resident Parking Scheme to the Council Offices.

2. RECOMMENDATIONS

- (i) That Members approve the revised Fees for Building Control Services from 22 August 2023;
- (ii) That Members approve the new Charges for permits for use of the Council Offices Car Park from 15 July 2023.

3. SUMMARY OF KEY ISSUES

3.1 Building Control Fees

- 3.1.1 The Building (Local Authority Charges) Regulations 2010 requires Local Authorities to relate their charges to recovering the costs of carrying out their functions for particular building work or individual building projects.
- 3.1.2 Consequently the fees for Building Control have not increased from April 2023 to enable a review to be carried out to ensure that the proposed fees reflect the true costs of the service, as it is not permitted to generate additional income from this work.
- 3.1.3 Following this review it is proposed to increase the Building Control Fees and Charges by 12.3% with effect from 1 July 2023, as set out in **APPENDIX A**. This is in line with other increases in our fees and charges for 2023 / 24.
- 3.1.4 This increase is to ensure that the fees reflect the need to deliver a service which covers its costs related to the work undertaken.

3.2 Council Offices Car Park Permit Charges

- 3.2.1 A permit scheme is in operation for the Council Offices Car Park at Princes Road.

- 3.2.2 This ensures that permits are only issued to Staff and tenants / partners, and that a consistent approach is taken to charging.
- 3.2.3 A review of the use of the Council Offices Car Park has been undertaken to identify any underutilisation of the Car Parking facilities, recognising that both staff and tenants are working in a hybrid way.
- 3.2.4 This has enabled the Council to offer additional car parking permits to partners, with a number of permits having been purchased.
- 3.2.5 The Council is now in a position to make the balance of the available car parking spaces available more widely, to the public and partners. It is proposed to do this through an annual permit scheme, and an expansion of the resident parking scheme.
- 3.2.6 The permits will be available alongside the existing pay and display arrangements.

3.3 **Annual permit**

- 3.3.1 It is proposed to offer an annual permit, enabling parking at the Council Offices at an annual cost of £500 per year (pro-rata if purchased after 1 April). The permits will be available to purchase by any member of the public, business or organisation. This will allow parking Monday to Sunday with no time restrictions.

3.4 **Expanded Off-Peak Resident Parking Scheme**

- 3.4.1 The Council currently offers an off peak resident Permit scheme to residents who live in specific roads *adjacent* to the Town Centre Car Parks. This scheme helps to alleviate pressure from on-street parking in the Town Centre and complements the on-street resident parking zones administer by the South Essex Parking Partnership.
- 3.4.2 It is proposed to extend the Town Centre resident scheme to include the car park at the Council Offices.
- 3.4.3 This will allow local residents who live in specific roads adjacent the Council Offices to park from 5pm through to 9am Monday to Saturday, and all day Sunday at an annual cost of £88.70.
- 3.4.4 The scheme requires proof of residency to qualify for the discounted scheme.

4. **CONCLUSION**

- 4.1 The review of the cost of the Building Control service has confirmed that in order to deliver services on a cost recovery basis the annual fees for 2023 / 24 should include an inflationary increase of 12.3% in line with other Council fees and charges. The proposed increased charges are detailed at **APPENDIX A**.
- 4.2 The review of Car Parking arrangements at the Council Offices has identified an opportunity to expand existing schemes, offering opportunities for residents and businesses to purchase a permit to allow parking anytime Monday to Sunday, together an off-peak permit for residents who live adjacent to the Council Offices.
- 4.3 The car parking proposals will provide an enhanced parking offer for residents and businesses, and at the same time ensuring the Council is making best use of its assets and delivering maximum value for money.

- 4.4 A wider review of Car Park Charges will be undertaken during 2023 which will inform Car Parking Charges for 2024 / 25.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

5.1 These proposals support the Corporate Priorities as follows:

- Supporting our communities through offering an enhanced car parking offer;
- Enhancing and connecting our place through making best use of car parking assets;
- Smarter finances – ensuring the Council is delivering services which are efficient, providing value for money and supporting a balanced budget;
- Provide good quality services – through provision of good quality Car Parking and Building Control services.

6. IMPLICATIONS

(i) **Impact on Customers** – These proposals offer an enhanced car parking offer for our residents, and businesses which should also help alleviate some of the local parking pressures. They will also support the delivery of the Building Control Service.

(ii) **Impact on Equalities** – None.

Impact on Risk – Failure to increase Building Control fees will create an increased risk of the service having a financial deficit.

(iii) **Impact on Resources (financial)** – The additional income from parking permits could potentially be between £3000 to - £10,000.

The inflationary uplift in Building control fees and charges will generate additional income for the Council, to offset the increased cost of delivering these services.

(iv) **Impact on Resources (human)** – No additional resources are required, however, some additional administrative activity will be required to manage the parking schemes.

Background Papers: None.

Enquiries to: Sue Green, Assistant Director: Service Delivery.

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TABLE A - NEW DWELLINGS
2023/24

Dwelling-houses and Flats not exceeding 300m2

Please note that the Charges marked with an * have been reduced to reflect where controlled electrical installations are being carried out, tested and certified by a registered Part P electrician. If these reductions are claimed and a self certifying electrician is not subsequently employed, the applicant will be invoiced for supplementary charges equivalent to the discount (see D14 below)

| VAT rate: | 20.0% | | 2023/24 | 2023/24 | 2023/24 | 2023/24 | 2022/23 | 2022/23 | 2022/23 | 2022/23 |
|-----------------------------------|--|---------------------|---|--------------------------------|--------------------------------|---------------------------|---|--------------------------------|--------------------------------|---------------------------|
| Code | Bungalows or Houses less than 4 storeys | | Plan Charge | Inspection Charge * | Building Notice Charge* | Regularisation Charge* | Plan Charge | Inspection Charge * | Building Notice Charge* | Regularisation Charge* |
| H01 | 1 Plot | Net VAT Total | 231.00 46.20 277.20 | 577.00 115.40 692.40 | 888.00 177.60 1,065.60 | 1,131.00 - 1,131.00 | 205.00 41.00 246.00 | 514.00 102.80 616.80 | 791.00 158.20 949.20 | 1,007.00 - 1,007.00 |
| H02 | 2 Plots | Net VAT Total | 346.00 69.20 415.20 | 923.00 184.60 1,107.60 | 1,396.00 279.20 1,675.20 | 1,777.00 - 1,777.00 | 308.00 61.60 369.60 | 822.00 164.40 986.40 | 1,243.00 248.60 1,491.60 | 1,582.00 - 1,582.00 |
| H03 | 3 Plots | Net VAT Total | 404.00 80.80 484.80 | 1,269.00 253.80 1,522.80 | 1,840.00 368.00 2,208.00 | 2,342.00 - 2,342.00 | 360.00 72.00 432.00 | 1,130.00 226.00 1,356.00 | 1,639.00 327.80 1,966.80 | 2,086.00 - 2,086.00 |
| H04 | 4 Plots | Net VAT Total | 462.00 92.40 554.40 | 1,615.00 323.00 1,938.00 | 2,284.00 456.80 2,740.80 | 2,908.00 - 2,908.00 | 411.00 82.20 493.20 | 1,438.00 287.60 1,725.60 | 2,034.00 406.80 2,440.80 | 2,589.00 - 2,589.00 |
| H05 | 5 Plots | Net VAT Total | 519.00 103.80 622.80 | 1,961.00 392.20 2,353.20 | 2,729.00 545.80 3,274.80 | 3,473.00 - 3,473.00 | 462.00 92.40 554.40 | 1,747.00 349.40 2,096.40 | 2,430.00 486.00 2,916.00 | 3,092.00 - 3,092.00 |
| Flats | | | | | | | | | | |
| F01 | 1 | Net VAT Total | 231.00 46.20 277.20 | 577.00 115.40 692.40 | 888.00 177.60 1,065.60 | 1,131.00 - 1,131.00 | 205.00 41.00 246.00 | 514.00 102.80 616.80 | 791.00 158.20 949.20 | 1,007.00 - 1,007.00 |
| F02 | 2 | Net VAT Total | 346.00 69.20 415.20 | 750.00 150.00 900.00 | 1,206.00 241.20 1,447.20 | 1,535.00 - 1,535.00 | 308.00 61.60 369.60 | 668.00 133.60 801.60 | 1,074.00 214.80 1,288.80 | 1,366.00 - 1,366.00 |
| F03 | 3 | Net VAT Total | 404.00 80.80 484.80 | 923.00 184.60 1,107.60 | 1,460.00 292.00 1,752.00 | 1,858.00 - 1,858.00 | 360.00 72.00 432.00 | 822.00 164.40 986.40 | 1,300.00 260.00 1,560.00 | 1,654.00 - 1,654.00 |
| F04 | 4 | Net VAT Total | 462.00 92.40 554.40 | 1,096.00 219.20 1,315.20 | 1,713.00 342.60 2,055.60 | 2,181.00 - 2,181.00 | 411.00 82.20 493.20 | 976.00 195.20 1,171.20 | 1,526.00 305.20 1,831.20 | 1,942.00 - 1,942.00 |
| F05 | 5 | Net VAT Total | 519.00 103.80 622.80 | 1,269.00 253.80 1,522.80 | 1,967.00 393.40 2,360.40 | 2,504.00 - 2,504.00 | 462.00 92.40 554.40 | 1,130.00 226.00 1,356.00 | 1,752.00 350.40 2,102.40 | 2,229.00 - 2,229.00 |
| Conversion to | | | | | | | | | | |
| V01 | Single Dwelling-House | Net VAT Total | 231.00 46.20 277.20 | 692.00 138.40 830.40 | 1,015.00 203.00 1,218.00 | 1,292.00 - 1,292.00 | 205.00 41.00 246.00 | 616.00 123.20 739.20 | 904.00 180.80 1,084.80 | 1,151.00 - 1,151.00 |
| V02 | Single Flat | Net VAT Total | 231.00 46.20 277.20 | 577.00 115.40 692.40 | 888.00 177.60 1,065.60 | 1,131.00 - 1,131.00 | 205.00 41.00 246.00 | 514.00 102.80 616.80 | 791.00 158.20 949.20 | 1,007.00 - 1,007.00 |
| Notifiable electrical work | | | (where applicable, in addition to the above, per dwelling) | | | | (where applicable, in addition to the above, per dwelling) | | | |
| D14 | (Where a satisfactory certificate will not be issued by a Part P registered electrician) | Net VAT Total | This charge relates to a first fix pre-plaster inspection and final testing on completion. For Regularisation application a full appraisal and testing will be carried out. | | 242.00 48.40 290.40 | 308.00 - 308.00 | This charge relates to a first fix pre-plaster inspection and final testing on completion. For Regularisation application a full appraisal and testing will be carried out. | | 216.00 43.20 259.20 | 274.00 - 274.00 |

Where Standard Charges are not applicable please contact Building Control on 01621 876235

APPENDIX A

2023-24 Fees Charges Schedule

TABLE B - WORK TO A SINGLE DWELLING

2023/24

Limited to work not more than 3 storeys above ground level

Please note that the Charges marked with an * have been reduced to reflect where controlled electrical installations are being carried out, tested and certified by a registered Part P electrician. If these reductions are claimed and a self certifying electrician is not subsequently employed, the applicant will be invoiced for supplementary charges equivalent to the discount (see D14 below)

| VAT rate | 20.0% | | 2023/24 | 2023/24 | 2023/24 | 2023/24 | 2023/24 | 2023/24 | 2023/24 |
|--|---|---------------------|---|----------------------------|---|--|--------------------------------|---|---------------------------|
| Code | Extension & New Build | | Full Plans | | Full Plans - Multiple work reductions only ** | | Building Notice Charge * | Multiple work reductions only Building Notice Charge * at 50% reduced rate ** | Regularisation Charge * |
| | | | Plan Charge | Inspection Charge * | Plan Charge at 50% reduced rate** | Inspection Charge * at 50% reduced rate ** | | | |
| D01 | Separate single storey extension with floor area not exceeding 40m² | Net VAT Total | 231.00 46.20 277.20 | 462.00 92.40 554.40 | 116.00 23.20 139.20 | 231.00 46.20 277.20 | 761.00 152.20 913.20 | 381.00 76.20 457.20 | 969.00 - 969.00 |
| D02 | Separate single storey extension with floor area exceeding 40m² but not exceeding 100m² | Net VAT Total | 231.00 46.20 277.20 | 577.00 115.40 692.40 | 116.00 23.20 139.20 | 289.00 57.80 346.80 | 888.00 177.60 1,065.60 | 444.00 88.80 532.80 | 1,131.00 - 1,131.00 |
| D03 | Separate extension with some part 2 or 3 storeys in height and a total floor area not exceeding 40m² | Net VAT Total | 240.00 48.00 288.00 | 519.00 103.80 622.80 | 120.00 24.00 144.00 | 260.00 52.00 312.00 | 836.00 167.20 1,003.20 | 418.00 83.60 501.60 | 1,063.00 - 1,063.00 |
| D04 | Separate extension with some part 2 or 3 storeys in height and a total floor area exceeding 40m² but not ex 100m² | Net VAT Total | 250.00 50.00 300.00 | 692.00 138.40 830.40 | 125.00 25.00 150.00 | 346.00 69.20 415.20 | 1,036.00 207.20 1,243.20 | 518.00 103.60 621.60 | 1,319.00 - 1,319.00 |
| D05 | A building or extension comprising SOLELY of a garage, carport or store - total floor area not exceeding 100m² | Net VAT Total | 231.00 46.20 277.20 | 269.00 53.80 322.80 | 116.00 23.20 139.20 | 135.00 27.00 162.00 | 550.00 110.00 660.00 | 275.00 55.00 330.00 | 700.00 - 700.00 |
| D06 | Detached non-habitable domestic building with total floor area not exceeding 50m² | Net VAT Total | 231.00 46.20 277.20 | 346.00 69.20 415.20 | 116.00 23.20 139.20 | 173.00 34.60 207.60 | 635.00 127.00 762.00 | 318.00 63.60 381.60 | 808.00 - 808.00 |
| Conversions | | | | | | | | | |
| D07 | First floor & second floor loft conversions | Net VAT Total | 231.00 46.20 277.20 | 462.00 92.40 554.40 | 116.00 23.20 139.20 | 231.00 46.20 277.20 | 761.00 152.20 913.20 | 381.00 76.20 457.20 | 969.00 - 969.00 |
| D08 | Other work (e.g. garage conversions) | Net VAT Total | 231.00 46.20 277.20 | 231.00 46.20 277.20 | 116.00 23.20 139.20 | 116.00 23.20 139.20 | 508.00 101.60 609.60 | 254.00 50.80 304.80 | 646.00 - 646.00 |
| Alterations (including underpinning) | | | | | | | | | |
| D09 | Renovation of a thermal element | Net VAT Total | 115.00 23.00 138.00 | 115.00 23.00 138.00 | 58.00 11.60 69.60 | 58.00 11.60 69.60 | 254.00 50.80 304.80 | 127.00 25.40 152.40 | 323.00 - 323.00 |
| D10 | Replacement of windows, roof lights, roof windows or external glazed doors | Net VAT Total | 115.00 23.00 138.00 | 115.00 23.00 138.00 | 58.00 11.60 69.60 | 58.00 11.60 69.60 | 254.00 50.80 304.80 | 127.00 25.40 152.40 | 323.00 - 323.00 |
| D11a | Cost of work not exceeding £2,000 (Incl Renewable Energy systems) | Net VAT Total | 115.00 23.00 138.00 | 173.00 34.60 207.60 | 58.00 11.60 69.60 | 87.00 17.40 104.40 | 317.00 63.40 380.40 | 159.00 31.80 190.80 | 404.00 - 404.00 |
| D11 | Cost of work exceeding £2,001 & not exceeding £5,000 (Incl Renewable Energy systems) | Net VAT Total | 173.00 34.60 207.60 | 231.00 46.20 277.20 | 87.00 17.40 104.40 | 116.00 23.20 139.20 | 444.00 88.80 532.80 | 222.00 44.40 266.40 | 565.00 - 565.00 |
| D12 | Cost of work exceeding £5,001 & not exceeding £25,000 | Net VAT Total | 231.00 46.20 277.20 | 385.00 77.00 462.00 | 116.00 23.20 139.20 | 193.00 38.60 231.60 | 677.00 135.40 812.40 | 339.00 67.80 406.80 | 861.00 - 861.00 |
| D13 | Cost of work exceeding £25,001 & not exceeding £100,000 | Net VAT Total | 288.00 57.60 345.60 | 577.00 115.40 692.40 | 144.00 28.80 172.80 | 289.00 57.80 346.80 | 952.00 190.40 1,142.40 | 476.00 95.20 571.20 | 1,211.00 - 1,211.00 |
| Notifiable Electrical work (in addition to the above, where applicable) | | | | | | | | | |
| D14 | (Where a satisfactory certificate will not be issued by a Part P registered electrician) | Net VAT Total | This charge relates to a first fix pre-plaster inspection and final testing on completion. For Regularisation application a full appraisal and testing will be carried out. | | | | 406.00 81.20 487.20 | n/a n/a n/a | 517.00 - 517.00 |

****Multiple work reductions.** Where the proposed works consist of more than one of the above elements then the appropriate charge is calculated by paying the full amount for the most expensive element and only 50% for the other applicable elements with the exception of D14 electrical Works

Where Standard Charges are not applicable please contact Building Control on 01621 876235

TABLE C - ALL OTHER NON-DOMESTIC WORK
2023/24

Limited to work not more than 3 storeys above ground level

| VAT rate | 20.0% | | 2023/24 | | 2023/24 | 2023/24 | 2023/24 | 2023/24 | 2022/23 | 2022/23 | 2022/23 | 2022/23 | 2022/23 |
|-------------|--|-------|-------------|---|-------------------|--|-----------------------|-------------|---|-------------------|--|-----------------------|---------|
| Code | Extensions and New Build | | Plan Charge | Plan Charge at 50% reduced rate** (for multiple works only) | Inspection Charge | Inspection Charge * at 50% reduced rate ** (for multiple works only) | Regularisation Charge | Plan Charge | Plan Charge at 50% reduced rate** (for multiple works only) | Inspection Charge | Inspection Charge * at 50% reduced rate ** (for multiple works only) | Regularisation Charge | |
| N01 | Single storey with floor area not exceeding 40m2 | Net | 240.00 | 120.00 | 462.00 | 231.00 | 983.00 | 214.00 | 107.00 | 411.00 | 206.00 | 875.00 | |
| | | VAT | 48.00 | 24.00 | 92.40 | 46.20 | - | 42.80 | 21.40 | 82.20 | 41.20 | - | |
| | | Total | 288.00 | 144.00 | 554.40 | 277.20 | 983.00 | 256.80 | 128.40 | 493.20 | 247.20 | 875.00 | |
| N02 | Single storey with floor area not exceeding 40m2 but not exceeding 100m2 | Net | 269.00 | 135.00 | 596.00 | 298.00 | 1,211.00 | 240.00 | 120.00 | 531.00 | 266.00 | 1,079.00 | |
| | | VAT | 53.80 | 27.00 | 119.20 | 59.60 | - | 48.00 | 24.00 | 106.20 | 53.20 | - | |
| | | Total | 322.80 | 162.00 | 715.20 | 357.60 | 1,211.00 | 288.00 | 144.00 | 637.20 | 319.20 | 1,079.00 | |
| N03 | With some part 2 or 3 storey in height and a total floor area not exceeding 40m2 | Net | 288.00 | 144.00 | 654.00 | 327.00 | 1,319.00 | 257.00 | 129.00 | 582.00 | 291.00 | 1,175.00 | |
| | | VAT | 57.60 | 28.80 | 130.80 | 65.40 | - | 51.40 | 25.80 | 116.40 | 58.20 | - | |
| | | Total | 345.60 | 172.80 | 784.80 | 392.40 | 1,319.00 | 308.40 | 154.80 | 698.40 | 349.20 | 1,175.00 | |
| N04 | With some part 2 or 3 storey in height and a total floor area exceeding 40m2 but not exceeding 100m2 | Net | 308.00 | 154.00 | 750.00 | 375.00 | 1,481.00 | 274.00 | 137.00 | 668.00 | 334.00 | 1,318.00 | |
| | | VAT | 61.60 | 30.80 | 150.00 | 75.00 | - | 54.80 | 27.40 | 133.60 | 66.80 | - | |
| | | Total | 369.60 | 184.80 | 900.00 | 450.00 | 1,481.00 | 328.80 | 164.40 | 801.60 | 400.80 | 1,318.00 | |
| Alterations | | | | | | | | | | | | | |
| N05 | Cost of work not exceeding £5,000 | Net | 173.00 | 87.00 | 173.00 | 87.00 | 485.00 | 154.00 | 77.00 | 154.00 | 77.00 | 432.00 | |
| | | VAT | 34.60 | 17.40 | 34.60 | 17.40 | - | 30.80 | 15.40 | 30.80 | 15.40 | - | |
| | | Total | 207.60 | 104.40 | 207.60 | 104.40 | 485.00 | 184.80 | 92.40 | 184.80 | 92.40 | 432.00 | |
| | Replacement of windows, roof lights, roof windows or external glazed doors (not exceeding 20 units) | Net | 173.00 | 87.00 | 173.00 | 87.00 | 485.00 | 154.00 | 77.00 | 154.00 | 77.00 | 432.00 | |
| | | VAT | 34.60 | 17.40 | 34.60 | 17.40 | - | 30.80 | 15.40 | 30.80 | 15.40 | - | |
| | | Total | 207.60 | 104.40 | 207.60 | 104.40 | 485.00 | 184.80 | 92.40 | 184.80 | 92.40 | 432.00 | |
| | Renewable Energy systems (not covered by an appropriate competent persons scheme) | Net | 173.00 | 87.00 | 173.00 | 87.00 | 485.00 | 154.00 | 77.00 | 154.00 | 77.00 | 432.00 | |
| | | VAT | 34.60 | 17.40 | 34.60 | 17.40 | - | 30.80 | 15.40 | 30.80 | 15.40 | - | |
| | | Total | 207.60 | 104.40 | 207.60 | 104.40 | 485.00 | 184.80 | 92.40 | 184.80 | 92.40 | 432.00 | |
| | Installation of new shop front | Net | 173.00 | 87.00 | 173.00 | 87.00 | 485.00 | 154.00 | 77.00 | 154.00 | 77.00 | 432.00 | |
| | | VAT | 34.60 | 17.40 | 34.60 | 17.40 | - | 30.80 | 15.40 | 30.80 | 15.40 | - | |
| | | Total | 207.60 | 104.40 | 207.60 | 104.40 | 485.00 | 184.80 | 92.40 | 184.80 | 92.40 | 432.00 | |
| N06 | Cost of work exceeding £5,000 & not exceeding £25,000 | Net | 231.00 | 116.00 | 231.00 | 116.00 | 646.00 | 205.00 | 103.00 | 205.00 | 103.00 | 575.00 | |
| | | VAT | 46.20 | 23.20 | 46.20 | 23.20 | - | 41.00 | 20.60 | 41.00 | 20.60 | - | |
| | | Total | 277.20 | 139.20 | 277.20 | 139.20 | 646.00 | 246.00 | 123.60 | 246.00 | 123.60 | 575.00 | |
| | Replacement of windows, roof lights, roof windows or external glazed doors (exceeding 20 units) | Net | 231.00 | 116.00 | 231.00 | 116.00 | 646.00 | 205.00 | 103.00 | 205.00 | 103.00 | 575.00 | |
| | | VAT | 46.20 | 23.20 | 46.20 | 23.20 | - | 41.00 | 20.60 | 41.00 | 20.60 | - | |
| | | Total | 277.20 | 139.20 | 277.20 | 139.20 | 646.00 | 246.00 | 123.60 | 246.00 | 123.60 | 575.00 | |
| | Renovation of thermal elements | Net | 231.00 | 116.00 | 231.00 | 116.00 | 646.00 | 205.00 | 103.00 | 205.00 | 103.00 | 575.00 | |
| | | VAT | 46.20 | 23.20 | 46.20 | 23.20 | - | 41.00 | 20.60 | 41.00 | 20.60 | - | |
| | | Total | 277.20 | 139.20 | 277.20 | 139.20 | 646.00 | 246.00 | 123.60 | 246.00 | 123.60 | 575.00 | |
| | Installation of a Raised Storage Platform within an existing building | Net | 231.00 | 116.00 | 231.00 | 116.00 | 646.00 | 205.00 | 103.00 | 205.00 | 103.00 | 575.00 | |
| | | VAT | 46.20 | 23.20 | 46.20 | 23.20 | - | 41.00 | 20.60 | 41.00 | 20.60 | - | |
| | | Total | 277.20 | 139.20 | 277.20 | 139.20 | 646.00 | 246.00 | 123.60 | 246.00 | 123.60 | 575.00 | |
| N07 | Cost of works exceeding £25,000 & not exceeding £100,000 | Net | 346.00 | 173.00 | 462.00 | 231.00 | 1,131.00 | 308.00 | 154.00 | 411.00 | 206.00 | 1,007.00 | |
| | | VAT | 69.20 | 34.60 | 92.40 | 46.20 | - | 61.60 | 30.80 | 82.20 | 41.20 | - | |
| | | Total | 415.20 | 207.60 | 554.40 | 277.20 | 1,131.00 | 369.60 | 184.80 | 493.20 | 247.20 | 1,007.00 | |
| | Fit out of building up to 100m2 | Net | 346.00 | 173.00 | 462.00 | 231.00 | 1,131.00 | 308.00 | 154.00 | 411.00 | 206.00 | 1,007.00 | |
| | | VAT | 69.20 | 34.60 | 92.40 | 46.20 | - | 61.60 | 30.80 | 82.20 | 41.20 | - | |
| | | Total | 415.20 | 207.60 | 554.40 | 277.20 | 1,131.00 | 369.60 | 184.80 | 493.20 | 247.20 | 1,007.00 | |

Multiple work reductions. Where the proposed works consist of more than one of the above elements then the appropriate charge is calculated by paying the full amount for the most expensive element and only 50% for the other applicable elements.

Where Standard Charges are not applicable please contact Building Control on 01621 876235

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REPORT of INTERIM CHIEF FINANCE OFFICER

**to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023**

SUPPLEMENTARY ESTIMATES, VIREMENTS, PROCUREMENT EXEMPTIONS AND USE OF RESERVES: 1 JANUARY - 31 MARCH 2023

1. PURPOSE OF THE REPORT

- 1.1 To report virements and supplementary estimates agreed under delegated powers where they are below the levels requiring approval by this Strategy and Resources Committee and seek approval where they are above the levels requiring approval by this Committee.
- 1.2 To inform the Committee of procurement exemptions that have been granted in the period.
- 1.3 To report on the use of reserves during the period.

2. RECOMMENDATIONS

- (i) That the virements as detailed in paragraph 3.3.1 be noted;
- (ii) That the procurement exemptions as detailed in paragraph 3.5.1 be noted.

3. SUMMARY OF KEY ISSUES

3.1 Rules and Regulations

- 3.1.1 The approval and reporting arrangements in relation to virements and supplementary estimates are set out in the Financial Regulations and Financial Procedures. These are as follows:

Virements (budget movements) within the same directorate:

- Agreed by the relevant Director and the Director of Resources.

Virements between different directorates:

- Up to £20,000 – Director and Director of Resources and reported on a quarterly basis,
- Over £20,000 up to £50,000 - Director, Director of Resources in consultation with relevant Programme Committee Chairperson; and reported to the next Strategy and Resources Committee,
- Over £50,000 - the Strategy and Resources Committee,

In addition, for the purposes of virements, salaries budgets are to be considered as a separate Directorate.

Supplementary Estimates

- Up to £20,000 – Director and Director of Resources in consultation with the Chairperson of the Strategy and Resources Committee and the Leader and reported to the next Strategy and Resources Committee.
- Over £20,000 – Strategy and Resources Committee.

3.2 Procurement Exemptions and Use of Reserves

- 3.2.1 The Contract Procedure Rules provide information in relation to procurement exemptions. The exemption enables the council to waive any requirements within the contract procedure rules for specific projects.
- 3.2.2 Procurement exemptions should be signed by the Officer and countersigned by the Director of Resources and where appropriate the Chairperson of the Strategy and Resources Committee.
- 3.2.3 Delegation around the use of the reserves was prescribed by the Council in June 2019. It stated that the Director of Strategy, Performance and Governance be authorised, in consultation with the Commercial Projects Board (superseded by the Corporate Projects Working Group) to approve any spend up to £10,000, subject to the details being reported to the Strategy and Resources Committee.

3.3 Virements

- 3.3.1 The following reportable virements were agreed during this period.

| Cost Centre To | Directorate / Service | Cost Centre From | Directorate/ Service | Budget Amount | Description |
|-----------------------|--------------------------------|-------------------------|-----------------------------|----------------------|---|
| 124 | Princes Road Depot Maintenance | 170 | Service Delivery / Salaries | £3,000 | Disposal of Control of Substances Hazardous to Health (COSHH) items |

3.4 Supplementary Estimates

- 3.4.1 There were no supplementary estimates agreed during this period.

3.5 Procurement Exemptions

- 3.5.1 The following Procurement Exemptions have been agreed.

| Item | Amount | Description | Reason | Lead Officer |
|-------------|---------------|--|--|-------------------------------|
| 1 | £17,000 | Purchase of electric John Deere Gator buggy from Tuckwells | Due to previous issues procuring a vehicle within the available budget and with long lead-in times for purchase, when the opportunity to purchase an ex demonstration vehicle (with only 50 hours use) arose which met the needs of the service, the decision was taken that this would provide the best value for money option for Maldon | Parks and Countryside Officer |

| Item | Amount | Description | Reason | Lead Officer |
|------|--------|--|--|----------------------------|
| | | | District Council (MDC), as it was within budget and negated the long lead time to acquire a new vehicle. | |
| 2 | £5,721 | Radio Licence and emergency planning equipment from Essex Radio Hire | Procurement of a system of six mobiles, six handheld radios and a base station for the office. This supplier was used for expediency and to ensure compatibility with existing systems since the supplier already supports MDC on emergency planning work. This will ensure the Council is in a robust position should an emergency arise and will support meeting targets for Emergency Planning exercises. | Resources Casework Manager |

3.6 Use of Reserves

3.6.1 There were no drawdowns from reserves during this period

4. CONCLUSION

4.1 The Committee is invited to:

- note the virement in paragraph 3.3.1;
- note the procurement exemptions in paragraph 3.5.1.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

5.1 Supporting our communities

5.1.1 The agreement of a procurement exemption to purchase radio licence and emergency planning equipment will ensure the Council is in a robust position to support the community should an emergency arise.

5.2 Enhancing and connecting our place

5.2.1 None identified.

5.3 Helping the economy to thrive

5.3.1 None identified.

5.4 Smarter finances

5.4.1 The adherence to the Financial Regulations and Financial Procedures contributes towards the corporate core values of being open and transparent, and accountable for our actions.

5.5 **A greener future**

- 5.5.1 The agreement of a procurement exemption to purchase an electric vehicle will be advantageous in terms of emissions compared with any fuel-powered vehicle.

5.6 **Provide good quality services.**

- 5.6.1 The appropriate use of supplementary estimates, virement, procurement exemptions and reserves are agreed to support the delivery of good quality services within the council's available budgets.

6. **IMPLICATIONS**

- (i) **Impact on Customers** – None identified.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – As detailed in the report.
- (v) **Impact on Resources (human)** – None identified.

Background Papers: None.

Enquiries to: Lance Porteous, Lead Finance Specialist.



REPORT of INTERIM CHIEF FINANCE OFFICER

to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023

PROVISIONAL OUTTURN 2022 / 23

1. PURPOSE OF THE REPORT

- 1.1 To provide Members of the Committee with the Provisional Outturn position for the year ended 31 March 2023.
- 1.2 To inform Members of movements in relation to the Council's General Fund, Earmarked Reserves and Capital Commitments as at 31 March 2023.

2. RECOMMENDATIONS

- (i) That the Provisional Outturn position for the 2022 / 23 financial year be noted;
- (ii) That the Revenue Commitments detailed in **APPENDIX 2** be approved to be brought forward into 2023 / 24;
- (iii) That the movement in Earmarked Reserves in **APPENDIX 3** be approved;
- (iv) That the Capital Commitments in **APPENDIX 4** be approved to be brought forward into 2023 / 24;
- (v) That £421k of additional business rates income is used to close the budget gap for 2023 / 24.

3. SUMMARY OF KEY ISSUES

- 3.1 The Provisional Outturn report provides financial results for the Council for the year ending 31 March 2023. It shows performance against the original budget agreed by the Council on 22 February 2022 including subsequent approved amendments and is used for management purposes. The annual statement of accounts is prepared for statutory reporting purposes.
- 3.2 The statutory deadline for the publication of the draft 2022 / 23 statement of accounts was 31 May 2023, which was met by the Council; however the audit of these accounts is yet to commence and as such the figures set out in this 2022 / 23 Provisional Outturn report are subject to change.
- 3.3 **2022 / 23 Final Budget**
 - 3.3.1 The final revised service budget for 2022 / 23 was £14.6m. This was based on the original budget approved by the Council on 22 February 2022 and subsequent approved amendments, as summarised in Table 1 below.

Table 1 – 2022 / 23 Budget Movement Reconciliation

| Description | Amount £000 |
|--|----------------|
| Original 2022 / 23 Service Budget | 13,736 |
| Revenue Commitments brought forward from 2021 / 22 | 350 |
| Approved Supplementary estimates | 486 |
| Approved Use of Earmarked Reserves | 9 |
| Final 2022 / 23 Service Budget | 14,581 |

Note - The services budget includes statutory adjustments of £3,201k which do not impact on the general fund per accounting requirements.

3.4 2022 / 23 Provisional Outturn

- 3.4.1 Table 2 below is an overview of the 2022 / 23 provisional outturn position including statutory accounting adjustments. There is a budget underspend of £235k, giving a required drawdown from the general fund of £702k.

Table 2 – 2022 / 23 Provisional Outturn

| | Final Budget £000 | Provisional Actuals £000 | Provisional Variance £000 |
|---------------------------------------|-------------------------|--------------------------------|---------------------------------|
| Net Cost of Services | 14,581 | 12,286 | |
| Statutory Adjustments | (3,201) | (1,121) | |
| Net Cost of Services exc. Adj. | 11,380 | 11,165 | (215) |
| | | | |
| Investment Income | (214) | (622) | (408) |
| Funding and Reserves | (10,229) | (9,841) | 388 |
| Transfer from General Fund | 937 | 702 | (235) |

- 3.5 An analysis of the major variances attributed to the £235k underspend are detailed in **APPENDIX 1**.
- 3.6 Although there is an underachievement in Funding and Reserves this is mainly due to timing differences around when additional income can be recognised in the business rates retention system. The Council has to pay a levy on business rates income above its baseline and this is recognised in the year it occurs. However, where the additional income is above that budgeted, that can only be recognised in future years creating a mismatch. It is proposed the additional income is used in 2023 / 24 to close the budget gap of £421k.
- 3.7 The outturn position takes into account revenue commitments, where underspends in year have occurred but need to be carried forward into the next financial year to fund expenditure commitments. These are shown in **APPENDIX 2**.
- 3.8 The impact on the general fund balance as a result of the provisional 2022 / 23 outturn is shown in Table 3 below.

Table 3 – General Fund Balance

| | £000 |
|-------------------------------------|--------------|
| Opening General Fund Balance | 5,783 |
| Transfer from General Fund | 702 |
| Closing General Fund Balance | 5,081 |

- 3.8.1 Table 3 shows that the general fund balance remains above the minimum recommended level of £2.6m. A minimum level of general reserves is set to ensure the Council has the financial resilience to respond to emergencies and unforeseen events such as the current pandemic. However, if it did fall below the minimum level it would need to be replenished in future years.

4. EARMARKED RESERVES

- 4.1 The Council holds a number of earmarked reserves for specific purposes. Movements on these reserves during 2022 / 23 are detailed in **APPENDIX 3**. Drawdowns totalled £2.9m during 2022 / 23, with transfers into the reserves of £3.3m. Earmarked Reserves balances as at 31 March 2023 are £7.8m. This is a net increase of £0.4m from 1 April 2022. The purpose of each reserve is set out in the **APPENDIX 3**.

5. 2022 / 23 PROVISIONAL CAPITAL OUTTURN

- 5.1 The Council's approved capital programme was £1.0m in 2022 / 23. During the year £0.5m was spent, leaving a Capital underspend of £0.5m. A total carry forward into 2023/24 of £0.5m is requested.
- 5.2 The capital programme outturn with requested carry forwards is detailed in **APPENDIX 4**, alongside reasons for the slippage during 2022 / 23.

6. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

6.1 Smarter finances

- 6.1.1 Regular reporting and monitoring of the Council's financial position is a key control in ensuring the Council makes the best use of its resources and is able to make informed decisions.

7. IMPLICATIONS

- (i) **Impact on Customers** – None directly.
- (ii) **Impact on Equalities** – None directly.
- (iii) **Impact on Risk** – This is an outturn report stating the provisional financial position for 2022 / 23. There is a risk with ongoing audits that these figures change.

- (iv) **Impact on Resources (financial)** – There was an underspend of £235k against the final budget in 2022 / 23 leaving the general fund balance standing at £5.1m, which is above the minimum level required.
- (v) **Impact on Resources (human)** – None directly.
- (vi) **Impact on the Environment** – None directly.

Background papers: None.

Enquiries to: Lance Porteous, Lead Finance Specialist.

2022 / 23 Revenue Budget Variances

| Area | Variance £000 | Explanation |
|--|------------------|--|
| <i>Net Cost of Service:</i> | | |
| Development Management Fees | (161) | Mainly due to higher than budgeted income for planning development fees, although fees relating to pre-application enquires and planning performance agreements were also higher. |
| Refuse | (124) | The variance is 3% of the gross cost of the service. There were a variety of underspends across expenditure budgets and also additional income for food waste contributions and recycling that contributed to the underspend. |
| Salary Costs | (114) | The variance is 1% of the salary budget and relates to vacant posts periodically occurring throughout the services due to staff movement. |
| New Burdens Grant | (86) | The Council administers government support schemes for residents in relation to the cost-of-living crisis. As such additional grant was provided by government. |
| Cemeteries | (59) | Higher than budgeted income was received for burial rights and plaques. |
| Leisure Contract | 213 | Recovery of membership following the pandemic has been impacted by the cost-of-living crisis. In addition, inflation has significantly increased operating costs, particularly energy, which means projected income levels have not been achieved. |
| Town Centre Car Parks | 130 | Income has not matched budget. An additional income target was added as part of the transformation and the budget has underperformed since, due to the pandemic. |
| Other Variances | (14) | Net of other variances. |
| Total Services Variance | (215) | |
| <i>Other Income and Expenditure:</i> | | |
| Investment Income | (408) | The Bank of England Base Rate has significantly increased from when the budget was prepared, rising from 0.25% to 4.25% by the end of the financial year. As such the Council has received higher investment income than expected. |
| Business Rates Levy | 326 | The Council received a higher amount of business rates than budgeted, due to a reduction in its appeals provision, and as such has to pay a higher levy on this growth. Because of the way the rates retention system operates, the levy is recognised in year, but the additional income is recognised in future years. Therefore, the Council will benefit from additional income in future years. |
| Increase in Repairs and Renewals Reserve | 50 | In 2022/23 a number of unavoidable repairs and maintenance works were identified. This reserve sets aside funding to ensure they can be addressed future years. |
| Movements in other reserves | 12 | Net movement in other reserves. |
| Total Budget Variance | (235) | |

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Revenue Commitments

| Name of Project | Account Name | Budget £000 | Narrative |
|--|---|----------------|---|
| New Burdens - Salary funding | New Burdens Grants | 273 | Government support for administration of new burdens funding. |
| Test & Trace/UK Health Security grant | Covid 19 Track & Trace grant | 183 | Grant in relation to track and trace initiative. |
| Planning resources | Pre-apps | 162 | To fund planning resource to deliver against the additional fees that were received in 2022/23. |
| Tree Works MDC/ECC SLA March 2023 | Tree Surgery | 130 | Work to be carried out in 2023/2024 |
| New Burdens Grant | Administration Grant | 130 | New burdens grant income that will support future resources in respect of the administration of government support. |
| Resources Salaries | Finance Support | 80 | Additional funding to support closure activities and audit in respect of 2022/23 accounts. |
| Climate Action Plan implementation | Climate Action | 48 | To implement the Climate Action Plan 2023/24. |
| New burdens - Energy Rebate Scheme | NB CT Energy Rebate Scheme Exp | 37 | Grant to support the rollout of the energy rebate scheme. |
| LUF funding for commercial consultants | Consultants | 29 | To fund consultants in 2023/24. |
| New Burdens - NDR | NB Rate Relief Expenditure | 28 | Government support for administration of new burdens funding. |
| New burdens - software maintenance | Software Maintenance | 27 | Funding of software in relation to government new burdens activity for Revenue and Benefits. |
| BMX Track Prom Park | General Parks Maintenance | 23 | Project not completed in the current 2022/2023 financial year |
| Audit grant received | Government Grant | 20 | Grant in respect of increased audit fees. |
| New Burdens - Coach work grant | Customer Work Coach Grant | 19 | Grant to be spent in 2023/24. |
| FM Transformation - IT & Staff training | FM Implementation | 15 | Fund planned IT projects and training. |
| Election Management - District Elections | District Elections | 13 | To contribute to District Election costs in May 2023 |
| Lease Tractor for the Parks team | Lease vehicle | 12 | Tractor to be acquired in 2023/2024 |
| Consultancy fees | Consultancy Fees | 11 | Needed in 2023-24 |
| Parks Improvement Fund | Parks Improvement Fund | 10 | For works that will be carried out in 2023/24. |
| His Majesty's Land Registry Project | Scanning of documentation | 9 | Ongoing project. |
| Magnox - Community Hub project | Magnox Cost of Living Expend | 9 | Remaining funding to be carried over for Community Hub grant |
| New Burdens - VEPS | Additional Admin grant | 9 | Government support for administration of new burdens funding. |
| Emergency generator | Equipment | 8 | Delivery in April |
| Management Development Programme | Corporate training | 8 | Training commitment |
| Asbestos Surveys | Legionella & Asbestos testing | 6 | Not all of the work is completed yet. |
| UKSPF - FTC extension part funding | UKSPF set up expenditure | 6 | To be used to part fund FTC extension of Lead Specialist Prosperity |
| Promotion and Education - Tourism | Promotion & Education | 6 | To deliver Tourism marketing |
| Five year periodic electrical testing for Princes Road | Maintenance | 5 | Essential works that were delayed due to contractor availability |
| 5Y HLS Working Group Legal Advice | Consultancy | 5 | Budget required for Barrister advice on 5Y HLS |
| Electoral Registration Canvass | Canvass | 5 | To contribute District Election costs in May 2023 |
| National Lottery Heritage | National Lottery Heritage grant expenditure | 4 | Delivery of grant objectives |
| Memorial topple testing repairs | Property Maintenance | 2 | Delay in works due to capacity and resource issues. |
| Independent annual play site inspections | Equipment Maintenance | 2 | Delay on inspector being able to complete onsite visits |
| Community Engagement | Engagement | 2 | To be spent on engagement in 2023/24 |
| Difficult conversations training | Corporate training | 1 | Training commitment in 2023/24 |
| Business Partner Practioner training | Resources Training | 1 | Training commitment in 2023/24 |

| Name of Project | Account Name | Budget £000 | Narrative |
|--|--------------------|----------------|------------------------------------|
| Strategic Workforce Planning Programme | Resources Training | 1 | Training commitment in 2023/24 |
| Members training | Members Training | 1 | Planned member training in 2023/24 |
| Chair's planned expenditure | Chair's Budget | 1 | Expenditure in May 2023 |
| Total | | 1,341 | |

Movement in Earmarked Reserves

| Reserve | Balance 1 April 2022 | Transfers Out | Transfer In | Balance 31 Mar 2023 | Purpose |
|---|-------------------------|------------------|-------------|------------------------|--|
| Business Continuity | (10) | - | - | (10) | To provide funding for emergency requirements such as salt, sand bags or other business continuity requirements |
| Community grants | (1) | - | - | (1) | The time limits on these grants exceed the financial year in which the budget provision was made, necessitating a reserve to cover the outstanding liabilities. |
| Community Housing Fund Grant | (116) | - | - | (116) | Reserve to support Community-led housing delivery. Objective is to help deliver affordable housing aimed at first time buyers in response to the problem second homes can cause in reducing supply. |
| LDP review | (581) | 316 | (565) | (830) | Following the adoption of the Local Development Plan, this reserve will now fund the work to enable implementation of the CIL, and also to meet the regulations to ensure that the LDP is reviewed regularly. |
| Community Safety | (78) | - | - | (78) | Reserve set aside to fund Community Safety activities. |
| Community Sports Network/Health & Wellbeing | (41) | - | - | (41) | A grant was received from the Government in 2011/12 to support sports networks; this is being utilised year by year as necessary. |
| Council Tax and Business Rates equalisation | (3,637) | 1,705 | (774) | (2,706) | This reserve is to counter the timing differences in Business Rates funding and mitigate the risks associated with fluctuations in income. |
| Economic Development | (65) | 16 | - | (48) | Reserve set aside to support economic development activities in the District. |
| Electoral Registration | (102) | - | - | (102) | Reserve set aside to support Electoral works. |
| Feasibility Study reserve | (78) | 4 | - | (74) | To fund feasibility studies for potential strategic projects |
| Heritage Projects: Environmental Imps | (8) | - | - | (9) | The Council gives grants in support of environmental initiatives and historic buildings. The time limits on these grants exceed the financial year in which budget provision is made, necessitating a reserve to cover outstanding liabilities |
| Homeless reduction Act Grant | (56) | - | - | (56) | Reserve set up to use three years of grant funding for Homelessness Reduction Officer. |
| Insurance liability | (52) | - | - | (52) | The Council maintains external insurance policies to cover major risks. In many cases the policies have excess clauses that require the Council to meet the first part of each claim. The Council has established this reserve to cover its liabilities under policy excesses and finance any claims for small risks not insured externally. |
| Neighbourhood Plan Applications | (29) | - | - | (29) | Funding to be utilised in supporting the preparation of neighbourhood plans. |
| New Homes Bonus reserve | (391) | 391 | - | - | Funding to support general fund pressures |
| Pensions Reserve | (520) | - | (520) | (1,040) | To provide a reserve to enable the Council to forward fund the pension deficit for 3 years in 2021. |
| Repairs & renewals fund | (177) | 5 | (50) | (222) | To provide funds to support additional revenue / capital costs arising from the need to maintain the Council's asset base. £50k has been added to the reserve to be released in 23/24. |

| Reserve | Balance 1 April 2022 | Transfers Out | Transfer In | Balance 31 Mar 2023 | Purpose |
|--|-------------------------|------------------|----------------|------------------------|---|
| Revenue commitments | (361) | 350 | (1,341) | (1,352) | This reserve exists to smooth out the timing differences between monies being earmarked to expenditure from the annual revenue budget and the expenditure actually occurring |
| Sports Development | (37) | 7 | - | (30) | Reserve set aside to fund Sports Development activities. |
| FDO external funding from Plume | (1) | - | - | (1) | Specific external funding towards the post of Football Development Officer |
| Corporate Delivery Fund Reserve | (131) | 38 | (35) | (128) | To provide funds for strategic projects |
| Transformation | (952) | 117 | - | (835) | To provide funds to meet the one-off investment costs of efficiency savings or service reductions to be realised in future years. Also to enable the upfront costs of potential income generating projects. |
| Waste Contract Implementation | (15) | - | - | (15) | Contributions towards the procurement and mobilisation of the new Waste contract |
| Income & Expenditure Budget Equalisation | - | - | (49) | (49) | Released from the BDP to smooth out income and expenditure over years |
| Total Specific Reserves | (7,439) | 2,949 | (3,334) | (7,824) | |

2022/23 Provisional Capital Outturn

| Capital Project | Description | 2022/23 Budget £000 | 2022/23 Expenditure £000 | 2022/23 Balance £000 | Carry Forward £000 |
|---|--|---------------------------|--------------------------------|----------------------------|--------------------------|
| | | | | | |
| New Accessible Playsite | The original tender for this work did not receive any suitable responses and so the works need to be retendered and carried out this year, it will also be combined with a new Capital budget in 2023/24 | 48 | 0 | 48 | 48 |
| Splash Park New Elements | Now that the resurfacing works have been completed a review of the element replacements can be done for 2023/24 | 30 | 0 | 30 | 30 |
| Blackwater LC - Air Handling Unit | Discussions taking place with Places Leisure on replacement and what is required | 25 | 0 | 25 | 25 |
| New replacement laptops - Rolling replacement programme | | 24 | 8 | 16 | 0 |
| New BLC Car park entrance and drainage works | | 25 | 26 | (1) | 0 |
| Burnham on crouch Houseboats berth | The project has been delayed and is ready to get underway in 2023/24 | 117 | 6 | 111 | 111 |
| Gym Expansion Dengie 100 | | 30 | 0 | 30 | 0 |
| Parks Vehicle - Rolling replacement programme | | 100 | 97 | 3 | 0 |
| New Animal warden vehicle | | 12 | 12 | 0 | 0 |
| PC and Printer Replacement Programme | | 47 | 61 | (14) | 0 |
| Prom Park New Footpath (Entrance Road) | | 20 | 19 | 1 | 0 |
| Prom Park Entrance Road Bollard Lighting | | 16 | 16 | 0 | 0 |

| Capital Project | Description | 2022/23 Budget | 2022/23 Expenditure | 2022/23 Balance | Carry Forward |
|-------------------------------------|--|-------------------|------------------------|--------------------|------------------|
| Prom Park Skate Park Resurfacing | This was delayed due to the possibility of S106 funding the project. This will not be happening, and the project will be MDC funded and start in June. Specification is all done | 45 | 0 | 45 | 45 |
| Marine lake pumping station | | 11 | 11 | 0 | 0 |
| Oaktree Meadow Surfacing | | 21 | 21 | 0 | 0 |
| Burnham On Crouch Pontoon | External funding has been approved and will be combined with the MDC budget and will commence in the next few months | 60 | 0 | 60 | 60 |
| White Horse Lane resurfacing | Project delayed. The specifications are now complete and will be going out to Tender | 77 | 0 | 77 | 77 |
| Butt Lane subsidence repairs | Project delayed. The specifications are now complete and will be going out to Tender | 60 | 0 | 60 | 60 |
| BLC - New hot water boilers | | 31 | 24 | 7 | 0 |
| Prom Park Entrance Road Resurfacing | | 40 | 41 | (1) | 0 |
| Splashpark surface | | 137 | 122 | 15 | 0 |
| TOTAL | | 975 | 464 | 512 | 455 |



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023**

AREA OF SPECIAL CONTROL FOR ADVERTISEMENTS

1. PURPOSE OF THE REPORT

- 1.1 Since 1988 most of the District has been designated as an Area of Special Control for advertisements, where additional controls are placed on advertisements to protect rural amenity. The Council is required to review the order every five years, this is in order to decide whether to reconfirm, modify or revoke the order. A copy of the order is appended to this report at **APPENDIX A**.

2. RECOMMENDATIONS

To the Council:

That the Area of Special Control Order for Advertisements is reconfirmed.

3. SUMMARY OF KEY ISSUES

- 3.1 An Area of Special Control (ASC) Order (the Order) is used to restrict the size, height from the ground, number and illumination of advertisements allowed in the designated area. The effect of the Order is to apply more stringent controls over the display of advertisements.
- 3.2 The Maldon District ASC covers the rural area of the district which requires special protection to preserve its visual amenity. It was designated in 1988 and covers the whole of the district except the more built-up areas, being the settlements of Maldon, Heybridge, Burnham-on-Crouch, Southminster, Mayland, St Lawrence and Tollesbury. The areas excluded from the order are identified by inset maps and are based on the established settlement boundaries in 1988. The original order is attached at **APPENDIX 1**.
- 3.3 The Regulations require that the Local Planning Authority (LPA) considers, at least once every five years, whether the Order should be revoked or modified. The Planning and Licencing Committee last considered the issue on 16 November 2017 (Minute No. 598 refers). Therefore, the review of the ASC is now overdue. The Council can reconfirm the order, modify it, or revoke it.
- 3.4 Reconfirming an order is done through the usual Committee procedure of recommending the reconfirmation of the order to the Council, and the Council approving it.

- 3.5 There are set procedures laid down for modifying or revoking an ASC order. To modify / revoke an order the Council needs to:
- a) undertake targeted consultation with local trade and amenity organisations;
 - b) make / revoke the order at a meeting of the Council;
 - c) submit the modified / revoked order for approval to the Secretary of State;
 - d) advertise the order to enable people to make representations to the Secretary of State;
 - e) if objections are made, a hearing / public inquiry with a Planning Inspector may be held;
 - f) once the order is approved by the Secretary of State, the Council advertises it again.
- 3.6 Residential development is often located within Areas of Special Control – the majority of the settlements in the district are within the ASC. Since the last review of the ASC there has been new development built within the ASC, mostly in Burnham-on-Crouch, Maldon and Heybridge. Residential areas are not readily associated with advertisements, as such the boundaries do not need to be revised to exclude these residential developments from the ASC.
- 3.7 The 2017 report to the Planning and Licensing Committee concluded that the level of development that had occurred since the previous review in 2013 did not warrant a modification of the order. However, it recognised that once the Local Development Plan (LDP) strategic development sites were completed, then the ASC Order would need to be modified. The LDP site allocations are still being built, therefore, it is not recommended that the Order's boundaries are modified at this time.
- 3.8 No large scale commercial or industrial development significant enough to impact on the existing designated ASC Order has taken place since the Order was last reviewed in 2017. Therefore, it is not necessary to modify the Order to accommodate this type of development.
- 3.9 The ASC has been used by Planning Enforcement to have advertisements removed from the rural areas of the district and has been successfully used in prosecutions for refusal to remove unauthorised advertisements. It has been found to be a useful tool in controlling roadside advertisements; as such, it remains a valid tool for the control of advertisements. Therefore, revocation is not recommended at this time.

4. CONCLUSION

- 4.1 The ASC Order remains an important and effective measure to protect the character and visual amenity of the more rural parts of the district and should be retained. As the build out of the LDP strategic allocations and other permitted major residential development is still ongoing it is recommended that the order is reconfirmed without modification.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

5.1 Supporting our communities

- 5.1.1 The protection of the visual amenity of the area of the district covered by the Area of Special Control for Advertisements contributes to the quality of life of residents.

5.2 Enhancing and connecting our place

- 5.2.1 The ASC for Advertisements supports the Council's corporate goals, particularly promoting civic pride in place and improve environmental quality. The protection of the visual amenity of the area of the district covered by the ASC for Advertisements contributes to the quality of place and the environment.

5.3 Helping the economy to thrive

- 5.3.1 The ASC Order limits the size, number and illumination of permitted and expressly consented advertisements within the designated area. It does not prohibit all advertisements; therefore, it does not have a significant impact on businesses in the area. Protecting the visual amenity of the district has an economic benefit to the district.

5.4 Smarter finances

- 5.4.1 The ASC supports the Planning Enforcement function of the Council.

5.5 A greener future

- 5.5.1 Retention of the ASC for Advertisements supports the protection of the more rural areas and landscapes within the district.

5.6 Provide good quality services.

- 5.6.1 The ASC supports the Planning Enforcement function of the Council.

6. IMPLICATIONS

- (i) **Impact on Customers** – The protection of the visual amenity of the area of the district covered by the ASC for Advertisements is important to the quality of life of customers.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – Reconfirming the Order has no financial impacts. Modifying or revoking the order follows set procedures which will result in additional expenditure.
- (v) **Impact on Resources (human)** – Reconfirming the Order has no resource impacts. Modifying or revoking the order follows set procedures which will require additional staff resources.

Background Papers:

- Regulations 20, 21 and Schedule 5 of the [The Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2007/2686/contents/make)
- Planning Practice Guidance <https://www.gov.uk/guidance/advertisements#Area-of-Special-Control>

Enquiries to: Leonie Alpin, Specialist-Local Plans, policy@maldon.gov.uk.

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AREA OF SPECIAL CONTROL

Area of Special Control relates to all of the Maldon District unless it falls within the areas outlined in black on the attached plans.

AREAS OF SPECIAL CONTROL

THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 1984

Within an Area of Special Control four main categories of advertisements are permitted.

These areas:

- a) election notices, statutory advertisements and traffic signs, (Regulation 9);
- b) advertisements inside a building (Regulation 12);
- c) advertisements with a deemed consent (Regulation 14). These include functional advertisements of local authorities and statutory undertakers, small professional signs, signs on hotel and inns, certain temporary advertisements such as "for sale" signs, advertisements on the forecourts of business premises, flag advertisements; and
- d) temporary advertisements for travelling circuses and fairs (Regulation 23).

Additionally express consent may be granted only for the display of advertisements of the following categories:-

- e) notices about local events or activities
- f) advance signs or directional signs which are "reasonably required" to direct people to the place identified on the sign;
- g) advertisements required for public safety reasons, and
- h) an advertisement which could be displayed with deemed consent {(c) above} if it is reasonable for the normal size, height or illumination limits to be exceeded.

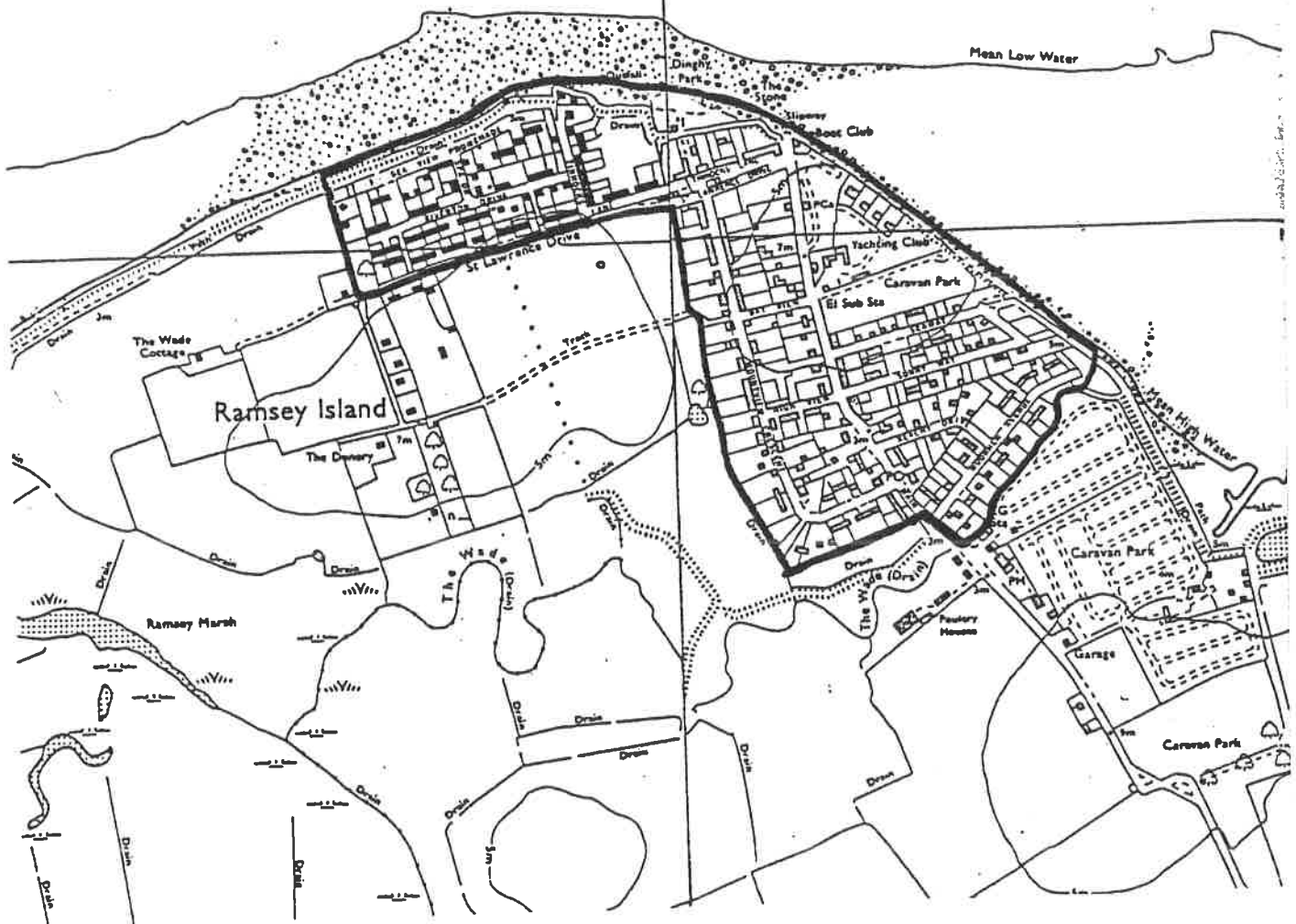
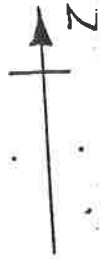
With regard to advertisements displayed with deemed consent {(c) above} slightly more stringent requirements apply to advertisements which may be displayed within an Area of Special Control. Generally letters, figures etc. cannot exceed 0.3m and advertisements must not be displayed at a height exceeding 3.6m above ground level. Advertisements on business premises must not exceed 10% of the area of the face of the building up to a maximum of 3.6m above ground level.

The foregoing is a summary of the relevant provisions of current legislation and is intended for guidance only. Anyone who requires further clarification or detail on any point is advised to consult The Town and Country Planning (Control of Advertisements) Regulations 1984 (S.I. 1984/421) and Department of the Environment Circular II.84 in respect of those Regulations.





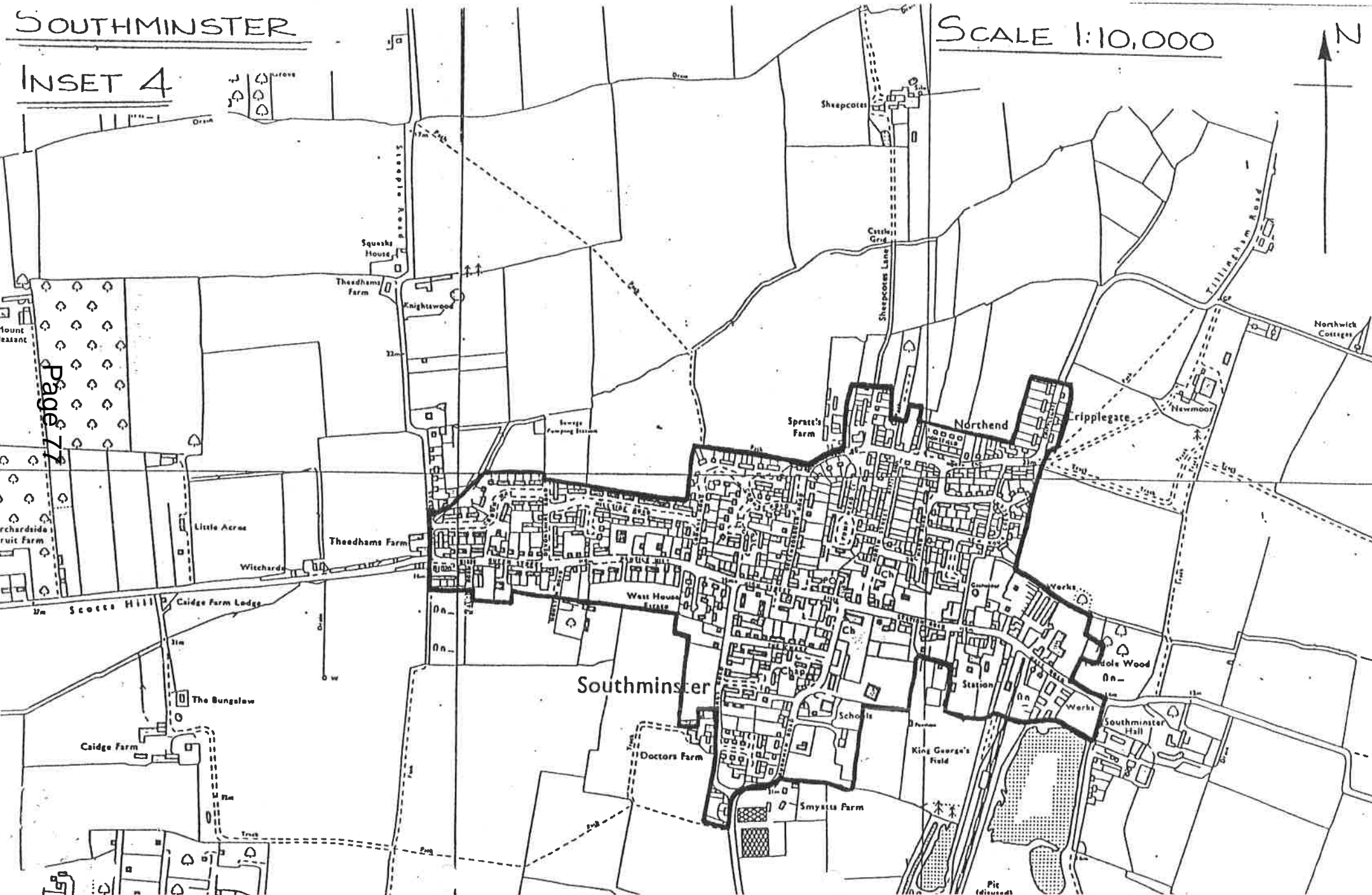
Scale: 1:10,000

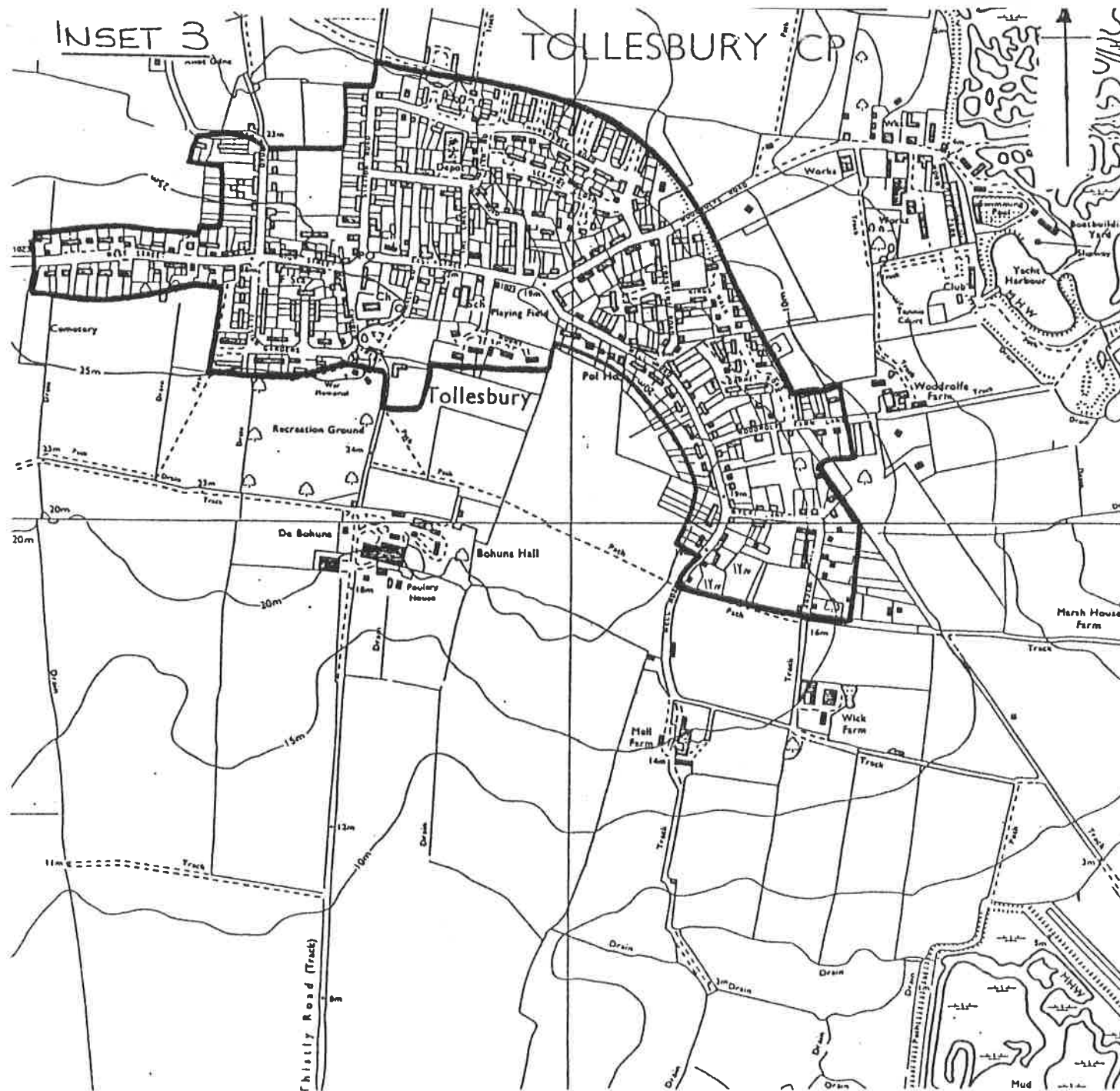


SOUTHMINSTER

INSET 4

SCALE 1:10,000







**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023**

BUSINESS RATES DISCRETIONARY RATE RELIEF

1. PURPOSE OF THE REPORT

- 1.1 For Members to approve the updated Discretionary Non-Domestic Rate Relief Scheme at **APPENDIX 1**, which updates and replaces our existing policy to reflect changes announced by Central Government to support businesses. The new relief will be fully funded by Central Government.

2. RECOMMENDATIONS

To the Council:

That the Discretionary Non-Domestic Rate Relief Scheme at **APPENDIX 1** be updated to include an additional scheme.

3. SUMMARY OF KEY ISSUES

- 3.1 The Council approved in February 2022, the updated Non-Domestic Rate Relief Scheme at **APPENDIX 1**, incorporating for 2023, an extension to the Retail, Hospitality and Leisure Relief scheme and a new Supporting Small Business relief Scheme (SSB)
- 3.2 At the time of presenting that report it was anticipated that legislation would be passed to mandate the award of Heat Network Relief for eligible businesses. That scheme was introduced for 2022 / 23, delivered using existing discretionary relief powers and funded by the government. The amendment to a mandatory relief was not possible and the Government has now confirmed that it should continue to be dealt with as a discretionary relief in 2023 / 24.
- 3.3 The policy at **APPENDIX 1** provides for the granting of the relief in line with the published guidance. These measures are fully funded by Central Government. Members are asked to, in particular, note the policy Appendix J.

4. CONCLUSION

- 4.1 The updated Discretionary policy enable the granting of additional Discretionary Relief to eligible businesses.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

5.1 Supporting our communities

- 5.1.1 The updated Discretionary Non-Domestic Rate Relief policy will enable the granting of additional Discretionary Relief which supports the business community.

5.2 Enhancing and connecting our place

- 5.2.1 None.

5.3 Helping the economy to thrive

- 5.3.1 The updated Discretionary Non-Domestic Rate Relief policy will enable the granting of additional Discretionary Relief which supports the local business community.

5.4 Smarter finances

- 5.4.1 The updated Discretionary Non-Domestic Rate Relief policy will ensure that the cost of any relief granted can be reclaimed from Government.

5.5 A greener future

- 5.5.1 None.

5.6 Provide good quality services.

- 5.6.1 The updated Discretionary Non-Domestic Rate Relief policy provides for a clear, transparent and consistent approach in the delivery of discretionary relief.

6. IMPLICATIONS

- (i) **Impact on Customers** – Eligible businesses will receive a rates bill reduction.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – The schemes provide for financial support to businesses.
- (iv) **Impact on Resources (financial)** – None; the schemes are fully funded by Central Government. Report has been reviewed by the S151 officer.
- (v) **Impact on Resources (human)** – None; the schemes will be delivered within existing resources.

Background Papers: None.

Enquiries to: Michelle LaMarre, Head of Revenues and Benefits.



MALDON DISTRICT COUNCIL

Maldon District Council Policy for the granting of Discretionary Non-Domestic Rate Relief

Version Control

| <i>Version</i> | <i>Version date</i> | <i>Revised by</i> | <i>Description</i> |
|----------------|---------------------|-------------------|---|
| 1 | June 2017 | LM | Policy |
| 2 | June 2017 | DA | Revisions |
| 3 | July 2017 | LM | Revisions |
| 4 | July 2017 | DA | Sign Off |
| 5 | October 2017 | LM | Revisions MLM |
| 6 | November 2017 | LM | Revisions MLM |
| 7 | January 2019 | LM | Full update of policy |
| 8 | April 2020 | LM/DA | Full update of policy & inclusion of COVID-19 reliefs |
| 9 | April 2021 | LM/DA | Full update of policy & inclusion of COVID-19 reliefs |
| 10 | February 2022 | LM/DA | Full update of policy & inclusion of COVID-19 reliefs |
| 11 | February 2023 | LM/DA | Full update of policy & inclusion of Cost of Living reliefs |
| 12 | March 2023 | LM/DA | Inclusion of Heat Network Relief |

Contents

| | | |
|-----|---|----|
| 1.0 | Purpose of the Policy | 4 |
| 2.0 | Mandatory Relief - Legislative Background | 5 |
| | Charity Relief | 5 |
| | Rural Rate Relief | 5 |
| 3.0 | Discretionary Relief – Legislative Background | 6 |
| 4.0 | Effect on the Council's Finances | 8 |
| 5.0 | Administration of Discretionary Relief | 9 |
| | Applications and Evidence | 9 |
| | Granting of relief | 10 |
| | Variation of a decision | 10 |
| 6.0 | Scheme of Delegation | 11 |
| | Granting, Varying, Reviewing and Revocation of Relief | 11 |
| | Reviews | 11 |
| | Appeals | 11 |
| 7.0 | Reporting changes in circumstances | 12 |
| 8.0 | Fraud | 12 |
| | Appendix A | 13 |
| | Discretionary Relief – Mandatory Relief recipients | 13 |
| | Appendix B | 17 |
| | Discretionary Relief – Non-Profit Making Organisations including Recreation | 17 |
| | Appendix C | 22 |
| | Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients | 22 |
| | Appendix D | 26 |
| | Discretionary Relief – Premises within Rural Settlements | 26 |
| | Appendix E | 28 |
| | Discretionary Relief – Localism Act 2011 | 28 |
| | Appendix F | 31 |
| | Local Newspaper Relief | 31 |
| | Appendix G | 33 |
| | Supporting Small Businesses Relief (until 31 st March 2026) | 33 |
| | Appendix H | 37 |
| | Retail, Hospitality and Leisure Relief (2022/23 only) | 37 |
| | Appendix I | 43 |
| | Retail Hospitality and Leisure Relief Scheme (2023/24) | 43 |
| | Appendix J | 50 |
| | Heat Network Relief | 50 |
| | Appendix K | 55 |
| | Section 49 – Hardship Relief | 55 |

1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area. The policy includes all changes effective from 1st April 2023 and includes all new reliefs due to the revaluation of rateable values in April 2023 and the cost of living crisis. The Council is keen to support businesses during the crisis, as far as possible.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2023. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2023, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. Where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to carefully consider every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 3.6 Granting of the relief falls broadly into the following categories:
- (a) Discretionary Relief – Charities who already receive mandatory relief.
 - (b) Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - (c) Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
 - (d) Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - (e) Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - (f) Local Newspaper Relief (from 1st April 2023 until 2025);
 - (g) Supporting Small Businesses Relief (from 1st April 2023 for a period of up to three years);
 - (h) Retail, Hospitality and Leisure Business Rates Relief (from 1st April 2022 for a period of one year);
 - (i) Retail, Hospitality and Leisure Business Rates Relief (from 1st April 2023 for a period of one year);
 - (j) S49 Hardship Relief.
- 3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- (a) The awarding of relief will be in line with the Council's vision and values. Details can be found at
 - (b) That any award should support business, charities, organisations, and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - (c) It should help and encourage business, charities, organisations, groups, and communities to become self-reliant;
 - (d) Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - (e) Local organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used, and invested locally. This will be essential where the organisation is national in nature;
 - (f) To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
 - (g) To assist the Council in delivering services which could not be provided otherwise;
 - (h) To enable the Council to determine the level of rate change in comparison with the organisation's financial situation; and
 - (i) To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes.

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council and 10% by Essex County Council. This also applies where mandatory relief is granted.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

| Appendix | Relief Type | Granted after 1 st April 2023 |
|----------|---|--|
| | Charity Relief | |
| A | Discretionary relief granted to Mandatory Relief recipients | 40% borne by the Council |
| B | Non-profit Making Organisations including Sports Clubs and societies | 40% borne by the Council |
| | Rural Rate Relief | |
| C | 50% Discretionary relief granted to Mandatory Rural Relief recipients | Section 31 Grant |
| D | Other premises within a rural settlement under £16500 RV | 40% borne by the Council |
| | Localism | |
| E | Discretionary Relief granted to ratepayers generally and not covered by any other section | 40% borne by the Council |
| | Local Newspaper Relief | |
| F | Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2023 up until 2025) | Section 31 Grant |
| | Supporting Small Business Relief | |
| G | Supporting Small Businesses Relief (from 1 st April 2023 for a period of up to three years if conditions are met | Section 31 Grant |
| | Retail, Hospitality and Leisure Business Rates Relief | |

| Appendix | Relief Type | Granted after 1 st April 2023 |
|----------|--|--|
| H | Retail, Hospitality and Leisure Business Rates Relief (from 1 st April 2022 for a period of one year); | Section 31 Grant |
| | Retail, Hospitality and Leisure Business Rates Relief | |
| I | Retail, Hospitality and Leisure Business Rates Relief (from 1 st April 2023 for a period of one year) | Section 31 Grant |
| | Heat Network Relief | |
| J | Relief for all Heat Networks for a period of 1 year | Section 31 Grant |
| | S49 Hardship Relief | |
| K | Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council taxpayers | 40% borne by the Council |

5.0 Administration of Discretionary Relief

- 5.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁴

Applications and Evidence

- 5.2 All reliefs must be applied for. Application forms are produced by the Council both in hard copy and electronic format. The relevant application forms available online using the following links.
- [General Discretionary application form](#)
 - [CASC, charities and not for profit additional questions](#)
- 5.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 5.4 Applications should initially be made to the Revenues and Benefits Services and will be determined in accordance with Section 7 of this policy.
- 5.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

⁴ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

Granting of relief

- 5.6 In all cases, the Council will notify the ratepayer of decisions made.
- 5.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 5.8 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 5.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 5.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 5.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 5.12 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year and so that at least one year's notice is given;
 - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and

- Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 5.13 A decision may be revoked at any time however; a one-year period of notice will be given, and the change will take effect at the expiry of a financial year.

6.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 6.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003, and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 6.2 The Council's scheme of delegation allows for the Lead Specialist, Service Delivery to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 6.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 6.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Appeals

- 6.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Lead Specialist, Service Delivery. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.6 Where the ratepayer wishes to appeal the decision of the Lead Specialist, Service Delivery the case will be considered by the Section 151 officer or another member of the Corporate Leadership team, whose decision on behalf of the Council will be final
- 6.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

7.0 Reporting changes in circumstances

- 7.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g., where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 7.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

8.0 Fraud

- 8.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

Appendix A

Discretionary Relief - Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁵ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution⁶ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation⁷, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

⁵ Registered with HMRC as a CASC

⁶ S67(10) Local Government Finance Act 1988

⁷ Income Tax Special Commissioners v Pemsell (1891)

Use of Premises - wholly or mainly used

- A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection, but on occasions the Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Department of Communities and Local Government (now MHCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

Offices, administration, and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - Conference Rooms.

Charity shops

- A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

Granting of Mandatory Relief - the Council's Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

- A.14 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.15 In determining the application, the following matters will be taken into consideration:
1. How the charity supports and links into the Council’s corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
 3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity. The Council is keen to ensure that the organisation provides significant benefit to local residents.
- A16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the corporate aims and values.
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
 3. How the CASC supports and links into the Council’s corporate vision and priorities;
 4. The membership and fee structure, and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 5. Membership numbers and the number and percentage of these members that are local residents;
 6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
 7. Whether facilities are available to the wider community regardless of ability; and
 8. If the CASC runs a bar or food provision: the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.
- A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council’s aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses.

Appendix B

Discretionary Relief - Non-Profit Making Organisations including Recreation.

Discretionary Relief – Non-Profit Making Organisations including Recreation.

General explanation

Non-Profit

- B.1 The legislation⁸ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature, or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.⁹

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

⁸ S47 Local Government Finance Act 1988

Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following¹⁰

| | | | | |
|---------------------------|--------------------|-------------------------------------|----------------------|----------------|
| Aikido | Croquet | Kabaddi | Real Tennis | Tang Soo Do |
| American Football | Crossbow | Karate | Roller Hockey | Tenpin Bowling |
| Angling | Curling | Kendo | Roller Skating | Trampolining |
| Archery | Cycling | Korfball | Rounders | Triathlon |
| Arm Wrestling | Disability Sport | Lacrosse | Rowing | Tug of War |
| Association Football | Dragon Boat Racing | Lawn Tennis | Rugby League | Unihoc |
| Athletics | Equestrian | Life Saving | Rugby Union | Volleyball |
| Australian Rules Football | Fencing | Luge | Sailing | Water Skiing |
| Badminton | Fives | Modern Pentathlon | Sand/Land Yachting | Weightlifting |
| Ballooning | Flying | Motor Cycling | Shinty | Wrestling |
| Baseball | Gaelic Football | Motor Sports | Shooting | Yoga |
| Basketball | Gliding | Mountaineering | Skateboarding | |
| Baton Twirling | Golf | Movement, Dance, Exercise & Fitness | Skiing | |
| Biathlon | Gymnastics | Netball | Skipping | |
| Bicycle Polo | Handball | Orienteering | Snowboarding | |
| Billiards and Snooker | Hang/Para Gliding | Parachuting | Softball | |
| Bobsleigh | Highland Games | Petanque | Sombo Wrestling | |
| Boccia | Hockey | Polo | Squash | |
| Bowls | Horse Racing | Pony Trekking | Skater/Street Hockey | |
| Boxing | Hovering | Pool | Sub-Aqua | |
| Camogie | Hurling | Quoits | Surf Life Saving | |
| Canoeing | Ice Hockey | Racketball | Surfing | |
| Caving | Ice Skating | Rackets | Swimming & Diving | |
| Chinese Martial Arts | Jet Skiing | Raquetball | Table Tennis | |
| Cricket | Ju Jitsu | Rambling | Taekwondo | |
| | Judo | | | |

Access to clubs

- B.8 Guidance issued by the DCLG (now DLUHC) also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.

¹⁰ Definition last reviewed by Sport England in 2002

- B.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g., young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Provision of facilities

- B.12 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g., young people, the disabled, retired people.
- B.13 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members.
- B.14 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so or enhance and supplement those that it does provide.

Discretionary Relief - Non-Profit Organisations including Recreation - the Council's Policy

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken into consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
 - Whether the facilities provided include education and/or training for members as a whole or for special groups;
 - The extent to which the facilities provided reduce the demand for Council services or produce savings;
 - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 - If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents; and
 - If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.
- B.16 The Council will also require additional financial information including:
- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used.; and
 - Whether the organisation operates at a local or national level and where appropriate, the local and

national funding streams and financial position of the organisation.

Appendix C
Discretionary Relief - Rural Rate Relief - Mandatory Relief
recipients

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2023);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2023);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2023); and
 - The property must be used as a shop selling mainly food (see below for definition).

What rural settlements exist within the Maldon District Council's area?

- C.4 The following are deemed to be rural settlements within the District Council's area:

| | | |
|------------------------|------------------------|-------------------|
| Althorne – North | Althorne _ South | Asheldham |
| Bradwell-On-Sea | Bradwell Waterside | Cold Norton |
| Dengie | Goldhanger | Great Braxted |
| Great Totham – North | Great Totham -South | Hazeleigh |
| Heybridge Basin | Langford | Latchingdon |
| Little Braxted | Little Totham | Mundon |
| North Fambridge -North | North Fambridge -South | Purleigh |
| St. Lawrence | Steeple | Stow Maries |
| Tillingham | Tollesbury | Tolleshunt D'arcy |
| Tolleshunt Knights | Tolleshunt Major | Ulting |
| Wickham Bishops | Woodham Mortimer | Woodham Walter |

What is the definition of a General Store?

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify

for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

- C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads.

What is the definition of a Food Shop?

- C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

What are the qualifying criteria for Discretionary Relief?

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2023 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

Rural Rate Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such

time as primarily legislation is changed.

Appendix D

Discretionary Relief - Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16500 or less and:
- (a) Property is used for purposes which are of benefit to the local community; and
 - (b) It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken into consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the District.

Appendix E

Discretionary Relief - Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Taxpayers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Taxpayers.

Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) must meet **all** of the following criteria and the amount of relief granted will be dependent on the following key factors:
- (a) The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
 - (b) The ratepayer **must not** be entitled to Central Government funded reliefs;
 - (c) The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - (d) The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - (e) The premises and organisation **must** be of *significant* benefit to residents of the Council’s area;
 - (f) The premises and organisation **must** relieve the Council of providing similar facilities;
 - (g) The ratepayer **must**;
 - Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
 - Provide *significant* employment or employment opportunities to residents of the Council; **or**
 - Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
 - (h) The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term;
 - (i) whether the premises occupied are considered to be reasonable having regard to the size and location of the premises, the size and nature of the organisation, and the use being made of the premises by the organisation; **and**

- (j) The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.

E.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for initially a short period.

Appendix F

Local Newspaper Relief

General Explanation

- F.1 This is a temporary relief that will be awarded until 2025 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament.

Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a “traditional local newspaper.” The relief will not be available to magazines.

Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g., per newspaper name) **AND** per hereditament.

Local Newspaper Relief – the Council’s policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix G

Supporting Small Businesses Relief (until 31st March 2026)

General Explanation

- G.1 For the financial years 2023/24 to 2025/26, the Government will, in line with the eligibility criteria set out below, reimburse the Council if it uses its discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant 2023 Supporting Small Business relief.
- G.2 It will be for the Council, which administers the 2023 Supporting Small Business (2023 SSB) relief, to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- G.3 Central government will reimburse the Council and major precepting authorities for the actual cost to them under the rates retention scheme of the 2023 Supporting Small Business relief that falls within the definitions in this policy.

Who is eligible for the 2023 Supporting Small Business Relief (2023 SSB) and how much relief will be available?

- G.4 2023 SSBR will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their Small Business, Rural Rate Relief or 2017 SSBR and, as a result, are facing large increases in their bills.
- G.5 Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.
- G.6 To support these ratepayers, 2023 SSBR will ensure that the increase in the bills of these ratepayers is limited to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied. In order to simplify the scheme, the 2023 SSBR will not include minimum percentage bill increases (unlike the 2017 scheme).
- G.7 Those on 2023 SSBR whose 2023 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for 2023 SSBR.
- G.8 The 2017 SSBR scheme was provided to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation. They have, therefore, had 6 years of support to allow them to adjust to their full 2017 bills. Therefore, for those ratepayers receiving 2017 SSB relief in 2022/23, any eligibility for 2023 SSBR will end on 31 March 2024.
- G.9 The Council will ensure this eligibility criteria is clear in the scheme approved and that relief for these ratepayers is awarded for one year only so that the relief can then be withdrawn on 31 March 2024 without further notice.

- G.10 A change of ratepayers will not affect eligibility for the Supporting Small Business scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.11 There is no second property test for eligibility for the 2023 SSBR scheme. However, those ratepayers who during 2022/23 lost entitlement to Small Business Rate Relief (because they failed the second property test) but have, under the rules for Small Business Rate Relief, been given a 12 month period of grace before their relief ended - can continue on the 2023 SSBR scheme for the remainder of their 12 month period of grace.

Sequence of reliefs

- G.12 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for 2023 SSBR. For the avoidance of doubt, small business rate relief or rural rate relief will not be applied to further reduce the bill found under 2023 SSBR (to avoid the double counting of relief).
- G.13 The same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under 2023 SSBR.
- G.14 All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of 2023 SSBR.

Subsidy control

- G.15 The 2023 SSBR is likely to amount to a subsidy. Therefore, any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- G.16 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.
- G.17 In those cases where it is clear to the Council that the ratepayer is likely to breach the MFA limit then the Council will withhold the relief. Otherwise, the Council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the Council if they are in breach of the MFA limit.
- G.18 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Recalculations of reliefs

- G.19 As with other reliefs, the amount of SSBR awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or to the hereditament. This change of circumstances could arise during the year in question or during a later year.
- G.20 Under regulations made under section 47 of the Local Government Finance Act 1988 authorities must give at least 12 months' notice of a revocation or variation of a rate relief scheme the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.
- G.21 Therefore, when making an award for SSBR, the Council will ensure the conditions of the award that the relief are subject to the property's continuing eligibility. If the use of the property changes so that it is no longer eligible, the relevant chargeable amount must be recalculated to reflect that fact.
- G.22 The Council will also ensure that the scheme provides that eligibility for those ratepayers previously in the 2017 SSBR scheme in 2022/23 are eligible for one year of relief only and that the relief will then be withdrawn from those ratepayers on 31 March 2024 without further notice.

Supporting Small Business Rates Relief (2023/24 to 2025/26) - the Council's policy for granting discretionary relief.

- G.23 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix H

Retail, Hospitality and Leisure Relief (2022/23 only)

Purpose of the Policy

- H.1 The purpose of this policy is to determine the level of discretionary relief to be awarded in respect of the Retail, Hospitality and Leisure Business Rates Relief Scheme for the financial year commencing 1st April 2022.
- H.2 This is a government led initiative and the Council is keen to support businesses as far as possible.

General Explanation

- H.3 The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.

Who is eligible for the relief?

- H.4 Hereditaments which benefit from the relief will be those which for a chargeable day in 2022/23:
- (a) meet the eligibility criteria; and
 - (b) the ratepayer for that chargeable day has not refused the relief for the eligible hereditament. The ratepayer may refuse the relief for each eligible hereditament anytime up to 30 April 2023. The ratepayer cannot withdraw their refusal for either all or part of the financial year.
- H.5 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, the Council may not grant the discount to themselves certain precepting authorities (e.g., a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999.

How much relief will be available?

- H.6 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2022/23 under this scheme is for chargeable days from 1 April 2022 to 31 March 2023, 50% of the chargeable amount.
- H.7 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where the Council has used their wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants.
- H.8 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The formula that will be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2022/23 is $V \times 0.5$, where V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any certain other discretionary reliefs.

- H.9 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.

The cash cap and subsidy control

- H.10 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- H.11 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers will be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
- (a) where both ratepayers are companies, and
 - (i) one is a subsidiary of the other; or
 - (ii) both are subsidiaries of the same company; or
 - (b) where only one ratepayer is a company, the other ratepayer (the "second ratepayer") has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- H.12 Furthermore, the Retail, Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- H.13 To the extent that the Council is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9th December 2021) in a three-year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.
- H.14 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then the authority will automatically withhold the relief.
- H.15 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

Eligibility for the Retail, Hospitality and Leisure Relief Scheme

- H.16 Hereditaments that are eligible for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:
- (a) they are wholly or mainly being used:
 - (i) as shops, restaurants, cafes, drinking establishments, cinemas, or live music venues;
 - (ii) for assembly and leisure; or

(iii) as hotels, guest & boarding premises, or self-catering accommodation.

H.17 The Council considers shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean:

(i) Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc);
- Charity shops;
- Opticians;
- Post offices;
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors);
- Car/ caravan show rooms;
- Second-hand car lots;
- Markets;
- Petrol stations;
- Garden centres; and
- Art galleries (where art is for sale/hire).

(ii) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc);
- Shoe repairs/ key cutting;
- Travel agents;
- Ticket offices e.g., for theatre;
- Dry cleaners;
- Launderettes;
- PC/ TV/ domestic appliance repair;
- Funeral directors;
- Photo processing;
- Tool hire; and
- Car hire.

(iii) Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants;
- Takeaways;
- Sandwich shops;
- Coffee shops;
- Pubs; and
- Bars.

(iv) Hereditaments which are being used as cinemas

(v) Hereditaments that are being used as live music venues:

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the

purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended);

- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) that are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

H.18 The Council considers assembly and leisure to mean:

(i) Hereditaments that are being used for the provision of sport, leisure, and facilities to visiting members of the public (including for the viewing of such activities):

- Sports grounds and clubs;
- Museums and art galleries;
- Nightclubs;
- Sport and leisure facilities;
- Stately homes and historic houses;
- Theatres;
- Tourist attractions;
- Gyms;
- Wellness centres, spas, massage parlours; and
- Casinos, gambling clubs and bingo halls.

(ii) Hereditaments that are being used for the assembly of visiting members of the public:

- Public halls; and
- Clubhouses, clubs, and institutions.

H.19 The Council considers hotels, guest & boarding premises, and self-catering accommodation to mean:

(i) Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, guest, and boarding houses;
- Holiday homes; and
- Caravan parks and sites.

H.20 To qualify for the relief, the hereditament should be wholly or mainly being used for the above qualifying purposes. This is a test on use rather than occupation, therefore hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

H.21 The lists set out above are not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes.

Ineligible uses

H.22 The lists below set out the types of uses that the government **does not** consider to be an eligible use for the purpose of this discount.

(i) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops);
- Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g., solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents); and
- Post office sorting offices.

(ii) Hereditaments that are not reasonably accessible to visiting members of the public

Retail, Hospitality and Leisure Business Rates Scheme (2022/23) - the Council's policy for granting discretionary relief.

H.23 Over the past few years, a number of schemes have been led by government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

H.24 In the case of Retail, Hospitality and Leisure Business Rates Relief scheme, the Council will grant the relief strictly in accordance with government guidance.

Effect on the Council's Finances

H.25 As this is a government led initiative, grants for the full amount awarded will be available through section 31 of the Local Government Act 2003.

Appendix I

Retail Hospitality and Leisure Relief Scheme (2023/24)

General Explanation

- I.1. At the Autumn Statement on 17 November 2022 the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality, and leisure properties worth around £2.1 billion in 2023/24. This will support the businesses that make our high streets and town centres a success and help them to evolve and adapt to changing consumer demands.
- I.2 The 2023/24 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.

How will the relief be provided?

- I.3 As this is a temporary measure for 2023/24, Government is not changing the legislation relating to the reliefs available to properties. Instead, Government will, in line with the eligibility criteria set out in this guidance, reimburse the Council if it uses its discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) to grant relief. It will be for the Council to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- I.3 Government will fully reimburse the Council and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within the definitions in this guidance, using a grant under section 31 of the Local Government Act 2003.
- I.4 The government expects the Council to apply and grant relief to qualifying ratepayers from the start of the 2023/24 billing year.

Which properties will benefit from relief?

- I.5 Hereditaments which benefit from the relief will be those which for a chargeable day in 2023/24:
 - (a) meet the eligibility criteria; and
 - (b) the ratepayer for that chargeable day has not refused the relief for the eligible hereditament. The ratepayer may refuse the relief for each eligible hereditament anytime up to 30 April 2024. The ratepayer cannot subsequently withdraw their refusal for either all or part of the financial year.
- I.6 The Council has decided that, for the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.
- I.7 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, the Council may not grant the discount to themselves or precepting authorities

How much relief will be available?

- I.8 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2023/24 under this scheme is for chargeable days from 1 April 2023 to 31 March 2024, 75% of the chargeable amount.
- I.9 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where the Council has used its wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants. However, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable relief etc.) will be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief. Authorities may use their discretionary powers to, at cost to themselves, offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where the Council applies a locally funded relief under section 47, this will be applied after the Retail, Hospitality and Leisure relief.
- I.10 The ordering **will** be applied in following sequence:
- Transitional Relief
 - Mandatory Reliefs (as determined in legislation)
 - S.47 Discretionary Relief in the following order:
 - (i) 2023 Supporting Small Business (SSB);
 - (ii) Former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable, CASC, rural top up, and not for profit) will be applied first in the sequence of discretionary reliefs, after SSB;
 - (iii) Other discretionary (centrally funded);
 - (iv) 2023/24 Retail Hospitality and Leisure relief scheme; and
 - (v) Other locally funded schemes (such as section 49 hardship).
- I.11 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2023/24:
- Amount of relief to be granted = $V \times 0.75$ where:
 - V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any certain other discretionary reliefs in line with 5.3 above.
- I.12 This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- I.13 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.

The Cash Cap and Subsidy Control

- I.14 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.

- I.15 Where a ratepayer has a qualifying connection with another ratepayer, then those ratepayers will be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
- (a) where both ratepayers are companies, and
 - (i) one is a subsidiary of the other, or
 - (ii) both are subsidiaries of the same company; or
 - (b) where only one ratepayer is a company, the other ratepayer (the "second ratepayer") has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- I.16 The Retail Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- I.17 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a 3-year period (consisting of the 2023/24 year and the 2 previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. Expanded Retail Discount granted in 2021/22 does not count towards the £315,000 allowance but BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement will be counted.
- I.18 In those cases, where it is clear to the Council that the ratepayer is likely to breach the cash cap or the MFA limit, then the Council will automatically withhold the relief.
- I.19 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Splits, mergers, and changes to existing hereditaments

- I.20 The relief will be applied on a day-to-day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for the relief on that day.

Recalculations of relief

- I.21 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.
- I.22 Under regulations made under section 47 of the Local Government Finance Act 1988 the Council must give at least 12 months' notice of a revocation or variation of a rate relief scheme the effect of which would

be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). But within these regulations, the Council may still make decisions to ensure the scheme is administered in accordance with the extant rules. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.

Eligibility for the Retail, Hospitality and Leisure Relief Scheme

I.23 The Council uses the following definitions to establish eligibility for the relief:

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

- they are wholly or mainly being used:
 - (i) as shops, restaurants, cafes, drinking establishments, cinemas, or live music venues,
 - (ii) for assembly and leisure; or
 - (iii) as hotels, guest & boarding premises, or self-catering accommodation

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second-hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g., for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing

- Tool hire
- Car hire

iii. Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bar

iv. Hereditaments which are being used as cinemas

v. Hereditaments that are being used as live music venues:

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g., the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g., because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music.

vi. Hereditaments that are being used for the provision of sport, leisure, and facilities to visiting members of the public (including for the viewing of such activities).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

vii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs, and institutions

viii. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, Guest, and Boarding Houses
- Holiday homes
- Caravan parks and sites

I.24 To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

I.25 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes.

Hereditaments that are being used for the provision of the following services to visiting members of the public:

I.26 The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. Again, it is for the Council to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them **not** eligible for the discount under their local scheme:

- Financial services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops);
- Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g., solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents); and
- Post office sorting offices.

Retail Hospitality and Leisure Business Rates Scheme (2023/24) - the Council's policy for granting discretionary relief.

I.27 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix J

Heat Network Relief

General Explanation

- J.1 In the Spring Statement 2022, the Chancellor announced that the Heat Network Relief will apply from 1 April 2022 so, for the financial year 2022/23, the relief was delivered using existing local government discretionary relief powers under Section 47 of the Local Government Finance Act 1988, funded by Government by means of a S31 grant. This approach has now been extended to the 2023/24 financial year.
- J.2 The Council therefore intends to provide relief under the discretionary relief provisions for 2023/24 period as requested by Government in order to assist eligible ratepayers.
- J.3 Heat networks take heat or cooling from a central source(s) and deliver it to a variety of different customers such as public buildings, shops, offices, hospitals, universities, and homes. By supplying multiple buildings, they avoid the need for individual boilers or electric heaters in every building. Heat networks have the potential to:
- reduce bills;
 - support local regeneration; and
 - be a cost-effective way of reducing carbon emissions from heating.
- J.4 Heat networks play an important role in decarbonising heat and support delivery of Government's net zero commitments. They are uniquely able to unlock otherwise inaccessible large-scale renewable and recovered heat sources such as waste heat and heat from rivers and mines.

How will the relief be provided?

- J.5 As this is a temporary measure for 2023/24, Government is not changing the legislation. Instead, Government will, in line with the eligibility criteria set out in this policy, reimburse the Council if it uses its discretionary relief powers, under section 47 of the Local Government Finance Act 1988, to grant relief.
- J.6 The Council will be reimbursed following the submission of outturn data in the National Non-Domestic Rates 3 (NNDR3) form for 2023/24. In addition, the Council is required to ensure that it is able to monitor and report the take up of the scheme at Parliamentary constituency level.

Who is eligible for the relief?

- J.7 In order to be eligible for Heat Network Relief, the hereditament must be:
- (a) wholly or mainly used for the purposes of a heat network; and
 - (b) the heat is, over the next 12 months, expected to be generated from a low carbon source (irrespective of whether that source is located on the hereditament or on a different hereditament).

- J.8 Government anticipates the test at (b) above being made based on a forecast at the commencement of the financial year. The Council is not required to revisit the forecast although it may undertake a review if thought necessary.
- J.9 For the purposes of this relief, a heat network is a facility, such as a district heating scheme, which supplies **thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water.**
- J.10 Hereditaments wholly or mainly providing heat for a different purpose (such as an industrial process) are not eligible.

Wholly or mainly

- J.11 The test for this relief should be applied to the hereditament as a **whole** and heat network relief is **not** available on part of a hereditament.
- J.12 Many small and medium scale heat networks, such as common heating systems in multi-occupied buildings or estates, do not give rise to a separate business rates liability. In these cases, the heat network forms part of the services of the properties which have a wider purpose (e.g., offices) and therefore would not be eligible for Heat Network Relief.
- J.13 It is expected that the networks eligible for the relief will be the larger facilities which have their own business rates assessment.

Thermal energy

- J.14 The test is on thermal energy. This means that the purposes of generating electricity does not count towards meeting the **wholly or mainly test** and, as a result, Government does not anticipate hereditaments comprising power stations and a heat recovery and network system to qualify.
- J.15 A hereditament comprising a Combined Heat and Power (CHP) facility where the generation of electricity at the hereditament was more significant than the generation and supply of heat would not qualify for the relief. However, if a heat recovery and network system taking heat from a power station was, for whatever reason, in a separate hereditament from the power station then it may still qualify subject to meeting the other tests of eligibility.
- J.16 Similar, considerations will apply where the heat is being taken from an incinerator or Energy from Waste (EfW) Plant. If the heat network forms part of the same hereditament as the incinerator or EfW plant then, unless it has been designed specifically as a heat network, it is unlikely to pass the wholly or mainly test (its primary purpose more likely being incineration of waste or generation of power). However, it may qualify (subject to the other tests of eligibility) if the heat network forms its own hereditament (i.e., if the heat is coming in from a different hereditament such as the case of a heat network which purchases heat from a separately assessed EfW plant).

The heat is generated from a low carbon source.

- J.17 A low carbon source is a source of which at least:
- (a) 50% is renewable as defined below;
 - (b) 50% is waste heat;
 - (c) 75% is cogeneration heat (where cogeneration' means the simultaneous generation in one process of thermal energy and electrical or mechanical energy); or
 - (d) 75% is a combination of the sources above.
- J.18 A renewable source is any of the sources listed in Class 1(e) of the Schedule to the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (SI 2000 No. 540) as inserted by regulation 2(b) of the Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022.
- J.19 Waste heat includes heat unavoidably generated as a by-product of another process, which would be wasted if not used for the purposes of a district heating network. This may include heat generated through the incineration of waste.
- J.20 Combined Heat and Power (CHP) sources will qualify as sources of cogeneration heat including gas CHP. However, a hereditament comprising a CHP facility would still have to meet the first test of the relief – that the hereditament was **wholly or mainly** used for the purposes of a heat network (and not for example wholly or mainly for the purpose of generating and selling electricity).

How much relief will be available?

- J.21 Relief is available at 100% of the chargeable amount for the hereditament for any day on which the eligibility criteria are met. Therefore, for eligible hereditaments the rates liability will fall to nil from 1 April 2023.
- J.22 Heat Network relief is **not** available on only part of the hereditament. If the eligibility criteria are met for the hereditament as a whole then full relief will be applied even if, for example, the hereditament contains some plant (such as a back-up boiler) which may not in isolation meet the low carbon tests.
- J.23 Equally, a hereditament which overall does not meet the eligibility criteria cannot receive partial relief on an individual item of plant which in isolation may have passed the tests.
- J.24 The Heat Network Relief will be applied after mandatory reliefs but before any other discretionary reliefs.

Recalculations of relief

- J.25 The amount of Heat Network Relief awarded will be recalculated in the event of a change of circumstances. This may include, for example, a backdated change to the rateable value or to the hereditament.

- J.26 Under the Non-Domestic Rating (Discretionary Relief) Regulations 1989, the Council must give at least 12 months' notice of a revocation or variation of a rate relief scheme, the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year. But, within these regulations, the Council may still (and will) make decisions which are conditional upon eligibility criteria. If a change in circumstances renders a property ineligible, the Council will amend the rate liability to reflect the loss of the relief.
- J.27 In view of the above, when making an award for Heat Network Relief, the Council will ensure that the award will be subject to the property's continuing eligibility. If the use of the property changes so that it is no longer eligible, the relevant chargeable amount will be recalculated to reflect that fact.

Subsidy control

- J.28 The Heat Network relief is subject to the UK's domestic and international subsidy control obligations. Businesses eligible for relief will need to fulfil any requirements in place to ensure compliance with those obligations in advance of, during, and after claiming relief.

Effect on the Council's Finances

- J.29 As this is a Government led initiative, grants for the full amount awarded will be available through section 31 of the Local Government Act 2003.

Heat Network Relief - the Council's policy for granting discretionary relief.

- J.30 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix K

Section 49 - Hardship Relief

General explanation

- K.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief – the Council's Policy

- K.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Lead Specialist – Service Delivery will consider applications. Application forms are available at the following links:
- [General Discretionary application form](#)
 - [Hardship Discretionary additional questions](#)
- K.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):
- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
 - Any reduction of the rates must be shown to be significant to the future viability of the business;
 - The business must continue to trade;
 - Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
 - The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
 - The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
 - The loss of the business would worsen the employment prospects in the area;
 - The interests of the Council Tax payers of the area would be best served by awarding the relief;
 - The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
 - The business provides employment to local residents in an area where employment opportunities are limited;
 - Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
 - Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
 - The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
STRATEGY AND RESOURCES COMMITTEE
22 JUNE 2023**

APPOINTMENT OF REPRESENTATIVES ON OUTSIDE BODIES AND WORKING GROUPS

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to appoint to Working Groups of the Strategy and Resources Committee for the ensuing municipal year.

2. RECOMMENDATION

That the Committee appoints representatives to the Working Groups as listed in section 3.2.1 below, for the ensuing municipal year.

3. SUMMARY OF KEY ISSUES

3.1 Outside Bodies

- 3.1.1 The Places for People Liaison Committee has been removed from the list due to meetings no longer being held. There are no other Outside Bodies requiring representatives from this Committee.

3.2 Working Groups

- 3.2.1 Members are asked to nominate representatives to serve on the following Working Groups, aligned to the Strategy and Resources Committee, for the ensuing municipal year.

| Working Groups | To be appointed |
|---|------------------------|
| Car Parking Task and Finish Working Group | Four Members |
| Equality, Diversity and Inclusion Officer Working Group | One Member |
| Waste Contract Member Working Group | Four Members |

Background Papers: None.

Enquiries to: Committee Services.

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By virtue of paragraph(s) 2, 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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