

# Public Document Pack

## EAST HERTFORDSHIRE DISTRICT COUNCIL

NOTICE IS HEREBY GIVEN that a meeting of East Hertfordshire District Council will be held as an online meeting on Wednesday 21st October, 2020 at 7.00 pm, for the purpose of transacting the business set out in the Agenda below, and you are hereby summoned to attend.

Date this 13 October 2020

*James Ellis*  
Head of Legal and  
Democratic Services

*Note: Prayers will be said before the meeting commences. Those Members who do not wish to participate will be invited to enter the Chamber at their conclusion*

### **AGENDA**

#### 1. Chairman's Announcements

*To receive any announcements.*

#### 2. Apologies for Absence

*To receive any Members' apologies for absence.*

#### 3. Minutes (Pages 7 - 46)

*To approve as a correct record and authorise the Chairman to sign the Minutes of the Council meeting held on 22 July 2020.*

#### 4. Declarations of Interest

*To receive any Members' declarations of interest.*

5. Petitions

*To receive any petitions.*

6. Public Questions

*To receive any public questions.*

7. Members' questions (Pages 47 - 48)

*To receive any Members' questions.*

8. Executive Report - 1 September 2020 (Pages 49 - 88)

*To receive a report from the Leader of the Council and to consider recommendations on the matter below:*

(A) Revised Safeguarding Policy

9. Executive Report - 6 October 2020 (Pages 89 - 140)

*To receive a report from the Leader of the Council and to consider recommendations on the matters below:*

(A) East Herts District Plan – Amendments to Policies Map

(B) Policy for Enforcing Standards for Private Sector Landlords

(C) Council Tax Reduction Scheme 2021/22

(D) In principle agreement to use of CPO powers to acquire land to implement Gilston Area development infrastructure requirements

10. Appointment of s.151 Officer (Pages 141 - 144)

11. Motions on Notice

*To receive Motions on Notice.*

12. Report of urgent key decision taken by the Leader - SLM request for financial support (Pages 145 - 160)

13. Exclusion of press and public

*To move that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the discussion of item 14, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act of the following description: in that it provides sensitive commercial information relating to the finances of the recipient of the loan.*

14. Report of urgent key decision taken by the Leader - SLM request for financial support (Pages 161 - 170)

## **DISCLOSABLE PECUNIARY INTERESTS**

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
  - must not participate in any discussion of the matter at the meeting;
  - must not participate in any vote taken on the matter at the meeting;
  - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
  - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
  - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

### **Public Attendance**

East Herts Council provides for public attendance at its virtual meetings and will livestream and record this meeting. The livestream will be available during the meeting on the East Herts District YouTube channel, available either direct from YouTube and then searching for the channel, or via the East Herts Council page at this link: <https://www.eastherts.gov.uk/councillors-committees/live-meetings-online>

For further information please email [democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk) or call the Council on 01279 655261 and ask to speak to Democratic Services.

Since 2019, East Herts Council has implemented paperless meetings. Doing this saves the Council approximately £50,000 each year in printing and distribution costs of agenda packs for councillors and officers.

Electronic agenda packs may be accessed online from the East Herts Council website or by downloading the Civica ModGov app from the usual app stores.

## MINUTES OF A MEETING OF THE COUNCIL HELD AS AN ONLINE MEETING ON WEDNESDAY 22 JULY 2020, AT 7.00 PM

PRESENT: Councillor J Kaye (Chairman).  
Councillors A Alder, D Andrews, T Beckett,  
R Bolton, P Boylan, M Brady, E Buckmaster,  
R Buckmaster, J Burmicz, L Corpe,  
K Crofton, B Crystall, A Curtis, G Cutting,  
B Deering, I Devonshire, H Drake,  
J Dumont, R Fernando, M Goldspink,  
J Goodeve, A Hall, L Haysey, D Hollebon,  
A Huggins, J Jones, I Kemp, G McAndrew,  
M McMullen, S Newton, T Page, M Pope,  
C Redfern, S Reed, C Rowley, P Ruffles,  
S Rutland-Barsby, D Snowdon,  
M Stevenson, T Stowe, N Symonds,  
A Ward-Booth, G Williamson, C Wilson and  
J Wyllie.

### OFFICERS IN ATTENDANCE:

Richard Cassidy	- Chief Executive
Helen Standen	- Deputy Chief Executive
Rebecca Dobson	- Democratic Services Manager
James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Jonathan Geall	- Head of Housing and Health
Jess Khanom-Metaman	- Head of Operations

Peter Mannings	- Democratic Services Officer
Simon O'Hear	- Head of Human Resources and Organisational Development
Bob Palmer	- Interim Head of Strategic Finance and Property
Sara Saunders	- Head of Planning and Building Control
Paul Thomas-Jones	- Environmental Health Manager - Commercial
William Troop	- Democratic Services Officer
Ben Wood	- Head of Communications, Strategy and Policy

## 83 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed those attending the online meeting, and any members of the public who were viewing the internet livestream.

The Chairman explained the protocol for voting and speaking. For votes on matters which were by "show of hands", Members would use the electronic green tick or red cross to signify voting "for" or "against". To signify abstention from a vote, Members would use the blue "raise hand". The Chairman said that, for the



benefit of the public, he would then state whether the item was carried.

The Chairman asked whether there were any Members participating only by telephone. The response from all present indicated that no Members were doing so.

The Chairman then gave an account of his recent civic duties. He said that as most civic events had not been taking place during the pandemic restrictions, he could report on very little. However, he had been able to give cheques to his chosen charities, CHIPS (Children's Integrated Playschemes) and Isabel Hospice. He had met the Chairman of CHIPS, and had been pleased to hear his plans for restarting play schemes.

#### 84 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bell, Bull and Frecknall.

Upon taking a roll call of Members, it was established that Councillor Ranger was absent.

#### 85 MINUTES – 13 MAY 2020

Councillor Kaye proposed and Councillor Huggins seconded, a motion that the Minutes of the meeting held on 13 May 2020 be confirmed as a correct record and signed by the Chairman.

The motion to approve the Minutes being put to the meeting, and a vote taken, it was declared CARRIED.

**RESOLVED** – that the Minutes of the meeting

held on 13 May 2020 be confirmed as a correct record and signed by the Chairman.

86 DECLARATIONS OF INTEREST

There were no declarations of interest.

87 PUBLIC QUESTIONS

The Chairman invited David Royle, who was attending as a representative of the Bishop's Stortford Climate Change Group, to ask the question he had submitted.

Mr Royle asked the Executive Member for Environmental Sustainability, Councillor McAndrews:

"The County Council declared a Climate Emergency on 16 July last year. On 24 July, this Council passed a climate change motion and committed to 'do everything...to reduce its impact on the climate and moreover do everything ... in supporting the whole of East Herts District to become carbon neutral by 2030'. This is only 9 years and six months away. What is the timescale for an action plan to meet this commitment, what progress has been made to date, and what will be the process of consultation on its final form?"

Councillor McAndrew responded as follows:

"Thank you for this question. Sustainability is at the heart of the council's priorities. To that end, a detailed action plan linked to the council's nine Climate Change commitments, including achieving carbon neutrality, has been drawn up. Importantly, the plan attempts to quantify the carbon efficiencies associated with

individual actions.

The questioner may recall that we started sharing our work through the first East Herts Environmental and Climate Change Forum meeting held in Ware in January. While delayed by the lockdown, we are now preparing for a second Forum meeting via a videoconference at the start of September at which we can share the latest version of the action plan, seek comments and amend it accordingly as we consider it to be a 'living document'.

Also in September, consultation will commence on the council's new Environmental Sustainability Supplementary Planning Guidance which aims to facilitate reductions in carbon emissions from new buildings and maximise sustainability during development.

Finally, the council is aiming to maximise its influence and pool skills by playing a pro-active role in the newly formed Hertfordshire Climate Change and Sustainability Partnership which brings together all ten districts, the County Council and the Local Enterprise Council. The Partnership will also be reaching out to the public and other groups through several conference events each year.

Mr Royle thanked Councillor McAndrew for his response.

## 88 MEMBERS' QUESTIONS

The Chairman invited those who had submitted questions to put them to Executive Members.

Councillor Crystall asked Councillor McAndrew, the Executive Member for Environmental Sustainability:

“According to the final report from the Climate Change Task and Finish Group, received by Council on 5<sup>th</sup> March 2019, EHDC should consider looking to procure 100% “green” energy (i.e zero carbon) in terms of corporate electricity supply contracts. How far has the council got with this process? Is he aware that Green Energy UK, one of the UK’s only wholly green energy suppliers which is offering 100% renewable electricity and 100% non-fossil fuel derived gas, is based in Ware, at the heart of our district?”

Councillor McAndrew responded as follows:

“May I thank Cllr Crystall for his question. In the first instance the council is identifying ways to reduce its base line energy use in its own premises so as to reduce carbon emissions at source. This is particularly important as an immediate switch to non-fossil fuel-derived gas is likely to be hampered by insufficient supply at present.

“That said, procurement of green energy is an important means of moving to carbon neutrality and so the council’s Property Services Manager continues to reassess the existing procurement contracts for both gas and electricity which run until 2024. Until that time, we will seek to maximise the ‘green energy’ within the mix of energy bought and also investigate the possibility for an option of an earlier review in 2021. At contract renewal, we intend to effect a more substantive switch to renewable energy. To that end,

we would be very keen for Green Energy UK to become one of the suppliers included in the energy procurement framework we use and will advise them on applying."

Councillor Crystall asked a second question, as follows:

"The final report from the Climate Change Task and Finish Group, received by Council on 5<sup>th</sup> March 2019, recommended that the Council should investigate energy investment options that have potential to produce ongoing revenue return for the Council, along with carbon saving opportunities, e.g. electrical battery storage technology, renewables etc. on Council land. It was also recommended that an audit was conducted of Council owned sites which may be suitable for such projects. Apart from existing projects at the theatre, the hydro-scheme in Hertford and the two new leisure centres, has the Council made any progress in investigating investment options in renewables and how far has it progressed with the audit of Council owned sites?"

Councillor McAndrew responded:

"As Councillor Crystall rightly identifies, investment in carbon reduction measures in relation to energy consumption can also include the opportunity to generate income from renewable energy generation or storage.

"Unfortunately, the council has not been able to identify sites in its ownership for viable solar photovoltaic (PV) generation. We recognise, however, that there is considerable theoretical potential for solar

PV installation on community buildings that are not necessarily in the ownership of the East Herts. While the national economic mechanism to encourage installation has reduced the previous rate of return on investment I am hopeful that this will improve with the continued decrease in solar installation costs and possible new government support. We are keeping the situation under review.

"In relation to battery storage, this is a relatively fast moving area. On behalf of Hertfordshire, East Herts Council led the development of a regional energy strategy for the Department for Business, Energy and Industrial Strategy (BEIS) which looked at sites that were under most stress in terms of grid capacity both now and from future housing development. We believe that major development sites such as Gilston may offer opportunities for use of future battery technology. In addition, the council has recently become one of only three partner authorities in Eastern New Energy, a major European Regional Development Fund (ERDF) funded project, which is looking to develop innovative renewable generation and battery storage options as well as developing the associated technological skills for construct of such infrastructure.

"I am therefore confident that East Herts Council will continue to play a very active role in identifying and deploying opportunities for energy generation and storage."

Councillor Huggins asked Councillor Cutting, the Executive Member for Corporate Services:

“What measures are being implemented to support officers’ and Members’ wellbeing during this period of remote working, with particular focus on their mental health?”

Councillor Cutting responded:

“It is important to not only say what measures have been implemented but also to ensure Members understand that we have a core set of measures already in place which have been adapted to the home working situation as well as adding more support to deal with challenges caused by home working and the pandemic.

“The council has continued to support staff with existing measures:

- Line management – which includes regular 1 to 1s with staff, this has continued but is carried out through Zoom or on the phone with staff working from home (WFH)
- Access to mental health first aiders has continued, again access has moved to email, with Zoom and phone support as required
- Access to the My-rewards Wellbeing Centre – which provides exercises, training, advice and guidance to maintain wellbeing/mental health
- Access to the Employee Assistance Programme which provides both telephone counselling and face to face counselling as appropriate. This access is also given to Members
- The majority of our line managers have been trained to support staff with mental health, this training took place in January/February 2020

- Regular team meetings and Staff Briefings to ensure staff remain informed, engaged and feel less isolated – again this has moved to Zoom
- MiCollab phone system chat system has continued to be used and it allows chat rooms to keep up less formal team working practices whilst working from home.

“In terms of additional support during this period of remote working the following are key highlights:

- Advice/guidance was given to staff/managers to help staff to improve their resilience whilst working at home
- Article featured in Connect reminding staff of the wellbeing support available to them including further mental health support from Able Futures, a new partnership which provides staff with up to 9 months support around their mental health. Advice from the Council’s Employee Assistance Programme (EAP), support from Mental Health First Aiders, access to the MyRewards Wellbeing Centre, and for further sources of support the Wellbeing Hub on the Intranet. The article also provided support for those juggling childcare and work.
- Mental Health Awareness Week (18-24 May) was promoted with a series of daily articles on for example how employees can be kind to themselves and others during lockdown, how physical activity can help with wellbeing and promoting what’s on offer at the Council for example online yoga sessions, exercise videos available on MyRewards website and promoting other sources of support mentioned above.



- Managers have agreed support for employees e.g. for those with caring responsibilities, having flexible start and finishing times and allowing staff to come into the office to work (on a limited and appropriate basis).
- Staff have been allowed to return to the office to collect further equipment to support them working more effectively from home for example laptops, mouse, keyboards.
- Bereavement guides for those who had lost loved ones due to Covid-19 or during the pandemic were shared with staff.
- A Wellbeing Survey was sent to all staff to identify how they could be supported further whilst working from home during the Covid-19 pandemic. The response rate was excellent (89% of all staff completed the survey) and the results were positive overall. Where staff experiences have not been so positive, managers are contacting staff to follow up discussions and put further support in place. The survey results and actions the council is proposing to take are being shared with staff
- The Wellbeing survey allowed staff to raise any issues or concerns they had about working from home or eventually returning to the office so that the Council can support them and address any concerns, each employee is being phoned by their line manager with HR support to follow up on their survey, confirm support where appropriate (this includes staff who did not respond) and was completed on 10/7/2020.
- The Survey asked staff to inform us if they are currently shielding in line with government guidance so that further support can be

provided to support this including further equipment being delivered to their home where appropriate

- Also in order to support mental wellbeing as well as complying with Government Guidance and H&S requirements: Risk Assessment have been completed for all Council services in relation to COVID-19 restrictions and safe practice. (Unison have been consulted on all as well as the staff who will then follow them. We have a main Wallfields Risk Assessment which allows limited numbers of staff to return to the office on a limited basis with clear Office Protocols for staff and Members to follow in order to adhere to social distancing requirements. Where a service requires work to be done away from the office or home, risk assessment have been undertaken and implemented to ensure this is done safely and relevant measures but in place including PPE being provided where identified.

Further measures which are being developed and implemented, based on the Staff Survey results, which will also support mental wellbeing, are:

- East Herts Together have been tasked with developing guidance and briefings for employees to reduce email traffic/make more effective use of email.
- East Herts Together have also been tasked with sharing best practice from Revenues and Benefits in terms of effective home working including more use of MiCollab chat to avoid emails and sharing advice regarding building in breaks from the screen and having informal interactions with the

team etc.

- East Herts Together have also been tasked with creating Zoom guides which focus on building in breaks and etiquette to make use more effective and less demanding.
- The Leadership Team will explore whether team, service or Council-wide level events could be arranged with social distancing measures in place which allows there to be a physical employee presence at an event to help support staff engagement and reduce feelings of isolation.”

Councillor Dumont asked the Executive Member for Environmental Sustainability:

“Residents in my Ward are very concerned about the levels of litter they see in public spaces and I receive regular emails from concerned individuals. I am sure this will be familiar to other Members. Is the Executive Member aware of our Contractor’s performance in relation to meeting the cleaning schedules for public spaces and what is he doing to hold them to account?”

Councillor McAndrew responded:

“We are aware that litter dropping and overflowing bins has increased since lockdown measures were introduced. In terms of our contractors we have two that manage this issue, Urbaser in terms of street cleansing and Glendale services in relation to parks and open spaces.

“Both of these contracts have performance management regimes in place which bear financial deductions should cleansing not be achieved at the

standard we expect, I have regular meetings with the officers who manage these contracts.

“We have been in unprecedented times with more people using our parks and open spaces whilst other social venues have previously been closed. We have recognised this and both the frequency and standard of cleansing in parks and open spaces has increased, however it is not possible within our resources to patrol all areas to keep them free from litter all the time whilst there is an greater influx of people using our parks and open spaces.

“The frontline staff are doing everything they can to stay on top of the new demands. I would ask that we all encourage our residents to log any concerns with our customer services team so that we can monitor any trends and respond to these accordingly.

“We also need to explore how we can change the behaviours of those that produce litter in the first place, we need to deal with the cause of the problem not just the symptoms else we are simply reinforcing that we will continue to clean up after those that litter.”

Councillor Dumont thanked Councillor McAndrew, and said that, whilst he did not have a supplementary question, the many emails he had received regarding littering had preceded lockdown.

Councillor McAndrew asked that Members who received complaints of littering from residents should please send these to the Customer Services team.

Councillor Curtis asked the Executive Member for

## Planning and Growth:

“What measures will be implemented by the Council, other than those related to land use/spatial planning or involving the direct provision of financial support to local businesses, in the coming months and years to maintain and enhance the prosperity and vitality of East Hertfordshire's town centres?”

Councillor Goodeve, the Executive Member for Planning and Growth, responded as follows.

“First, addressing what is going on now, major capital projects which will increase footfall are:

- Bircherley Green Regeneration – private sector initiative to include homes, shops, restaurants, recording studio, NHS facility, hotel, refurbished bus station and waiting room. This project is anticipated to take 3 years to complete;
- Hertford Theatre Transformation to include first release cinema;
- Old River Lane, Bishops Stortford;
- New Grange Paddocks Leisure Centre, Bishop’s Stortford – well-being is of course one of our objectives;
- Hartham Leisure Centre, Hertford - refurbishment and extension;
- Castle Park Project Bishop’s Stortford – raising the profile of this heritage asset to near to the town centre to increase visitors.

“In terms of events, Town Centre Events Programmes will recommence when safe to do so.

“In terms of partnership working, East Herts has established Town Centre working groups including;

- Town Councils
- BIDs
- Hertford Hub
- Ware in Bloom
- Volunteers
- Night-time Economy Group in Hertford
- Mama Hive
- Local Enterprise Partnership
- Herts Chamber of Commerce
- Local Police
- Other local groups

“Next, addressing where do we go next, post Covid-19? This is not a conventional economic slow-down and we don’t know yet how consumers, retailers and manufacturers are going to react. Localisation is coming through, global trade will of course continue but modify. The stop in the economy has allowed people and businesses to think about what they want and need next. Above all businesses need to be flexible.

“Historically our towns have proven to be quite resilient and we have a small number of empty units compared to some other areas, retail was already struggling but post Covid-19 there are greater challenges, people have got used to shopping online and staying at home.

“On the supply side, digitisation has been accelerated, structural change cannot be stopped, town centre retail will be smaller and may have to change the way it

does business. The hospitality sector faces other pressures from social distancing requirements and a public lack of confidence in face to face gatherings.

“Both sectors need assistance; the former in business transformation, the latter in terms of increased capacity to ensure viability.

“Local councils could have a role in facilitating strategic advice for small businesses and networking opportunities. East Herts are working with the Hertford Hub, Bishops Stortford Business Improvement District and the county business support organisations to ensure that the advice and support is available for business transformation. We are also organising the Town Centre working groups to give locally derived strategic direction and vision to changes to the road layouts and licensing of chairs and tables and in the public areas of our towns. This includes on our assets where possible, for example Tudor Square in Ware is now being used by restaurants nearby to create a European style café culture by allowing al fresco dining whilst still leaving plenty of space for social distancing.

“On the demand side, some households have been negatively affected by Covid-19 and their income has dropped, others are better off not paying for rail travel into London and lunches away from home. However, people are reluctant to spend when their future incomes are seen as at risk.

“What can towns do to attract those working from home for the foreseeable future, and encourage them to take a walk and pop into town? Even once a week would be a help – or even work from a location in town

to get out of the house. 45% of jobs can be done from home going forward, particularly in an area such as ours where knowledge-based employment is so prevalent. We recognise the rapid changes in working patterns and working practice. The use of cash has declined rapidly, banks firstly being shut and now being open limited hours has led to people having to learn how to use internet banking. This will accelerate the closure of high street branches – freeing up more units on the high street.

“So how do we attract people to the town centres? We want to create new, flexible workspace environments built around buzzing, active places, both in and around the town centre and out on the edge of town. This is already happening with a mixture of both private and public sector initiatives. We need to support innovation and start-ups, providing the space and facilities not available at home. We opened our Launchpad facility just over two weeks ago after undertaking the necessary risk assessments and limiting numbers. Clients can book desk space and time slots on line and of course as these businesses often spend money in the town centre when they use the space. I’m also pleased to announce we plan to re-open the Ware Launchpad shortly in conjunction with the Town Council and have secured new tenants for the space.

“Shifting the balance of priority given to movement across our towns we need to encourage sustainable transport, incorporate more/better bike storage, places to sit and dwell, places to learn new skills, could opening hours be changed – become more continental as people’s working hours become more flexible?



Pavement seating is being encouraged, people still want to connect with one another. Creative use of urban spaces to be encouraged and we are in discussions with Herts Highways about more permanent street furniture arrangements to the town centres, involving the local traders to make best use of the space available.

“More residential accommodation in town centres – 98 apartments as part of the Bircherley Green regeneration in Hertford, more homes being created above shops, new homes in Ware (Crane Mead nearing completion), Sawbridgeworth and Bishop’s Stortford strategic sites will all provide potential new customers and service users. We may, however, lose some shops to residential particularly those that are on the periphery of towns and perhaps more difficult to let especially under the new Permissive Development Rights regulations.

“Finally, we need to consider what other attractors we might have in our town centres – do we consider moving some of our Council services to town centres? What’s happening about our MP having an office/shop space in the constituency rather than in another County? Are there community groups that could be better placed in a town centre? Please could Members give this some thought.”

Councillor Curtis thanked Councillor Goodeve, and asked that these initiatives be focused more widely, and not solely on Hertford and Bishop’s Stortford.

Councillor Corpe asked the Executive Member for

Corporate Services and the Executive Member for Communities:

"Name-blind recruitment is a process which involves removing the candidate's name and other personal information to ensure that people will be judged on merit and not on their background, race or gender. In an effort to build a more diverse, inclusive workforce that better reflects the community we serve, will this Council commit to follow the example of numerous public sector organisations, such as TfL and the Civil Service, and implement this recruitment technique?"

Councillor Cutting, the Executive Member for Corporate Services, said his reply was also on behalf of the Executive Member for Communities. He said:

"The Council does not plan to implement 'name blind' recruitment for the following reasons:

"The Chairman of the Human Resources Committee, Councillor Bolton, on behalf of the Committee has confirmed that it is satisfied that a robust and fair recruitment process is in place.

"The Head of Paid Service, Richard Cassidy, the Chief Executive, has stated the following:

*From my perspective as Head of Paid service it makes absolute sense to ensure that as an organisation we employ staff from as diverse a range of candidates as possible, to reflect our whole community at East Herts. After all, a diverse team will always bring new and different perspectives to the problems we face and help drive the innovation that we have been proud of over a*

*number of years.*

*I am very happy that the Head of HR and OD review our current recruitment policies with our HR Committee as part of the reports provided. We have a devolved recruitment process that is based upon demonstrably matching candidates' applications to a written person specification prior to selection for interview and this is independently audited on a regular basis by the Shared Internal Audit Services (SIAS) so we can have some confidence that the process is working and this is also supported by our last annual Equality Report. In terms of Black, Asian and minority ethnic (BAME) candidates I would be more inclined to focus on such things as how and where we are advertising, the language and visuals in any recruitment adverts and putting forward positive examples of how we have developed staff (including BAME staff) rather than simply adding a name 'blind' phase into the actual selection process. HR are developing the recruitment advertising and employer brand to support this, all our adverts state:*

*'EHC is an equal opportunity employer committed to embracing a diverse and inclusive work environment. We aim to attract and retain the best people regardless of their gender, marital/parental status, ethnic origin, nationality, age, background, disability, sexual orientation and gender identity.'*

*"The Head of HR & OD commented: the current HR and Payroll system does not provide a 'name blind' recruitment platform, however there is not sufficient evidence to support the need to implement this process:*

*All equality information and criminal record declarations*

*are removed before shortlisting by capturing this on separate forms. It is important to outline that recruiting managers are supported by HR to recognise and manage unconscious bias (a guide is provided and recruitment training also covers promoting equality and removing any bias conscious or otherwise). More significantly the last annual Equality Report which was received by HR Committee at the beginning of 2020 covering the 18/19 period did not suggest bias was a concern based on statistics. As stated by the Chief Executive, we are working on our employer brand and recruitment messages to continue to attract more diverse applicants in terms of BAME and other equality areas i.e. disability and gender.*

"Significant additional data and interpretation of it will be made available on the website."

Councillor Corpe thanked Councillor Cutting for his response. He referred to the 2018-19 Equalities Report, and said that whilst progress had been made, the table shown at figure 8 of that report gave him concern in that it showed evidence of a small degree of unconscious bias in the recruitment process during shortlisting of candidates. He asked whether this could be improved.

Councillor Cutting said the response he would place on the website would include a significant amount of data on the process.

Councillor Goldspink asked the Executive Member for Neighbourhoods:

"Is the Executive Member for Neighbourhoods aware of the plans being made by Manchester City Council to

build 500 Affordable and Social Houses? Would he be willing to look at these plans as part of his current research into all the different methods of providing Social Housing?"

Councillor Boylan, the Executive Member for Neighbourhoods, responded:

"I wish to thank Councillor Goldspink for bringing to my attention Manchester City Council's publicity about their proposals for building homes in their city. It is my understanding that Manchester City Council has only just approved a proposal to establish a housing company, something East Herts Council did back in February 2018 with the setting up of Millstream Property Investments Ltd.

"Over the last three years, Manchester City Council has enabled a total of 1,105 new affordable homes, that is, 20 new affordable homes per 10,000 residents. This lags far behind East Herts Council's performance of 45 affordable homes per 10,000 residents, some 675 homes in total over the same period. So, it is absolutely understandable that Manchester City Council is keen to explore new ways to provide more affordable housing tailored to the city's particular needs.

"Despite East Herts Council's relatively strong performance, as I have outlined previously, I am equally eager to explore the full range of options available for affordable housing matched, of course, to our own district's specific needs. As you are aware, a detailed piece of work has been commissioned from the Housing Quality Network which will draw on the

approaches of other authorities, such as Manchester City Council, as well as Members' views and officers' professional expertise, to provide us with a robust base on which to assess our opportunities for affordable housing delivery in the years to come."

89 EXECUTIVE REPORT – 2 JUNE 2020

Councillor Haysey thanked the Chairman for having agreed she could make a statement on the recent discussions which were taking place on local government reform.

She said Hertfordshire was a multi-tiered authority, comprising the county council, the district and borough councils and the town and parish councils, each with their areas of responsibility. For residents, local government could appear complex and not necessarily transparent.

Some simplification was long overdue, but any reorganisation had to be right for residents and offer greater advantages over the existing structure.

The 10 leaders of Hertfordshire's districts and boroughs had issued a joint statement expressing their concerns that Hertfordshire County Council had already decided that the best way forward was through one unitary council covering the whole of Hertfordshire. She did not agree. Hertfordshire had a population of 1.2m, which she believed was too large to provide residents with the service and representation they were entitled to expect.

A unitary council would provide the vast majority of all the services currently provided by both the County and the District. However, there were other models which she and the other Leaders considered more appropriate. The 10 districts and boroughs were working with consultants to explore all options.

Councillor Haysey then expressed gratitude to East Hertfordshire District Council staff. She said they had experienced a very difficult few months. They had kept services going, working from home, often away from their teams, and had been required to be flexible and learn new skills. She thanked all staff for “getting the job done” in their usual professional, cheerful way. They had shown the value this district council added to the lives of its residents over the last four months.

Now all faced the potential uncertainty of local government reorganisation. The White Paper, which might give more clarity, was due out in September. The Council would do its utmost to achieve an outcome that was in the best interests of residents and businesses.

Councillor Haysey then referred Members to the Executive report regarding matters considered at the meeting of 2 June 2020.

*Minute 90 refers to the item for recommendation.*

90 GILSTON AREA CHARTER SUPPLEMENTARY PLANNING DOCUMENT - FINAL FOR ADOPTION

The Leader said a report had been submitted to the Executive on the proposed changes to the Gilston Area Charter Supplementary Planning Document (SPD). The

Executive had recommended the proposals to Council. She moved that the recommendations be approved.

Councillor E Buckmaster seconded the motion. He said he had worked closely with the Neighbourhood Planning group on this matter, and was delighted it was proceeding.

Councillor Goldspink said that, with the exception of one Member of her Group, the Liberal Democrat Group were happy to support these recommendations.

Councillor Wilson referred to the Minutes of the Executive meeting, which recorded concern expressed by Councillor Page regarding the need for strengthening affordable housing provision in relation to the Gilston Area SPD. Councillor Wilson said he shared this concern. The Council lacked power of enforcement if the developer were to retract its commitment to the level of affordable housing provision.

Councillor Haysey said she shared these concerns. This Council had high aspirations regarding the level of affordable housing on this site. The planning team worked very closely with the developers, who were aware of the provisions stated in the Council's policies, and had given assurances.

On being put to the meeting, and a vote taken, the motion to support the recommendations was declared CARRIED.

**RESOLVED** –that (A) the responses of the



consultation be noted and the officer responses and proposed changes to the Gilston Area Charter Supplementary Planning Document (SPD) be supported;

(B) The Gilston Area Charter SPD, as detailed in the report, be approved for adoption;

(C) In accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, it has been determined that a Strategic Environmental Assessment of the emerging Gilston Area Charter SPD is not required as it is unlikely to have significant environmental effects; and

(D) That the Head of planning and Building Control, in consultation with the Executive Member for Planning and Growth, be authorised to make any further minor changes to the document which may be necessary.

91 EXECUTIVE REPORT – 7 JULY 2020

The Leader submitted a report setting out the recommendations of the Executive made at its meeting of 7 July 2020.

*Minutes 92, 93 and 94 refer to the matters recommended.*

92 EAST HERTS LOCAL DEVELOPMENT SCHEME - UPDATE JULY 2020

The Leader submitted a recommendation from the

Executive on the East Hertfordshire Local Development Scheme.

Councillor Haysey said the Council now had an adopted district plan, so the focus was now on the timelines for the various supplementary planning documents which were required. She proposed and Councillor Bolton seconded, a motion supporting the recommendations in the report.

Councillor Goldspink said she was happy to support this motion. She noted with pleasure the fact that reference was made in the report to the importance of community involvement and to requirements to reassess sites which might be subject to changing economic circumstances. She asked how Members could be kept involved.

Councillor Haysey said she recognised the importance of such assessment and that the Council did monitor changing circumstances.

Councillor Curtis said he was concerned regarding an aspect affecting his ward, the proposed quarry at the Hunsdon site. He asked whether the Council would stand up for residents of the surrounding villages.

Councillor Haysey said the Council had taken a position, and did not consider there was any reason to change that position.

After being put to the meeting and a vote taken, the motion was declared CARRIED.

**RESOLVED** - that the Local Development

Scheme July 2020, as set out in the report, be agreed to take effect from July 2020.

### 93 CAPITAL CONTINGENCY

The Leader proposed a motion supporting the recommendations of the Executive on the establishment of an additional Capital Contingency.

The Executive Member for Financial Sustainability, Councillor Williamson, seconded the motion.

Councillor Goldspink proposed additional wording “and be reported to all Members of the Council at the end of the week by means of the Members’ Information Bulletin”, to be added after “that use of the contingency be reported to the next meeting of the Executive”.

Councillor Wilson seconded the amendment, and said he reserved his right to speak if necessary. Councillor Williamson confirmed he had no issues with the wording.

There being no further debate, a vote was taken on the amendment, which was declared CARRIED. A vote being then taken on the substantive motion, it was declared CARRIED.

**RESOLVED** - that (A) a capital supplementary estimate of £2.5 million be established as a general capital contingency; and

(B) that use of the capital contingency be delegated to the Chief Executive in consultation

with the Executive Member for Financial Sustainability and that use of the contingency be reported to the next meeting of the Executive, and be reported to all Members of the Council at the end of the week by means of the Members' Information Bulletin.

#### 94 ANNUAL REPORT 2019 - 20

The Leader submitted the Annual Report for 2019-20, which the Executive had recommended to Council. She moved and Councillor Andrews seconded that it be noted.

Councillor Goldspink welcomed the report, and said it listed many achievements. She was, however, disappointed that no social housing was provided last year, and there appeared to be no reference to any action on climate change or global warming. If that was the case, then this was a serious omission, in view of the debate which had taken place a year ago on these matters.

Councillor Haysey said this report had been based on the priorities of the previous year, therefore climate change was reflected in the Council's new priorities ("*SEED*" – *Sustainability at the heart of everything we do; Enabling our communities; Encouraging economic growth and Digital by design*), and would be referred to in next year's annual report on the current year. Regarding the comment on social housing, this subject would also appear in next year's annual report, to reflect work being undertaken by the Executive Member for Neighbourhoods. The appendices to the report gave more detailed information.

On being put to the meeting and a vote taken, the motion to support the recommendation was declared CARRIED.

**RESOLVED** – to note the content of the Annual Report 2019-20.

95 PATMORE HEATH CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN

The Executive Member for Planning and Growth submitted a report on the Patmore Heath Conservation Area Appraisal (CAA) and Management Plan. A number of alterations to the conservation area boundaries were proposed. Councillor Goodeve said the report was very comprehensive, and she commended Officers. She moved and Councillor Ward-Booth seconded that the recommendations in the report be supported.

Councillor Williamson said there had been a high degree of engagement. Various concerns of residents regarding which areas should be included in the conservation area had been addressed, as Officers had referred to the need to consider the national guidance and local policies. He trusted this approach had given residents the assurance they needed.

Councillor Goldspink said the Liberal Democrat Group supported the recommendations.

After being put to the meeting and a vote taken, the motion was declared CARRIED.

**RESOLVED** - that (A) the responses to the public consultation be noted and the Officer responses and proposed changes to the Patmore Heath Conservation Area Appraisal and Management Plan be supported;

(B) the Head of Planning and Building Control, in consultation with the Executive Member for Planning and Growth, be authorised to make any further minor and consequential changes to the document which might be necessary; and

(C) the Patmore Heath Conservation Area Appraisal and Management Plan be adopted.

## 96 STREET TRADING CONSENT POLICY

Councillor E Buckmaster, the Executive Member for Wellbeing submitted a report on a review of the Street Trading Consent Policy.

Councillor Buckmaster said the report had been considered by the Overview and Scrutiny Committee, which had made a number of recommendations. These recommendations were detailed in the report, and had been accepted by the Executive. He proposed and Councillor Cutting seconded, a motion that the proposals be supported.

Councillor Wyllie asked that a minor change be made, to ensure all references to sky lanterns were shown correctly, rather than using the phrase “Chinese lanterns”.

Councillor E Buckmaster agreed to this correction.

Councillor Goldspink said this policy would be flexible, and she supported it.

Councillor Wilson said a minor correction of the spelling of the word “peripatetic” should be made. He queried the rationale for additional condition (e) in Appendix 1 that peripatetic street traders should not wait in one location for more than 20 minutes. He did not think that restriction had been the practice before, and did not wish to impose restrictions unnecessarily.

Councillor Buckmaster said he would respond in writing.

Councillor Crofton said he welcomed this policy. Across the district, 60 playgrounds had opened last week following the Covid 19 lockdown. He asked about the process for ensuring that rural playgrounds were safe in terms of social distancing.

Councillor Buckmaster said he could not answer this question in the context of the present agenda item, but would respond separately. However, the onus would generally be on parents to ensure children’s safety.

The motion being put to the meeting, and a vote taken, it was declared CARRIED.

**RESOLVED** – that (A) the proposed revised Street Trading Consent Policy be adopted by the Council;

(B) the proposed revised fees and charges structure as detailed in the Policy be agreed by

the Council; and

(C) Any minor amendments to the new Policy be made by the Head of Housing and Health in consultation with the Executive Member for Wellbeing.

97 MOTION ON NOTICE - ANTI RACISM

Councillor Goldspink proposed a motion on notice on anti-racism. She spoke to the motion she had submitted, referring to the experience of many people who suffered institutional racism and setting out the importance of addressing unconscious bias. Her motion sought a commitment on the part of the Council to do all in its power to identify and end any instances of racism or prejudicial practices within its own organisation, and to appoint an external professional to assess the Council's activities in this regard, who would list actions to ensure diversity and equality pledges were fulfilled.

Councillor Wilson seconded the motion.

Councillor Bolton said that, as Chairman of the Human Resources Committee, she wished to emphasise that the Council had a statutory duty to comply with the Equalities legislation, and the Council published an annual report on how it had done so. The Council was opposed to racism in all its forms.

Councillor Williamson said that from a financial perspective, Members were deeply aware of unbudgeted costs and of putting additional pressure on services.



Councillor Drake said she had submitted a motion on notice in similar terms without having initially been aware of Councillor Goldspink's motion. She therefore proposed amendments to the motion. The amendments were:

in the first paragraph, to add the wording "in the USA" and delete "America";

in the second paragraph, to delete the word "institutional" before "racism" and add " and discrimination" after the word "racism";

also in the second paragraph, to add the wording "that may exist" before the words "within its own organisation";

to delete the final paragraph starting "To ensure full transparency", and add two further paragraphs as follows: "East Herts Council stands united against all forms of inequality. As community leaders we must challenge injustices wherever and however they arise. We support the freedom of all individuals and all communities to speak out and share their experiences and frustrations and work alongside them and society as a whole to reduce overt prejudice and unconscious bias.

"As it is our responsibility to be part of the conversation, we will work with internal structures, external groups and organisations to ensure an anti-racist culture is embedded in all that the council says and does as an employer and a provider of public services so we can better educate, understand and

bring about positive change to achieve a more equal and fair society.”

Councillor Crystall seconded the amendment. He said the issues of inequality and racism had already started to slip down the news agenda, and it was important to keep them in mind. The wording of a motion was no substitute for action.

Councillor Corpe said he was pleased that the Council was considering a motion to condemn systematic racism. Whilst he welcomed the proposed amendments, it was a pity to remove the provision for an external professional to assess the Council's procedures. The Council employed auditors such as EY and it should not “mark its own homework”.

Regarding the monitoring of inequality, Councillor Corpe said the report referred to by Councillor Bolton included a table, at figure 8, which indicated some systemic bias.

Regarding the point which Councillor Williamson had raised, Councillor Corpe said it was laughable that cost was a prohibitive factor against employing a consultant for the purpose of ensuring the Council's own organisation was free from racist practices. The cost would likely be in the range of £10K to £15K, which seemed reasonable compared to the cost payable to the external auditor, EY, which was approximately £40K each year. Further, it had been agreed this evening that officers could spend £2.5m without consulting Council. Finally, a number of other authorities, such as Havering and Dudley councils had commenced reviews of this nature. He concluded by

saying that actions spoke louder than words.

Councillor Dumont questioned whether Councillor Williamson had been aware of the likely level of cost, given that scoping he had undertaken had shown the possible cost of employing a consultant to review the Council's organisation would amount to £10K - £15K. It was known that a diverse workforce increased productivity, so undertaking this exercise to ensure diversity would potentially result in a return on that investment.

Councillor Goldspink said she was against the amendment, which undermined the actions in the motion, and left only gentle words. The changed motion would do nothing to combat problems. The Administration had in previous debates said actions spoke louder than words. This Council had to show it was serious about anti-racism, but it was still looking at its organisation from a very white perspective, with little understanding of what it was like from the Black, Asian and minority ethnic group (BAME) perspective.

Councillor Wilson said this debate echoed previous debates, such as when his Group had pointed out that funding for the Citizens Advice Bureau would mean a return in investment. There was unity in that all here were opposed to discrimination, and the comments made tonight were intended not to criticise but to improve. It was always possible to do better.

Councillor Redfern said she supported the comments of Councillors Goldspink and Wilson. The whole point of bias was that it was unconscious, so a third party assessment was necessary. She did not agree with the

amendment, as it removed the “teeth” of the motion.

Councillor Beckett said he was proud to represent East Herts Council, but he would like to feel he could look residents in the eye and say he was sure there was no bias. The Council could only do so if it did not mark its own homework.

The amendment being put to the meeting, and a vote taken, it was declared CARRIED, and became the substantive motion, as follows.

“This Council notes with serious concern and distress the death of George Floyd at the hands of the police in the USA, and the subsequent world-wide protests and demonstrations against systemic racism.

“This Council acknowledges that many members of our community continue to suffer the effects of racism and discrimination even today. This Council therefore resolves to do all in its powers to identify and end any instances of racism or prejudicial practices that may exist within its own organisation.

“East Herts Council stands united against all forms of inequality. As community leaders we must challenge injustices wherever and however they arise. We support the freedom of all individuals and all communities to speak out and share their experiences and frustrations and work alongside them and society as a whole to reduce overt prejudice and unconscious bias.

“As it is our responsibility to be part of the conversation, we will work with internal structures,

external groups and organisations to ensure an anti-racist culture is embedded in all that the council says and does as an employer and a provider of public services so we can better educate, understand and bring about positive change to achieve a more equal and fair society.”

The substantive motion being put to the meeting, and a vote taken, it was declared CARRIED.

**RESOLVED** – that this Council notes with serious concern and distress the death of George Floyd at the hands of the police in the USA, and the subsequent world-wide protests and demonstrations against systemic racism.

This Council acknowledges that many members of our community continue to suffer the effects of racism and discrimination even today. This Council therefore resolves to do all in its powers to identify and end any instances of racism or prejudicial practices that may exist within its own organisation.

East Herts Council stands united against all forms of inequality. As community leaders we must challenge injustices wherever and however they arise. We support the freedom of all individuals and all communities to speak out and share their experiences and frustrations and work alongside them and society as a whole to reduce overt prejudice and unconscious bias.

As it is our responsibility to be part of the conversation, we will work with internal

structures, external groups and organisations to ensure an anti-racist culture is embedded in all that the council says and does as an employer and a provider of public services so we can better educate, understand and bring about positive change to achieve a more equal and fair society.

98      MOTION ON NOTICE - WORKING TO ACHIEVE A MORE  
EQUAL AND FAIR SOCIETY

Councillor Drake confirmed that in view of the amendments to the motion on anti-racism which had been carried, she withdrew her motion on notice.

Councillor Crystall confirmed he agreed to such withdrawal as the seconder of the motion.

The meeting closed at 8.38 pm

COUNCIL – 21 October 2020

## **MEMBERS' QUESTIONS**

### **Question 1**

**Cllr Ruffles to ask Cllr Eric Buckmaster, Executive Member for Wellbeing:**

I'm aware that a number other agencies worked with Highways at County trying to ensure that our High Streets and Shopping Centres were able to re-open safely. Could the Executive Member for Wellbeing please explain the role of our East Herts Environmental Health team, and describe any particular challenges they may have faced?

### **Question 2**

**Cllr Ward-Booth to ask Cllr Eric Buckmaster, Executive Member for Wellbeing:**

Could the Executive Member for Wellbeing give Council an update on our Social Prescribing programme. Prior to Covid the service had been referring many hundreds of residents to community activities. How and to what extent could the service operate during the months of lockdown and restricted movement?

This page is intentionally left blank



## East Herts Council Report

### Council

**Date of Meeting: 21 October 2020**

**Report by: Leader of the Council**

**Report title: Executive report 01.09.20**

**Ward(s) affected: All**

### Summary

This report details the recommendations to Council made by the Executive at its meeting on 1 September 2020. A separate report on this agenda relates to the Executive meeting held on 6 October.

### 1.0 Item considered and recommended to Council

- 1.1 Since the last Council meeting, the Executive met on 1 September 2020. At that meeting the Executive considered and supported recommendations on the following item:
  - 1.1.1 the draft updated East Herts Council Safeguarding Policy
- 1.2 This report sets out the recommendations for the above item, which was referred with no change. The Minutes of the meeting are attached as Appendix A. The draft policy is attached as Appendix B. The report to Executive may be viewed online at this link: [Executive 01.09.20](#).

### 2.0 Draft updated East Herts Council Safeguarding Policy

- 2.1 The Executive considered the draft updated East Herts Council Safeguarding Policy and supported the recommendation as outlined below, together with a

recommendation that the Head of Housing and Health incorporate any amendments to the Safeguarding Policy suggested by the Executive, acting in consultation with the Lead Member for Neighbourhoods, prior to presentation to Council for adoption. No amendments were suggested by the Executive. Accordingly, the recommendation to Council is as follows.

## **RECOMMENDATION TO COUNCIL:**

- (a) the draft updated Safeguarding Policy be recommended to Council for adoption.**

### **3.0 Executive Decisions**

- 3.1 Other matters determined by the Executive are detailed in the Minutes of the meeting, included for information at Appendix A to this report.

### **4.0 Background papers, appendices and other relevant material**

- 4.1 Appendix A - Minutes of the Executive on 1 September 2020.
- 4.2 Appendix B – draft updated Safeguarding Policy.
- 4.3 Full report on the above item, and on other matters considered – at [Executive 01.09.20](#).

#### **Contact Member**

Councillor Linda Haysey – Leader of the Council  
[linda.haysey@eastherts.gov.uk](mailto:linda.haysey@eastherts.gov.uk)

#### **Contact Officer**

James Ellis – Head of Legal and Democratic  
Services and Monitoring Officer

Contact Tel No 01279 502170

[james.ellis@eastherts.gov.uk](mailto:james.ellis@eastherts.gov.uk)

**Report Author**

Rebecca Dobson – Democratic Services

Manager

[rebecca.dobson@eastherts.gov.uk](mailto:rebecca.dobson@eastherts.gov.uk)

This page is intentionally left blank

MINUTES OF A MEETING OF THE  
EXECUTIVE HELD AS A VIRTUAL MEETING  
ON TUESDAY 1 SEPTEMBER 2020,  
AT 7.00 PM

---

PRESENT: Councillor L Haysey (Chairman/Leader)  
Councillors G Williamson, P Boylan,  
E Buckmaster, G Cutting, G McAndrew and  
S Rutland-Barsby.

ALSO PRESENT:

Councillors B Crystall, T Stowe,  
M Goldspink, D Hollebon, A Huggins,  
J Jones, M McMullen, M Pope, C Redfern,  
P Ruffles and S Newton.

OFFICERS IN ATTENDANCE:

Richard Cassidy	- Chief Executive
Helen Standen	- Deputy Chief Executive
Rebecca Dobson	- Democratic Services Manager
James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Bob Palmer	- Interim Head of Strategic Finance and Property
Sara Saunders	- Head of Planning and Building Control
Claire Sime	- Service Manager

William Troop (Policy and Implementation)  
- Democratic Services Officer

142 LEADER'S ANNOUNCEMENTS

The Leader welcomed all those attending the online meeting and viewing the meeting on the internet. She advised the Executive and other Members who were in attendance of the virtual meeting protocols to be followed. She said that in the interests of maximum transparency, she would state at the conclusion of each vote whether it was unanimous, so that the public were aware of the outcome, and any Member would have the opportunity to comment.

Councillor Haysey referred to the fact that times were still strange, in light of the pandemic. However, she was pleased to say there was a small measure of good news in that the council had succeeded in awarding £1.6m of government grants to a total of 166 businesses, greatly ahead of the government timetable for doing so. She thanked the Officers responsible.

143 APOLOGIES

Apologies for absence were received from Councillor Goodeve.

144 MINUTES – 7 JULY 2020

The Leader proposed and Councillor McAndrew seconded a motion that the Minutes of the meeting held on 7 July 2020 be approved as a correct record and signed by the Leader. The motion, on being put to the meeting and a vote taken, was declared CARRIED.

**RESOLVED** – that the Minutes of the meeting held on 7 July 2020, be approved as a correct record and signed by the Leader.

145     DECLARATIONS OF INTEREST

There were no declarations of interest.

146     UPDATE FROM OVERVIEW AND SCRUTINY COMMITTEE

The Leader said the Chairman of the Overview and Scrutiny Committee had confirmed in correspondence that no report had been submitted, as the Committee had not met since the previous meeting of the Executive.

147     UPDATE FROM AUDIT AND GOVERNANCE COMMITTEE

Councillor Pope, as Chairman of the Audit and Governance Committee, said the Committee had last met on 28 July 2020. The full agenda had included a useful presentation on cyber security from the Assistant Director – Digital and Transformation from Stevenage Borough Council. The Committee had considered the draft Statement of Accounts for 2019/20. The final version would be submitted to the Committee at its next meeting.

The Leader thanked Councillor Pope for his verbal

report.

148     SUSTAINABILITY SUPPLEMENTARY PLANNING DOCUMENT  
– DRAFT FOR CONSULTATION

The Leader submitted a report seeking approval of publication of a draft Sustainability Supplementary Planning Document (SPD) for consultation. She said this SPD represented one of a suite of many actions the Council was taking to provide guidance for developers and to add detail to the policies in the District Plan. In addition, a new body had been set up recently, the Hertfordshire Climate Change Sustainability Policy Group. This group was being chaired by this authority's Executive Member for Environmental Sustainability, Councillor McAndrew. In response to the Leader's invitation to speak, Councillor McAndrew said he would reserve his comments until after the debate on this item.

Councillor Crystall said the SPD emphasised a holistic approach regarding matters such as landscaping. However, from his experience at meetings of the Development Management Committee, there could sometimes be a disconnect in the process. He asked whether the SPD was an opportunity to review the process Officers used in assessing applications.

At the invitation of the Leader, the Head of Planning and Building Control said the starting point was the District Plan. This document provided more information for applicants to use, and set out a checklist of expectations. A great deal depended on what type of application was being considered by the Development Management Committee. This document



set out the expectation as to the work which would have been done in relation to each application. The SPD should ensure applicants were considering these matters in their proposals.

The Planning Policy Service Manager agreed that it depended on the nature and type of application, but the key point was that the SPD focused the minds of applicants, Officers and Members on the checklist of expectations.

The Executive Member for Communities congratulated Officers on the production of this excellent document.

Councillor Stowe asked whether the new SPD would reinforce the Council's ability to require design features, not only for new builds, but in respect of applications generally.

The Head of Planning and Building Control said it was still necessary to rely on the District Plan. The SPD was intended to encourage compliance with policy requirements.

The Executive Member for Environmental Sustainability expressed his thanks to the Principal Planning Officer for her excellent work on the SPD. The document brought clarity to Officers and Members of the Development Management Committee regarding environmentally sustainable aspects of design. The document would evolve over time when the District Plan was reviewed, and was a good starting point.

Councillor Haysey proposed and Councillor McAndrew seconded a motion to support the recommendations

in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** - to agree that (A) the Sustainability Supplementary Planning Document (SPD), as detailed in Appendix A to the report, be agreed and published for a four-week period of public consultation; and

(B) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 it has been determined that a Strategic Environmental Assessment of the emerging Sustainability SPD is not required as it is unlikely to have significant environmental effects beyond the District Plan policies.

149     DRAFT UPDATED EAST HERTS COUNCIL SAFEGUARDING POLICY

---

The Executive Member for Neighbourhoods submitted a report on an updated version of the Council's Safeguarding Policy. He invited the Executive to consider the draft policy, propose any amendments for including prior to consideration by Council, and to recommend the policy to Council for adoption.

The Executive Member for Wellbeing welcomed the report and updated policy.

There being no comments, Councillor Boylan proposed and Councillor Buckmaster seconded, a motion to support the recommendations in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** – that (A) the draft updated Safeguarding Policy be recommended to Council for adoption; and

(B) the Head of Housing and Health incorporate any amendments to the Safeguarding Policy suggested by the Executive, acting in consultation with the Lead Member for Neighbourhoods, prior to presentation to Council for adoption.

150     FINANCIAL UPDATE

The Executive Member for Financial Sustainability submitted a report providing an update on developments to the council's financial position since the previous meeting of the Executive.

Councillor Williamson highlighted the main points set out in the report, relating to the impacts of Covid-19, using best available information to provide indicative figures, on the 2020/21 Budget and Medium Term Financial Plan. The report also addressed the need for updated business cases for major projects within the Capital Programme.

Councillor Williamson said during the three months since the previous report there had been some significant developments. It was therefore important that the financial information was regularly updated.

In relation to the budget, the update points included the fact that additional grant funding of £200,000 had been received, taking the total unbudgeted grant

received to £1,702,811; information was awaited on a compensation scheme for lost fees and charges income, but certain features of the scheme had been announced, as detailed in the report. The council's total budgeted income for the year was at the end of April £12.3 million, but adjusting this figure for items likely to be excluded from the scheme reduced the annual budgeted figure to £7 million. The calculated monthly compensation due was approximately £400,000.

Councillor Williamson then took Members through the projection for the additional use of reserves which had been adjusted to give a range of four to six months loss of income, rather than between three and five months. The additional grant and compensation for losses on fees and charges was deducted to arrive at the new predicted range of outcomes. The range of additional use of reserves in 2020/21 ranged from an optimistic forecast of £400,000 to a less optimistic one of £1,200,000. Due to the off-sets of the compensation scheme, the level of concern for the financial position for the current year had reduced from what had previously been predicted.

Councillor Williamson then referred to the Medium Term Financial Plan (MTFP). He said when setting the budget for 2020/21 savings proposals and additional income generation plans had been identified, which had closed the budget gap for the current year. However, the budget gap which had previously been identified had now increased from £420,000 to £1,102,000 in the year 2021/22; from £551,000 to £901,000 in the year 2022/23 and from £610,000 to £1,960,000 in the year 2023/24. The three key areas for

income generation were from investments from the Financial Sustainability Committee, from Millstream and from car parking. No adjustments had been made to the first two income generation streams, but it was reasonable to remove the additional income target of £200,000 from parking income. Additional costs were also required for the waste service, in respect of adding new properties to the district, and there would need to be a new separate food waste collection in the final year of the MTFP. Other costs to be included in the MTFP related to support for the Harlow Gilston Garden Town work, and for an additional resource on information governance.

Finally, it was clear that the capital programme major projects required re-evaluation of the business cases for these schemes. It was important that decisions around continuing with the existing programme were based on up to date information. Councillor Williamson said his report recommended that a review take place of the business case for major projects as part of the 2021/22 budget setting process.

The Leader thanked Councillor Williamson and Officers for this report. She said the council was in a better financial position than some authorities, but it was important not to be complacent.

Councillor Pope agreed with the points made regarding the capital programme, and asked when the evaluations of the major projects would take place.

The Interim Head of Strategic Finance and Property said the instruction had been issued to project managers to re-evaluate the business cases and

conduct scenario planning. A range of figures would be provided to Members by the end of September.

Councillor Williamson proposed, and Councillor Cutting seconded, a motion to support the recommendations in the report. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** that (A) the potential impacts of Covid-19 on the budget for 2020/21 and the Medium Term Financial Plan be noted; and

(B) a review of the Capital Programme and the updating of business cases for major projects be undertaken as part of the 2021/22 budget setting process.

The meeting closed at 7.27 pm



**East Herts Council**

**Safeguarding Policy and Procedure**

**Children, Young People and Adults at  
Risk**

**Policy Statement Number XXX**

**Policy Owner: Jonathan Geall**

**Date of last review: XXX 2020**

**Date of next review: April 2023**

# Executive Report 01.09.20 – Appendix B (Safeguarding Policy)

## Contents

1. Introduction .....	3
2. Policy statement.....	4
3. Definitions and how abuse can be experienced.....	5
4. Roles and responsibilities .....	11
5. Recognising and responding to potential abuse .....	13
6. Guidelines for staff on dealing with disclosures .....	13
7. Allegation of abuse by an East Herts Council officer or elected member .....	15
8. Confidentiality and data protection.....	16
9. Impacts of the Safeguarding Policy of specific elements of East Herts Council's work.....	17
10. Official visits and VIP.....	20
11. Safeguarding training .....	22
12. Safer recruitment .....	23
13. Key contact information.....	24
14. Monitoring and policy review.....	24
15. Recording and reporting safeguarding concerns – a quick guide.....	25



# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### 1. Introduction

- 1.1 This policy applies to all East Herts Council employees, contractors, elected members, licensees and third party recipients of grants.
- 1.2 The council firmly believes that:
  - children, young people and adults at risk have the right to be safe when using our services
  - children, young people and adults at risk have a right to be protected from being hurt, mistreated or suffering abuse – in body or mind, regardless of age, race, disability, culture, sex or sexual orientation.
- 1.3 This policy has been drawn up with the principles of 'Making Safeguarding Personal' firmly in mind. The council strongly believes that when assisting people facing abuse, interventions should, wherever possible, be person-led and outcome-focused. We will always make our best efforts to engage the people we are working with in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety.
- 1.4 The council recognises that some people may express desired outcomes or wishes that are not possible. This, however, can provide opportunities for the council and/or our partners to have frank discussions to establish what the next best option may be. For other people their desired outcomes may not be possible, for instance if they don't want the police involved but the person who has abused or neglected them is in a position to do the same to others. Again, we see such situations as opportunities to explain the situation honestly and to find ways to most closely match the person's wishes.
- 1.5 The council is committed to ensuring that the needs and interests of children, young people and adults at risk are considered by elected members, employees, volunteers and contractors in the provision of services and decision-making.
- 1.6 East Herts Council, as a second tier local authority, has a statutory responsibility and a duty of care which, in the simplest of terms, means it has a duty to cooperate and report issues relating to safeguarding to the appropriate authorities.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- 1.7 East Herts Council works closely with colleagues from the Hertfordshire Safeguarding Children Partnership and Hertfordshire Safeguarding Adults Board to share best practice and learning. Through engaging with both partnership boards, the council ensures it keeps up to date with the latest developments, protocols and policies.
- 1.8 Of particular importance, local authorities have a duty under Section 11 of the Children Act 2004 to ensure that they consider the need to safeguard and promote the welfare of children when carrying out their functions. Furthermore, The Care Act 2014 sets out specific safeguarding duties for local authorities and their partner agencies. The safeguarding duties apply to an adult who (a) has needs for care and support, (b) is experiencing or at risk of abuse or neglect and/or (c) due to these care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.
- 1.9 The Working Together to Safeguard Children guidance issued in 2018 reiterates the important role second tier authorities, such as East Herts Council, as providers, for example, of housing, environmental health services and leisure services, have to play in working collaboratively across agencies to maximise safeguarding in their localities.

## **2. Policy statement**

- 2.1 The purpose of this policy is to safeguard and promote the welfare of children, young people and adults at risk, by:
  - respecting the rights, wishes, feelings and privacy of children, young people and adults at risk
  - ensuring all employees understand the different forms abuse can take, how to identify them and how to act on their concerns
  - taking any concern made by an elected member, employee, contractor or child/young person/adult at risk seriously and sensitively
  - implementing effective procedures for recording, reporting and responding to any allegations, incidents or suspicions of abuse
  - ensuring that contracted/commissioned and grant-funded services have safeguarding policies and procedures consistent with the council's commitment to the protection of children, young people and adults at risk

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- encouraging safeguarding best practice at the council
  - ensuring that unsuitable people are prevented from working with children, young people and adults at risk through a robust recruitment process.
- 2.2 The policy helps the council ensure there is a clear and effective approach to safeguarding across the organisation and that all employees, elected members, volunteers and contractors delivering services directly by the council or on the council's behalf are aware of their legal obligations to safeguard children, young people and adults at risk.
- 2.3 This policy applies to all services within the scope of the council. In addition to all internal provision of services, it also applies to:
- outside organisations delivering services involving children, young people or adults at risk on behalf of the council
  - contractors
  - grant-funded organisations.
- 2.4 Safeguarding is not a practice that operates in isolation. The issues covered in this policy cut across every service and function that the council undertakes and so is embedded within the organisation and has direct links to other Human Resources policies and the council's Prevent Action Plan.
- 2.5 This policy is inclusive of all children, young people and adults at risk irrespective of their age, race or ethnicity, religion, disability, sex or sexual orientation.
- 2.6 Compliance and guidance will be reviewed on an annual basis by the Head of Housing and Health and Service Manager – Community Wellbeing and Partnerships.

### 3. Definitions and how abuse can be experienced

#### Definitions

- 3.1 The phrase 'children, young people and adults at risk' refers to:
- a **child** – anyone under the age of 18 years
  - a **young person** – a person aged over 16 but under 18 (those aged 16-18 are included in the legal definition of a child)

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- an **adult at risk** –any person aged 18 or over who is, or may be, unable to take care of him or herself, or unable to protect him or herself against significant harm or serious exploitation. Vulnerability and risk may arise from:
  - a mental health problem or mental illness, including dementia
  - a physical disability
  - a sensory impairment
  - a learning disability
  - frailty
  - a temporary illness
  - old age.

3.2 The term **parent** is used in the broadest sense to include parents, carers and guardians.

### ***Experience of abuse***

3.3 East Herts council recognises that people can experience abuse in individual and unique ways. The table below gives examples of the different dimensions of how abuse can be experienced.

Types of abuse	Examples of how abuse can be experienced
<b>Physical abuse</b>	<b>Slapping, pushing, kicking, rough handling, twisting of limbs/extremities, misuse of medication, or inappropriate sanctions or</b>
<b>Sexual abuse</b>	<b>Non-contact abuse such as voyeurism, involvement in pornography. Sexual acts to which the vulnerable adult has not consented, could not consent or was pressured into consenting. Rape and sexual assault.</b>
<b>Psychological and/or emotional abuse</b>	<b>Verbal assault or intimidation, deprivation of contact, threats of harm or abandonment, humiliation or blaming, overriding of consent, choices or wishes.</b>

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

Types of abuse	Examples of how abuse can be experienced
<b>Financial abuse</b>	<b>Theft, fraud, exploitation, and pressure often in connection with savings, wills, property, possessions or benefits.</b>
<b>Neglect and/or acts of omission</b>	<b>Ignoring someone's medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating.</b>
<b>Self-neglect</b>	<b>Lack of self-care, including neglect of personal hygiene, nutrition and hydration, or health. Lack of care of a person's environment, including living in domestic squalor. Refusal of services such as care services, health assessments or interventions.</b>
<b>Hoarding</b>	<b>Where someone acquires an excessive number of items and stores them in a chaotic manner, usually resulting in unmanageable amounts of clutter. The items can be of little or no monetary value.</b>
<b>Discriminatory abuse</b>	<b>Discriminatory and oppressive attitudes based on race, gender, cultural background, religion, physical and/ or sensory impairment, sexual orientation or age.</b>
<b>Institutional abuse, neglect and/or poor practice</b>	<b>Repeated and pervasive mistreatment and/or isolated incidents of poor or unsatisfactory professional practice.</b>
<b>Domestic Abuse</b>	<b>An incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been partners or family members, regardless of gender or sexuality.</b>

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

Types of abuse	Examples of how abuse can be experienced
<b>Forced Marriage</b>	<b>Someone is coerced into marrying someone against their will. This may be by means of other types of abuse such as physical and/or emotional</b>
<b>Honour Based Abuse</b>	<b>Violence and abuse in the name of honour, covering a variety of behaviours, mainly but not exclusively against females, where the person is being punished by their family and/or community for a perceived transgression against the 'honour' of the family or community, or is required to undergo certain activities or procedures in 'honour' of the family.</b>
<b>Child Sexual Exploitation (CSE)</b>	<b>Exploitative situations, contexts and relationships where young people (under 18) receive 'something', for example affection, gifts, money, food, accommodation, drugs, alcohol, cigarettes, as a result of them performing, and/or another or others performing on them, sexual activities.</b>
<b>Child Criminal Exploitation (CCE)</b>	<b>Where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18. The victim may have been criminally exploited even if the activity appears consensual. Child Criminal Exploitation does not always involve physical contact; it can also occur through the use of technology. CCE includes, for instance, children forced to work on cannabis farms or to commit theft.</b>

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

Types of abuse	Examples of how abuse can be experienced
<b>County Lines</b>	<b>County Lines is the name given to describe drug dealing by criminal gangs from urban areas expanding their activities into smaller towns and rural areas. It often involves the exploitation of children, as gangs use young people and those with mental health or addiction problems to transport drugs and money.</b>
<b>Female Genital Mutilation (FGM)</b>	<b>A collective term used for illegal procedures, such as female circumcision, which include the partial or total removal of the external female genital organs, or injury to the female genital organs for a non-therapeutic reason.</b>
<b>Modern Slavery</b>	<b>Being forced to work through mental or physical threat, owned or controlled by an 'employer' usually through mental or physical abuse or the threat of abuse, dehumanised and being treated as a commodity or bought and sold as 'property'.</b>
<b>Human Trafficking</b>	<b>Someone is moved from one place to another for the purpose of exploitation, this could be through sexual exploitation, domestic servitude, forced labour, forced criminality or organ harvesting.</b>
<b>Radicalisation</b>	<b>Typically tackled as part of the Government's Prevent programme, radicalisation is essentially a safeguarding issues. It covers incitement, whether face-to-face or through publications or the Internet, to promote or carry out acts of terrorism or extremist behaviour. This can covers all manner of political, religious or ideological positions.</b>

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

Types of abuse	Examples of how abuse can be experienced
<b>Cuckooing</b>	<b>A practice where people take over a person's home and use the property to facilitate exploitation. The prevalent examples of this are when drug dealers take over the home of a vulnerable person in order to use it as a base for drug dealing.</b>

3.4 It is recognised that from time-to-time different risks to children, young people and vulnerable adults may emerge or different forms of abuse may become more prevalent. Also, different ways of identifying, reporting or tackling abuse may become available.

3.5 The council recognises that the Mental Capacity Act 2005 provides a framework to empower and protect people who may lack capacity to make some decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future. Someone who lacks capacity due to an illness or disability (such as a mental health problem, dementia or a learning disability) may have one or more of the following issues:

- cannot understand information given to them to make a particular decision
- cannot retain that information long enough to be able to make the decision
- cannot use or weigh up the information to make the decision
- have difficulty in communicating their decision.

3.6 The Mental Capacity Act 2005 defines who can take decisions, when they can take them and how they should go about this. East Herts safeguarding leads will work with the appropriate partners to take the mental capacity act provisions in to account when responding to reported abuse in their district. Officers who have a responsibility to work with the public to make decisions about their affairs are expected to be aware of the key aspects of the Mental Capacity Act 2005. Officers are expected to discuss any concerns regarding mental capacity with either the Head of Housing and Health or the Service Manager – Community Wellbeing and Partnerships.



# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### 4. Roles and responsibilities

4.1 **Safeguarding is everyone's responsibility** so there are key roles and responsibilities for everyone:

- **Executive Member holding responsibility for Safeguarding** – has the political oversight for East Herts Council's safeguarding policy
- **Chief Executive Officer** – holds the overall strategic responsibility for the safeguarding of children, young people and adults at risk
- **Head of Housing and Health** – lead role for the council for promoting and addressing the safeguarding of children, young people and adults at risk
- **Service Manager – Community Wellbeing and Partnerships** – this post-holder, within the Housing and Health service, holds the deputy lead role for the council for promoting and addressing the safeguarding of children, young people and adults at risk
- **Human Resources** – supporting the promotion of the council's safeguarding duties and responsibilities, notably with regard to training and recruitment vetting
- **All Heads of Service** need to ensure contractors agree to comply with the council's Safeguarding Policy and where relevant have their own policy and procedures in place
- **All elected members** must:
  - adhere to this policy at all times
  - follow best practice regarding safeguarding, including participating in relevant training and keeping as up-to-date as possible about safeguarding issues
  - remain vigilant to abuse being experienced by anyone and report this as soon as possible, following this safeguarding policy
  - report any concerns about and/or whistleblow on any employee, elected member, staff, volunteer or contractor.
- all **employees** of the council, **temporary staff, contractors and volunteers**, must:
  - adhere to this policy at all times
  - follow best practice regarding safeguarding, including participating in relevant training and keeping as up-to-date as

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- possible about safeguarding issues, particularly those relating to their areas of work
  - remain vigilant to abuse being experienced by anyone and report this as soon as possible, following this safeguarding policy
  - report any concerns about and/or whistleblow on any employee, elected member, staff, volunteer or contractor.
- **outside organisations** that deliver services involving children, young people and adults at risk on behalf of the council must:
    - comply with the council's Safeguarding Policy
    - have their own policy and procedures in place.
- 4.2 The council participates fully in multi-agency groups and statutory Safeguarding Boards.

### ***Hertfordshire Safeguarding Children's Partnership (HSCP)***

- 4.3 The HSCP is a statutory, multi-agency organisation formed by Hertfordshire County Council in line with Section 13 of The Children Act 2004. The organisation brings together agencies who work to safeguard and promote the welfare of children.
- 4.4 The objective of the HSCP is to co-ordinate what is done by each person or body represented on the board for the purposes of safeguarding and promoting the welfare of children and young people in the area of the authority by which it is established.
- 4.5 The council is committed to maintaining an effective working relationship with the HSCP to help achieve its mutual aims in respect of child safeguarding.

### ***Hertfordshire Safeguarding Adults Board (HSAB)***

- 4.6 The HSAB is an inter-agency forum for co-ordinating how the different services and professional groups should cooperate to safeguard adults at risk across Hertfordshire. It ensures that arrangements work effectively to identify abuse or inadequate care, help vulnerable people and plan and implement joint preventative strategies.
- 4.7 The HSAB aims to raise awareness and promote the welfare of adults at risk by the development of an effective cooperative involving people from a wide range of public and voluntary services and other organisations. The council is committed to maintaining an effective working relationship with

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

the HSAB to help achieve its mutual aims in respect of the safeguarding of adults at risk.

### 5. Recognising and responding to potential abuse

- 5.1 Even though elected members, employees, volunteers and contractors may have limited contact with children, young people and adults at risk as part of their duties and responsibilities for the council, everyone should be aware of the potential indicators of abuse and bullying and be clear about what to do if they have concerns.
- 5.2 It is not the responsibility of any elected member, employee or contractor to determine whether abuse is taking place. Concerns, incidents or allegations must be reported. The role of the elected member or employee is to refer the case to the appropriate person, not to investigate or make a judgement.
- 5.3 Where an employee is concerned about the **immediate** safety of a child, young person or adult at risk they should:
- call the Police on 999
  - call an Ambulance on 999 if the person needs urgent medical assistance.
- 5.4 Where an employee has concerns that a child, young person or adult at risk is being harmed or neglected, or is at risk of this, they should complete an online referral form on the staff intranet and contact either the Service Manager – Community Wellbeing and Partnerships or the Head Housing and Health.

### 6. Guidelines for staff on dealing with disclosures

#### Do

- Be ready to listen to what the person is saying (it's important to listen and capture the disclosure rather than suggesting they speak to someone else which could then stop the disclosure being made)
- Reassure the person, acknowledging that they have been brave to tell you

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- Make sure the person is comfortable and in a secure environment where they cannot be overheard
- Take what they say seriously
- Offer practical help i.e. glass of water or tissues
- Remind the young person or vulnerable adult that you have a duty to follow the Council's safeguarding policy in order to safeguard and support them, and that you will inform a member of the Council's Safeguarding team
- Assure the person that you will only share the information with the people who need to know
- Tell the person that they will be contacted by a safeguarding officer to advise them of what the next steps will be after you have spoken to the safeguarding officer
- Refer the matter to either the Head of Housing and Health or Service Manager – Community Wellbeing and Partnerships immediately
- Avoid any delay in reporting the cause for concern or disclosure to the designated officer as this could increase the risk to the person concerned
- Keep a factual record
- Stay calm.

### **Don't**

- Promise confidentiality or to keep what you are being told secret
- Appear to be shocked or upset by what the person is telling you, even if what they are saying is distressing
- Take the person home
- Touch the person to comfort or reassure them
- Question the person about the alleged abuse, beyond the minimum necessary to understand what is being alleged i.e. 'Could you explain that part?'
- Give false reassurances in order to comfort the person
- Stop the individual who is freely recalling significant events
- Make the individual tell anyone else. They may have to be formally interviewed later and it is important to minimise the number of times information is repeated
- Make any suggestions to the individual about how the incident may have happened
- Discuss the information with anyone other than a Council safeguarding officer (or if the employee is related to the safeguarding officer, the Head of HR and Organisational Development or the Chief Executive).

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### **7. Allegation of abuse by an East Herts Council officer or elected member**

- 7.1 It is essential in all cases of suspected abuse by an officer or elected member that action is taken quickly and professionally in the interest of the person's welfare.
- 7.2 In the rare event that any officer or elected member is suspected of abusing an individual or a previous history of abuse is discovered, it is the responsibility of the individual who becomes aware of this information to discuss their concerns with the Head of Housing and Health or the Head of HR and Organisational Development or the Chief Executive. These officers may determine it appropriate to discuss the matter with the Head of Legal and Democratic Services (the council's statutory Monitoring Officer) if the allegation involves an elected member.
- 7.3 The Head of Housing and Health or the Head of HR & Organisational Development, with agreement from the Chief Executive (or in their absence the Deputy Chief Executive), will contact the relevant Local Authority Designated Officer (LADO) to report the matter and seek guidance. The Police are also likely to be contacted through the LADO. Again, it may be determined appropriate to discuss the matter with the Head of Legal and Democratic Services (the council's statutory Monitoring Officer) if the allegation involves an elected member.
- 7.4 If it is suspected or reported that an officer is implicated in the abuse of a child, young person or adult at risk the council's Disciplinary Policy will be followed except where the employee is in their probationary period. In that circumstance the Probationary Procedure will be used. This process does not apply to elected members for whom the appropriate process will be determined by the Head of Legal and Democratic Services (the council's statutory Monitoring Officer).
- 7.5 Nothing in the council's processes for handling allegations against an officer or elected member replaces the need for the council to refer cases to Hertfordshire County Council, the Police and other agencies as appropriate in line with county-wide safeguarding policies and the requirements under the Children Act 2004 and Care Act 2014.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### **8. Confidentiality and data protection**

- 8.1 Employees have a duty to share information relating to a safeguarding concern with either the Head of Housing and Health or the Service Manager – Community Wellbeing and Partnerships (in the case of suspected abuse by an employee it can be shared with the Head of HR and Organisational Development or the Chief Executive).
- 8.2 Employees must not:
- discuss details of any safeguarding concerns with anyone who does not have a legitimate professional need for the information
  - discuss any safeguarding concerns with any other interested party, including parents and relatives of the child, young person or adult at risk without the express permission of the person with overall responsibility for the investigation.
- 8.3 Consent is not required to breach confidentiality and make a safeguarding referral where:
- a serious crime is believed to have been committed
  - where the alleged perpetrator may go on to abuse others
  - other vulnerable persons are at risk
  - the person at risk is deemed to be in serious risk
  - there is a statutory requirement to do so
  - the public interest overrides the interest of the individual
  - when an employee of a statutory service, a private or voluntary service or a volunteer is the person accused of abuse, malpractice or poor professional standards.
- 8.4 All copies of referrals to Hertfordshire County Council relating to children, young people and adults at risk should be retained by the Head of Housing and Health to ensure confidentiality. This information will be retained in accordance with data protection periods. No other copies should be kept.

# Executive Report 01.09.20 – Appendix B (Safeguarding Policy)

## 9. Impacts of the Safeguarding Policy of specific elements of East Herts Council's work

### Homelessness

- 9.1 The council has a legal duty to provide temporary accommodation to individuals whose status and circumstances meet certain criteria as defined in the Housing Act 1996 as amended by the Homelessness Act 2002 and Homelessness Reduction Act 2017. Employees may need to refer families or individuals to Hertfordshire County Council outside of the safeguarding process, as follows:

Persons affected	Reason for contacting Hertfordshire County Council
<b>Homeless 16-17 year olds</b>	<b>A 16 or 17 year old should be referred to Hertfordshire County Council for assessment to determine if they are a child in need with a duty owed to them by Hertfordshire County Council.</b>
<b>Intentionally homeless household with children</b>	<b>If a household with children is found to be intentionally homeless, Hertfordshire County Council should be advised in writing so that they can ascertain whether a duty is owed under the Children Act 1989.</b>

- 9.2 If children, young people and/or adults at risk are placed in temporary accommodation pending a referral to Hertfordshire County Council, Housing Options Officers should complete a homelessness assessment and identified needs and vulnerabilities should be notified to Hertfordshire County Council.

### Use of Contractors

- 9.3 When procuring contractors to provide public facing services on behalf of the council, tenderers approaches to safeguarding will be part of the tender evaluation process. Lack of appropriate safeguarding policies will exclude a tenderer from being selected.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- 9.4 Any contractor or sub-contractor engaged by the council in areas where workers are likely to come into regular contact with children, young people or adults at risk, should have its own equivalent safeguarding policies and training, or failing this, must comply with the terms of this policy. This requirement should be written into the contract.
- 9.5 Heads of Service, in consultation with the council's legal services, must take reasonable care that contractors doing work on the council's behalf are monitored appropriately.
- 9.6 Where contact with children, young people and adults at risk is a necessary part of the contracted service, it is the responsibility of the manager who is monitoring the services of the contractor to ensure that satisfactory Disclosure and Barring Service (DBS) checks have been completed where appropriate.

### **Grant Applications**

- 9.7 All organisations in receipt of grants from East Herts Council must have appropriate safeguarding policies and procedures in place, as a condition of payment of grant.
- 9.8 In addition, satisfactory DBS checks may be required from appropriate individuals working with children, young people and adults at risk which seek funding from the council. Such requirements are subject to relevant legislation including the 'regulated activity' criteria contained within the Protection of Freedoms Act 2012. This information will be requested at the application stage and applications will not be processed without the relevant documentation.

### **Licensing**

#### ***Premises***

- 9.9 The council is responsible for carrying out certain licensing functions. Protection of children from harm is a licensing objective that the council is legally obliged to consider as part of its licensing function, for example when licensing, though not limited to, premises under the Licensing Act 2003 or the Gambling Act 2005. This Safeguarding Policy should be referred to as appropriate when assessing license applications.



# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### **Taxis**

- 9.10 The council sees taxi drivers and operators as being vital in maintaining a vigilant approach to safeguarding in the district. We therefore provide training to all new applicants and at point of license renewal every 3 years.
- 9.11 The council considers taxi drivers and operators conduct with regard to safeguarding as being important in our assessment of whether they are fit and proper to hold a license under the Local Government (Miscellaneous provisions) Act 1976.
- 9.12 The council takes a robust approach to any reports of abuse perpetrated by taxi drivers or operators and will act accordingly.

### **Work Experience**

- 9.13 The council supports work experience placements across the organisation for a number of young people each year. This is beneficial to both the young person and the council. When the council offers a work experience placement, the HR team supports the managers when completing the educational provider's paperwork to ensure appropriate supervision is in place and the responsibilities are clear regarding the young person's health, safeguarding, safety and welfare.
- 9.14 Any student under taking work experience with the council will be under the supervision of a more senior member of staff.
- 9.15 Any student undertaking work experience with the council is expected to comply with this safeguarding policy.

### **Photography**

- 9.16 Elected members, employees and contractors who use cameras or film recorders for, or on behalf of, the council must have either completed media consent forms from the parents of children being photographed or filmed, or have checked with the parent or guardian, before the activity commences. When commissioning professional photographers or inviting the press to cover the organisation's services, events and activities, the council will ensure that expectations are made clear in relation to child protection.
- 9.17 There are some easy steps to take:
- check the credentials of any photographers and organisations used

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- ensure identification is worn at all times
- do not allow unsupervised access to children or adults at risk including through one-to-one photographic sessions
- do not allow photographic sessions outside of the activities or services, or at a child's home
- it is recommended that the names of children or adults at risk should not be used in photographs or footage, unless with the express permission of the parent/carer of the child, young person or adult at risk.

9.18 Employees should contact the council's Communications Team for advice and a copy of the Media Consent Form before the activity commences.

## **10. Official visits and VIP**

10.1 All officers and elected members are responsible for implementing this guidance and managing visitors to services operated by East Herts Council. All officers and elected members have a responsibility to ensure that visitors are welcomed and managed safely. The guidance applies to all visitors equally.

### **10.2 Guidance objectives**

- Ensure there is no risk to the safety of adults and children at risk arising from visits by approved or invited visitors such as VIPs, celebrities or media representatives
- Ensure staff and visitors are aware of their responsibilities
- Ensure systems are in place to effectively manage risks and to ensure that any issues arising are learnt from
- Ensure the council or hosting organisation meets its safeguarding responsibilities.

### **10.3 Types of visitor**

There are a number of different types of legitimate visitors to services operated by East Herts Council.

- Employees of partner organisations such as funders including the lottery, Sport England etc.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- Visitors in connection with the building, grounds or equipment i.e. builders, contractors, maintenance contractors
- Staff working for the local media including journalists or photographers
- VIPs – Very Important People including celebrities.

### 10.4 **Procedures for ALL visitors**

- Wherever possible, visits should be pre-arranged.
- All visitors must report to reception or a main entrance first or where visits involve an outdoor space, a meeting point should be agreed
- All visitors should explain the purpose of their visit and who has invited them.
- All visitors should be ready to produce formal identification.
- All visitors will be asked to sign the visitors' record book where available.
- All visitors should be accompanied by a member of staff at all times. Visitors should not be alone with children / adults at risk.
- On departing, visitors should leave via reception, sign out and return their visitors badge where applicable and be seen to leave the premises / site.

### 10.5 **VIPs**

A VIP is usually an external visitor of importance or influence, who commands special treatment, including:

- Royalty and Royal Representatives
- Government (Members of Parliament, including government ministers and politicians)
- Diplomats and Senior Public Servants
- Chairpersons/ Chief Executive Officers of major companies and organisations
- Senior Officers from Charitable Trusts
- Religious leaders
- Civic and local community leaders
- Notable academics, Olympians, authors, high profile prize winners and those with celebrity status in particular fields such as sport, music, the arts, media including celebrities and who are likely to inspire others.

### 10.6 **Important considerations for VIP visits**

- An invitation to a VIP should be made in advance with sufficient time to enable appropriate planning for a safe and successful visit recognising how the visit will be hosted and importantly who will be escorting and supervising the visitor at all times.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- In general terms VIPs should be treated in a very similar way to any other visitor but a degree of common sense should prevail i.e. it is unlikely that the Queen or another senior member of the Royal Family would be expected to show or wear ID. Members of their entourage though should be expected to follow normal procedures. All VIPs and any entourage should be accompanied at all times by a member of staff.
- All visits by media, VIPs, celebrities or other high profile partners must involve the Communications team and the Chief Executive because of the high profile they can attract. Any requests for celebrity or VIP visits must be referred to the Communications team. Discussions as to the appropriateness of the visits to certain locations should then take place with the Named Safeguarding Officer, the Chief Executive and approval sought. Visit supervision may be delegated to service teams, if appropriate.

### 11. Safeguarding training

- 10.1 Safeguarding training is a crucial way in which the contents of this policy are communicated to employees, elected members and volunteers and contractors as appropriate.

#### Staff

- 11.2 The council's induction programme for all **new employees** will include safeguarding issues and provide signposting information to key contacts and to the council's policy and training programme.
- 11.3 **All employees** will be required to complete a short awareness training session on a yearly basis through Skills Build (the council's online learning platform). Completion of safeguarding training will be monitored through the Performance and Development Review (PDR) process. Failure to complete safeguarding training will result in the PDR not being signed of which could lead to the disciplinary process being invoked.
- 11.4 Specific or specialist training shall be provided for all **employees who come into direct contact with children, young people and adults at risk** as part of carrying out the requirements of their job. The Head of Housing and Health and the Service Manager – Community Wellbeing and Partnerships will undertake Designated Officer training every two years in line with requirements. HR staff will be trained in safer recruitment so they can support and train/brief recruiting managers as appropriate.

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

### **Members**

- 11.5 Training and awareness-raising extends to the elected members of the council and appropriate training is provided including annual mandatory 'refresher' training as part of the council's ongoing elected member development programme.

### **Contractors**

- 11.6 Heads of Service and /or contract managers will satisfy themselves, on at least an annual basis, that contractors providing public facing services on behalf of the council will have mechanisms in place to train new starters on safeguarding and provide periodic refresher training to all staff.

### **Taxi drivers and operators**

- 11.7 All new applicants receive training on safeguarding as a condition on being given a license. Furthermore, at point of license renewal refresher training is required.
- 11.8 The council consults with the Hertfordshire Safeguarding Children Partnership and the Hertfordshire Safeguarding Adults Board about which categories of employees require specific training.

## **12. Safer recruitment**

- 12.1 The council understands the importance of safer recruitment and adheres to a strict Recruitment Policy. Officers can access the Recruitment Policy via the staff intranet.
- 12.2 The council's approach to safer recruitment takes into account the following factors:
- all job descriptions include the duty of safeguarding
  - a statement of commitment to safeguarding is made in job advertisements
  - there is a requirement for applicants to demonstrate an understanding of, and commitment to, safeguarding, equality and diversity at application and interview stage

# Executive Report 01.09.20 – Appendix B

## (Safeguarding Policy)

- at least one member of the interview panel must have undertaken appropriate interview training.
- 12.3 Recruiting officers should consult the Recruitment Policy to ensure they understand the safer recruitment process and should contact HR, the Head of Housing and Health or the Service Manager – Community Wellbeing and Partnerships if they are uncertain on any aspects.

### 13. Key contact information

- 13.1 Where an employee, elected member, volunteer or contractor is concerned about the **immediate** safety of a child, young person or adult at risk, they should:
- call the Police on 999
  - call an Ambulance on 999 if the person needs urgent medical assistance.
- 13.2 Where there is not an immediate risk, but there are safeguarding concerns these should be reported via the online safeguarding form. If you wish to discuss a safeguarding concern either before or after completing the online safeguarding form, you should contact either the Head of Housing and Health or the Service Manager – Community Wellbeing & Partnerships.

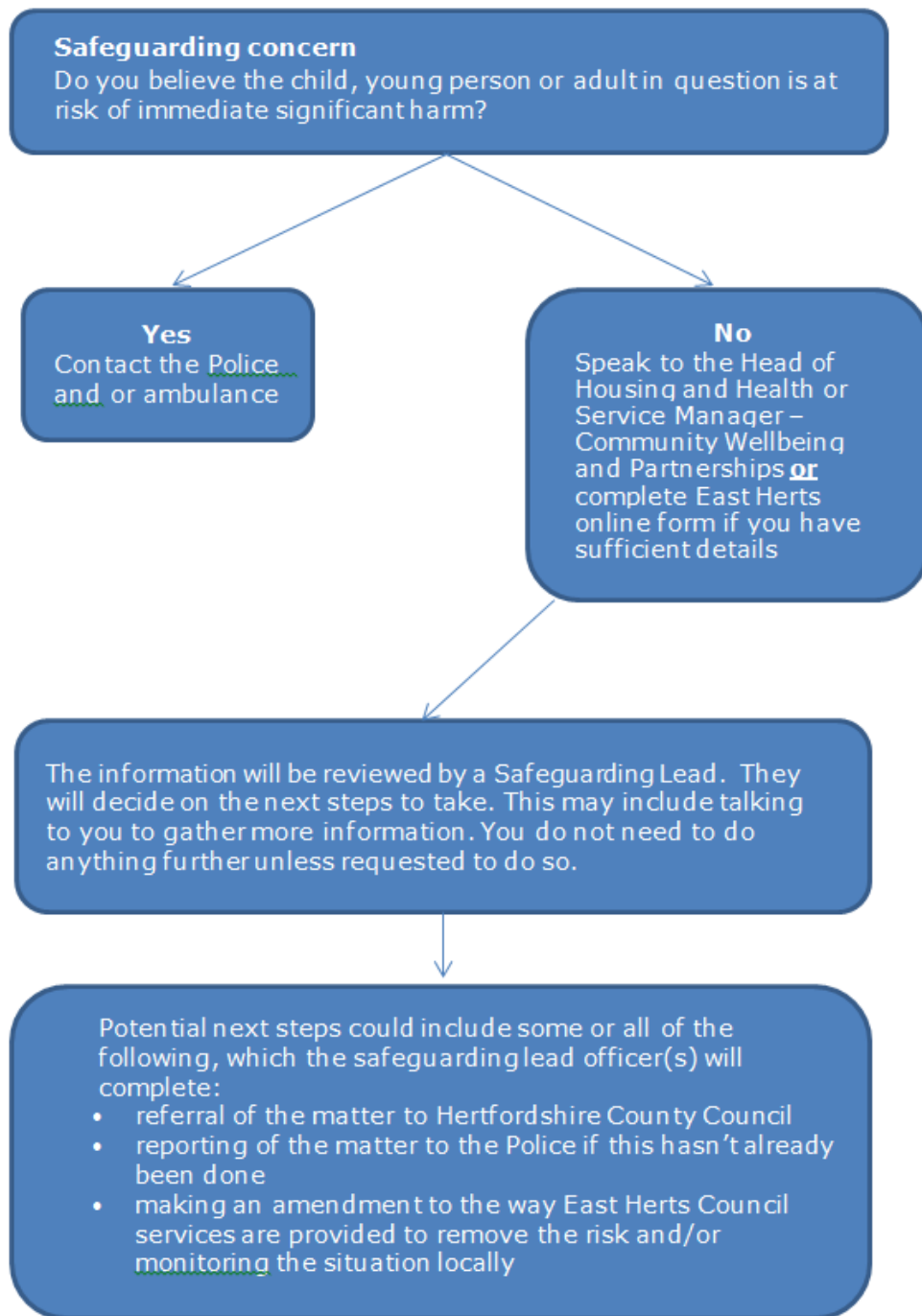
### 14. Monitoring and policy review

- 14.1 Actions required under this policy will be regularly monitored via:
- East Herts Council Safeguarding Policy Group
  - external audits
  - internal audits
  - recording of employee training
  - engagement with the Hertfordshire Safeguarding Boards and Partnerships
  - review of the council's Strategic Risk Register.
- 14.2 The policy will be reviewed every three years or sooner if there are any changes in legislation or best practice requiring amendments to be made.

# Executive Report 01.09.20 – Appendix B (Safeguarding Policy)

## 15. Recording and reporting safeguarding concerns – a quick guide

Here's what to do if you have concerns about the welfare of a child, young person or an adult at risk (sometimes referred to as a vulnerable adult) – **act immediately**.



# Executive Report 01.09.20 – Appendix B (Safeguarding Policy)

## **Key contact details**

East Herts Council Lead Officer for Safeguarding

**Jonathan Geall**, Head of Housing and Health

Direct Dial: 01992 531594

Mobile: 07921 941239

Email: [jonathan.geall@eastherts.gov.uk](mailto:jonathan.geall@eastherts.gov.uk)

East Herts Council deputy Lead Officer for Safeguarding

**Nick Phipps**, Service Manager – Community Wellbeing and Partnerships

Direct Dial: 01992 531547

Mobile: 07834 150517

Email: [nick.phipps@eastherts.gov.uk](mailto:nick.phipps@eastherts.gov.uk)

[safeguarding@eastherts.gov.uk](mailto:safeguarding@eastherts.gov.uk)



## **East Herts Council Report**

### **Council**

**Date of Meeting: 21 October 2020**

**Report by: Leader of the Council**

**Report title: Executive report 06.10.20**

**Ward(s) affected: All**

### **Summary**

This report details the recommendations to Council made by the Executive at its meeting on 6 October 2020. A separate report on this agenda relates to the Executive meeting held on 1 September.

### **1.0 Item considered and recommended to Council**

- 1.1 Since the last Council meeting, the Executive met on 6 October 2020. At that meeting the Executive considered and supported recommendations on the following items:
  - 1.1.1 East Herts District Plan 2018: Amendments to Policies Map
  - 1.1.2 Policies for Enforcing Standards for Private Sector Landlords
  - 1.1.3 Council Tax Reduction Scheme 2021/22
  - 1.1.4 Use of Compulsory Purchase Powers (CPO) in the Gilston Area
- 1.2 This report sets out the recommendations for the above items.

### **2.0 East Herts District Plan 2018: Amendments to Policies Map**

- 2.1 The Executive considered a report seeking agreement to correct three inaccuracies in the adopted East Herts

District Plan Policies Map, as well as two further minor errors which were identified following publication of the papers, specifically, changing references to CFLR1 rather than CLFR1 throughout, and changing references to “St.Thomas’ burial ground” to “Perry Green burial ground”. The Executive agreed to support these amendments in addition to those identified in the appendix to the report. The full report can be viewed at the link to the meeting, given at the end of this report. The updated appendix includes all corrections and is attached as Appendix B. The recommendation as outlined below was supported by the Executive.

### **RECOMMENDATION TO COUNCIL:**

- (a) That the amendments at Appendix B be noted and approved to form part of the adopted East Herts District Plan 2018 Policies Map.**

### **3.0 Policies for Enforcing Standards for Private Sector Landlords**

- 3.1 The Executive considered a report on proposed new policies relating to housing standards enforcement and the adoption of the powers introduced in the Housing and Planning Act 2016. The Executive agreed to support adoption of the policies which are attached as Appendix C. The full report can be viewed via the link to the meeting, given at the end of this report. The recommendation as outlined below was supported by the Executive.

## **RECOMMENDATION TO COUNCIL:**

**(a) That the proposed new policies attached as Appendix C relating to housing standards enforcement using powers introduced in the Housing and Planning Act 2016 be adopted by the Council:**

- i. Issuing of Civil Penalties;**
- ii. Applications for Rent Repayment Orders;**
- iii. Applications for Banning Orders; and**
- iv. Use of the Rogue Landlords and Property Agents Database.**

### **4.0 Council Tax Reduction Scheme 2021/22**

4.1 The Executive considered a report on continuation of the Local Council Tax Support Scheme, for 2021/22. The report setting out the provisions of the current scheme may be viewed via the link to the [Executive meeting](#). The Executive supported the recommendation as set out below.

## **RECOMMENDATION TO COUNCIL:**

**(a) To continue the current local Council Tax Support Scheme for 2021/22.**

## **5.0 Use of Compulsory Purchase Powers (CPO) in the Gilston Area**

5.1 The Executive considered a report seeking in principle agreement to use compulsory purchase powers in order to secure land to deliver transport infrastructure in the Gilston area, to support the delivery of the Gilston Area Allocation and the achievement of the wider strategic planning benefits referred to in the report to the Executive. The report may be viewed via the link to the Executive meeting at the foot of this report. The Executive supported the recommendations as set out below:

### **RECOMMENDATIONS TO COUNCIL:**

- (a) that, in principle, (and subject to Harlow District Council resolving to follow the same course of action) the Council be prepared to use powers available to it under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily purchase land in the Gilston area, as generally shown on the plans at Appendix 1 to the report to the Executive, to enable the construction of transport infrastructure to support the delivery of the Gilston Area allocation in the East Herts District Plan (The Gilston Area Allocation) and the achievement of the wider strategic planning benefits referred to in the report; and**
- (b) to note that Officers will undertake the work needed to prepare for a possible Compulsory Purchase Order (CPO) together with the associated documentation and, if necessary, will bring a further report back to the Executive and Council seeking authority to make a CPO.**

## **6.0 Executive Decisions**

- 3.1 Other matters determined by the Executive are detailed in the Minutes of the meeting, at Appendix A to this report.

## **7.0 Background papers, appendices and other relevant material**

- 7.1 Appendix A – Draft Minutes for the Executive meeting of 6 October 2020.
- 7.2 Appendix B – East Herts Local Plan 2018 – Amendments to Policies Map
- 7.3 Appendix C – Policies for Enforcing Standards for Private Sector Landlords
- 7.4 Full reports on the above items and on other matters considered may be viewed at [Executive 06.10.20](#).

### **Contact Member**

Councillor Linda Haysey – Leader of the Council  
[linda.haysey@eastherts.gov.uk](mailto:linda.haysey@eastherts.gov.uk)

### **Contact Officer**

James Ellis – Head of Legal and Democratic  
Services and Monitoring Officer  
Contact Tel No 01279 502170  
[james.ellis@eastherts.gov.uk](mailto:james.ellis@eastherts.gov.uk)

### **Report Author**

Rebecca Dobson – Democratic Services  
Manager  
[rebecca.dobson@eastherts.gov.uk](mailto:rebecca.dobson@eastherts.gov.uk)

This page is intentionally left blank

MINUTES OF A MEETING OF THE  
EXECUTIVE HELD AS A LIVESTREAMED  
MEETING ON TUESDAY 6 OCTOBER 2020,  
AT 7.00 PM

---

PRESENT: Councillor (Chairman/Leader)  
Councillors L Haysey, G Williamson,  
P Boylan, E Buckmaster, G Cutting,  
J Goodeve, G McAndrew and S Rutland-  
Barsby.

ALSO PRESENT:

Councillors R Bolton, B Crystall,  
M Goldspink, J Jones, M McMullen, T Page,  
M Pope, C Redfern, S Reed, P Ruffles,  
S Newton, A Ward-Booth and J Wyllie.

OFFICERS IN ATTENDANCE:

Richard Cassidy	- Chief Executive
Rebecca Dobson	- Democratic Services Manager
James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Jonathan Geall	- Head of Housing and Health
Steven Linnett	- Head of Finance
Jane O'Brien	- Senior Environmental Health Officer (Residential)
Sara Saunders	- Head of Planning

	and Building Control
Helen Standen	- Deputy Chief Executive
Kevin Steptoe	- East Herts Garden Town Lead Officer
Su Tarran	- Head of Revenues and Benefits Shared Service
Paul Thomas-Jones	- Environmental Health Manager - Commercial

## 179 APOLOGIES

There were no apologies for absence.

## 180 LEADER'S ANNOUNCEMENTS

The Leader, Councillor Haysey, welcomed all those attending the online meeting, and those observing the livestream. She said she particularly wished to commend Officers at this time. Many residents might not be aware of the extent of work which Officers were accomplishing during these challenging times. She thanked all East Herts Officers for their hard work behind the scenes in developing new initiatives and working practices.

Councillor Haysey reminded Executive Members of the way in which voting would be conducted, using the virtual indicators, and asked that any Member wishing to speak should raise either a “blue hand” symbol, or unmute themselves to ensure no requests to speak were



overlooked.

181 MINUTES

The Leader proposed, and Councillor Cutting seconded, a motion that the Minutes of the meeting held on 1 September 2020 be approved as a correct record and be signed by the Leader. The motion, on being put to the meeting and a vote taken, was declared CARRIED.

**RESOLVED** – that the Minutes of the meeting held on 1 September 2020, be approved as a correct record and signed by the Leader.

182 DECLARATIONS OF INTEREST

There were no declarations of interest.

183 UPDATE FROM OVERVIEW AND SCRUTINY COMMITTEE

Councillor Wyllie, Chairman of the Overview and Scrutiny Committee, gave a verbal report on the recent meeting of the Committee.

He said the Committee had met on 15 September 2020, and had considered a number of reports, including the Council Tax Reduction Scheme 2021/22, and the policy for enforcing standards for private sector landlords, both of which were items on the agenda for this meeting.

184 UPDATE FROM AUDIT AND GOVERNANCE COMMITTEE

Councillor Pope, the Chairman of the Audit and Governance Committee, gave a verbal update on the work of the Committee. He said the Committee had last met on 22 September 2020. This meeting had been the last one attended by the outgoing Head of Strategic Finance and Property, Bob Palmer, at which Councillor Pope had placed on record his thanks to him. The Committee had also welcomed the new Head of Strategic Finance and Property, Steven Linnett.

Councillor Pope said the Committee had considered a number of reports including the draft Statement of Accounts for 2019/20 and updates from the Shared Internal Audit Service and Shared Anti-Fraud Service. The external auditor, EY, had reported on progress on the 2019/20 audit, and it was pleasing to note that the auditor anticipated issuing an unqualified audit opinion on the financial statements.

The Committee had also considered the Budget Monitor report for 2020/21 Quarter 1, which was an item on the Executive's agenda, and with which the Committee had no concerns.

Finally, Councillor Pope expressed his gratitude to the former Head of Strategic Finance and Property for his excellent work.

The Leader submitted a report highlighting three inaccuracies in the adopted East Herts District Plan Policies Map. Further typographical errors had also been identified by a parish council. These minor errors were to changes references to “St. Thomas’ burial ground” to “Perry Green burial ground” in the original report at paragraph 2.5, and to change references to “CLFR1” in Appendix A to the report to “CFLR1”.

The Executive was invited to agree to recommend to Council the amendments to correct the policies map and the minor errors in the original report and appendix.

There being no comments, Councillor Haysey proposed, and Councillor Buckmaster seconded, a motion to support the recommendations in the report and to correct the minor errors specified in this Minute. The motion, on being put to the meeting, and a vote taken, was declared CARRIED.

**RESOLVED** – to recommend to Council that the amendments at the appendix to the report, and as identified in the above Minute, be noted and approved to form part of the adopted East Herts District Plan 2018 Policies Map.

186     HARLOW AND GILSTON GARDEN TOWN: SUSTAINABILITY  
GUIDANCE AND CHECKLIST

---

The Leader submitted a report inviting Executive

Members to consider the draft Harlow and Gilston Garden Town (HGGT) Sustainability Guidance and Checklist and seeking agreement that it be published for consultation.

Councillor Haysey said the Guidance and Checklist was to be used by applicants and partner authority Officers to ensure consistent standards of masterplans, pre-application proposals, planning applications and discharge of conditions applications.

There being no comments, Councillor Haysey proposed, and Councillor Buckmaster seconded, a motion to support the recommendations in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** - that the draft Harlow and Gilston Garden Town Sustainability Guidance and Checklist be agreed for a six week period of public consultation between October and December 2020.

187 POLICIES FOR ENFORCING STANDARDS FOR PRIVATE SECTOR LANDLORDS

Councillor Boylan, the Executive Member for Neighbourhoods, submitted a report seeking that the proposed new policies on housing standards enforcement and the adoption of powers introduced in the Housing and Planning Act 2016 be recommended to Council for adoption. The policies had been developed with other local authorities across Hertfordshire and Bedfordshire. The Overview and Scrutiny Committee had considered the proposals and

had made a number of helpful comments which had been taken into account.

Councillor Boylan thanked Officers, and in particular the Senior Environmental Health Officer. Councillor Buckmaster said he hoped there would be no need to implement the policies, as they included some significant powers. However, he welcomed the fact that the policies would ensure use of the penalties was done in a consistent and transparent way.

Councillor Boylan proposed, and Councillor Goodeve seconded, a motion to support the recommendations in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** – to recommend to Council that (a) the following proposed new policies, as attached at the appendix to the report, relating to housing standards enforcement, using powers introduced in the Housing and Planning Act 2016, be adopted:

- (i) issuing of civil penalties;
- (ii) applications for rent repayment orders;
- (iii) applications for banning orders; and
- (iv) use of the Rogue Landlords and Property Agents Database.

188 COUNCIL TAX REDUCTION SCHEME 2021/22

Councillor Williamson, the Executive Member for Financial Sustainability, submitted a report on the annual review of the local Council Tax Support scheme, which asked Executive Members to consider the latest

available information on the scheme, and to consider whether any changes should be made for 2021/22.

Councillor Williamson said the report set out the history of the scheme at East Herts and summarised the current scheme for 2020/21. The scheme replicated the previous Council Tax Benefit scheme, but limited the Council Tax liability which was used to assess entitlement to 91.5% for working age customers.

Councillor Williamson said the scheme was reviewed each year. Since its introduction, the same level of assessment had been maintained. It was necessary to be aware that making any change would come with risks, such as reducing income for the Council and precepting authorities, or, if entitlements were reduced, causing hardship. Any change would require modelling and consultation. Therefore the recommendation was to continue the current scheme.

There being no comments, Councillor Williamson proposed, and Councillor Rutland-Barsby seconded, a motion to support the recommendation in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** – to recommend to Council that the current local Council Tax Support Scheme be continued for 2021/22.

189      QUARTERLY CORPORATE BUDGET MONITOR - Q1 JUNE 2020

The Executive Member for Financial Sustainability,

Councillor Williamson, welcomed Steven Linnett as the Council's new Head of Strategic Finance and Property and Section 151 Officer.

Councillor Williamson then submitted a report on financial monitoring for the first quarter of the current financial year. He said this had been a time of considerable financial uncertainty, during which many of the Council's core funding streams had been affected adversely. Without Government help the position would have been worse. The report indicated a forecast outturn of an overspend of £100,000, with capital expenditure on target, with only a comparatively small amount of £100,000 to be carried forward to future years. The report asked Executive Members to note the net revenue budget forecast overspend and revised capital budget.

Councillor Williamson invited questions.

Councillor Redfern referred to the review which had been resolved upon at the previous meeting, regarding the Capital programme and updated business cases for major projects as part of the budget setting process. She said it was important that such updated business cases be submitted to the Council. It was necessary to decide whether the major projects were viable, and would not burden Council taxpayers if estimated incomes failed to materialise. She asked that the Executive agree that the revised business plans be brought to Council as soon as possible.

Councillor Williamson said work on the business case for the projects had been taking place for some time, in relation to various scenarios including Brexit and

Covid-19. Such work was nearing completion, and indications were that the financial position for the Council was still positive. Budget setting would be conducted for next year, and the review would be made available soon.

Councillor Goldspink welcomed the review of the business case for the major projects, and asked when they would be made available. Councillor Williamson said that the information would be shared with all Members as soon as possible.

Councillor Williamson then proposed, and Councillor Goodeve seconded, a motion to support the recommendations in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** - that (A) the net revenue budget forecast overspend of £100K in 2020/21 be noted as shown in Table 1 of the report; and

(B) the revised capital budget for 2020/21 is £73.985m, of which £100K is estimated to be carried forward to future years, be noted.

190     USE OF COMPULSORY PURCHASE (CPO) POWERS IN THE GILSTON AREA

The Leader submitted a report on use of compulsory purchase order powers in the Gilston area. She explained that the appendices to the report contained exempt information and as such were restricted from public discussion, due to the fact that they contained



the details of landowners. If Members wished to consider those papers, the meeting would need to exclude the public and press by switching off the livestream and recording.

Councillor Haysey said the report proposed a recommendation to Council to agree in principle that it would make use of the compulsory purchase order powers available to it, to secure land to deliver transport infrastructure in the Gilston area and the wider strategic planning benefits referred to in the report. The powers would be used only if the land could not be acquired by negotiation.

There being no comments, Councillor Haysey proposed, and Councillor Williamson seconded, a motion supporting the recommendations in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** - (A) to recommend to Council that, in principle, (and subject to Harlow District Council resolving to follow the same course of action) the Council be prepared to use powers available to it under section 226(1)(a) of the Town and Country Planning Act 1990 to compulsorily purchase land in the Gilston area, as generally shown on the plans at Appendix 1 to the report, to enable the construction of transport infrastructure to support the delivery of the Gilston Area allocation in the East Herts District Plan (The Gilston Area Allocation) and the achievement of the wider strategic planning benefits referred to in the report;

(B) that the Executive delegates authority to the Head of Legal and Democratic Services, in consultation with the Head of Planning, to enter into a Compulsory Purchase Order Indemnity Agreement (CPO IA) in relation to this matter, on behalf of the Council; and

(C) that the Executive and Council note that Officers will undertake the work needed to prepare for a possible Compulsory Purchase Order (CPO) together with the associated documentation and, if necessary, will bring a further report back to the Executive and Council seeking authority to make a CPO.

191 EXCLUSION OF PRESS AND PUBLIC

Councillor Haysey proposed, and Councillor Boylan seconded, a motion to exclude the press and public from the meeting during the discussion of the next item, on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, in that disclosure could compromise a proposed exercise of compulsory purchase order powers.

On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** – to exclude the press and public from the meeting during the discussion of the next item, on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local

Government Act 1972, in that disclosure could compromise a proposed exercise of compulsory purchase order powers.

192    COMPULSORY PURCHASE ORDER REQUEST - OPTIONS APPRAISAL PROCESS

---

The Executive Member for Financial Sustainability submitted a report setting out the context for a request that Officers explore options in response to a request to exercise compulsory purchase order powers.

Members considered the proposals and noted that a report would be brought back for further consideration.

Councillor Williamson proposed, and Councillor McAndrew seconded, a motion to support the recommendations in the report. On being put to the meeting, and a vote taken, the motion was declared CARRIED.

**RESOLVED** - that the recommendations in the report containing exempt information be approved, in that Officers be authorised to explore Compulsory Purchase Order options and report back to Executive and Full Council.

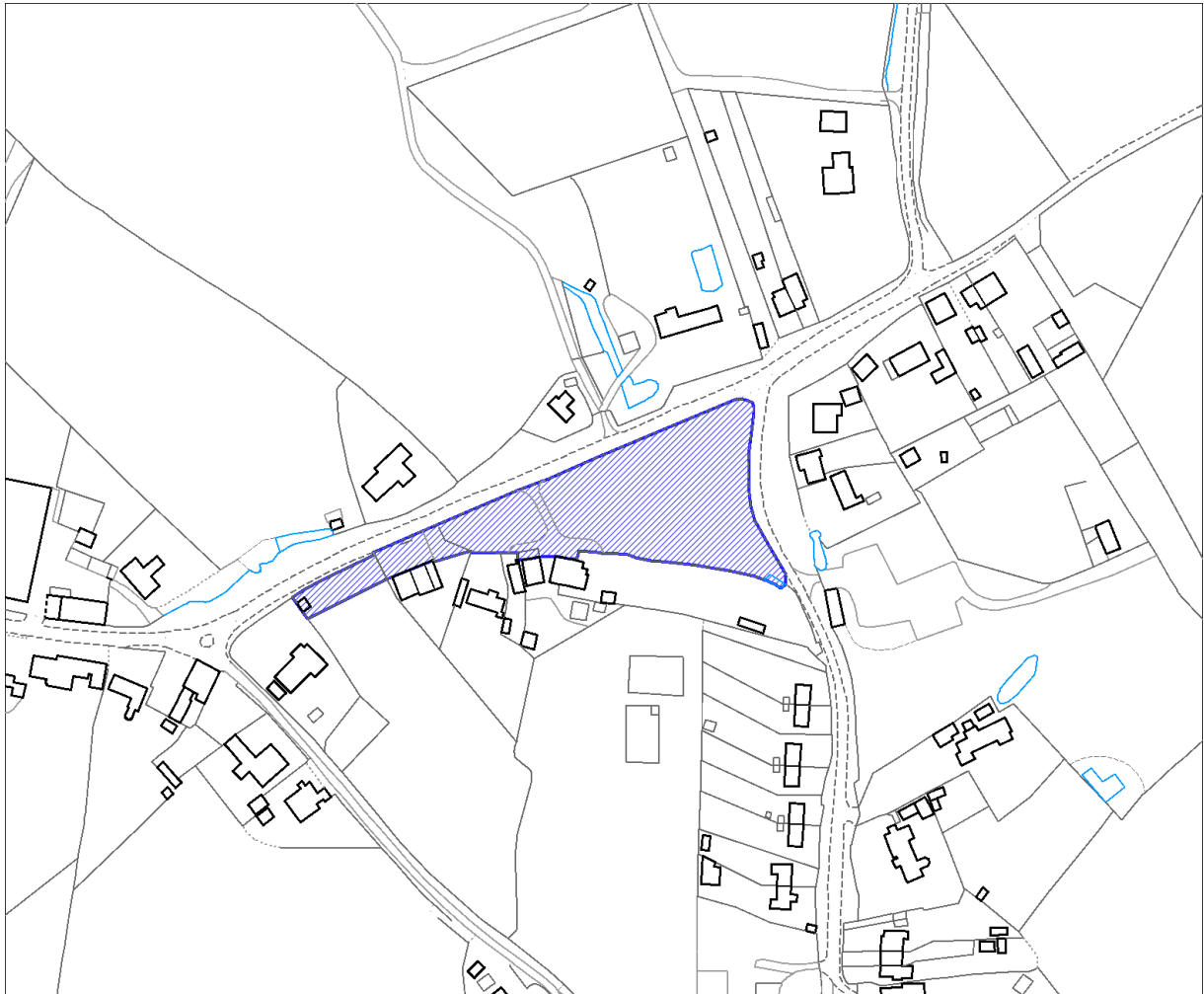
The meeting closed at 7.33 pm

This page is intentionally left blank

# Executive report – 06.10.20 – Appendix B (Policies Map Amendments)

## Change 1 - Green Tye:

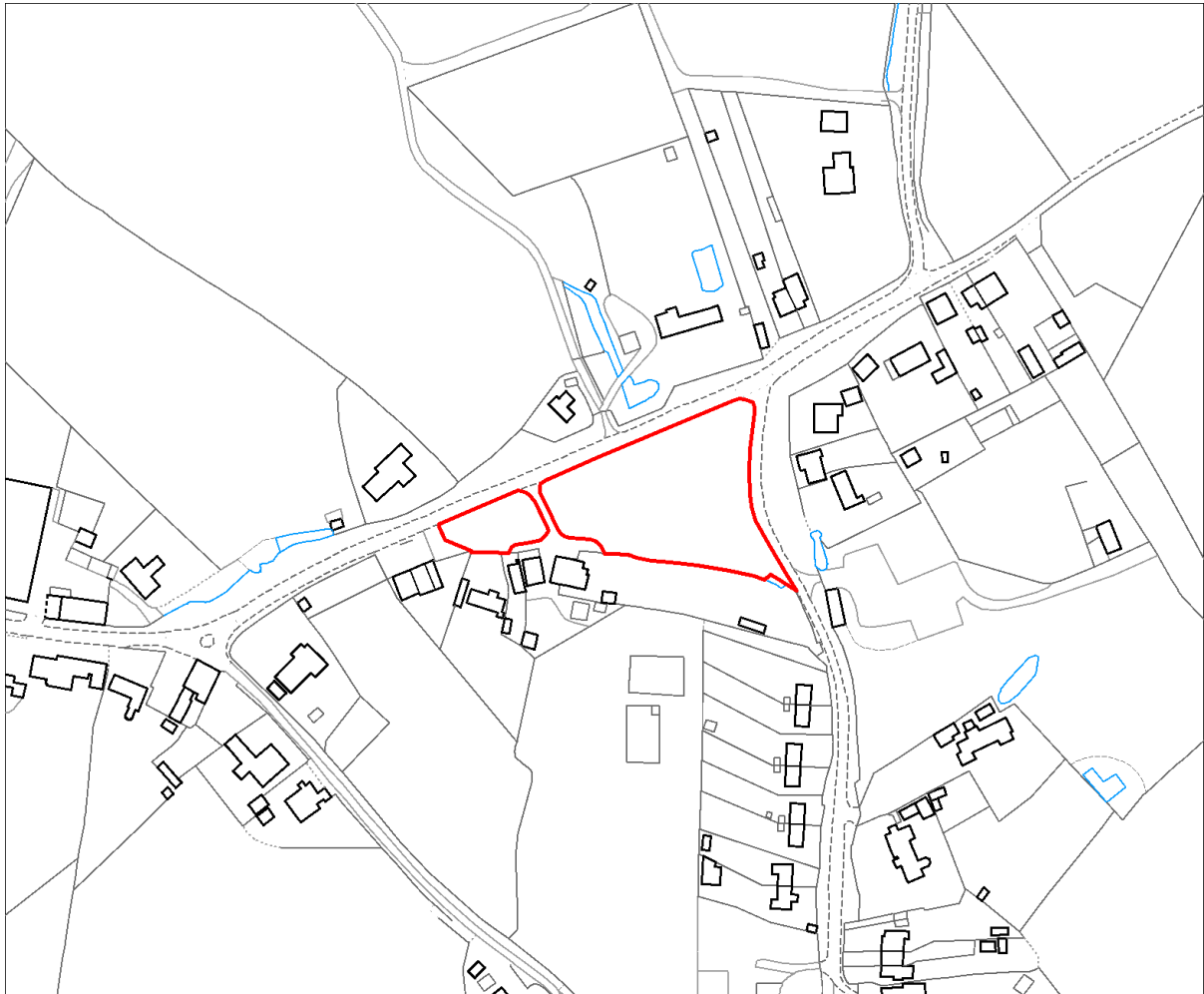
### Policy CFLR1 – District Plan Policies Map 2018:



**Note** – The above designation wrongly identified land in private ownership, as such the amendment (next page) corrects this.

# Executive report – 06.10.20 – Appendix B (Policies Map Amendments)

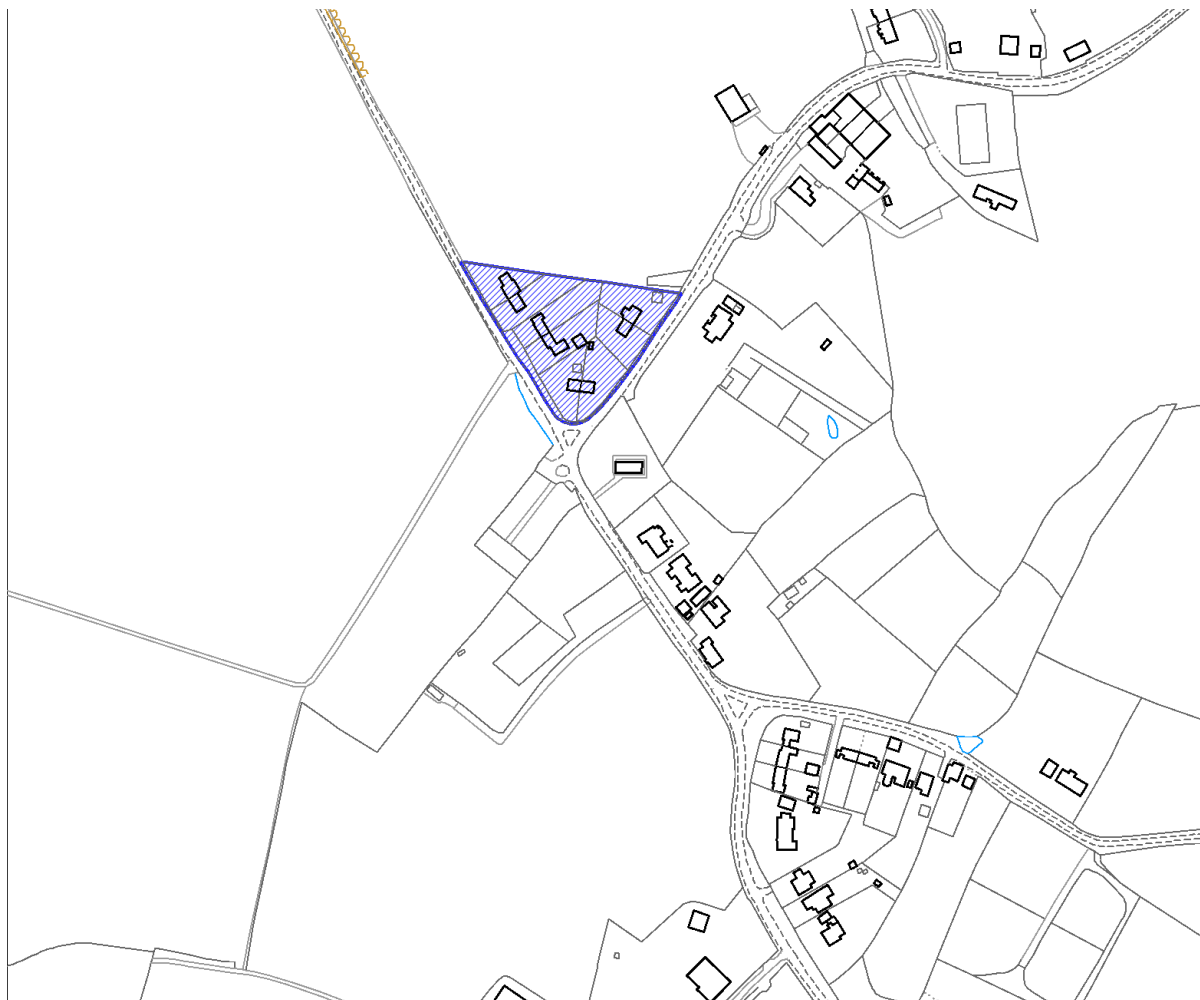
## Policy CFLR1 – District Plan Policies Map following 2020 amendment:



# Executive report – 06.10.20 – Appendix B (Policies Map Amendments)

## Change 2 and Change 3 – Perry Green

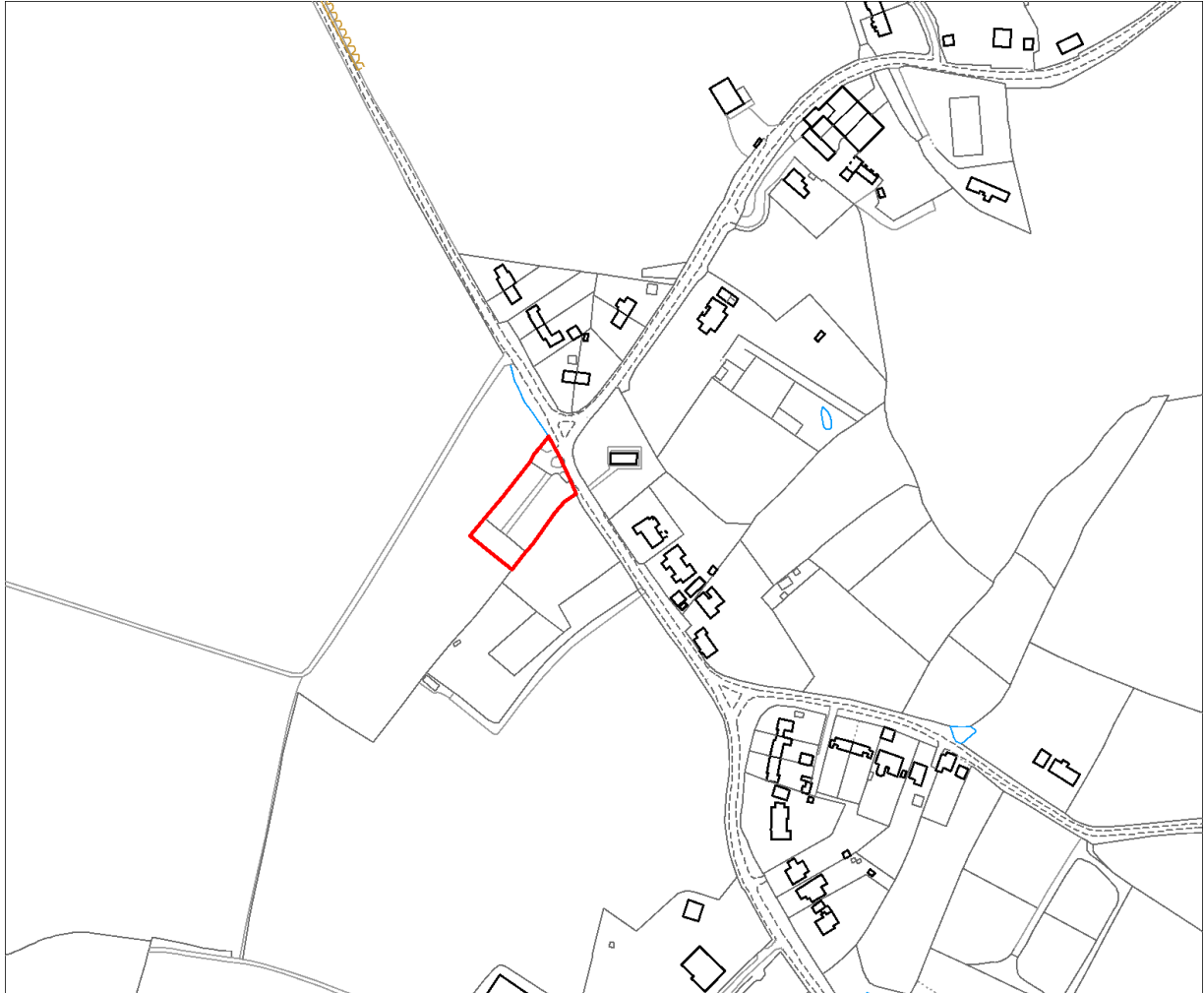
### Policy CFLR1 – District Plan Policies Map 2018:



**Note** – The above designation wrongly identified a residential area as Policy CFLR1. As such this designation has been deleted and replaced with the originally intended allocation (next page).

# Executive report – 06.10.20 – Appendix B (Policies Map Amendments)

## Policy CFLR1 - District Plan Policies Map following 2020 amendment:





Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **East Hertfordshire District Council**

### **Policies on Additional Housing Standards Enforcement Powers**

**Draft October 2020**

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## Contents

<b>Introduction .....</b>	<b>4</b>
Central Government context and the introduction of new powers .....	4
Local context and enforcement of housing standards .....	4
This Document .....	5
<b>Policy 1 - The issuing of a civil penalty under the Housing and Planning Act 2016... 6</b>	
Introduction .....	6
Specified offences for which a civil penalty can be imposed .....	6
Burden of proof.....	6
Determining whether to issue a civil penalty or to prosecute .....	6
Determining the level of civil penalty to be imposed .....	7
Determining the decision.....	10
The process for imposing a civil penalty.....	10
<b>Policy 2 - The application for a Rent Repayment Order under the Housing Act 2004 and the Housing and Planning Act 2016 .....</b>	<b>12</b>
Introduction .....	12
Specified offences for which a Rent Repayment Order can be imposed .....	12
Who can apply for a Rent Repayment Order? .....	12
Determining whether to apply for a Rent Repayment Order .....	13
Burden of proof.....	13
Determining the amount of rent the Council will seek to recover .....	14
Determining the decision to apply.....	14
Use of money recovered .....	14
The Process for the Council applying for a Rent Repayment Order.....	15
Consequences of non-payment and miscellaneous provisions.....	15
<b>Policy 3 - The application for a banning order under the Housing and Planning Act 2016 .....</b>	<b>16</b>
Introduction .....	16
Offences for which a Banning Order can be imposed .....	16
Determining whether to apply for a Banning Order.....	16
Confirming the Decision to Apply .....	18
The Process for applying for a banning order.....	18
Implications following the making of a banning order. ....	18

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016 ..... 20**

Introduction ..... 20

Circumstances under which an entry to the Database can be made ..... 20

Determining whether to make an entry to the Database..... 21

Determining the period an entry will remain on the Database ..... 21

Confirming the Decision to make an entry to the database ..... 22

The Process for making an entry to the database..... 22

## **Glossary of Terms – Housing Enforcement..... 24**

## **Key reference documents ..... 26**

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## Introduction

### **Central Government context and the introduction of new powers**

The Government has repeatedly stated that it wants to support good landlords who provide decent well maintained homes but that there are a small number of rogue or criminal landlords who knowingly rent out unsafe and substandard accommodation. They are clear that this small minority of rogue landlords and property agents who knowingly flout their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing.

This document incorporates policies for a range of measures aimed at improving standards in housing through the use of:

1. Civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences
2. Extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences
3. Banning orders for the most serious offenders
4. A database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties

### **Local context and enforcement of housing standards**

The council aims to ensure that all residents living in East Herts have a home that provides a safe and healthy environment that is free from any hazards that have the potential to pose a health and safety risk to any occupier or visitor.

Many landlords in our district work well with the Council and where we find problems they will put things right promptly. Others, whilst they will respond, tend to delay and require significant time and effort from our officers to ensure safety standards are met. Before the introduction of these measures prosecution through the criminal courts was the primary enforcement option adding significant delays and additional officer time. Civil penalties, whilst still requiring the same burden of proof provide us with a more timely option to enforce on landlords who knowingly do not maintain safety features or who delay safety checks or improvement work. Time saved from chasing the second group of landlords will free up officers to target those landlords in our district who chose not to work with us and who have more dangerous properties or who are avoiding HMO licensing. For this group significant civil penalties, as an alternative to prosecution will be considered where this is seen to be appropriate.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **This Document**

The Council's policies have been produced with due regard to the government guidance. There is also a Glossary of key terms and a list of relevant legislation and guidance.

The hyperlinks below will take you to each section.

[Policy 1 - The issuing of a civil penalty under the Housing and Planning Act 2016](#)

[Policy 2 - The application for a Rent Repayment Order under the Housing Act 2004 and the Housing and Planning Act 2016](#)

[Policy 3 - The application for a banning order under the Housing and Planning Act 2016](#)

[Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016](#)

[Glossary of Terms – Housing Enforcement](#)

[Key reference documents](#)

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Policy 1 - The issuing of a civil penalty under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 enables Local Authorities to impose civil penalties as an alternative to prosecution for certain offences under the Housing Act 2004. This policy supports the use of this enforcement route and specifically identifies the factors to consider when determining the use of civil penalties.

Statutory guidance has been issued by the Ministry for Housing, Communities and Local Government (MHCLG) under section 23 (10) and Schedules 1 and 9 of the Housing and Planning Act 2016. The Council must have regard to this guidance in the exercise of its functions in respect of civil penalties. This guidance can be accessed [here](#).

### **Specified offences for which a civil penalty can be imposed**

The specified offences appropriate to East Hertfordshire District Council are:

- failing to comply with an improvement notice - Housing Act 2004 Section 30
- offences in relation to the licensing of houses in multiple occupation - Housing Act 2004 Section 72
- offences in relation to the contravention of an overcrowding notice - Housing Act 2004 Section 139
- failure to comply with management regulations in respect of houses in multiple occupation - Housing Act 2004 Section 234.

### **Burden of proof**

Civil penalties are an alternative to prosecution and the same criminal standard of proof, that is beyond reasonable doubt, is required. Before taking formal action officers must be satisfied that this is appropriate with respect to the relevant enforcement policies and that if the case was to be prosecuted in a magistrates court there would be a realistic prospect of conviction. This will be determined considering the two stages of the Full Code Test within the Crown Prosecution Service's "Code for Crown Prosecutors" to review both the sufficiency of evidence and whether it is in the public interest to impose a penalty. Due regard will also be given to any potential defences and it may be appropriate to undertake an interview under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) to explore this.

### **Determining whether to issue a civil penalty or to prosecute**

When the Council is satisfied that a relevant offence has been committed and that it is in the public interest to proceed formally we will decide whether to prosecute or issue a civil penalty.

In deciding whether to impose a civil penalty or to proceed to prosecution we will take into consideration factors including the seriousness of the offence; the culpability of the offender; the harm, or potential harm to tenants; and the impact on the wider community.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

The following, while not exhaustive, are situations where prosecution may be more appropriate;

- the offence was very serious, for example failure to comply with an improvement notice where there was significant risk of injury or loss of life and/or
- the offender has been prosecuted or previously has been issued with civil penalties for similar Housing Act offences.

The following, while not exhaustive, are situations where the issuing of a civil penalty may be more appropriate:

- no history of previous non-compliance with relevant legislation
- no previous convictions of relevant offences
- breaches of management regulations or licence conditions where there was no imminent risk of injury or loss of life
- the offence was committed as a result of a genuine mistake or misunderstanding, although this will be balanced against the seriousness of the offence
- prosecution is likely to have a serious adverse effect upon the offender's physical or mental wellbeing, although this will be balanced against the seriousness of the offence.

## **Determining the level of civil penalty to be imposed**

The Housing and Planning Act 2016 specifies that the amount of penalty that can be imposed is to be determined by the Council but must not be more than the legal set maximum (currently £30,000 per offence). The Council has developed this policy on determining the appropriate level of civil penalties allowing for each specific case to be determined against the recommended factors. The maximum penalty is reserved for the worst offenders. The guidance states that the penalty should be a punishment which has a real economic impact to the offender.

To aid with consistency we have worked with the other Herts and Beds Councils and developed a financial penalty matrix that takes into account relevant matters including, but not limited to:

- the culpability of the offender
- that the penalty should remove any financial benefit obtained as a result of the commission of the offence
- the severity and seriousness of the offence and the past history of the offender
- the harm, or potential harm, caused to the tenant.

Finally the penalty should act as a deterrent to repeating the offence and to others from committing similar offences. The image below gives an indication of the matrix which is included in full as Appendix A to this policy.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## Appendix 1: Financial Penalty Matrix

Offender Name:		Ref:	
----------------	--	------	--

Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20
<b>1. Culpability</b>	Low; Offence committed with little or no fault on the part of the responsible person	Low/Medium; An awareness of the legal framework and systems in place to ensure compliance but these were not implemented	Medium/High; despite an awareness of the legal responsibilities the responsible person failed to put in place suitable systems in place to ensure compliance	High; There was some awareness of the law but the responsible person still allowed/committed the offence.	Very High; intentional breach by responsible person. For example non compliance with a Formal Notice
<b>2. Removal of Financial Incentive</b>	No Significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2-3 properties). Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.
<b>3. Offence &amp; History</b>	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offences of moderate to large severity or a single instance of a very severe offence or multiple breaches.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.
<b>4. Harm ,or potential harm, to Tenant(s)</b>	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).

<b>Total Penalty (£):</b>	£	-
<b>Final penalty after mitigating or aggravating</b>		
<b>Reasoning (if changed)</b>		

Figure 1 - Financial Penalty Matrix

### Factors when considering culpability

In determining the level of culpability we will have regard to the following:

- whether there was the intention to commit the offence
- whether the offence has resulted from reckless behaviour for example where the offender had some appreciation of the effects their actions would have but proceeded regardless
- whether the offender had knowledge of the risks of harm that their actions could cause
- whether the offender's actions are considered to be negligent.

### Factors when considering the harm, or potential harm, caused

In determining the level of harm we will have regard to:

- the persons affected in terms of physical injury, negative impacts on their health, and any psychological distress
- any vulnerability of the persons affected
- the number of persons affected
- the community in terms of economic loss and the effects on public health, public complaints and the effects of poor housing condition on the neighbourhood.



## Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

The degree of harm will depend on the personal characteristics and circumstances of the person affected, normally the tenant. Where no actual harm has resulted from the commission of the offence we will consider the relative danger and the potential of harm that could have resulted as a result of the offences.

The use of the matrix then generates a score which corresponds to a representative penalty as follows:

Score	Penalty	Possible situation
1-5	£250	Landlord failing to provide certain certificates required under HMO Management Regulations or HMO licence
6-10	£500	
11-20	£750	
21-30	£1,000	
31-40	£2,500	Failure to comply with Housing Act Improvement Notice for Category 1 hazard having previously committed a minor offence
41-55	£5,000	
56-65	10,000	
66-75	£15,000	Portfolio landlord evading HMO licensing and non-compliance with Improvement notices for Category 1 hazards
76-85	£20,000	
86-95	£25,000	
96-100	£30,000	

### Aggravating Factors

The amount of penalty can be increased into the next band if there are any relevant aggravating factors.

### Multiple Offences

Only one penalty can be imposed in respect of the same offence. However, where we are satisfied that more than one offence has been committed multiple civil penalties can be issued, for example for multiple breaches of the Management Regulations in a House in Multiple Occupation. However, we will consider whether the issuing of multiple penalties would result in an excessive cumulative amount and this policy gives discretion in this situation. For instance we could decide that it is appropriate to issue a civil penalty for the most significant offences and warn the offender that continuation or repeating of the other offences may result in further formal enforcement action being taken.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Determining the decision**

The decision to continue and serve a civil penalty will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **The process for imposing a civil penalty**

Where we have determined that a civil penalty as opposed to prosecution is the appropriate course of action we will follow the following process (references to days are to calendar days):

- 1) a 'Notice of Intent' will be served on the person(s) responsible for the commission of the offence(s). The notice will specify:
  - the amount of the proposed penalty
  - the reasons for the proposed penalty
  - information relating to the right of the recipient to make representation to the Council
- 2) the recipient of the Notice is given 28 days to make representation to the Council regarding the proposal to impose a civil penalty
- 3) following the 28 day period we will decide whether to impose the proposed civil penalty and the appropriate value. This could be varied taking into account any representations received from the recipients
- 4) if we decide that a civil penalty is still appropriate a Final Notice will be served which will specify:
  - the amount of the penalty
  - the reasons for imposing the penalty
  - information on how and when to pay the penalty
  - information regarding the right of appeal against the imposition of a civil penalty to the First Tier Tribunal
  - the consequences of failure to comply with the notice.

### **Consequences of non-payment and miscellaneous provisions**

If the landlord or property agent fails to pay a civil penalty, the Council will seek to recover the penalty by order from a County Court including the costs incurred in taking such action where deemed appropriate.

The Council may at any time withdraw any notices it has served or amend the amount of penalty specified. This would be decided by the Service Manager – Environmental Health in consultation with the Head of Housing and Health.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Links with the National Database of 'Rogue Landlords and Letting Agents'**

Where a landlord receives two or more civil penalties, from East Herts Council, over a rolling 12 month period the Council may make an entry on the National Database of 'Rogue Landlords and Letting agents' in accordance with Housing & Planning Act 2016 s30. When considering if this is an appropriate course of action the Council will have regard to its policy on making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016 (Policy 4 in this document) and to the statutory guidance issued by the MHCLG in April 2018 or any updated statutory guidance.

Appendix A – Financial Penalty Matrix

(see excel file Financial Penalty Matrix)

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Policy 2 - The application for a Rent Repayment Order under the Housing Act 2004 and the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 has extended the powers introduced in the Housing Act 2004 to seek a Rent Repayment Order against landlords in the private rented sector for a range of offences. A Rent Repayment Order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent to either the tenant or the local housing authority depending on whether the rent was paid by the tenant or through a benefit route. This policy supports the use of this enforcement option and specifically identifies the factors to consider when determining whether to apply for a Rent Repayment Order and the level of rent to be recovered.

Statutory guidance has been issued by Ministry for Housing, Communities and Local Government (MHCLG) under section 41 of the Housing and Planning Act 2016. Local housing authorities must have regard to this guidance in the exercise of their functions in respect of Rent Repayment Order. This guidance can be accessed [here](#).

### **Specified offences for which a Rent Repayment Order can be imposed**

The specified offences appropriate to East Hertfordshire District Council are:

- control or management of unlicensed HMO – Housing Act 2004 Section 72
- failing to comply with an Improvement Notice - Housing Act 2004 Section 30
- failure to comply with a Prohibition Order - Housing Act 2004 Section 32
- breach of a banning order – Housing and Planning Act 2016 Section 21
- using violence to secure entry to a property - Criminal Law Act 1977 section 6
- illegal eviction or harassment of the occupiers of a property - Protection from Eviction Act 1977 section 1.

An application for a Rent Repayment Order can be made when the landlord has committed an offence, whether or not a landlord has been prosecuted or received a civil penalty for that offence.

It should be noted that the Council can both impose a Civil Penalty and apply for a Rent Repayment Order for certain offences. Both Civil Penalties and Rent Repayment Orders are available for the following offences under the Housing Act 2004:

- failure to comply with an Improvement Notice (section 30)
- offences in relation to licensing of Houses of Multiple Occupation (section 72(1))
- offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

### **Who can apply for a Rent Repayment Order?**

Either a tenant or the Council can apply for a Rent Repayment Order.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

Where a landlord has been convicted of an appropriate offence the Council will consider making an application.

Where a landlord has committed an offence but has not been prosecuted and housing benefit or universal credit has been paid (to the tenant or directly to the landlord) the Council will consider making an application.

The amount of award to be paid to the tenant and/or to the Council where benefit has been paid is determined using a formula given in the MHCLG statutory guidance.

Where a landlord has committed an offence but has not been prosecuted and the tenant has not been in receipt of benefits the Council will consider supporting the tenant in making a claim for rent repayment, subject to the appropriate fee where applicable, and may decide to make the application on their behalf.

## **Determining whether to apply for a Rent Repayment Order**

Where we become aware that a landlord has been convicted of any of the offences for which a Rent Repayment Order can be imposed and where the offence was committed in East Herts, we will consider applying for a Rent Repayment Order. Where there has been no conviction but we are confident that there would be a realistic prospect of the order being granted we will consider making an application. In deciding whether it is appropriate to apply for a Rent Repayment Order for the commission of a relevant offence, we will consider each case individually taking into account:

- the seriousness of the offence
- the culpability of the offender
- the harm, or potential harm to tenants
- the impact on the wider community
- the deterrent effect on the landlord and other landlords.

The following, while not exhaustive, are situations where an application for a Rent Repayment Order may be appropriate:

- the offender has had a civil penalty imposed or was prosecuted and convicted for an offence with actual or significant risk of harm to tenants or significant impact on the community
- the offender has had a civil penalty imposed or was prosecuted and convicted for an offence and has made profit or savings of costs from the action or omission involved in the offence
- the offender has been prosecuted or previously has been issued with Civil Penalties for similar Housing Act offences.

## **Burden of proof**

A criminal standard of proof is required. This means that the First-tier Tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence or the landlord has been convicted in the courts of the offence for which the Rent Repayment Order application is being made.

## Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

Before applying for a Rent Repayment Order, officers must be satisfied that this is appropriate with respect to the relevant Enforcement Policies and that, if the offence leading to the application was to be prosecuted in a magistrates' court, there would be a realistic prospect of conviction. This will be determined considering the two stages of the Full Code Test within the Crown Prosecution Service's "Code for Crown Prosecutors" to review both the sufficiency of evidence and whether it is in the public interest to impose a rent repayment order. Due regard must also be given to any potential defences and it may be appropriate to undertake an interview under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) to explore this.

### **Determining the amount of rent the Council will seek to recover**

Rent repayment orders should have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. Where the offender has been convicted of a relevant offence the First Tier Tribunal must award the maximum amount, capped at 12 months' rent to be repaid. Where the offender has not been convicted the Council will determine an amount up to the maximum that it will seek to be repaid taking into account the published guidance.

Factors that the Council will consider include:

- the conduct of the landlord and tenant
- the financial circumstances of the landlord
- whether the landlord has previously been convicted of similar offences
- the level appropriate to deter the landlord from repeating the offence and to dissuade others from offending
- the level necessary to remove any financial benefit the offender may have obtained as a result of committing the offence.

### **Determining the decision to apply**

The decision to continue and apply for a Rent Repayment Order (and where necessary to respond to an appeal) will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

### **Use of money recovered**

(This excludes any amount payable to the tenant.)

An amount payable to East Herts under a Rent Repayment Order does not constitute an amount of Universal Credit/benefits recovered. The Council may apply any amount recovered under a Rent Repayment Order to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. Any remaining amount remains with the council.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **The Process for the Council applying for a Rent Repayment Order**

Where it has been determined that an application for a Rent Repayment Order will be made the Council will follow the process set out in the legislation (references to days are to calendar days):

- 1) a notice of our intention to apply to the First Tier Tribunal for a Rent Repayment Order will be served on the landlord. The notice will specify:
  - the reasons for the application
  - the amount that we are seeking to recover
  - the right of the recipient to make representation to the Council giving a period of at least 28 days for the recipient do so
- 2) following the notice period we will consider any representations made and will decide whether to continue and make the application to the First-tier Tribunal
- 3) After submitting an application we will comply with any Directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Councils Legal Services team
- 4) Following the decision of the First-tier Tribunal to award a Rent Repayment Order the landlord or agent may decide to appeal to the Upper Tribunal. Officers will review the Appeal submission and determine the Councils response. Confirmation of such response will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

## **Consequences of non-payment and miscellaneous provisions**

Where a landlord fails to pay a Rent Repayment Order awarded to the Council, including after an appeal has been finally determined and the order upheld, we will seek to recover the penalty by order from a County Court including the costs incurred in taking such action where deemed appropriate.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Policy 3 - The application for a banning order under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 introduced powers for a local housing authority to seek a banning order against landlords or property agents in the private rented sector for a range of offences. A banning order is an order made by the First-tier Tribunal banning a landlord or agent from

- letting accommodation in England
- engaging in letting agency work in England
- engaging in property management work in England

Breach of a banning order is a criminal offence.

This policy supports the use of this enforcement option and specifically considers the factors to consider when determining whether to apply for a banning order and when recommending the length of any banning order.

This policy takes account of the guidance issued by the Ministry for Housing, Communities and Local Government. This guidance can be accessed [here](#).

### **Offences for which a Banning Order can be imposed**

The specified offences appropriate to East Hertfordshire District Council are given in [The Housing and Planning Act 2016 \(Banning Order Offences\) Regulations 2018](#) they include both specific housing related offences and a number of offences not directly related to housing, such as fraud, sexual assault, misuse of drugs, theft and stalking

A banning order can only be applied for when the landlord or agent has been convicted of one of the specified offences. They can only be considered for offences committed after the introduction (April 2018) and if applying, a notice of intention to apply must be served within six months of the day that the landlord or agent was convicted.

### **Determining whether to apply for a Banning Order**

Where the Council has successfully prosecuted a landlord or where we are made aware that a landlord or agent has been prosecuted by the Police or other enforcement agencies for a banning order offence we will consider making an application. A banning order must be for a minimum period of 12 months. There is no statutory maximum period for a banning order. Whilst the Council will recommend the period of a banning order the actual period is determined by the First Tier Tribunal.

As recommended by the guidance, we will consider the following factors when deciding whether to apply for a banning order and when recommending the period for any banning order:



# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **The seriousness of the offence**

All banning order offences are serious. We will take into account the sentence imposed by the Court in respect of the banning order offence itself. The more severe the sentence imposed by the Court, the more appropriate it will be for a banning order to be made. For example, did the offender receive a maximum or minimum sentence or did the offender receive an absolute or conditional discharge?

## **Previous convictions/rogue landlord database**

We will check the rogue landlord database in order to establish whether a landlord or agent has committed other banning order offences or has received any civil penalties in relation to banning order offences. A longer ban may be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords and agents are running businesses and should be aware of their legal obligations. For example, in the case of property agents, they are required to be a member of a redress scheme and any evidence of noncompliance could also be taken into account.

Under Section 19 of the act the Council can require information from a landlord or agent to support determination of whether to apply for a banning order. We will typically use this provision to request details of other private sector rental properties that the landlord or agent has an interest in and may use this information to check with other authorities for any other relevant information.

As indicated by the guidance we will also consider the likely effect of the banning order on the person and anyone else that may be affected by the order. These factors will include;

## **The harm caused to the tenant**

The greater the harm or the potential for harm (this may be as perceived by the tenant), the longer the ban should be. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants, and could therefore be considered more harmful than other offences (such as fraud).

## **Punishment of the offender**

The length of the ban should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. It is, therefore, important that it is set at a high enough level to remove the worst offenders from the sector. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

## **Deter the offender from repeating the offence**

The ultimate goal is to prevent any further offending. The length of the ban should prevent the most serious offenders from operating in the sector again or, in certain circumstances; help ensure that the landlord fully complies with all of their legal responsibilities in future. The length of ban should therefore be set at a long enough period such that it is likely to deter the offender from repeating the offence.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Deter others from committing similar offences**

An important part of deterrence is the realisation that (a) the local authority is proactive in applying for banning orders where the need to do so exists and (b) that the length of a banning order will be set at a high enough level to both punish the offender and deter repeat offending.

## **Confirming the Decision to Apply**

The decision to continue and apply for a Banning Order (and where necessary to respond to an appeal) will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

## **The Process for applying for a banning order**

Where it has been determined that an application for a banning Order will be made the Council will follow the process set out in the legislation:

- 1) a notice of our intention to apply to the First Tier Tribunal for a banning order will be served on the landlord or agent. This notice will specify:
  - the reasons we are applying for the banning order
  - the proposed length of the ban
  - the right of the recipient to make representation to the Council giving a period of at least 28 days for the recipient to do so
- 2) following the notice period we will consider any representations made and will decide whether to continue and make the application to the First-tier Tribunal
- 3) After submitting an application we will comply with any Directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Council's Legal Services team
- 4) Following the decision of the First-tier Tribunal to make a Banning Order the landlord or agent may decide to appeal to the Upper Tribunal. Officers will review the Appeal submission and determine the Council's response. Confirmation of such response will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

## **Implications following the making of a banning order.**

A person who is the subject of a banning order may no longer be involved in letting accommodation in England, engaging in letting agency work in England or engaging in property management work in England. They are also not suitable to hold an HMO licence. The First Tier tribunal may make some exceptions to the order for example allowing a period of time for an agent to wind down their current business or to allow a landlord to continue to let a property until the end of existing tenancies.

## Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

This Council must make an entry into the Rogue Landlords database for any landlord or organisation that has received a banning order. We will also consider publicising any banning orders made taking into account the encouragement to do so in the guidance but also considering the Ministry of Justice guidance that sets out the factors a local housing authority should consider when deciding whether to publicise sentencing outcomes. Where we are aware of the landlord's involvement in properties in other authorities we will inform those other authorities.

Where the landlord/organisation holds an HMO licence or is the manager of an HMO we will revoke the licence and either work with the landlord to issue a new licence with a suitable licence holder or will consider making an interim management order in order to take over the management of any property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and also to ensure that a property is still available to rent, particularly in areas of high demand.

Breach of a banning order is a criminal offence and where we have evidence that a landlord is acting in breach of a banning order we will consider either prosecution or the use of a civil penalty in accordance with our Civil penalties policy. We will also consider making a special interim management order for any properties let in breach of a banning order.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016**

### **Introduction**

The Housing and Planning Act 2016 (“the Act”) introduced a range of measures to help local housing authorities tackle rogue landlords and drive up standards in the private rented sector. These measures include establishing and operating a database of rogue landlords and property agents (the database).

The database is a new tool for local housing authorities in England to keep track of rogue landlords and property agents. The database is designed and hosted by MHCLG and authorised users will be able to view all entries on the database, including those made by other local housing authorities. This will support work to tackle some of the worst offenders, especially those operating across council boundaries.

Local housing authorities provide input to the database and are responsible for maintaining the entries they make.

This policy supports the use of this enforcement option and specifically considers the factors to consider when determining whether make an entry to the database and in determining the period for which the entry will remain.

This policy takes account of the guidance issued by the Ministry for Housing, Communities and Local Government. This guidance can be accessed [here](#).

### **Circumstances under which an entry to the Database can be made**

Where a person or organisation has received a Banning Order the Council must make an entry onto the database (see our Policy on the application for a banning order under the Housing and Planning Act 2016).

The Council may also make entries for a person who has:

- been convicted of a banning order offence that was committed at a time when the person was a residential landlord or property agent; and/or
- received two or more financial penalties in respect of a banning order offence within a period of 12 months committed at a time when the person was a residential landlord or a property agent.

Before making a discretionary entry to the database (under section 30 of the Housing and Planning Act), we will serve on the person a decision notice and this notice must be served no later than 6 months after the person was either convicted of the banning order offence or received the second of the financial penalties to which the notice relates

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## **Determining whether to make an entry to the Database**

In addition to making an entry where a landlord has received a Banning Order this Council will consider whether making an entry on to the database when a landlord has been convicted of a banning order offence or received 2 or more financial penalties over a 12 month period.

Government has issued statutory guidance regarding the criteria that must be made in deciding whether to make an entry and therefore the following factors will be taken into account :

### **Severity of the offence**

All Banning Order offences are serious, where convicted of an offence we will take into account the sentence imposed by the Court. Where the Council has imposed civil penalties we will review the criteria used for determining the level of the penalty and the level of penalty imposed.

### **Mitigating factors**

In cases where there are mitigating factors, the Council will decide on a case by case basis if these are strong enough to justify a decision not to record a person's details on the database.

### **Culpability and serial offending**

Where there is a clear history of the landlord knowingly committing banning order offences and/or non-compliance, there is a stronger justification for making an entry on the database.

The Council will also consider the deterrent effect on both the offender and other landlords of committing banning order offences in the future.

## **Determining the period an entry will remain on the Database**

An entry made where a landlord has received a Banning Order must be maintained for the period for which the banning order has effect and must then be removed.

For discretionary entries and the guidance specifies the following criteria to consider when deciding the period for which the entry will remain on the database (the minimum period for an entry is two years):

### **Severity of offence**

The severity of the offence and related factors, such as whether there have been several offences over a period of time, will be considered.

### **Mitigating factors**

These could include a genuine one-off mistake, personal issues such as ill-health or a recent bereavement. Where this is the case, the Council may decide to specify a shorter period of time.

### **Culpability and serial offending**

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

A track record of serial offending or where the offender knew, or ought to have known, that they were in breach of their responsibilities may suggest a longer time period would be appropriate.

## **Deter the offender from repeating the offence**

The data should be retained on the database for a reasonable period of time so that it is a genuine deterrent to further offences.

## **Confirming the Decision to make an entry to the database**

The decision to continue and make an entry to the database will be made by the Service Manager - Environmental Health in consultation with the Head of Housing and Health.

## **The Process for making an entry to the database**

Where it has been determined that an entry to the database will be made the Council will follow the process set out in the legislation (references to days are to calendar days):

- 1) Before making a discretionary entry to the database (under section 30 of the Housing and Planning Act), a decision notice will be served on the person. The decision notice will specify:
  - the reasons for our decision
  - the period for which the person's entry will be kept on the database
  - information relating to the right of the recipient appeal our decision to the First Tier Tribunal
- 2) If no appeal has been made within 21 days of serving the decision notice, the Senior Officer – Environmental Health (Residential) will make the entry in the database by submitting the information required to the MHCLG.
- 3) If we are notified by the First-tier Tribunal that an appeal has been made we will not make the entry to the database until the appeal has been determined or withdrawn and there is no possibility of further appeal (ignoring the possibility of an appeal out of time).
- 4) For an appeal the Council will follow directions of the First-tier Tribunal and where necessary the case for the Council will be made at a hearing with the support of the Council's Legal Services team.
- 5) On an appeal the tribunal may confirm, vary or cancel the decision notice. Where confirmed or varied the entry will be made in the Database once any period for further appeal has passed.
- 6) Any decision by the Council to vary or remove an entry to the database will be made in accordance with sections 36 and 37 of the Act.

## Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

- 7) The entry will be removed from the Database on the specified date or any amended date determined following a decision to vary or remove the entry.
- 8) The Council will update information on the Database when it becomes aware that the information recorded there has changed.

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## Glossary of Terms – Housing Enforcement

<a href="#"><u>Housing Act 2004</u></a>	This act introduced significant changes to the way Housing Standards were assessed and enforced. It introduced the Housing Health and Rating System (HHSRS) and HMO Licensing. This Act also introduced Residential Property Tribunals (now First Tier Tribunals) as an appeal route for housing Notices or appeals against HMO licensing decisions.
<a href="#"><u>The Management of Houses in Multiple Occupation (England) Regulations 2006</u></a>	These regulations frequently referred to as the HMO Management Regs impose duties on managers of houses in multiple occupation (“HMOs”) and corresponding duties on occupants. The manager’s duties include the duty to take safety measures, the duty to maintain the water supply and drainage, to supply and maintain gas and electricity and have tested regularly gas and electricity installations, the duty to maintain common parts, fixtures and fittings and living accommodation. The Regulations set out what occupiers must do with a view to assisting managers to undertake their duties.
<a href="#"><u>Housing and Planning Act 2016</u></a>	Part 2 of this Act provides greater powers for local authorities to identify and tackle rogue landlords and property agents
HHSRS	The Housing Health and Safety Rating System (HHSRS) was introduced by the <i>Housing Act 2004</i> and has been in force since April 2006. It is the main system for assessing and enforcing housing standards in England and Wales. The HHSRS is a risk based assessment tool which is used to assess the risk (the likelihood and severity) of a hazard in residential housing to the health and safety of occupants or visitors. The HHSRS is tenure neutral; it can be used to assess hazards in private and social rented housing and also in owner occupied housing.
Improvement Notice (Housing Act)	An Improvement Notice under the Housing Act Part 1 (s11 or s12) is one of the enforcement routes available to the Council where significant hazards are found in a residential dwelling. The notice will explain the nature of the hazard and give a schedule of works and a date by when these works must be completed. Failure to comply with an Improvement is an offence.



## Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

<a href="#">Housing Act 2004</a>	This act introduced significant changes to the way Housing Standards were assessed and enforced. It introduced the Housing Health and Rating System (HHSRS) and HMO Licensing. This Act also introduced Residential Property Tribunals (now First Tier Tribunals) as an appeal route for housing Notices or appeals against HMO licensing decisions.
First Tier Tribunal Property Chamber	The Housing Act 2004 changed the need to use the magistrates' courts for various appeals of notices and applications relating to housing and instead moved these to The First tier Tribunal Property Chamber (Residential Property). Which whilst still within HM Courts and Tribunal Service this was intended to give a speedier and more appropriate process in many housing related situations. More information about the process can be found <a href="#">here</a>
Upper Tribunal	Appeals against a decision from the First Tier Tribunal Property Chamber is to the Upper Tribunal (Lands Chamber)

# Executive Report 06.10.20 – Appendix C (Policies on additional Housing Standards Enforcement Powers)

## Key reference documents

### Legislation

- [Housing and Planning Act 2016](http://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/2/enacted)  
<http://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/2/enacted>
- [Housing Act 2004](https://www.legislation.gov.uk/ukpga/2004/34/contents) <https://www.legislation.gov.uk/ukpga/2004/34/contents>
- [The Management of Houses in Multiple Occupation \(England\) Regulations 2006](http://www.legislation.gov.uk/uksi/2006/372/contents/made) <http://www.legislation.gov.uk/uksi/2006/372/contents/made>

### Guidance for Local Authorities:

- [Civil penalties under the Housing and Planning Act 2016](#)
- [Rent repayment orders under the Housing and Planning Act 2016](#)
- [Banning Order Offences under the Housing and Planning Act 2016](#)
- [Database of rogue landlords and property agents under the Housing and Planning Act 2016](#)

Appendix A: Financial Penalty Matrix

Offender Name:		Ref:	Please enter your reasoning and justification for each factor below				
Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	18	Reasoning
1. Culpability	Low; Offence committed with little or no fault on the part of the responsible person	Low/Medium; An awareness of the legal framework and systems in place to ensure compliance but these were not implimented	Medium/High; despite an awareness of the legal responsibilities the responsible person failed to put in place suitable systems in place to ensure compliance	High; There was some awarness of the law but the responsible person still allowed/committed the offence.	Very High; intentional breach by responsible person. For example non complainace with a Formal Notice	20	
2. Removal of Financial Incentive	No Significant assets. No or very low financial profit made by offender.	Little asset value. Litlle profit made by offender.	Small portfolio landlord (between 2-3 properties). Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.	15	
3. Offence & History	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offences of moderate to large severity or a single instance of a very severe offence or multiple breaches.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.	1	
4. Harm ,or potential harm, to Tenant(s)	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurances. Vulnerable occupants more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	*Score is doubled on this section	
						40	
Total Score					76		
Total Penalty (£):		£ 20,000.00					

<b>Score Range</b>	<b>Fee</b>
<b>1 – 5</b>	£250
<b>6 – 10</b>	£500
<b>11 – 20</b>	£750
<b>21 – 30</b>	£1,000
<b>31 – 40</b>	£2,500
<b>41 – 55</b>	£5,000
<b>56 – 65</b>	£10,000
<b>66 – 75</b>	£15,000
<b>76 – 85</b>	£20,000
<b>86 – 95</b>	£25,000
<b>96 – 100</b>	£30,000

## East Herts Council Report

### Council

**Date of Meeting: 21 October 2020**

**Report by: Richard Cassidy, Chief Executive**

**Report title: Appointment of Section 151 Officer**

**Ward(s) affected: All**

---

### Summary

In accordance with section 151 of the Local Government act 1972, Steven Linnett to be confirmed as the Council's Chief Financial Officer/Section 151 Officer.

### RECOMMENDATIONS FOR COUNCIL:

**(a) That the appointment of Steven Linnett as the Council's Chief Financial Officer and Section 151 Officer be approved.**

### 1.0 Proposal(s)

- 1.1 That the appointment of Steven Linnett commencing 28<sup>th</sup> September 2020 as Chief Financial Officer/Section 151 Officer be confirmed.

### 2.0 Background

- 2.1 Under section 151 of the Local Government Act 1972, the Council has a duty to appoint a Chief Financial Officer ("S.151 Officer").
- 2.2 As a result of the departure of Bob Palmer, following the expiry of his interim appointment as S.151 Officer, a permanent appointment has been made. Steven Linnett has been appointed to the role of Head of

Strategic Finance and Property and S.151 Officer. He has nearly 25 years of finance experience as he has previously been appointed as the Chief Finance Officer at Wealden District Council. Steven is fully conversant with the responsibilities and the powers given to the s.151 role and is a Fellow of the Chartered Institute of Public Finance and Accountancy.

2.3 The appointment commenced on 28<sup>th</sup> September 2020.

2.4 Part 2, Chapter 10 of the Council's Constitution provides, at Item 2j, that the Council will engage designated chief officers. The posts listed include the Chief Financial (s. 151 Officer). The appointment of the Chief Financial Officer is to be carried out by the Chief Executive, and ratified by Council.

### **3.0 Reason(s)**

3.1 To comply with the requirements of section 151 of the Local Government Act 1972.

### **4.0 Options**

4.1 None.

### **5.0 Risks**

5.1 The Council would act unlawfully by not appointing an Officer to the post of s.151 Officer.

### **6.0 Implications/Consultations**

6.1 The Executive Member for Financial Sustainability has been consulted.

### **Community Safety**

No

**Data Protection**

No

**Equalities**

No

**Environmental Sustainability**

No

**Financial**

No

**Health and Safety**

No

**Human Resources**

No

**Human Rights**

No

**Legal**

Yes, as indicated above.

**Specific Wards**

No

**7.0 Background papers, appendices and other relevant material**

7.1 None

**Contact Member**

Geoff Williamson, Executive Member for  
Financial Sustainability

[geoffrey.williamson@eastherts.gov.uk](mailto:geoffrey.williamson@eastherts.gov.uk)

## Contact Officer

Richard Cassidy, Chief Executive

[richard.cassidy@eastherts.gov.uk](mailto:richard.cassidy@eastherts.gov.uk)



## East Herts Council Report

### Council

**Date of meeting:** 21 October 2020

**Report by:** Councillor Geoffrey Williamson – Deputy Leader and Executive Member for Financial Sustainability

**Report title:** Report of urgent key decision taken on 7 August 2020 – Sports and Leisure Management Ltd Financial Support for Re-opening Leisure Centres

**Ward(s) affected:** All

**Summary** – as required by East Herts' Constitution, any urgent decision taken outside the budget and policy framework must be reported to Council. The urgent key decision taken by the Leader on 7 August 2020 is therefore now reported to Council.

### RECOMMENDATIONS FOR COUNCIL:

- a) To note the urgent key decision taken by the Leader on 7 August 2020 to provide a loan to Sports and Leisure Management Ltd to support re-opening of Leisure Centres**

#### 1.0 Proposal(s)

- 1.1 That Council note the fact that an urgent key decision outside the budget and policy framework was taken by the Leader.

#### 2.0 Background

- 2.1 A request for financial support was received from Sports and Leisure Management Ltd, the operator of the leisure centres within the East Herts District. The consent of the Chairman of the Overview and Scrutiny Committee was given to the taking of a decision as a matter of urgency to agree to provision of such

support. The decision was authorised by the Leader, and publicised on the Council's website on 7 August 2020. Members were provided with access to the restricted reports setting out full details.

2.2 It is a requirement of the Council's Constitution that any decision which is outside the budget and policy framework, and which is taken as a matter of urgency, should be reported to the next meeting of the Council. This report is submitted to enable Council to note the fact that this urgent key decision has been taken.

### **3.0 Reason(s)**

3.1 A decision which is contrary to policy or contrary to or not wholly in accordance with the budget may be taken by the Executive or an individual Member of the Executive if the decision is a matter of urgency. However, the Council must then receive a report at the next available meeting, on such decisions.

3.2 The restricted report which accompanied the decision notice sets out the reasons for urgency for the decision to be taken.

### **4.0 Options**

4.1 None, as the procedure is clear that Council should receive a report on such decisions.

### **5.0 Risks**

5.1 None.

### **6.0 Implications/Consultations**

6.1 None, in relation to noting the fact that this decision has been taken. Implications which relate to the decision itself are identified in the original report accompanying the decision.

### **Community Safety**

No

**Data Protection**

No

**Equalities**

No

**Environmental Sustainability**

No

**Financial**

No

**Health and Safety**

No

**Human Resources**

No

**Human Rights**

No

**Legal**

No

**Specific Wards**

No

**7.0 Background papers, appendices and other relevant material**

7.1 Appendix A - Decision Record, Appendix B – original report.

Appendix C - appendices to the original report, (restricted items).

**Contact Member**

Geoffrey Williamson – Executive Member for  
Financial Sustainability

[geoffrey.williamson@eastherts.gov.uk](mailto:geoffrey.williamson@eastherts.gov.uk)

**Contact Officer**

Jess Khanom-Metaman – Head of Operations

Contact Tel. No. Ext 1693

[jess.khanom-metaman@eastherts.gov.uk](mailto:jess.khanom-metaman@eastherts.gov.uk)

## **East Herts Council – Key Decision Record**

### **Record of key decision made by an individual under Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

**Reference Number: 20/01 – KD**

**Taken by:** Leader of the Council – Linda Haysey

#### **Decision**

Approval for a loan to be provided to the Council's leisure operator, Sport and Leisure Management Ltd (SLM) to fund the projected loss of income as a result of implementing a COVID secure environment for re-opening.

#### **Date of Decision**

07.08.20

#### **Reason(s) for decision**

Sport and physical activity is an important contributor to physical and mental well-being for East Herts residents. The Council has recognised this by investing approximately £30,000,000 into improving leisure facilities and responding to the anticipated population growth. The Council is currently underway with the construction of the new Grange Paddocks Leisure Centre and progressing with a planning application for Hartham Leisure Centre. The business case for the

investment for these centres was based on reducing the on-going deficit to the Council from outdated leisure provision no longer suitable from a growing population in East Herts. It is important to re-engage residents and customers to re-build the customer base ready for these new facilities, minimising the risk of losing customer to competitors and getting back on track with the business plan. Providing a loan to SLM supports the re-opening of facilities.

### **Details of alternative options considered and rejected**

A number of options have been explored including:

1. Opening all sites in July 2020, this is at a greater cost. A phased approach allows for a period of review of social distancing measures prior to opening joint use facilities ready for the academic year in September 2020.
2. Keeping all sites closed until April 2021 – the impact of this includes significant redundancy costs which are over double the amount of the recommended approach.
3. Extending the furlough scheme for the joint use facilities staff to the end of October with the Council topping up the scheme to 80% salary. This would incur a cost almost £100,000 more than the recommended option.
4. As this stage, termination of the contract has not been discussed.

### **Does the decision or report contain exempt information?**

Yes, commercially sensitive information.

### **State nature of any declaration of conflict of interest made by any Executive Member who is consulted by the Member taking the decision**

Not Applicable

**State, in respect of any declared conflict of interest, whether any dispensation has been granted**

Not Applicable

**Contact Officer**

Jess Khanom-Metaman, Head of Operations

[jess.khanom-metaman@eastherts.gov.uk](mailto:jess.khanom-metaman@eastherts.gov.uk) Ext 1693

**Authorisation**

Signature of Decision Taker:

A rectangular area where the signature of the Decision Taker has been redacted, leaving only a blank space.

(Signature redacted)

Date: 07/08/2020

This page is intentionally left blank



Report of urgent key decision taken by the Leader –  
Appendix B (original report accompanying decision)

## **East Herts Council Report**

### **REPORT TO LEADER OF THE COUNCIL**

**Date of Meeting:** 21 July 2020

**Report by:** Head of Operations

**Report title:** Sport and Leisure Management Ltd Financial Support  
Request for re-opening leisure centres.

**Ward(s) affected:** All

---

### **Summary**

As a result of the Coronavirus outbreak all leisure centres nationally were closed on Friday 20 March 2020 under Government instruction. This report outlines East Herts Council's leisure operator's (SLM) request for financial support for the recovering services following the easement of lockdown measures.

### **RECOMMENDATIONS FOR THE LEADER OF THE COUNCIL:**

- (a) Approval for a loan of the sum set out in the exempt from publication Appendix C2 to be provided to the Council's leisure operator, Sport and Leisure Management Ltd to fund the projected loss of income as a result of implementing a COVID secure environment for re-opening.**
- (b) That the loan is approved based on the conditions set out in para 2.10 being included in the final version of the loan agreement**
- (c) That delegated authority is provided to the Head of Strategic Finance and Property in consultation with the Head of Operations to release funds following a review of SLM's accounts on an open book and monthly basis.**

# Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

## **1.0 Proposal(s)**

- 1.1 To provide the Council's leisure operator (SLM) a loan for the amount set out in appendix C2 to fund the re-opening of East Herts leisure centres in a phased manner.

## **2.0 Background**

- 2.1 On Friday 20 March 2020, the government issued instructions to close all leisure centres as a response to the COVID-19 outbreak. Leisure centres closed with immediate effect.
- 2.2 In April 2020, the Chief Executive acting under the authority delegated within Part 3c, paragraph 9.2 (g) of the Council's constitution, approved a loan to SLM to support payroll costs for furloughed staff for one month prior to SLM accessing the Governments Job Retention Scheme of the amount set out in appendix C. This funding has been re-paid to the Council. A further loan of £39,140 was also provided to maintain the buildings during closure to allow re-opening to take place promptly when permitted to do so. In the legal agreement it was agreed that this part of the loan would be paid back to the Council within six months of re-opening the facilities.
- 2.3 The Government have now confirmed that leisure centres can re-open from 25 July 2020.
- 2.4 SLM have approached East Herts District Council to provide financial support to bridge the gap between expenditure and projected income. The loan requested is for the sum detailed in appendix C2 for the projected loss of income for the remainder of the financial year 2020/21. It should be noted that this income is to support cash flow and that profit for the organisation will not be supported.

## Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

- 2.5 The anticipated loss of income is due to reduced levels of participants allowed to enter the centre in order to adhere to COVID-Secure requirements. It is also unknown at this stage whether members will return to the centres in the initial months due to safety concerns and individual financial circumstances. In addition, some participants may have found alternative ways to exercise.
- 2.6 SLM have continued to engage with customers through virtual memberships, email and social media. A national survey carried out by leisure-net solutions in May across the industry from a swimming perspective, reported 50.5% of customers would return to leisure centres immediately and another 45% would consider a return in September. From a fitness perspective, a Sport England survey in April across the industry indicated that 87% of gym users were keen to return, with a 17-18% keen to return but visit less.
- 2.7 Should the Council agree to provide financial support, one payment will be made at the beginning of August 2020, with future payments transferred once the Head of Strategic Finance and Property in consultation with the Head of Operations have scrutinised the accounts through open book accounting on a monthly basis. Payments will be adjusted based on actual income levels.
- 2.8 The current contract with SLM requires the Council to pay the operator a management fee to operate the facilities the Council will continue to pay this in line with the guidance set out in the government Procurement Policy Notice (PPN). The current monthly management fee for 2020 is set out in appendix C1 and increases in 2021. The contract then moves to an income position once the new leisure centres have been completed and

## Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

handed over, i.e. SLM pay the Council a management fee.

- 2.9 The repayment of the loan will be over the remaining life of the contract (14 years)
- 2.10 A loan agreement with the following minimum conditions will be developed:
  - a) The loan will consist of 8 monthly payments of approximately the amount set out in appendix C2, provided at the beginning of each month (August 2020 to March 2021)
  - b) A review of the accounts will take place on an open book basis every month with SLM, EHC's Head of Strategic Finance and Property and the Head of Operations.
  - c) Further payments will be adjusted based on actual income levels and the loan is capped at the loan amount detailed in appendix C2. Losses over this amount will be at the risk of the operator.
  - d) The repayment of the loan will be over the remainder of the life of the contract (14 years) with the first annual repayment due in December 2021.
  - e) Confirmation from SLM of a guarantor for the loan received.

### **3.0 Reason(s)**

- 3.1 Sport and physical activity is an important contributor to physical and mental well-being for East Herts residents. The Council has recognised this by investing approximately £30,000,000 into improving leisure facilities and responding to the anticipated population growth. The Council is currently underway with the construction of the new Grange Paddocks Leisure

## Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

Centre and progressing with a planning application for Hartham Leisure Centre. The business case for the investment for these centres was based on reducing the on-going deficit to the Council from outdated leisure provision no longer suitable from a growing population in East Herts. It is important to re-engage residents and customers to re-build the customer base ready for these new facilities, minimising the risk of losing customer to competitors and getting back on track with the business plan.

- 3.2 Without the agreement of financial support the risk to SLM is deemed high and therefore the leisure centres would not open on Saturday 25 July 2020. This could in turn lead to making significant numbers of staff redundant and associated costs.

### **4.0 Options**

- 4.1 A number of options have been explored including ( a break-down of all options in available in Appendix C1):
  - 4.1.1 Opening all sites in July 2020, this is at a greater cost of the sum detailed in appendix C2. A phased approach allows for a period of review of social distancing measures prior to opening joint use facilities ready for the academic year in September 2020.
  - 4.1.2 Keeping all sites closed until April 2021 – the impact of this includes redundancy costs detailed in appendix C2, which are over double the amount of the recommended approach.
  - 4.1.3 Extending the furlough scheme for the joint use facilities staff to the end of October with the Council topping up the scheme to 80% salary. This would incur a cost of the amount detailed in

## Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

appendix C2, almost £100,000 more than the recommended option.

4.1.4 As this stage, termination of the contract has not been discussed. The Council entered this contract with SLM in January 2020, the local management team have demonstrated that SLM are committed to this contract having already delivered an excellent service for the past 11years. Working relationships are and always have been very positive with SLM colleagues.

### **5.0 Risks**

- 5.1 The key risk this proposal presents is SLM's ability to re-pay the funds. However, repayment could be deducted from the annual management fee paid to SLM as a result of delays to the capital projects therefore this risk is low. As a guarantor has been confirmed, this is also a route to retrieve funds. The risk of not providing funds and entering termination has a greater financial and social impact. Though these costs have not been quantified at this stage, the value of the contract at the amount detailed in the appendix which indicates the magnitude of potential costs.

### **6.0 Implications/Consultations**

- 6.1 The Head of Strategic Finance and Property and the Head of Legal and Democratic Services have been consulted.

### **Community Safety**

No

## Report of urgent key decision taken by the Leader – Appendix B (original report accompanying decision)

### **Data Protection**

No

### **Equalities**

No

### **Environmental Sustainability**

No

### **Financial**

The Council has a number of alternative options to consider in re-opening the leisure centres. Of these options, the loan of the amount detailed in appendix C2 carries the least risk and the lowest financial consequence.

### **Health and Safety**

No

### **Human Resources**

No

### **Human Rights**

No

### **Legal**

With a properly drafted and executed loan agreement in place, the Council would be well protected should SLM default on their loan, with recourse to the civil courts open to it to enforce repayment in the worst case scenario.

### **Specific Wards**

Leisure provision service the whole district

Report of urgent key decision taken by the Leader –  
Appendix B (original report accompanying decision)

## **7.0 Background papers, appendices and other relevant material**

7.1 Appendix C1 – Confidential

7.2 Appendix C2 – Confidential

### **Contact Member**

Geoffrey Williamson

Executive member for Financial Sustainability

[Geoffrey.Williamson@eastherts.gov.uk](mailto:Geoffrey.Williamson@eastherts.gov.uk)

### **Contact Officer**

Jess Khanom-Metaman

Head of Operations

Contact Tel No 1693

[Jess.Khanom-Metaman@eastherts.gov.uk](mailto:Jess.Khanom-Metaman@eastherts.gov.uk)



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

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank