



*James Ellis  
Head of Legal and  
Democratic Services*

**MEETING** : OVERVIEW AND SCRUTINY COMMITTEE  
**VENUE** : THIS MEETING WILL BE HELD VIRTUALLY VIA ZOOM  
**DATE** : TUESDAY 15 SEPTEMBER 2020  
**TIME** : 7.00 PM

**MEMBERS OF THE COMMITTEE**

Councillor J Wyllie (Chairman)  
Councillors S Bell, M Brady, R Buckmaster, A Curtis, I Devonshire,  
H Drake, J Frecknall, M Goldspink (Vice-Chairman), D Hollebon, J Kaye,  
D Snowdon, M Stevenson and N Symonds

**Substitutes**

Conservative Group:	Councillors D Andrews, I Kemp and A Ward-Booth
Green	Councillor B Crystall
Labour	Councillor C Redfern

*(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting)*

**CONTACT OFFICER:  
PETER MANNINGS  
01279 502174  
[peter.mannings@eastherts.gov.uk](mailto:peter.mannings@eastherts.gov.uk)**

## **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**

Public accessibility – livestream on East Herts Council’s YouTube Channel. 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 at this link:

<https://www.youtube.com/user/EastHertsDistrict/live>

If you would like further information, 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.

To obtain a copy of the agenda, please note the Council does not generally print agendas, as it now has a paperless policy for all Members. If you are able to, you can use the mod.gov app to access, annotate and keep all committee paperwork on your mobile device. Visit: <https://www.eastherts.gov.uk/article/35542/PoliticalStructure> for details.

### **Audio/Visual Recording of meetings**

Everyone is welcome to record meetings of the Council and its Committees using whatever, non-disruptive, methods you think are suitable, which may include social media of any kind, such as tweeting, blogging or Facebook. However, oral reporting or commentary is prohibited. If you have any questions about this please contact Democratic Services (members of the press should contact the Press Office). Please note that the Chairman of the meeting has the discretion to halt any recording for a number of reasons, including disruption caused by the filming or the nature of the business being conducted. Anyone filming a meeting should focus only on those actively participating and be sensitive to the rights of minors, vulnerable adults and those members of the public who have not consented to being filmed.

Implementing paperless meetings will save East Herts Council approximately £50,000 each year in printing and distribution costs of agenda packs for councillors and officers.

You can use the mod.gov app to access, annotate and keep all committee paperwork on your mobile device.

Visit <https://www.eastherts.gov.uk/article/35542/Political-Structure> for details.

The Council is moving to a paperless policy in respect of Agendas at Committee meetings. From 1 September 2019, the Council will no longer be providing spare copies of Agendas for the Public at Committee Meetings. The mod.gov app is available to download for free from app stores for electronic devices.

## AGENDA

### 1. Apologies

To receive apologies for absence.

### 2. Minutes - 16 June 2020 (Pages 7 - 36)

To approve as a correct record the Minutes of the meeting held on 16 June 2020.

### 3. Chairman's Announcements

### 4. Declarations of Interest

To receive any Members' Declarations of Interest.

### 5. Enhancing the Council's working arrangements with Registered Providers - Report of the Social Housing Task and Finish Group (Pages 37 - 76)

### 6. Council Tax Reduction Scheme 2021/22 (Pages 77 - 98)

### 7. Policy for Enforcing Standards for Private Sector Landlords (Pages 99 - 136)

### 8. Environmental Climate Change Forum Update

### 9. Overview and Scrutiny Committee – Draft Work Programme (Pages 137 - 152)

## 10. Urgent Items

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE  
OVERVIEW AND SCRUTINY COMMITTEE  
HELD VIRTUALLY VIA ZOOM ON TUESDAY  
16 JUNE 2020, AT 7.00 PM

---

PRESENT: Councillor J Wyllie (Chairman)  
Councillors S Bell, M Brady, K Crofton,  
I Devonshire, H Drake, J Frecknall,  
M Goldspink, D Hollebon, J Ranger,  
D Snowdon, M Stevenson, N Symonds and  
A Ward-Booth

ALSO PRESENT:

Councillors D Andrews, E Buckmaster,  
G Cutting, J Goodeve, G McAndrew and  
S Rutland-Barsby

OFFICERS IN ATTENDANCE:

Simon Barfoot	- Healthy Lifestyles Programme Officer
Lorraine Blackburn	- Scrutiny Officer
Richard Cassidy	- Chief Executive
Emily Coulter	- Graduate Management Trainee
James Ellis	- Head of Legal and Democratic Services
Jonathan Geall	- Head of Housing and Health
Chloe Hipwood	- Service Manager -

	Waste, Recycling and Street Cleaning
Sara Saunders	- Head of Planning and Building Control
Ian Sharratt	- Environmental Manager
David Snell	- Service Manager (Development Management)
Helen Standen	- Deputy Chief Executive
Paul Thomas-Jones	- Environmental Health Manager - Commercial
John Williams	- Electoral Services Manager

### 39 APOLOGIES

No apologies for absence were received.

### 40 MINUTES - 4 FEBRUARY 2020

It was moved by Councillor Hollebon and seconded by Councillor Devonshire that the minutes of the meeting held on 4 February 2020 be confirmed as a correct record and signed by the Chairman.

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

**RESOLVED** – that the minutes of the meeting



held on 4 February 2020 be confirmed as a correct record and signed by the Chairman.

41 CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to the length of the agenda for the meeting. He regretted that so many items were included, but noted that this had resulted from the cancellation of the March meeting. The Chairman stated that at future meetings the agenda would ideally be limited to two or three substantive items to ensure that all items could be given the appropriate level of scrutiny.

In relation to the current meeting, the Chairman proposed that the order of business be varied to consider item 11 as the next item of business, followed by items 5, 7 and 6 in that order, and then the remainder of the agenda as printed. The Committee agreed to the Chairman's proposal.

The Chairman welcomed to the meeting Kate Grigg, who was observing the proceedings on behalf of the Centre for Public Scrutiny (CfPS).

42 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members in respect of any item on the agenda.

43 REVISED REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY AND USE OF SOCIAL MEDIA IN INVESTIGATIONS POLICY

---

The Head of Legal and Democratic Services submitted a report proposing that the Council's Regulation of Investigatory Powers Act (RIPA) Policy, which had not been reviewed since 2010, be revised and updated taking into account significant legislative changes which have occurred in the intervening decade; and that a new Use of Social Media in Investigations Policy be adopted in order to deal specifically with investigations carried out by these means. The proposals followed an inspection of the Council in November 2019 by the Investigatory Powers Commissioner's Office (IPCO), whose resulting report gave a recommendation of 'critical', outlining several areas where the Council was not meeting legal requirement; and actions that were required by May 2020 to address these.

Councillor Cutting, Executive Member for Corporate Services, welcomed the rapid and professional way in which the IPCO's recommendations had been addressed. The new policies would be kept under constant review, with an annual report being made to the Overview and Scrutiny Committee.

Councillor Snowdon felt that the proposed new policies were robust but asked how the unsatisfactory position highlighted by the IPCO had arisen. Councillor Cutting stated that this had predated both his appointment and that of the Head of Legal and Democratic Services, but action had been taken to address the situation as soon as it was brought to the Council's attention. The Head of Legal and Democratic Services stated that he understood there had been a turnover of staff in certain areas that may have

contributed to the Council 'taking its eye off the ball' as the IPCO Inspector had put it. The current proposals, which had been developed in line with the IPCO's deadline, would rectify this situation and ensure that the Authority would be fully compliant going forward.

Councillor Frecknall and Councillor Goldspink wished to recognise the role undertaken by the Head of Housing and Health, who as Interim Head of Legal and Democratic Services had started the work to get the Council back on track. In relation to the proposed Use of Social Media in Investigations Policy, Councillor Frecknall also asked whether an individual simply failing to set their privacy settings sufficiently high would be opening him or herself up to intrusive surveillance. The Head of Legal and Democratic Services stated that an occasional look at, for example an individual's Facebook profile was acceptable but regular and repeated checking in order to build up a picture of the user's life and habits could represent a breach of the policy. He further noted that the Council had not undertaken any surveillance operations for some time and did not anticipate doing so frequently.

Councillor Crofton commented that previous postholders' had not addressed this area of work adequately but he therefore found it surprising that the IPCO had not referred the matter to the Leader of the Council of Chief Executive earlier than they did.

It was moved by Councillor Goldspink and seconded by Councillor Snowdon, that the recommendations in the report be approved. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the revised Regulation of Investigatory Powers Act (RIPA) Policy and the new Use of Social Media in Investigations Policy be reviewed and the Executive Member for Corporate Services and the Head of Legal and Democratic Services be requested to give consideration to the matters raised by the Committee prior to the final proposed versions and accompanying report being sent for adoption by the Executive.

#### 44 STREET CLEANSING AND VERGE MAINTENANCE UPDATE

The Shared Waste Service Manager and the Leisure and Parks Development Manager submitted a report which provided an overview of the street cleansing service (shared with North Herts DC) and the verge maintenance service (delivered by East Herts Council on behalf of Hertfordshire County Council).

The Officers introduced their respective parts of the report, providing a brief description of each service function, an overview of performance, key challenges and areas for improvement, resource levels and key contacts.

The Chairman referred to additional papers that had been circulated to the Committee on a confidential basis and reminded Members that should they wish to discuss that information in detail it would be necessary for the Committee to move into private session.

Councillor Hollebon and Councillor Frecknall each

stated that they had submitted questions in advance of the meeting and thanked the Officers for the responses provided.

Councillor Ward-Booth noted that the aim of 1,000 inspections across the contract each month was not being met and asked in the light of this how the Council could be assured that the contractor's performance was satisfactory. The Shared Waste Service Manager (Stevenage) responded that there had been some difficulty in recruiting permanent staff to the client team and in addition resources had been focussed on resolving teething problems in the area of waste collection. However it was now a priority over the coming months to rebuild the inspection capacity.

Councillor McAndrew, Executive Member for Environmental Sustainability added that one of the key ways in which the Council was informed regarding service performance was via customer enquiries and he stressed the importance of service requests and issues being reported via Customer Services so as to be captured by the monitoring system.

In relation to verge cutting, Councillor Goldspink and Councillor Symonds each referred to the ecological importance of wild flowers and asked whether this was taken into account when planning the length of cut and/or timing of the operations. The Leisure and Parks Development Manager stated that this could be given further consideration but any change to the service specification would be a matter for Hertfordshire County Council.

Councillor Frecknall noted that there had been a marked increase in street cleansing enquiries in January and February 2020 and asked what may have caused this. The Shared Waste Service Manager did not have this specific information to hand but reported that an increase in service requests was often experienced in periods of the year when vegetation died down.

Councillor Crofton felt that it would be useful for Members to be provided with a structure chart showing which named Officers were responsible for particular service areas. He also asked what could be done to improve services such as weed spraying and leaf clearance in rural parts of the district as in his view these were often inadequate and Members and others had to go to great efforts to get the services delivered.

Councillor Bell stated that some bins on the outskirts of Watton-at-Stone were not being emptied regularly.

The Shared Waste Service Manager drew Members' attention to paragraph 5.4 of the report which included a staff structure chart, albeit without names. She also reiterated that any concerns regarding service delivery should be reported via the Council's Customer Contact Centre as this would ensure that the appropriate deadlines were issued to the contractor and their responses monitored.

The Leisure and Parks Development Manager reported that weeds were sprayed twice a year and any increase in this frequency would be a matter for the County Council. Councillor Stevenson asked which herbicide

was used in the spraying operation. The Leisure and Parks Development Manager reported that Glyphosate was used, in the minimum quantities necessary.

The Chairman pointed out that the report contained three different spellings of 'Bishop's Stortford' and asked that these be corrected. He also stated that in the chart of highway works Winding Hill, Much Hadham was erroneously listed under Bishop's Stortford.

It was moved by Councillor Devonshire and seconded by Councillor Stevenson that the recommendation in the report be approved. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the update report be received and noted.

#### 45 DEVELOPMENT MANAGEMENT PRE-APPLICATION ADVICE SERVICE

---

The Head of Planning and Building Control submitted a report which provided information on the Council's Development Management Pre-Application Advice Service and a number of issues with the current operation of the service including fees and performance targets. These were currently being reviewed with the aim of improving the overall operation of the service and encouraging more customers to use it. The intention was to implement changes from autumn 2020.

Councillor Goodeve, Executive Member for Planning and Growth, welcomed the report and endorsed the points made by the Head of Planning and Building Control. She also reminded Members that in relation to strategic sites, developers were obliged to undertake a masterplanning process.

In response to a range of questions from Members of the Committee, the Head of Planning and Building Control and the Service Manager Development Management advised that:

- EHC's fees for the service were last reviewed in 2018. Minor and household applications were subject to fixed fees while major applications, which could range from ten units to many thousands, required an individual quote in each case. Precise benchmarking with other local authorities was problematic due to differences in the type and complexity of applications.
- Pre-application discussions and responses were confidential as they often included information that was financially and/or legally sensitive. Therefore it would not be possible routinely to involve local Members in pre-application meetings, unless the applicant wished to do so. The review could however look at ways in which Members' involvement could be increased. Councillor Devonshire felt that this would be useful as Members were sometimes presented with conflicting accounts of such meetings.
- Limited feedback was received from users of the



service. In this regard a number of Members felt that promotion of a feedback mechanism would be advantageous, for example an e-mail survey sent shortly after using the service.

- Records were not kept of how many applications that had been subject to pre-application advice were subsequently refused but granted on appeal. However, overall the Authority's record on appeals was good relative to the national average.
- Detailed figures on the number of applications for pre-application advice received were not available at the meeting. A number of Members regretted this, feeling that this was basic information to inform any discussion of the service. Officers explained that the report had been prepared to address the specific issues raised previously by the Committee but that detailed figures could be provided in future.
- Officers believed that it was worthwhile to continue the service as good pre-application advice could avoid delays in the planning process.
- Work was underway to establish the appropriate decision-making route and timescale for any proposed changes emerging from the review.
- Giving weight to pre-application advice received during the consideration of any subsequent planning application would be problematic as

legislation was clear on what could and could not be considered as a material planning consideration. Councillor Crofton stated that this issue should be considered further, feeling that applicants had a right to rely on the advice they had received.

The Chairman stated that Bishop's Stortford Town Council had sought to use the pre-application advice service on three occasions, and had found the service disappointing. In one case the response to a proposal to install solar panels had been that insufficient information was provided and no meeting with Officers had been offered. The Service Manager (Development Management) reported that in many cases insufficient information was provided by applicants. This could be addressed by the provision of more information about the service on the Council's website. The Chairman agreed that this would be useful.

It was moved by Councillor Devonshire and seconded by Councillor Snowdon that the recommendations in the report be approved subject to the addition of four points to address issues raised by Members during the discussion as follows:

- That Officers be requested to provide additional information on the Council's website to guide potential applicants on the information to be provided when seeking pre-application advice;
- That Officers consider as part of the review whether and how Member involvement in the

pre-application process might be achieved;

- That consideration be given to sending a survey to applicants after they use the pre-application advice service proactively to seek feedback on their experience of the service; and
- That Officers give consideration to whether greater weight can lawfully be given to pre-application advice received, during the consideration of any subsequent planning application.

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

**RESOLVED** – that (A) the report and the ongoing review of the service be noted;

(B) Officers be requested to provide additional information on the Council’s website to guide potential applicants on the information to be provided when seeking pre-application advice;

(C) Officers consider as part of the review whether and how Member involvement in the pre-application process could be achieved;

(D) consideration be given to sending a survey to applicants after they use the pre-application advice service proactively to seek feedback on their experience of the service; and

(E) Officers give consideration to whether

greater weight can lawfully be given to pre-application advice received, during the consideration of any subsequent planning application.

#### 46 PROPOSED REVISED STREET TRADING CONSENT POLICY

The Head of Housing and Health submitted a report proposing that the Council's existing Street Trading Consent Policy be revised and updated taking into account relevant case law and best practice, and ways in which the policy could further the Council's latest priorities and objectives. The Committee was invited to utilise its power under the Council's constitution to review draft strategies to be put to the Council for determination in due course.

The Service Manager (Environmental Health) outlined the proposed key changes to the existing policy, the anticipated potential impacts of these changes, the proposed changes to fees and the consultation undertaken. The proposals in the report would not require any additional resources to be identified.

Councillor Snowdon asked whether the proposed restriction on selling of food and confectionery within 100 metres of an educational establishment would be measured from the entrance or the perimeter of the establishment, and in a straight line or by the shortest road route.

The Service Manager (Environmental Health) advised that measurement would be taken as the crow flies from the perimeter of the premises. The Chairman

noted that this could cover quite a large area and a number of Members expressed concern that this could have the unintentional effect of preventing street trading, for example on an adjacent industrial estate. The Head of Housing and Health stated that the policy was not intended to 'catch out' any existing traders in this way and invited Members to let him know of any specific cases that they felt could be affected in this way.

Councillor Hollebon stated that she had raised a number of questions in advance of the meeting and thanked the Officers for their responses.

Councillor Snowdon proposed that the list of prohibited goods for which street trading consent would not be granted at section 6.1 k) of the proposed new policy be extended by the addition of two further items, namely Chinese Lanterns and Helium Balloons. Councillor Hollebon further proposed a third addition, namely Fireworks. Officers advised that this could be done although the sale of fireworks was regulated in any case by Trading Standards.

Councillor Frecknall suggested that in addition to prohibiting the use of petrol and diesel generators in Air Quality Management Areas, the policy should provide a general incentive for all traders to use more sustainable power sources.

Councillor Drake asked whether it was appropriate for street trading to take place at all in Air Quality Management Areas, as queueing customers could be adversely affected by poor air quality. Councillors

Hollebon and Frecknall concurred. Officers advised that in most cases customers would only be present for a short time.

The Head of Housing and Health thanked Members for their comments and advised that the points raised would be considered either as part of finalising the new policy or via other appropriate mechanisms.

Councillor Symonds asked whether the policy would regulate groups of persons who may be driven to areas of the district to peddle goods or services door-to-door. The Service Manager (Environmental Health) advised that this did not represent street trading but undertook to look into the matter and revert to Cllr Symonds with any relevant information.

It was proposed by the Chairman and seconded by Councillor Snowdon, that the recommendations in the report be approved subject to three additional points to reflect the concerns raised by Members during the debate as follows:

- That the list of prohibited goods at section 6.1 k) of the proposed new policy should be extended also to include Chinese Lanterns, Helium Balloons and Fireworks;
- That the new policy should discourage any street trading within an Air Quality Management Area; and
- That any existing traders affected by the new policy should be treated with the maximum

consideration to avoid any adverse impact on existing businesses.

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

**RESOLVED** – the Executive Member for Wellbeing and the Head of Housing and Health be requested to give consideration to the matters raised by the Committee prior to drafting the final version of the proposed revised Street Trading Consent Policy and accompanying report for determination by the Council, and in particular:

- (A) the list of prohibited goods at section 6.1 k) of the proposed new policy should be extended also to include Chinese Lanterns, Helium Balloons and Fireworks;
- (B) the new policy should discourage any street trading within an Air Quality Management Area; and
- (C) any existing traders affected by the new policy should be treated with the maximum consideration to avoid any adverse impact on existing businesses.

47 HARTHAM LEISURE UPDATE BY THE EXECUTIVE MEMBER FOR WELLBEING

---

Councillor E Buckmaster, Executive Member for Wellbeing, gave a verbal update on the development of

Hartham Leisure. Councillor Buckmaster stated that the planning application for Hartham Leisure Centre had been deferred by the Development Management Committee last January as Members were concerned at the potential impact of the proposed development on the sensitive setting of the site and regarding environmental sustainability.

Following this it was recognised that a different approach was required and Hartham Leisure Centre was removed from the framework agreement with Willmott Dixon (leaving Grange Paddocks to continue under that agreement), brought back in-house and further consultation undertaken including an all-Member briefing session. The new design concept placed greater emphasis on sustainability and a more sensitive physical design within the confines of the functional requirements of the building. The detailed design stage was now underway and it was expected that a planning application would be submitted in the early autumn.

Councillor Ward-Booth asked whether the costs of the new design would require additional resources to be identified and/or impact on the business plan or payback period of the project. Councillor Buckmaster stated that aim was still for the whole service to be financially sustainable and to keep within the budget previously agreed. The Project Officer confirmed that part of the rationale for bringing the project in-house was to deliver the redesign within the current capital budget. The construction sector market was currently looking favourable and officers believed that this could be achieved.



Councillor Devonshire stated that he had requested the briefing. He thanked Councillor Buckmaster for providing it and said that he was encouraged by what he had heard. He asked that the Executive keep Members involved in the ongoing discussions so as to avoid the type of problems that had occurred previously during the planning process. Councillor Buckmaster confirmed that it was intended to engage again with Members and stakeholders before the submission of the new planning application.

It was moved by Councillor Goldspink and seconded by Councillor Bell, that the briefing be noted and the Executive Member thanked for his presentation.

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

**RESOLVED** – that the verbal update on Hartham Leisure be noted and the Executive Member for Wellbeing be thanked for his presentation to the Committee.

#### 48 EAST HERTS HEALTH AND WELLBEING STRATEGY 2019-2023 - PROGRESS REPORT

The Healthy Lifestyle Programme Officer submitted a report that provided a review of progress to date of the Health and Wellbeing Strategy 2019-2023. Councillor E Buckmaster, Executive Member for Wellbeing, introduced the report. He stated that the strategy was designed to address nine identified health challenges as listed in paragraph 2.3 of the report.

Appendix A illustrated that East Herts outcomes were better than those for England as a whole, and for the rest of Hertfordshire in relation to 11 of 32 health indicators measured; whilst Appendix B outlined the progress made in relation to each of the health challenges.

Councillor Buckmaster highlighted a number of successful initiatives that had been undertaken within the strategy as listed at pages 93-94 and Appendix C of the report, in particular East Herts Social Prescribing Service; community grants; dementia-friendly initiatives; and work within the planning field to deliver healthy places across the district. Councillor Buckmaster also mentioned a number of initiatives more generally across the Council's services that were impacting positively on health and wellbeing.

Councillor Buckmaster stated that great progress had been made just before the lockdown with the launch of the Healthy Hubs. These linked well with the Social Prescribing Service and would operate as online as well as physical hubs.

Councillor Buckmaster invited the Members' comments and suggestions on any ways in which the strategy could be further enhanced. He felt that one positive of the current situation had been the resurgence of community support resources including volunteers, that could be channelled to beneficial effect going forward, in particular to tackle the ongoing adverse effects of the Covid-19 emergency. He also noted that prior to the shutdown of the community halls a variety of physical activities were available

across 27 locations as a result of the earlier Forever Active programme for the over-50s, and suggested that the Committee may wish to support the continuation of this programme, linked to the Healthy Hubs.

Councillor Frecknall welcomed the report and the impressive range of work described. He felt that it would be important to harness the individuals' and skills that had been developed and to ring-fence resources to ensure these valued programmes were not lost. Councillor Buckmaster noted that the Leader of the Council was Chair of the Reassurance Cell and there were many skilled individuals and volunteers to whom the Council and partners could reach out and engage in rebuilding local communities.

Councillor Hollebon endorsed Councillor Buckmaster's comments and thanked the Officers for their work on the strategy which she fully supported. Councillor Hollebon felt that the Community Wellbeing Forum had been particularly successful and she thanked all the members of that Forum. Councillor Hollebon also supported the proposal to relaunch the Forever Active program as this would fit in well with the aims of the strategy.

Councillor Ward-Booth welcomed the progress highlighted in the report. In relation to the Social Prescribing Service, he asked whether the Covid-19 emergency had given rise to increased levels of isolation and poor mental health and whether there were plans to expand the service. The Healthy Lifestyle Programme Officer reported that since 2018, 510 clients had been seen by the service and even

during the Covid-19 emergency all clients had been contacted and referred to services as appropriate. Going forward it was planned to build on this success and introduce the service in a more holistic way to the Healthy Hubs to reach a wider demographic.

Councillor Devonshire asked whether the Social Prescribing Service would be extended in the west of the district. He also enquired as to the future of the Social Prescribing Officer's post which was currently agreed on a year-to-year basis. The Healthy Lifestyles Programme Officer advised that the Healthy Hub in Hertford was expected to engage with a range of ages and demographics across Hertford, Ware, Watton-at-Stone and surrounding areas. In relation to the Social Prescribing Officer's post, funding was in place until March 2021 and options were currently being explored for its continuation beyond that date.

It was moved by Councillor Hollebon and seconded by Councillor Drake, that the recommendations in the report be approved subject to two additional points to reflect concerns raised by Members during the discussion as follows:

- That the Council should continue to reach out to the volunteer network that has been created around the response to Covid-19 in taking forward the various initiatives in the strategy; and
- That the Committee support the relaunch of the Forever Active programme.

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

**RESOLVED** – that (A) the progress to date on the Health and Wellbeing Strategy Action Plan, and proposed amended approach to the Health and Wellbeing Work Programme emerging from the Councils response to Covid-19, be noted;

(B) the Executive Member for Wellbeing and the Head of Housing and Health be requested to give consideration to the matters raised by the Committee and in particular:

- (i) the Council should continue to reach out to the volunteer network that has been created around the response to Covid-19 in taking forward the various initiatives in the strategy; and
- (ii) the Committee support the relaunch of the Forever Active programme.

#### 49 HOUSING AND HEALTH STRATEGY 2016-21 – ACTION PLAN PROGRESS REPORT

---

The Head of Housing and Health introduced the report of the Service Manager Housing Service, which set out the progress made in 2019/20 in delivering the strategic objectives stemming from the Housing and Health Strategy Action Plan 2016-20 and the proposed new actions for 2020/21.

Councillor Ward-Booth noted that the anticipated

number of affordable units to be delivered in 2020/21 was fewer than that achieved in 2019/20 and asked whether any increase was expected going forward, given developments in the pipeline. He also asked what funds were currently held by the Council in commuted sums for affordable housing.

The Head of Housing and Health stated that the number of affordable housing units delivered did fluctuate from year to year and may be affected by the Covid-19 emergency but was kept under close observation. Regarding commuted sums, approximately £2.1m was currently held.

Councillor Snowdon asked for further information on the proposed change to the negotiation process as referred to at Objective 1.8 in the report. The Head of Housing and Health advised that the proposed template was intended to ensure that East Herts Council's requirements in relation to affordable housing, nominations to properties etc were clear and up-front at the start of negotiations, in order to avoid unnecessary subsequent delays later. Overall the Council's record in achieving affordable housing was good, with the Development Plan target of 40% being achieved for most major (i.e. over 10 units) developments, the only exceptions being where there was external validation that this was not viable in a particular case.

Councillor Goldspink thanked the Officers for the report. She particularly welcomed Objective 1.4 regarding research into options for affordable housing delivery; and Objective 3.2, to ensure that the Council's

temporary accommodation offer was fit for purpose.

Councillor Brady referred to the figure of 675 affordable housing units delivered between 2017 and 2020 and asked what percentage this represented of the total supply of new homes over that period. She further enquired as to the precise level of affordable housing that had been negotiated in respect of the approximately 600 total units for the development in the Sele area in Hertford. The Head of Housing and Health stated that these figures were not available at the meeting but he undertook to circulate the information separately to the Committee Members.

The Chairman proposed and Councillor Goldspink seconded, a motion that the recommendations in the report be approved. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that (A) the Committee note progress in delivering the objectives stemming from the Housing and Health Strategy Action Plan 2016-21;

(B) suggestions regarding actions for 2020/21 that contribute to the overall Strategic Objectives be passed to the Executive Member for Neighbourhoods and Head of Housing and Health for consideration; and

(C) the Head of Housing and Health stated that he would provide Members with affordable housing figures as referred to above.

## 50 OVERVIEW AND SCRUTINY COMMITTEE – DRAFT WORK PROGRAMME

---

The Scrutiny Officer submitted a report that reviewed the actions included in the Committee's existing work programme and proposed amendments to the ongoing work programme. The Scrutiny Officer advised Members that:

- The Centre for Public Scrutiny was undertaking a review of scrutiny arrangements at East Herts and would be reporting back in due course with any recommendations to the Executive and Council;
- In relation to the results of the Parking Review Task and Finish group, the Executive had considered the recommendations at its meeting on 11 February 2020 but further action had been deferred as a result of Covid-19. The Head of Operations had provided assurances that this will be progressed as soon as possible. Members were aware that under the Local Government Act 2000, Scrutiny has formal powers to ask the Executive to make a determination of its recommendations.
- The proposed items for inclusion on the September work programme were set out in the report. Going forward, regular meetings would be programmed quarterly (or sooner) with the Leader, Deputy Leader, Chairmen and Vice Chairmen of the Overview and Scrutiny and Audit and Governance Committees to co-



ordinate the development of the work programmes in the context of the Forward Plan. The first meeting of this Co-ordinating Work Group would take place on 29 June 2020.

- In relation to the Social Housing Task and Finish Group, the final meeting, with senior officers of Clarion Housing, had been arranged for 25 June. A summary of the three meetings and any recommendations would be reported to a future meeting of the Overview and Scrutiny Committee for consideration and then if necessary to the Executive.
- Further to item 11 on the current agenda, the work programme for the June 2021 meeting of the Committee would be amended to include the annual review of the RIPA policy.

Councillor Hollebon referred to the forthcoming Centre for Public Scrutiny (CfPS) report. She felt that it was important that the CfPS's recommendations were also reported to the Overview and Scrutiny Committee for discussion. The Chairman and other Members concurred and asked that the Executive ensure that the Committee was provided with the opportunity to consider and comment on the CfPS report when it was available.

Councillor Goldspink stressed the importance of an early progress update on the Climate Change report and asked if this could come to the next meeting. The Scrutiny Officer advised that this had been discussed with the Environmental Co-ordinator. The Scrutiny

Officer undertook to circulate this update after the meeting. The Chairman agreed that it was important for this matter to be revisited on a regular basis.

Councillor Ward-Booth noted that the Committee's next scheduled meeting was not until 15 September 2020. He proposed that an additional meeting be held before September to consider the CfPS report (if available) and the Council's response to the Covid-19 emergency – he suggested that this latter item should be broadened to include the forward planning work to establish 'new normal' working practices for the Council's services, and plans to respond to any further wave of Covid-19 cases.

The Chairman asked that the Scrutiny Officer look into Officer availability and other practicalities around a possible additional meeting of the Committee and email Members after the meeting to seek their views.

Councillor Ward-Booth moved and Councillor Hollebon seconded, a motion that the recommendations in the report be approved subject to two additional points to address the matters raised by Members during the discussion as follows:

- That the Executive be requested to ensure that the report of the Centre for Public Scrutiny on scrutiny arrangements in East Hertfordshire be submitted to the Overview and Scrutiny Committee for discussion and comment prior to consideration by the, Executive and Council; and
- That the Scrutiny Officer look into Officer

availability and other practicalities around a possible additional meeting of the Committee to be held before September 2020 and email Members to seek their views.

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

**RESOLVED** – that (A) the proposed work programme, as detailed at Appendix A to the report, be approved subject to the matters noted above;

(B) the Executive be requested to ensure that the report of the Centre for Public Scrutiny on scrutiny arrangements in East Hertfordshire be submitted to the Overview and Scrutiny Committee for discussion and comment prior to consideration by the Executive and Council; and

(C) the Scrutiny Officer look into Officer availability and other practicalities around a possible additional meeting of the Committee to be held before September 2020 and email Members to seek their views.

The meeting closed at 9:50 pm

Chairman .....
Date .....

This page is intentionally left blank

## East Herts Council Report

### Overview and Scrutiny Committee

**Date of Meeting:** 15 September 2020

**Report by:** Head of Housing and Health

**Report title:** Enhancing the Council's working arrangements with Registered Providers – Report of the Social Housing Task and Finish Group

**Ward(s) affected:** All

---

### Summary

- This report makes a series of recommendations for how East Herts Council can enhance the way it works with local registered providers of affordable housing to maximise the quality of housing services for those wishing or needing to rent or buy an affordable home or who are already an affordable housing tenant in East Herts.

### **RECOMMENDATIONS FOR OVERVIEW AND SCRUTINY COMMITTEE that:**

- (A) the recommendations for how the Council can enhance its working arrangements with registered providers, presented at paragraph 2.6, be recommended to the Executive;**
- (B) a recommendation be made to the Executive that the Executive Member for Neighbourhoods works with the Head of Housing and Health to implement the recommendations before the end of 2021/22;**
- (C) should the Executive approve the Overview and Scrutiny committee's recommended actions, the Executive Member for Neighbourhoods be invited to report on progress to**

## **the Overview and Scrutiny committee towards the end of 2021/22.**

### **1.0 Proposal(s)**

- 1.1 This report proposes a detailed set of actions which the Social Housing Task and Finish Group believes would enhance the working arrangements between the council and registered providers. The report recommends that these actions are presented to the Executive for adoption and implementation by the Executive Member for Neighbourhoods within the coming financial year.

### **2.0 Background**

- 2.1 At its meeting of 5<sup>th</sup> November 2019 the Overview and Scrutiny Committee decided to establish a Social Housing Task and Finish Group to investigate how the council and elected members could enhance the working arrangements between the council and registered providers (RPs), support tenants and help improve service standards in the sector. The Committee's decision to focus on this area was, in part, informed by feedback from tenants of RPs (often referred to as housing associations) about a variety of issues that concerned them.
- 2.2 At the same Overview and Scrutiny committee meeting Councillors John Wylie, Norma Symonds, Mary Brady and Mione Goldspink were selected to serve on the Task and Finish Group. Councillor Norma Symonds was subsequently nominated to chair the Task and Finish Group.
- 2.3 It is worth noting that there are some 16 RPs operating in East Herts with, between them, just over 8,000 general needs, sheltered and supported rented homes and shared ownership properties in the district. See **Appendix A** for the full list of RPs operating in East Herts.

2.4 Coming together on 19<sup>th</sup> December 2019, the members of the Task and Finish Group agreed the following approach:

**Overall aims**

- Investigate RPs' views of working with East Herts by inviting at least two RPs, most likely the largest in the district, Network and Clarion, to meet members of the Social Housing Task and Finish Group to talk through issues.
- Investigate how the council and elected members could support tenants and prospective tenants and improve service standards.
- Hear at first hand the views of tenants of the two largest RPs in East Herts, that is, Network and Clarion.

2.5 Although subsequently impacted by the Covid 19 pandemic, the Task and Finish Group was able to meet face-to-face with four tenants from Network and Clarion on 10<sup>th</sup> March 2020, face-to-face with a senior Officer from Network Homes on 16<sup>th</sup> March 2020 and via video conference with senior Officers of Clarion Housing on 25<sup>th</sup> June and 30<sup>th</sup> June 2020. The Head of Housing and Health or Service Manager – Housing Services attended each meeting. The notes from these sessions could be found at **Appendices B to D** respectively.

2.6 The aims of the Task and Finish Group were not, of course, to simply scrutinise these two RPs' activities, rather the purpose was to establish a series of recommendations with broader relevance to enhancing how the council works with all RPs in the district. Thus, the following recommendations have been formulated:

**Rec 1 That council Officers and registered providers make it easier for elected members to understand key registered provider policies and raise issues directly with the registered providers**

- 1.a That each registered provider be asked to provide a dedicated e-mail address for elected members to use to directly raise issues.
- 1.b That East Herts Council Officers work with their registered provider counterparts to draw up a short briefing note for members on the options available to registered providers to take to tackle anti-social behaviour perpetrated by their tenants or tenants' household members or visitors.

**Rec 2 That dialogue between the council and registered providers is maximised to promote high standards of management and development**

- 2.a That East Herts Council reinstates regular Housing Forum meetings to cover both housing management and housing development matters.
- 2.b That East Herts Council works with registered providers on maximising the environmental sustainability of registered providers' existing and new homes.

**Rec 3 That the process of bidding for and moving into a new registered provider home is made as straightforward as possible**

- 3.a That registered providers be asked to commit to reviewing the process of advertising the first lets of their new build homes through East Herts Council's choice-based lettings system so as to minimise the time between advertising the property and it becoming ready to move into.
- 3.b That East Herts Council encourages all registered providers operating in the district to provide a 'welcome pack' for incoming tenants and carry out at least one follow-up 'settling in' visit to discuss key policies, local amenities and the like.



**Rec 4 Housing and Planning Officers to review how the Housing service's in-depth knowledge of affordable housing need can be most effectively shared with developers at the pre-application stage to maximise the delivery of the size, type and tenure of affordable homes that are most needed locally.**

2.7 It is proposed that these recommendations are presented to the Executive with an accompanying recommendation that the Executive Member for Neighbourhoods works with the Head of Housing and Health to incorporate these items into the Housing Service's action plan for implementation in the remainder of 2020/21 and 2021/22.

2.8 It is further proposed that a recommendation is made that the Executive for Neighbourhoods being invited to attend a meeting of the Overview and Scrutiny committee towards the end of 2021/22 to report back on progress in implementing the recommendations.

2.9 It is worth noting that as Appendices C – E show, the meeting with tenants and RP Officers elicited a number of extremely useful issues and actions specifically regarding how Network and Clarion operate which council Officers are following up separately with each RP.

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

3.1 The over-riding purpose of establishing the Social Housing Task and Finish Group was to enable representatives of the Overview and Scrutiny committee to gain an insight into the working relationships between RPs and the council with the explicit aim of identifying how the council and elected members could support tenants and prospective tenants and improve the service standards they experience.

3.2 A series of detailed recommendations to meet these aims arising from members discussions with tenants and RP

Officers is presented in this report.

## **4.0 Options**

- 4.1 Note the points raised during the Task and Finish Group's investigation but not make any recommendations for action. NOT RECOMMENDED as members of the Task and Finish Group were tasked with identifying ways of improving services and working arrangements and have identified a detailed set of proposals to put to the Executive which it is believed will make a positive difference to tenants' and prospective tenants' experience.
- 4.2 Focus exclusively on the operational matters regarding Network Homes and Clarion Housing identified during the investigation. NOT RECOMMENDED as while these important matters can be followed up during the regular liaison meetings between council and RP Officers, choosing not to make broader recommendations applicable to the wider body of RPs operating in East Herts would represent a missed opportunity to make a tangible difference to how the sector operates in the district.
- 4.3 Make a series of recommendations to be put to the Executive. RECOMMENDED as this the appropriate route for seeking to secure that the findings of the Task and Finish Group are approved and actioned by the Executive.

## **5.0 Risks**

- 5.1 There could be a reputational risk should the Overview and Scrutiny committee having conducted a detailed investigation drawing on the time and input of both RP tenants and Officers chooses not to recommend any actions for the Executive based on any of the issues identified.

## **6.0 Implications/Consultations**

6.1 All members of the Task and Finish Group have been actively involved in the investigation and approval of recommendations being made on the basis of their findings.

### **Community Safety**

Yes – a key recommendation is that East Herts Council Officers work with their registered provider counterparts to draw up a short briefing note for members on the options available to registered providers to take to tackle anti-social behaviour perpetrated by their tenants or tenants' household members or visitors. It is believed that attempts to minimise anti-social behaviour will have positive impacts on community safety.

### **Data Protection**

No – no personal information has been processed as part of this investigation.

### **Equalities**

Yes – any actions taken by the council or registered providers will be subject to the relevant organisation's equalities duties and policies. Of note, when East Herts Council works with registered providers operating in the district to encourage them to provide a 'welcome pack' for incoming tenants and carry out at least one follow-up 'settling in' visit to discuss key policies and local amenities, the council will emphasise the need to ensure that such information is made available in formats, and visits carried out in ways, that pay due respect to ensuring those with protected characteristics can access the information and support provided.

### **Environmental Sustainability**

Yes – the recommendation that East Herts Council works with registered providers on maximising the environmental sustainability of registered providers' existing and new homes will further the council's climate change commitments and sustainability agenda.

## **Financial**

No – acting on the recommendations in this report can be done within existing council budgets.

## **Health and Safety**

None arising directly from this report.

## **Human Resources**

None arising directly from this report.

## **Human Rights**

None arising directly from this report.

## **Legal**

None arising directly from this report.

## **Specific Wards**

No

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

**Appendix A** – list of RPs with properties in East Herts

**Appendix B** – notes of the Task and Finish Group’s meeting with RP tenants

**Appendix C** – notes of the Task and Finish Group’s meeting with a senior Officer from Network Homes

**Appendix D** – notes of the Task and Finish Group’s meeting with senior Officers from Clarion Housing

**Contact Member**

**Councillor Norma Symonds**

Chair of the Task and Finish Group

[norma.symonds@eastherts.gov.uk](mailto:norma.symonds@eastherts.gov.uk)

**Contact Officer**

**Jonathan Geall**

Head of Housing and Health, Tel:  
01992 531594.

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

**Report Author**

**Jonathan Geall**

Head of Housing and Health, Tel:  
01992 531594.

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

and

**Lorraine Blackburn**

Scrutiny Officer, Tel: 01279 502172

[lorraine.blackburn@eastherts.gov.uk](mailto:lorraine.blackburn@eastherts.gov.uk)

This page is intentionally left blank

## **Appendix A: List of registered providers within properties in East Herts**

*In alphabetical order*

B3 Living

Catalyst

Clarion

English Rural

Hastoe

Hightown

Home

Housing 21

Metropolitan

Network

Paradigm

Places for People

Sage

Sanctuary

Stonewater

Welwyn Garden City Housing Association

This page is intentionally left blank



## **Appendix B**

### **Social Housing – Task and Finish Group**

#### **Meeting with tenant representatives from both Network and Clarion Housing Associations**

**10 March 2020 at 2pm Charrington’s House Bishop’s Stortford**

**Present:** Councillors N Symonds (Chairman), M Brady and M Goldspink

Network Homes (three tenants were in attendance)

Clarion Housing (one tenant was in attendance, accompanied by a support officer)

**Officers:** Lorraine Blackburn, Scrutiny Officer and Jonathan Geall, Head of Housing and Health

#### **1. Introductions**

The Chairman welcomed the group and introductions were made. The purpose of the meeting was explained and that tenants’ names would not be attributed to any comments.

#### **2. Questions posed to tenants’ representatives:**

**a) Can you contact your registered provider and people you want to speak to with ease?**

#### ***Network tenants’ comments***

- A lot of improvements over the last 11 years; the RP is making greater use of social media, twitter, facebook, emails.
- Reducing use of letters but the needs of the elderly needed to be taken into account;

- If you are unable to use social media it is possible to go into the Hertford Office. The office is accessible and back office staff are keen to help.
- Being able to phone was important if a resident could not get to the office or use social media.
- There was one number to call (which operated a queuing system) which registered the issue (complaint or other) and a reference number given. There have been improvements within this system over the last 10 months. In terms of resolving a problem the tenant explained that it depended on how complex an issue was as this could impact on the period of time needed to resolve the issue.

### ***Clarion Housing tenant's comments***

- Clarion is good at responding on issues raised via a call when a job reference was provided.
- Repair seem to take longer than under previously.
- Communication with tenants is improving.

### **b) Is information readily available about contracts, online and as a hard copy?**

#### ***Network tenants' comments***

- All new tenants received a very comprehensive "Welcome Pack". It was acknowledged the some private landlords failed to provide such basic but important information.
- The "Welcome Pack" included information on how to get key fobs registered and other key information.
- Some tenants might feel the pack is too weighty to read through and wondered if this could be simplified, for example, have a key summary.

- Wonder whether follow up visits by an officer could be arranged to help residents through initial processes, for example, fob registration, refuse, social issues, schools, and particularly help given to the elderly.

**c) Are you regularly updated about changes both minor and major?**

**and**

**d) How efficiently are your issues dealt with if you raise one?**

***Network tenants' comments***

- A lot of involvement by Network Homes in terms of encouraging the community to report faults in an effort to keep up the communal areas and encouraging tenants to be a part of the neighbourhood team.
- It is important to consider the social and personal impact that some neighbours might have on other tenants' lives as a result of anti-social behaviour. A tenant gave first-hand experience of how such anti-social behaviour.
- There's a financial "balancing act" in relation to moving from private sector to social housing. The tenant praised the support given by East Herts Officers at the Hertford office at the time.

***Clarion Housing tenant's comments***

- Within the block there is a large notice board with regularly posted updates including information about residents' meetings every three months. Additionally, there was a manager who regularly kept residents up to date [within the sheltered housing scheme].

- Some concern about the lack of a vetting process in allocating accommodation and how this impacted negatively on residents' lives. It was noted that a number of residents within the sheltered block worked and from early in the morning, doors could be heard banging as residents left for work. More could be done to vet people prior to them being offered accommodation, particularly as it was very difficult to evict people who were anti-social.
- It is important to socially include people to help them become part of the community.

*The Head of Housing and Health explained that the council nominated individuals to a housing association and the housing association could choose not to accept the nomination if there were very specific.*

**Supplementary ques: Views on starter tenancies, anti-social behaviour and the powers and roles of the RPs, the police and council regarding tackling anti-social behaviour?**

- It was noted that Network Homes are providing life time tenancies. Some tenants suggested that a five year tenancy (or even probationary tenancies) might be a good approach (especially where there were historical anti-social behaviour issues).
- It was noted that this was for the RPs to determine.
- Communication from the police with tenants when dealing with an anti-social behaviour case could be improved.

*The Head of Housing and Health explained that the council has an Anti-Social Behaviour Officer who works closely with the police.*

**e) In relation to the bidding process, do you find this difficult?**

***Network tenants' comments***

- A tenant explained that as a recent tenant in social housing, she felt the bidding process did not make sense and was not understandable. She said the whole process was overwhelming and caused her a lot of stress.
- A tenant explained that during their process that he had received a great deal of help from the staff at Wallfields and considered the whole process reasonable. He was offered a property within three months of bidding.

*The Head of Housing and Health assured tenants that the Housing Team was always available at both locations (Wallfields and Charringtons), to provide help when asked.*

### **Clarion Housing tenant's comments**

- The tenant found the whole process relatively easy. She explained that she had been offered a property within four months.

The meeting ended at 3:30 pm

This page is intentionally left blank

## Appendix C

### Social Housing – Task and Finish Group

#### Meeting with Senior Officer from Network Homes

16 March 2020 at 2pm Wallfields, Pegs Lane, Hertford

**Present:** Elected members N Symonds (Chairman), M Brady and M Goldspink

Jackie Trundell, Network Homes

**Officers:** Lorraine Blackburn, Scrutiny Officer and Jonathan Geall, Head of Housing and Health

#### 1. Introductions

The Chairman on behalf of Elected members, welcomed Jackie Trundell and thanked her for coming.

#### 2. Questions posed to the Senior Officer from Network Homes

##### 1. How well does the council's approach in allocating vacant RP properties work? Do the RPs have any suggestions for how things could be done differently?

- The Officer from Network Homes (herein 'the Officer') said that she believed that the council's approach to allocating properties was working very well.
- There were regular meetings with the council and the association advertised properties which were available.
- In terms of process, the council sifted through the successful bidders and they nominated three individuals to be considered for the allocation of a property; Network Homes then undertook an assessment.

- The Chairman sought further clarification in relation to new build properties being advertised. The Network officer agreed that it could be a challenge processing a number of properties, with limited resources within the team especially, when 12 new build properties may become available in a single.
- The Chairman queried whether the risk process was too “soft”. The Officer commented that she did not feel that the risk assessment process was too soft but was designed to protect the most vulnerable. She referred to the issues and constraints posed by the GDPR (General Data Protection Regulations). She further explained that the housing association had a legitimate business to ask questions about an applicant’s criminal and mental health background and an expectation that the questions would be answered truthfully. The Officer said that further checks could be undertaken if there was the possibility that the applicant may have not answered truthfully.
- The issue of anti-social behaviour was discussed and the powers of the housing association to deal with such a situation. The Officer explained that if there was proven anti-social behaviour, within the last two years, if the individual had specific vulnerabilities or the property was unsuitable, then the individual would not be offered the property.

**2. How well does the council support RPs to develop new homes in the district? Do the RPs have any suggestions on how things could be done differently?**

- The Officer explained that in terms of new developments, the council was supportive and that there was an “open door” arrangement with regard to being able to work with colleagues in planning and housing services.



- She explained that if the housing association had available land for development then early conversations would take place with both the planning and housing service officers to establish what was needed in terms of provision. The housing association was then able to consider how housing provision could be accommodated in terms of outright sale, shared ownership, tenured rent to make a proposed scheme financially viable.
- The Officer explained that grant funding was available and that this helped the provider deliver more affordable housing. Other sources of funding including those negotiated via Section 106 agreements.
- The Officer explained that there was potential to provide good quality housing for older people in order to encourage them to release rented under-occupied properties.

**3. How well does the Council communicate its aims and objectives to RPs? Could this be improved?**

- The Officer explained that there were good communication links, with meetings held regularly with Executive Officers (from the housing association); meetings were held regularly with developers and there were close links with the housing team. She explained that there were regularly housing forums in an effort to understand the challenges in relation to provision.

**4. What are the RPs' views on how elected members and/or officers raise tenants complaints with them? Could this be done differently?**

- The Chairman referred to the fact that some tenants do not like elected members getting involved in matters they are raising with their landlord. The Officer explained that if a tenant wanted an advocate, then the housing association would

respect that wish and ask the elected member(s) to complete the “permission card” which would facilitate open communication (and observe the requirements of GDPR). The Officer explained that if elected members wanted to progress an issue on behalf of a Network Homes’ tenant they should do so via the email address as shown [electedmembersenquiries@networkhomes.org.uk](mailto:electedmembersenquiries@networkhomes.org.uk)

**5. How satisfied are tenants / residents with the way their complaints are handled; is there a pattern of complaint which can be addressed?**

- The Officer explained that complaints were followed up via a Satisfaction Survey which were rarely returned. She acknowledged that this was a problem but that the return of the form depended on whether or not someone was happy with the result and that it wasn’t always possible to give people what they wanted.
- The Officer explained that Network was always looking at ways to learn from complaints.
- An elected member asked for clarification from Network Homes on the best way to proceed a resident’s complaint. The Officer re-iterated that if an elected member had a complaint then the best way to proceed was to allow the association to go through the complaints process and that if the resident was still not satisfied then to ask the tenant to sign a consent / representation form (to observe compliance with data protection requirements) and then email via the [electedmembersenquiries@networkhomes.org.uk](mailto:electedmembersenquiries@networkhomes.org.uk) box.
- The Chairman asked whether Network Homes had a Tenancy Sustainment Officer. The Officer said they did not but acknowledged the valuable help they could provide.

**6. How do you communicate with tenants / residents? Does this comply with equality / disability requirements?**

- The Officer explained that Network Homes used a variety of methods to communicate and that it was currently in the process of developing an online portal when the pilot study has been concluded. It was hoped that this would go “live” in April / May 2020.
- The Officer explained that Network Homes also communicated in writing, via the website, telephone, notice boards.
- Additionally tenants could call personally into the office where they could gain help.
- The Officer confirmed that all information in whatever medium, was compliant with disability and equality requirements having been first risk assessed.

**7. What are your procedures for complaints?**

- Responded to within the answer to Q5.

**8. In terms of the bidding process and viewing properties, what are your protocols? Do you experience difficulties with this?**

- The Officer explained that the bidding process was run by the council with the housing association being provided with nominations. S
- he confirmed that the process worked well and was aligned with Network’s priorities.
- It was noted that Network Homes received a number of nominations per property, which the council initially reviewed with the housing association taking the top three.

- She explained the review process which was aligned to risk assessments and that they tried to arrange multiple views wherever possible.
- The Officer explained that some properties were harder to let, for example, top floor properties to elderly people and perhaps those requiring re-decoration.

**9. How do you resolve problems issues with tenants? What are your protocols in relation to anti-social behaviour?**

- The Chairman referred to the fact that Network Homes provided life time tenancies and queried issues in relation to those who might show anti-social behaviour.
- The Officer She explained that virtually all would be converted to assured tenancies and secure tenancies.
- The Officer explained that in relation to Starter Tenancies and potential anti-social behaviour, there was a need to ensure that the housing association adhered to a stringent monitoring process if it was suspected that the tenant might be perpetrating anti-social behaviour which would then aid the process if the matter was taken to court; otherwise a case could be thrown out of court on a technicality. A court would need to be assured that every single aspect had been exhausted before measures could be taken forward.
- The Officer explained that where there were neighbour problems, the association expected the tenants to resolve an issue themselves.
- The court would not give the association possession of a property in relation to a dispute about a smell from cannabis.
- The Officer explained that the association worked closely with East Herts Council and that working together, they could obtain a Community Protection Notice (after a Community Protection Warning) had been issued by the housing association. Further

steps included the issue of a fixed penalty fine. If this was not paid then the matter would become a criminal offence and a criminal conviction could enable the housing association to take back possession of the accommodation.

- The Officer explained that if the tenant was vulnerable and at risk then the housing association could move the tenant via a “Management Move”.
- An elected member asked whether the group could be provided with a note of the procedures open by the association in relation to anti-social behaviour and securing possession of a property. The Officer undertook to provide this.

**10. Is there a mechanism to feed back to Social Services in terms of a holistic approach to issues which might be of a Social Services nature?**

- The Officer explained that Network Homes worked closely with a number of agencies including the NHS and Social Services.
- She explained that if the association was concerned about an individual who might be “high risk” then the association had a duty to contact Social Services and make them aware.
- She explained what agencies the housing association had regular contact with.
- The Officer explained that it was important to remember that Network Homes was a provider of homes and not a social service but would do all it could to ensure the needs of residents, from a housing provision viewpoint were met.

The Chairman, on behalf of elected members, thanked the Officer for attending.

The meeting ended at 3:10 pm

This page is intentionally left blank

## **Appendix D**

### **Social Housing – Task and Finish Group**

#### **Meeting with Senior Officers from Clarion Housing Association**

**25 June at 10am (Virtual Meeting) and 30 June at 2pm (Virtual Meeting)**

Present: Elected members M Goldspink (In the Chair), M Brady and J Wyllie

Clarion Housing Sarah Wells, (Head of Operations East Region and Marek Witko (Regional Director)

Officers: Lorraine Blackburn, Scrutiny Officer and Claire Bennett, Service Manager – Housing Services

*This meeting was adjourned as a result of an IT related situation and resumed on 30 June at 2pm (see below) the meeting resumed again at Question 7*

#### **1. Apologies**

Elected member N Symonds submitted apologies for absence. She was unwell. Elected member M Goldspink agreed to Chair the meeting of the Task and Finish Group.

#### **2. Introductions**

The Group introduced themselves.

#### **3. Questions to Clarion Housing’s Senior Officers**

The Task and finish Group was reminded that questions established at the meeting in December 2019 had been circulated to Senior

Officers who had prepared a summary of responses. The Scrutiny Officer suggested that she read out the responses received from the Clarion Officers (herein 'the Officer(s)') to allow the Task and Finish Group the chance to focus on any supplementary questions they may wish to ask. This was supported. (Clarion's written responses are listed in italics immediately under each question in these notes.) Cllr Brady expressed concern at the number of acronyms in Clarion's response. The Officers apologised for this and agreed to clarify them as the meeting progressed. This was subsequently forwarded from Clarion as an appendix.

**1. How well does the council's approach in allocating vacant RP properties work? Do the RPs have any suggestions for how things could be done differently?**

- *"We work well with the Housing Options team, we get nominations in a timely manner and whenever there are issues the relationship we have with the team will see the problem is resolved. We have 100% nomination agreement, but if there is a case that may requires internal move we speak with the HO team and they agree to the move. There is also a process in place that allows management moves granted from Clarion to be awarded extra points via the CBL system and this assists both Clarion and the residents."*
- The Regional Director explained that East Herts system worked well and that they worked with whatever letting based system was preferred by each authority whether this was Home Choice or Home Locator.

**2. How well does the council support RPs to develop new homes in the district? Do the RPs have any suggestions on how things could be done differently?**



- *“East Herts is an important focal point for Clarion in terms of providing new homes for both affordable tenures and private sale. East Herts has been supportive in relaxing the local connection criteria at Hazel End Phase A where we have had difficulty selling some of the shared ownership homes. Future flexibility would be appreciated at an early stage if similar schemes have the same difficulty”.*
- *“A willingness to discuss affordable tenure mixes on individual sites and to develop the conversation around why the provision of 1 bed flats and 4 bed houses as affordable homes would be beneficial. The other area of interest is working with East Herts and HE to discuss how grant rates and additional funding can be used to increase the amount of affordable homes on sites in East Herts”.*
- In response to a question by Cllr M Brady, the Clarion Head of Operations explained the need to get the right mixture of tenures in relation to new housing provision and the difficulties encountered in achieving the right mix usually through Section 106 Agreements.
- She explained that there was a need to have early conversations with planning officers to achieve what was right for particular areas, for example there was a high need for 1-bed properties but a high concentration of 1-bed properties caused a problem in relation community cohesion.
- Ideally there should be a mix of 1, 2 and 3-bedroomed properties (as 2 and 3-bedroom properties were the greatest in demand).
- Four-bed room properties were also a problem because local need was based on private and public sector housing guidelines. The Head of Operations explained that there was demand for 4-bed properties in the private sector but not within the public sector and that they were often unaffordable.

- Cllr J Wyllie suggested stressed the benefits of early discussion with Planning to achieve the right mix of tenure. It was also suggested that there should be two separate lists related to the affordable and private sector needs.

*The council's Service Manager – Housing Services Manager explained that the council's District Plan includes separate preferred housing mixes for affordable and private housing on a development. She also reported that the Housing service works with the Planning service to secure the right size of affordable homes to meet the current identified needs for affordable homes. She explained the process of negotiation with the developers and with the planning service and the balance the developers needed to establish on what properties sold well for shared ownership homes.*

### **3. How well does the council communicate its aims and objectives to RPs? Could this be improved?**

- *“Quarterly /Ad Hoc meetings at all levels and named contacts. An RP forum for operational issues would be beneficial”*
- The Head of Operations explained that quarterly meetings were held with the Executive Member for Neighbourhoods and there was a strong working relationship with Housing Officers and the Head of Service.
- She provided an update on what other forums of communication and media were used. The Head of Operations said that she would like to see the Housing Forum reinstated and include housing management and asked if further thought could be given to this. It was noted that the last Forum was held in January 2020. The Head of Operations explained that other elected members were regularly updated in relation to housing matters, specifically the Executive and the elected member champion.

- It was noted that a joint presentation with Network Homes and Clarion would take place to provide an overview of housing provision in the district and to afford elected members the opportunity to ask questions.
- Cllr Wyllie said that Housing Officers should be invited to pre planning discussions.

*The East Herts Service Manager – Housing Services explained that the Housing service’s views were sought at the early stages of developers’ proposal and that the Housing services was fully engaged on the most strategic sites, notably Gilston. She pointed out the strategic housing market assessment is in the District Plan. This provides a detailed breakdown of property type and tenures that Planning colleagues use as part of the pre-application discussions with developers.*

**4. What are the RPs’ views on how elected members and/or officers raise tenants complaints with them? Could this be done differently?**

- *“All complaints should be raised via contact centre*
- *Agreement with Peter Boylan that Council Elected members/officers should ensure that tenants have raised issues with us first, to allow us the opportunity to resolve, prior to their involvement- this is working well generally*
- *Manage expectations of tenants- ensure that council elected members do not promise actions that RP is unable to carry out i.e eviction for alleged ASB prior to correct procedures/investigation/Management moves”*
- Elected members were provided with the generic contact number for Clarion 0300 500 8000. Clarion Officers explained that all enquiries should be logged with Clarion to allow them the opportunity to address an issue. The Director for the East Region explained that if an elected member was unhappy with

the result they could email him. (He subsequently forwarded this to elected members on 26 June 2020. )

**5. How satisfied are tenants / residents with the way their complaints are handled; is there a pattern of complaint which can be addressed?**

- *“We do not report on or measure satisfaction by boroughs or specific areas. However, the overall Clarion figure of customer satisfaction for complaints handling. As of 2019-20 quarter 3, 59.8% of Clarion customers are satisfied with the complaints handling and 64% of our customers are satisfied with the outcome/resolution of their complaint*
- *Low volumes received – average of 13 a month in the last quarter 80% of complaints are repair related”*
- The Clarion Officer explained that during the last quarter March-June there had been a drop in complaints which may have been as a result of the lock down but that this could rise.
- The Task and Finish group commented that a figure of 59.8% customers being satisfied with their complaints being handled was not a high satisfaction rate. The Task and Finish group felt that this should have been in the 80s.
- The Clarion Officer explained that people tended not to complete feedback satisfaction if they were dissatisfied with the outcome and that it was more about managing expectations.
- The Clarion Officer explained that their scrutiny service was currently reviewing customer satisfaction survey and comparing this with other housing forms and providers. It was also noted that there were two areas which had low satisfaction results and that a team was reviewing the breakdowns.

**6. How do you communicate with tenants / residents? Does this comply with equality / disability requirements?**

- *“Preferred method of communication is listed on CRM and used to communicate with tenants*
- *Newsletters, LSO, RI consultation, website, partnership days, clarion voice, translation service*
- *Surveys at each transaction, random surveys and repairs surveys, together with tenants early adopters (NHF) RED”*
- The Clarion Officer explained that a new Customer Relationship Management service was being established. She explained the role of Local Service officers in gaining information in relation to turnover, Anti-Social Behaviour and Complaints in a locality; essentially they targeted an area and gathered information. The Director for the Region explained the use of ONS data to tailor services to particular areas, identify issues and to try and support an area which looks at beyond the provision of housing.

**The meeting was adjourned...**

Present: Elected members N Symonds, (Chairman) M Goldspink M Brady and J Wyllie

Clarion Housing Sarah Wells, (Head of Operations East Region) Marek Witko (Regional Director)

Officers: Lorraine Blackburn, Scrutiny Officer and Claire Bennett, Housing Manager,

**7. What are your procedures for complaints?**

- *“We have a two-stage procedure co-ordinated by our Customer Solutions team:*

- *Stage One - We do all we can to resolve customers' issues and put things right. (10 working days)*
- *Stage Two - Is a review if our customer is unhappy with the stage one resolution. (20 working days)*
- *We aim to comply with the Tenant Involvement and Empowerment National Standard which states that "we have an approach to complaints that is clear, simple, accessible and ensures complaints are resolved promptly, politely and fairly. "*
- *OUR PROCEDURE DOES NOT COVER:*
- *Matters already being dealt with by the Housing Ombudsman Service (Ombudsman).Matters already being dealt with by the Information Commissioners Office (ICO)*
- *Liability or personal injury claims.*
- *Where we're advised that legal action has begun,( we will continue to manage through the complaints process until confirmation of legal action has been received)*
- *Complaints from one resident about another. This goes via the neighbourhood housing team for advice on neighbour disputes.*
- *Issues regarding antisocial behaviour (ASB). We will manage complaints about the handling of an ASB process.*
- *Feedback about our policies and procedures from customers or other parties will be recorded and form future reviews.*
- *Any complaint closed over six months ago unless:*
- *There are issues on going related to the complaint – e.g. ASB, damp or mould*
- *An MP or the Ombudsman have asked us to review the complaint*
- *Complaints from non-residents will be acted on but are not covered by the complaints policy. These will be recorded as feedback".*
- *In response to a question regarding how long it would take to process an anti-social behaviour (ASB) case if evidence was being gathered to present to court, the Clarion Officer*

explained that various types of ASB had different categories which were outside of the complaints process. She explained that the association do not take a case to court unless they have strong evidence supporting a conviction and that a Judge would not evict an individual unless the case was water tight. She explained the other forms of Categories 1, 2 and 3 (1- Crime); (3 - noise) reports in 7 days. Vulnerable residents (domestic abuse etc) get an immediate response. Category 2 (noise nuisance); five days to investigate and response Category 3 (Any other issue) this would take seven days to respond. The T&FG were advised that each complaint was looked at on an individual basis.

**8. In terms of the bidding process and viewing properties, what are your protocols? Do you experience difficulties with this?**

- *"We have minimum involvement with the bidding process; we aim to allow viewings of all properties during the void period. 100% Noms"*
- The Director for the Region explained that with regard to the bidding process Clarion respected whatever bidding protocols were used by the local authority. The Clarion Officer emphasised the strong working relationship Clarion had with Housing Officers.

*The East Herts Service Manager – Housing Services explained that there had been some instances when some new build properties had been advertised too early but that was not the fault of the registered providers. She explained the good work which had been done to release void properties to get people out of temporary accommodation.*

**9. How do you resolve problems issues with tenants? What are your protocols in relation to anti-social behaviour?**

- *“The Contact Centre is responsible for signposting the victim to other agencies, correctly recording / categorising the ASB case and transferring complainants to the TS teams.*
- *Tenancy Specialists have overall responsibility for managing all qualifying ASB cases from the beginning to the end. This will include, but it is not limited to action plan creation, booking customer visits, record keeping, keeping the complainant informed and deciding on legal and non-legal actions.*
- *The NHO will complete statements, interviews, inspections and liaise with the local agencies after they receive customer visit appointments from TS’s.*
- *Ensure that residents know their rights and responsibilities in relation to ASB.*
- *Record incidents of ASB and will categorise them as Crime, Noise or Other ASB.*
- *Investigate reports of ASB in accordance with our policy and inform residents if their complaint has not reached the threshold for investigation.*
- *Assess the vulnerability of complainants and tailor our response accordingly.*
- *Keep residents informed about the status and progress of their case.*
- *Signpost residents to other agencies if we are not able to help them or if another agency is better positioned to help*
- *Use the tools and powers available to us to resolve ASB where it will make a difference and the use of our resources is proportionate.*
- *Work in partnership with other agencies to ensure that the most appropriate action is taken to resolve ASB and challenge them to use their powers, where appropriate.*



- *Provide support to victims and witnesses via our internal support services and referrals to other agencies.*
- *Work to prevent ASB by working proactively with other agencies to provide diversionary activities and support to potential perpetrators.*
- *Design out ASB & crime by carrying out physical improvements to our estates and carrying out appropriate checks before letting our properties.*
- *Always consider whether ASB is an indicator of domestic abuse and respond in line with our domestic abuse policy and procedure.*
- *We classify reports of ASB as Crime (category 1, requires crime ref number and to report to police first), Noise (category 2) and all other forms of ASB (category 3). Some crime issues are also identified as urgent where they are a threat to someone's physical safety such as, domestic violence, hate crimes and physical violence.*
- *The thresholds for 2 and 3:*
- *Three separate incidents reported in the last 7 days by the same person or an elected member of the same household*
- *Five separate incidents reported in the past 28 days by the same person or elected member of the same household*
- *Two separate incidents reported in the last 28 days by two or more people from different households*
- *For serious one-off events where the incident has been investigated by the Police or the local authority, and they ask us to get involved where they feel it would help and we agree with their assessment*
- *At a time of our choosing, based on local intelligence (e.g. if several residents make isolated complaints about the same household)*
- *We reserve the right not to investigate a case, even when the threshold is met, where we have evidence that the complainant is being unreasonable, vindictive or vexatious"*

- The Task and Finish group members were pleased to see the ambition to keep residents up to date with progress of their case, and queried if there was a commitment to a specific timetable for this.
- Clarion Officers explained that a new policy had been drawn up about this, last November and action plans are devised with the complainant. This policy now asks the complainant to choose how often he/she wished to be updated and by what method.
- An elected member of the Task and Finish group was concerned that there might be long waits for Tenancy Sustainment support. The Officer confirmed that the length of wait depended on the urgency of the support required and if it could be provided in-house or via signposting to more specialist support agencies.
- It was noted that Clarion have a Domestic Abuse Support Worker who works closely with SADA (Survivors Against Domestic Abuse) who also have a Service Level Agreement with the East Herts Housing service to provide support and advice to those experiencing domestic abuse. Clarion tenants can be referred to SADA.

**10. Is there a mechanism to feed back to Social Services in terms of a holistic approach to issues which might be of a Social Services nature?**

- *“Safeguarding policy*
- *Tenancy specialist*
- *Partnership*
- *Data sharing protocol”*
- The Task and Finish group was advised that support was outlined in Clarion’s Safeguarding Policy and by referral to Herts County Council’s Safeguarding Service under their Policy.

- The Task and Finish group was reminded of the need to be careful about sharing personal information.
- The Task and Finish Group was impressed how well tenants were looked after by their landlord especially compared with private tenants.
- Furthermore elected members could make their own referrals to Social Service directly if they had concerns about a situation or incident.

*The meeting finished at 2:40pm*

## **Acronyms**

*RP- registered provider (Housing Association)*

*CBL- Choice Based Letting- system used by East Herts for people to bid on available properties*

*HE- Homes England. Non-departmental public body that funds new affordable housing in England. Responsible for increasing number of new homes built in England, improving existing affordable homes, increasing supply of public land and speeding up rate it can be built on.*

*ASB- Anti Social Behaviour*

*CRM- Customer Relationship Manager .System used by Clarion to manage interactions with customers, build customer relationships, streamline processes and improve customer services*

*LSO- Local Service Offer. A local offer is an additional service or initiative over and above Clarions' Core Offer that is designed to address a specific, identified issue or need over a period of time, to help us achieve our neighbourhood vision. Local offers should assist in improving the quality*

*of local service delivery, quality of life and/or well-being of residents within their neighbourhood.*

*Local offers go beyond a one-off estate management action to resolve an immediate problem such as a skip clearance day. They are intended to address longer term or more entrenched issues that we have been unable to tackle through our usual services.*

*RI-Resident Involvement*

*NHF-National Housing Federation. The trade body for the Housing Association Sector. Influence, campaign and engage on behalf of the elected members (800 Housing Associations)*

*TS-Tenancy Specialist Team, who manage the anti-social behaviour (Clarion)*

*NRO-Neighbourhood response officer*

## East Herts Council Report

### Overview and Scrutiny Committee

**Date of Meeting:** 15 September 2020

**Report by:** Executive Member for Financial  
Sustainability

**Report title:** Council Tax Reduction Scheme 2021/22

**Ward(s) affected:** All

---

### Summary

To consider the latest available information around the current local Council Tax Support (CTS) scheme at East Herts and whether any changes to the scheme should be considered for 2021/22

### RECOMMENDATIONS FOR OVERVIEW AND SCRUTINY:

**(A) Overview and Scrutiny Committee consider whether other options around scheme design should be explored further for East Herts local Council Tax Support scheme for April 2021.**

#### **1.0 Proposal(s)**

1.1 That Overview and Scrutiny committee consider, in accordance with the Governments requirement for an annual approval of the Council Tax support scheme, to propose to the Executive any changes to the scheme for 2021.

#### **2.0 Background**

2.1 The Government made provision within the Local Government Finance Bill to replace the former national Council Tax Benefit

(CTB) scheme from 1st April 2013 with localised schemes for Council Tax Reduction Schemes (CTS) devised by individual local authorities (LA's). The schemes are valid for one year and must be approved by Council before the 11<sup>th</sup> March immediately preceding the financial year in which it is to take effect.

- 2.2 If the Council were to choose to consider any material revisions to the scheme, this would be the subject of public consultation, which would need to be considered by both those entitled to receive support as well as the general Tax payers of East Herts.
- 2.3 The Government require that major preceptors (County and Police) are consulted each year, and if there is any change to the scheme a full consultation open to all tax payers in the district is required. There is no specific timescale prescribed but the period must allow for meaningful consultation.
- 2.4 Additionally, consideration must be given to providing transitional protection where the support is to be reduced or removed. The financial impact of any decision on Council Tax Support also needs to be included when setting our budget and Council tax levels at the same time.
- 2.5 Since the introduction of CTS in April 2013 various changes have been considered but the scheme has remained the same. Appendix A provides details of the history of the scheme.
- 2.6 Previously Overview and Scrutiny committee received a presentation on a potential new scheme for 2019/20 based on income bands. The aim was to find a scheme which would simplify the criteria for customers as well as mitigating the impact of changes in circumstances on workload and council tax collection, resulting from universal credit reassessments.

- 2.7 Members were advised that substantial modelling would need to be carried out to avoid any unintended consequences, as well as enabling full consultation with tax payers and major preceptors. Testing was carried out but did not produce the desired outcomes.
- 2.8 This report therefore details the current position on Council Tax, and seeks support to continue the current scheme for 2021/22.

### **3.0 Reasons**

- 3.1 In 2013 the Council initially devised a scheme which replicated the previous Council tax Benefit scheme but limited the Council Tax liability that was used to assess entitlement to 91.5% for working age customers. The Council has maintained this position for the first 8 years of the scheme.
- 3.2 The cost of the scheme is reflected in the tax base, in the same way as other discounts which reduce the collectable debit.
- 3.3 Currently (2020/21) 75.86% of the tax base income is precepted by Herts County and Council and 10.62% by the Police, and accordingly they have a vested interest in the value of the CTS scheme as it directly impacts on their ability to raise funds. The lower the cost of the scheme, the higher the tax base on which they can precept.
- 3.4 Before the introduction of CTS there had been a number of years of constant case load increases, the caseload has since stabilised and reduced, alongside a growing taxbase due to new developments in the area. The impact on the cost of the scheme is demonstrated below.

Year	Cost of the CTS scheme	
2013/14	£6,448,794	Actual
2014/15	£6,066,188	Actual
2015/16	£5,734,780	Actual
2016/17	£5,670,937	Actual
2017/18	£ 5,813,163 *	Actual
2018/19	£ 6,066,356 **	Actual
2019/20	£5,999,213	Actual

\* The Band D value of the 2017/18 taxbase increased by 4.39% on 2016/17,

\*\*The Band D value of the 2018/19 taxbase increased by 5.76% on 2017/18

- 3.5 The level of spend on CTS has continued to reduce in real terms since its introduction. This has supported previous recommendations to leave the scheme unchanged.
- 3.6 The impact of Covid -19 on the economy in the short, medium or long term is as yet unknown. However for the first time since 2009, the case load for working age claimants has begun to rise. This is considered to be as a result of the lockdown. It may be symptomatic of the beginning of a recession as seen in 2008/09, where caseloads rose continuously for 5 years before reducing, or it may be a short term response to the lockdown and furlough arrangements.
- 3.7 The impact of this growth, although small at present needs to be considered for its impact on the taxbase and the proportion of the cost borne by East Herts Council.
- 3.8 The taxbase for 2020/21 was calculated in October 2019, and assumed Council Tax Support would cost the equivalent of 3410.53 band D values. At 1 July 2020 the actual band D cost of Council Tax support was 3438, which is £51,000 more



expensive. In context however the taxbase is set to produce £114.2m and has many variables.

- 3.9 Whilst the working age caseload has seen a modest rise in recent months, the elderly caseload continues to fall and is thus mitigating the impacts of this change.
- 3.10 If the net rate of growth of CTS continues during the year we could have an increase in the caseload of 404. The impact on this years taxbase is mitigated by pro-rata entitlement, but a full year impact, assuming all are band D properties would be in the region of £753k. East Herts' share of the taxbase is 9.33% which would account for £70.3k.
- 3.11 It is perhaps not unreasonable to expect a spike when the furlough scheme becomes less generous and again when it is withdrawn, although the impact or duration of these potential outcomes is unknown. Changes in caseload are monitored so any trend would be promptly identified.
- 3.12 The taxbase is also impacted by other variables, and changes in anyone of them can impact on its ability to generate the expected income levels on which the budget is set. The Covid-19 pandemic may for example have a dampening effect on new builds coming into the taxbase which will further reduce its income raising capacity, or this may be accelerated by reduced housing costs.
- 3.13 Consideration of any variations to the existing scheme needs to consider:
- The cost of CTS
  - The impact of other welfare benefits reforms on the ability to pay
  - The cost of increasing arrears and recovery costs
  - The buoyancy of the taxbase generally
  - The unknown budget and finance settlements

- The roll out of Universal Credit

3.14 The CTS scheme for 2020/21 can be summarised as follows:

- That the CTS scheme for all working age claimants will be based on 91.5% of their council tax liability.;
- All local discretions currently in place continue e.g. war pension disregards;
- All other aspects of the new Council Tax Support scheme to mirror the previous Council Tax Benefit scheme.

3.15 A large proportion of customers affected by the introduction of the CTS scheme had not previously had to pay anything towards their Council Tax bill. If they had been 'passport'ed under the Council Tax Benefit scheme their liability would have been discharged in full by a credit transfer onto their Council Tax account. Under the CTS arrangements all working age customer have to pay at least 8.5% towards their bill.

3.16 It continues to be a challenge to support and educate these customers into a regular payment arrangement. We have:

- Offered flexible repayment options,
- Given more time to pay,
- Worked on a project with the Citizens advice Bureau to support customers with repeated arrears,
- Promoted other debt and advice agencies.

3.17 The in-year collection rate for working age claimants who had only the minimum 8.5% liability to pay was 67.49% in 2014/15 and 72.42% for 2019/20.

3.18 The overall in-year collection rate for all working age CTS customers was 77.43% in 2014/15, and 77.95% in 2019/20. In contrast to the all tax payers in-year collection rate, which for 2014/15 was 98.2%, and 97.8% in 2019/20.

3.19 In recognition of the fact that the additional Council Tax liability is more difficult to collect, a collection rate of 98.9% has been assumed. The liability not paid in-year becomes arrears on which a bad debt provision has to be established, which is a further cost to the council. Where the outturn taxbase exceeds the estimated performance it generates a surplus on the collection fund, and conversely when the taxbase does not achieve its expected performance because of negative variations in the component elements, the collection fund would be in deficit. The Council is required to make precept payments during the year regardless of any in-year variations.

3.20 Many of these same customers have been affected by other welfare reforms introduced:

- the spare room subsidy scheme
- the new Benefit CAP,
- Reviews of disability benefits etc.

Many families find that they have increasing debts with their councils and landlords for bills that were previously paid for them.

#### 4.0 **Options that could be considered in redesigning a scheme**

4.1 There are a number of options that could be considered when redesigning the scheme, although all revisions would affect working age customers only, given that pensioners have to be fully protected by our scheme.

4.2 The Government continues to make changes to the Housing Benefit regulations which are not currently mirrored in the CTS regulations. This means the schemes are no longer aligned. The frequency of changes to Housing Benefit and Universal Credit schemes, make it almost impossible to mirror these in the CTS scheme, not least of which because of the difference in timing. The Housing Benefit and Universal Credit schemes

are changed when needed during the year, and the CTS scheme can only be revised annually.

- 4.3 Consideration was been given previously to align some of the more significant differences between Housing Benefit and Council Tax support but the financial implications across the caseload have been assessed as small, and the changes would have required a full consultation exercise, to achieve only a temporary alignment, and therefore this was rejected.
- 4.4 The caseload for CTS indicates that the proportion of working age customers compared to pensioners is changing over time very slightly. It demonstrates a reduction in the proportion of the caseload for Elderly customers and this may be attributed to the rising of the national age threshold for becoming a pensioner. (At 1.4.20, 55.4%% WA : 44.6% Elderly), consequently more customers would be affected by any changes.
- 4.5 Previously consideration was given to an income-band scheme which appeared to offer an opportunity to simplify entitlement criteria and the treatment of income and capital. This was driven by the roll out of 'full service' Universal Credit, (impacting in East Herts from October 2018) so there was a need to look to reduce the impact of monthly changes in universal credit on entitlement to CTS and Council tax collection.
- 4.6 Members were supportive of the approach, however subsequent testing has shown that there are unintended consequences for customers with disability premiums, and to correct for these would make the scheme overly complex and thus not achieve the desired outcomes.
- 4.7 Consideration has previously been given to each of the following changes, but each relies on the basic scheme construction remaining the same.

- a) Changing the level of “minimum payment” for all working age customers
- I. The current scheme assumes that all working age customers are asked to pay at least something towards their Council Tax, and as described earlier the minimum payment is 8.5% of liability. The Council could consider making a change to that amount but in doing so, the full impact of that decision needs to be considered.
  - II. If the Council chose to increase this minimum payment to say 10%, this does not mean a straight line reduction in the amount that the Council will spend out. For individuals already finding it difficult to pay at the current level, it can be seen that increasing this amount could increase their hardship levels further, especially as these customers are likely to be receiving other benefits, which have been affected by the on-going Welfare reforms.
  - III. Given our latest information shows that the collection rate for those working age customers in receipt of CTS is already significantly lower than the overall rate, we would need to consider adding further amounts to our bad debt provision in respect of potential non-collection of our debts. Having done some indicative modelling, we estimate that increasing the minimum payment to 10% could result in a decrease in Council Tax spend of approximately £80k. This would be virtually wiped out by the need to increase bad debt provision.
  - IV. Conversely, if we were to consider reducing the minimum amount to be paid we would need to consider where we would find the additional amount that we would need to fund Council Tax Support and the impact upon the totality of the funding for the Council and importantly, other precepting bodies too. These impact on their overall

funding levels, and given we represent under 14% of the total cost of the scheme, EHC needs to consider the significant financial impact this could have on others. There would still be costs associated with administering the scheme whatever the level of award, as not everyone gets the full benefit so this would not mitigate the additional cost to the Council. On current estimates, we believe the additional burden could be around £300k.

b) Introducing a band cap (so limiting the amount that we would pay to a value of a lower property band, for example Band D)

In some Local Authorities, they have introduced a band cap where the scheme will only pay up to the equivalent of say a Band D property, even if you are in a higher banded property.

This could disproportionately affect those with a requirement for a larger property as they have children, other dependents due to caring responsibilities or a disability. These groups could already have been hit by other areas of Welfare reform including the Benefit Cap and the Spare Room subsidy limitation.

c) Introducing a minimum amount that would be paid out

Some Councils have introduced a minimum level at which they will support residents. An example is that you have to be entitled to at least £5 a week to be supported. This means someone who is currently entitled to a lower amount, would not receive it, despite the fact that we have assessed them as currently requiring support. There are no real savings in terms of administrative costs because we would still have to undertake an assessment to find out that we wouldn't award. In addition, the fact that they are currently entitled to support indicates that

they are financially vulnerable and the likelihood of being able to collect that additional amount from those residents is low. Therefore the potential reduction in costs overall is minimal and outweighed by an increase in bad debt provision and recovery costs.

d) Changes around discretions for Disability, Children and other Dependents

- I. This would change the nature of the scheme overall. East Herts, when setting its original scheme were clear that all would contribute equally as the core scheme already differentiates preferentially to those with disabilities, children etc.
- II. Any complexity that is added to the way in which we calculate entitlement, will make the administration of the scheme both more complex for our officers to manage both in terms of calculation but more importantly, to explain to our residents.
- III. This would also mean that the general working age population may need to pick up an even greater share of the cost if the scheme is to remain affordable and equitable.

e) Other adjustments

There include; income tapers, non-dependent deductions, income disregards etc. but all carry the same risk to bad debt provisions, potential recovery costs and costs of administration. The more complex the scheme, the more difficult it is to comply with and customers' levels of understanding could be compromised.

#### 4.8 **The impact, challenges and opportunities of Universal Credit.**

- 4.8.1 Customers claiming UC who apply for Council Tax Support do not require the Council to carry out means testing on their circumstances. They need only provide their UC entitlement letters (details of which can be confirmed through LA's access to the DWP systems). These claims are already means tested and have differential applicable amounts applied by the DWP, and the only income element that is needed for an award of CTS is earnings. Consideration has to be taken of any deductions being made for overpayments or recovery of advances, but these lend themselves to a simplified assessment and processing system, and could be incorporated into a discount scheme.
- 4.8.2 Universal credit full service roll out took effect in this area in October 2018. This means that customers who would previously have applied for Housing Benefit (HB) and CTS are now applying for UC and CTS. The DWP pilot for moving existing HB claimants on to UC was not successful and therefore they have deferred progressing managed migration until a further pilot or pilots are completed.
- 4.8.3 There is therefore no information available currently to determine when this councils existing working age HB caseload will move to UC.
- 4.8.4 There are certain groups of HB claimant that will not, in the foreseeable future migrate to UC, as they are deemed too complex. This means that in addition to the pensioner case load there will be a residual working age caseload to manage.
- 4.8.5 It has therefore been appropriate to consider if the current CTS scheme is fit for purpose now that a growing number of customers will be in receipt of UC.
- 4.8.6 The reduction in new claims for HB might seem to reduce the services workload, however as the current scheme requires



the same preparation and processing to award a CTS claim as an HB one, there is no saving. Currently claims or changes in circumstances are prepared and input and both awards (HB & CTS) are processed simultaneously. Claims not requiring an HB assessment simply produce one output (CTS award) rather than two.

- 4.8.7 UC claimants have to apply to the council for CTS entitlement. There is a common misunderstanding among claimants that it is all covered by their claim for UC. The Council therefore often only gets to engage with these customers when their Council Tax account is in arrears, and additional recovery action has to be taken. Clearly this is an additional administrative burden for the council, and costly for the customer.
- 4.8.8 Universal Credit is reassessed monthly, and those customers who are working (nationally this is estimated at more than 40%) are likely to experience variations in the UC entitlement each month. This is attributed to salary and wages frequencies affecting the 'monthly' assessments. Each time there is a change in the UC award, their entitlement to CTS has to be reassessed. Every time the CTS is reassessed, it produces a new Council Tax Bill. These constant changes in bills and amounts due are not only confusing to the customer trying to budget, but it also resets any recovery action being taken for non-payment.
- 4.8.9 The service has received a significant increase in workload from these monthly changes. They are received electronically from the DWP using an existing process called ATLAS. However development of automation routines has mitigated the impact of this increase workload on resources. Further developments in this area are being pursued.
- 4.8.10 Identifying and acknowledging these challenges from UC requires any potential change to the CTS scheme to consider:

- I. The potential for further automation of UC notices on live CTS claims, thus reducing the new workflow
- II. Mitigations for changes in UC entitlements to revise council tax liability, and thus avoid resetting recovery action.

This could be achieved if the CTS scheme set bands of entitlement, or fixed periods in which changes in income would not result in a change in entitlement, within the scope of a set range.

These options have the potential to be very expensive.

- III. The costs of changing the scheme.  
The software supplier is estimating a cost in the region of £25k for each Council moving towards a banded CTS scheme. Herts County Council has already declined to contribute to any costs associated with changing the scheme, despite being the biggest preceptor for Council Tax.

Any changes to the scheme require full and meaningful consultation with all taxpayers in the district and there are significant costs associated with this level of consultation.

#### **4.9 What others are doing:**

- Some councils have moved to a banded scheme, but they still require substantial means testing of each claim.
- St Albans are with a different software supplier and introduced a banded scheme for UC claimants only from April 2019, which run alongside a scheme similar to our existing scheme for all other claimants. This is an interesting option which rather than dealing in % entitlements, specifies how much the customer will pay towards their Council Tax. This means customers on the

same income pay the same towards their council tax, regardless of the size of the property they occupy. This also provides a scheme for customers to transition into when migrated from HB.

- Unfortunately we cannot replicate a scheme like this currently as we are unable to have two different live working age CTS schemes at the same time.
- Other councils are considering various options but anecdotally are awaiting more information around migration before changing current schemes.

#### **4.10 Current position:**

The current CTS scheme works and protects the most vulnerable customers by the use of applicable amounts and income disregards.

Work has been carried out over a period of time on developing a banded scheme for all working age claimants. This has included modelling of current claimants into a banded scheme, to assess the impact and identify any unintended consequences.

As it is not currently possible to have a separate schemes for just UC cases, all current working age claimants would have to be included. After testing the data it is clear that the intended simplicity of a banded scheme would be compromised as the need to differentiate between all the many and varied disability premiums and incomes would require too many bands for each category of household, to ensure sufficient protection for these groups.

In addition there would be all the costs of changing the scheme but no savings in administration, or increased simplicity for the customer.

#### **4.11 Conclusion**

The improvement in automation of UC notices is mitigating the increased workflow. It is proposed that we continue with a two stage approach for the future.

- Firstly, instead of looking to change the current scheme in the short term, that further automation of UC change notices continues.
- Secondly, once actual caseload migration is timetabled, consideration of a banded scheme or a discount scheme is revisited. At this time the majority of cases will convert to UC, and will have the means testing carried out by the DWP, thus offering opportunity for administrative savings.
- This will remove the current challenge around protecting the needs of those with disability incomes as this will be incorporated in the DWP assessment of UC entitlement.
- The impact of Covid-19 on the caseload and taxbase be monitored closely and if significant, an early consideration of changes to the scheme for 2022/23 be recommended.
- Members will also be able to review the original principles of the scheme, including that all WA customers pay 8.5% of their liability.
- This approach should ensure that costs associated with the change of schemes will be matched by efficiencies achievable in the administration processes.

## **5.0 Risks**

No

## **6.0 Implications/Consultations**

6.1 Herts County Council and the Police will be consulted on the proposal.

## **Community Safety**

No

**Data Protection**

No

**Equalities**

No

**Environmental Sustainability**

No

**Financial**

Finance had been consulted and fully support the proposal.

**Health and Safety**

No

**Human Resources**

No

**Human Rights**

No

**Legal**

No

**Specific Wards**

No

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

Appendix A details the history of the Council tax support scheme.

**Contact Member**

Geoffrey Williamson, Executive Member for Financial Sustainability,

**Contact Officer**

Su Tarran, Head of Revenues and Benefits Shared Service, Tel: 01279 502075. [su.tarran@hertspartnership-ala.gov.uk](mailto:su.tarran@hertspartnership-ala.gov.uk)

**Report Author**

Su Tarran, Head of Revenues and Benefits Shared Service, Tel: 01279 502075. [su.tarran@hertspartnership-ala.gov.uk](mailto:su.tarran@hertspartnership-ala.gov.uk)

## **Appendix A - The origins of Council Tax Support (CTS)**

1. Before April 2013, the service administered Council Tax Benefit on behalf of the Government. This national scheme was specified in legislation and LA's were reimbursed by the Department of Work and Pensions (DWP) through a subsidy claim submitted annually and subject to audit.
2. The level of subsidy reimbursement varied dependant on whether benefit had been awarded, backdated or overpaid, but the point to note is that entitlement and subsidy were based on assessing entitlement on 100% of somebodies council tax liability, net of discounts (like a single person discount).
3. The scheme was means tested and whilst the scheme differentiated between different client groups (providing extra support for disabled groups for example) there was little differential between Elderly and Working Age clients.
4. Clients fell into one of two groups, "passported" and "standard claims." A passported claim was one in which the DWP had already carried out a means test and then notified us that the customers income was at or below the minimum income level for their household composition. They would be automatically entitled to 100% of their Council Tax to be paid by Council Tax Benefit. A deduction would however be made from this entitlement where there were non-dependants living in the home.
5. The second group were called 'standard claims'. These customers had their means testing done by the council and awarded Council Tax benefit in accordance with the national scheme criteria. These customers had income above the minimum requirements and would be required to pay something towards their council tax liability. A deduction

would also be made from this entitlement where there were non-dependants living in the home.

6. In very simple terms entitlement was determined by comparing eligible incomes against relevant applicable amounts. When income equalled or fell below applicable amounts, the maximum entitlement is achieved. If income exceeded applicable amounts, entitlement was reduced by 20% of the excess. The applicable amounts were determined by the DWP in respect of Housing Benefit claims.
7. In more complex terms, every income and capital source had to be assessed in accordance with its type, and then determined if it was included in the assessment. Child benefit, maintenance paid to a child, PiP and DLA, war pensions etc were fully disregarded, whilst earned income was calculated after tax and NI, and 50% of pension contributions, averaged over the relevant period. Payments to certain child care providers were disregarded, whilst capital (excluding the property occupied) included savings, shares etc and if the total exceeded £16k, the customer was excluded from entitlement.
8. In very general terms the full expenditure on the scheme was reimbursed by the DWP.

### **The impact of changes from 1<sup>st</sup> April 2013**

9. The national scheme for Council Tax Benefit ceased, and Councils had to devise their own Council Tax Reduction Schemes for working age claimants. The Government continues to specify the scheme for Elderly customers through prescribed regulations.
10. Instead of the scheme being funded through a subsidy claim based on actual expenditure, the Government moved the funding into the Revenue Support Grant (RSG) settlement, fixing it at only 90% of the subsidy paid in a previous year. RSG



was the amount of grant that Government gave to Councils to support their wider service delivery, and made up one part of the income of the Council in addition to Council Tax receipts, fees and charges and an element of Business rate collection. However the move away from RSG makes this funding element less obvious.

11. From 14/15 the 90% grant that was included in the RSG was no longer individually identifiable. Therefore calculating the total cost of the scheme i.e. the cost of the CTS scheme versus the CTS grant given by Government is now impossible.
12. Each Council had to consider how to fund 100% of the cost of the Elderly 'national' scheme and provide a Working age scheme, whilst receiving 10% less funding.
13. Pensioner claimants are protected from changes through the provision of a statutory scheme.
14. Schemes must support work incentives.
15. The DCLG Policy Statement of Intent did not give a recommended approach to be taken, but indicated the scheme should not contain features which create disincentives to find employment. The current East Herts scheme complies with this statement.
16. Local authorities must ensure that appropriate consideration has been given to support for other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.
17. The DCLG issued Policy Statements that addressed a range of issues including the following:

- Vulnerable People and Key Local Authority Duties;
  - Taking work incentives into account;
  - Information Sharing and Powers to Tackle Fraud.
18. The Local Government Finance Bill stated that a Billing Authority must have regard to any guidance issued by the Secretary of State. Our current scheme has sought to address these requirements.
19. The Council initially devised a scheme which replicated the previous national scheme but limited the Council Tax liability that was used to assess entitlement to 90% for working age customers. The Government offered a one off transitional grant to Councils who would restrict the reduction to 91.5%, and accordingly the Council amended the proposal and took the one off transitional grant. The Council has maintained this position for the first 8 years of the scheme.

## East Herts Council Report

### Overview and Scrutiny Committee

**Date of Meeting:** 15 September 2020

**Report by:** Executive Member for Neighbourhoods

**Report title:** The adoption of Policies for Enforcing Standards for Private Sector Landlords

**Ward(s) affected:** All

---

### Summary

#### Recommendations for the Overview and Scrutiny Committee:

- A. The Committee supports the proposed new policies relating to housing standards enforcement and the adoption of the powers introduced in the Housing and Planning Act 2016 (the Act).**
- B. The Committee make any suggested amendments, additions, deletions and/or clarifications for consideration by the Executive Member for Neighbourhoods and the Head of Housing and Health prior to drafting the final proposed version, and accompanying report, for determination by Council.**

#### **1.0 Proposal(s)**

1.1 It is proposed that the new policies covering the areas below, are adopted by this Council:

- 1.1.1 Issuing of Civil Penalties
- 1.1.2 Applications for Rent Repayment Orders
- 1.1.3 Applications for Banning Orders, and

1.1.4 Use of the Rogue Landlords and Property Agents database.

1.2 It is proposed that the Overview and Scrutiny Committee utilises its power under the council's Constitution to 'review draft strategies' to assist in the drafting of the final revised version to be put to Council for determination in due course.

## **2.0 Background**

2.1 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.

2.2 Guidance produced by the Ministry for Housing, Communities and Local Government (MHCLG) supports officers in the use of the measures and states the expectation that Local Housing Authorities will develop and document their own policy on aspects of their use.

2.3 Any amounts received through civil penalties or rent repayment orders can be retained by the Authority for use in relation to private sector housing enforcement activities.

### ***Policy 1 Issuing of Civil Penalties***

2.4 The introduction of civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences will allow enforcement against those landlords who seek to manipulate or ignore the legislation and provide substandard, non-compliant and/or unsafe residential properties.

2.5 The legislation requires that the decision to use civil penalties as opposed to prosecution and the level of civil penalty charged is decided on a case by case basis and is not set as a fixed fee. These policies will help ensure the Council uses them consistently and in a transparent way.

- 2.6 Whilst the level of proof remains the same as in a criminal case, providing an alternative to prosecution through the courts will improve the efficiency of our housing standards enforcement.
- 2.7 Policy 1 included in the document at Appendix A explains the factors that will be considered in determining both whether to impose a civil penalty and the level of that penalty. A matrix has been developed with other authorities in Hertfordshire and Bedfordshire, to use these factors in the setting of the penalty.

### ***Policy 2 Applications for Rent Repayment Orders***

- 2.8 A Rent Repayment Order is an order made by the First-tier Tribunal (part of the Ministry of Justice Courts and Tribunals Service) requiring a landlord to repay a specified amount of rent where the landlord has been convicted of or has committed one of the specified offences.
- 2.9 The maximum amount that can be recovered is capped at 12 months' rent. Where the landlord has been convicted of one of the specified offences the tribunal must award this maximum however, where the landlord has not been convicted, the Council will consider a series of factors to determine the amount that we will seek to recover.
- 2.10 Policy 2 included in the document at Appendix A gives the outline process to be followed and explains the factors that will be considered in determining both whether apply for a rent repayment order and the level rent we will seek to recover.

### ***Policy 3 Applications for Banning Orders***

- 2.11 Banning Orders are intended to be used for the most serious

offenders and have the effect of banning a landlord or property agent from renting out property for a specified period of time. An application for a banning order can be made to the First Tier Tribunal for offences committed after April 2018.

- 2.12 Banning orders can only be applied for where the landlord or agent has been convicted of a banning order offence as specified in regulations to the Act. These include both housing related offences and others not directly related to housing, such as fraud, sexual assault, misuse of drugs, theft and stalking. If the council intend to apply, a notice of intention must be served within 6 months of the day that the landlord or agent is convicted.
- 2.13 Policy 3 included in the document at Appendix A gives the factors that will be considered in determining both whether to apply for a banning order and our recommendation to the First Tier Tribunal for the period of that banning order.

***Policy 4 Use of the database of rogue landlords and property agents***

- 2.14 This been introduced as a tool to keep track of rogue landlords and property agents especially those operating across council boundaries. The database has been developed and is hosted by the MHCLG and Local housing authorities are responsible for maintaining the content of the database.
- 2.15 The authority is required to make an entry on the database where a person or organisation has received a banning order. We also have discretion to make entries for a person or organisation who has been convicted of a banning order offence at a time where they were a landlord or property agent or where a person or organisation has had two or more financial penalties in respect of a banning order offence within 12 months.

- 2.16 Policy 4 included in the document at Appendix A gives the factors that will be considered in determining both whether apply make an entry onto the database and the period that the entry will remain on the database.

### ***Consultation***

- 2.17 Public consultation commenced on 6<sup>th</sup> August 2020 and continues until 14<sup>th</sup> September. Known landlords and letting agents have been advised of the consultation by email and it has been featured on the council's social media platforms. Responses from this survey will be considered when drafting the report for determination by Council.

## **3.0 Reason(s)**

- 3.1 The reason the draft revised policy is being put in front of the Overview and Scrutiny Committee is that in order to assist in the drafting of the revised policy, it is appropriate and timely that members of the Committee should exercise their scrutiny functions under the council's Constitution and in line with the Local Government Act 2000, notably to 'review draft strategies'.
- 3.2 Any issues or suggestions made by the Overview and Scrutiny Committee in connection with their review of the draft proposed policies will either be incorporated into the final draft or brought to Council's attention in the report accompanying the draft policy put in front of Council so as to aid Council's decision-making.

## **4.0 Options**

- 4.1 In exercising its power to 'review draft strategies', the Overview and Scrutiny Committee has the option to:
- signal its contentment with the Policy as currently drafted. If this approach is taken, this will be relayed to Council

- when it considers the final draft version or
- suggest amendments, additions, deletions and/or clarifications to the report. If this approach is taken, all such suggestions will be considered by the Executive Member for Neighbourhoods and the Head of Housing and Health and will either be incorporated into the final draft or brought to the Council's attention as being the views of the Committee in accompanying report to the final draft version put to Council in due course or
  - consider that there is an insufficient case for the policies, whether amended or not, to be put to Council for determination. If this approach is taken, the Overview and Scrutiny Committee should make their rationale for this approach explicit so that the Executive Member for Neighbourhoods and the Head of Housing and Health can assess whether to desist from putting the policy to Council in its current form or to proceed to determination by Council in which case the Committee's views would be included in the accompanying report.

## **5.0 Risks**

### ***If the policies were not adopted***

- 5.1 Without these policies being adopted the council would still be able to take prosecutions against landlords who have committed an offence however this can be a time consuming process with costs to both parties. We could face criticism for not using the alternative enforcement approaches and using court time unnecessarily.
- 5.2 If we were unable to make Banning Orders this would allow the worst offenders to continue in the private sector rental market possibly causing harm to further vulnerable tenants.
- 5.3 The Council would also lose the opportunity to recoup moneys towards the running costs of the enforcement work undertaken with respect of private sector housing



### ***If the policies were adopted***

- 5.4 Should the proposed revised policies ultimately be approved by Council, there are possible reputational risks where an offender challenges our use of these enforcement powers. These policies do however support transparency and consistency in our enforcement, we are required to have evidence at a criminal standard before they are used and there are appeal processes through the Tribunal Service for an aggrieved offender.

### **6.0 Implications/Consultations**

- 6.1 Public consultation is closes on 12 September and Responses from this survey will be considered when drafting the report for determination by Council.
- 6.2 There are no adverse implications arising from the adoption of these policies and they could allow the council to retain money received from civil penalties of rent repayment orders.

### **Community Safety**

Yes/No

### **Data Protection**

No

### **Equalities**

Yes Following a screening review it is agreed that there is no requirement to complete a full Equalities Impact Assessment as the audience for this is quite narrow

### **Environmental Sustainability**

No

### **Financial**

Yes – No comments or amendments made.

## **Health and Safety**

No

## **Human Resources**

Yes/No

## **Human Rights**

No

## **Legal**

Yes – Having a clear policy in place will help ensure consistency in the application of the law and offer an alternative to prosecution for appropriate cases.

## **Specific Wards**

No

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

### **7.1 Appendix A - East Hertfordshire District Council Policies on Additional Housing Standards Enforcement Powers**

This document incorporates the four proposed policies together with a glossary of terms and links to key reference documents.

## **Contact Member**

Councillor Peter Boylan, Executive Member for Neighbourhoods  
[peter.boylan@eastherts.gov.uk](mailto:peter.boylan@eastherts.gov.uk)

## **Contact Officer**

Jonathan Geall, Head of Housing and Health, Tel: 01992 531594  
[jonathan.geall@eastherts.gov.uk](mailto:jonathan.geall@eastherts.gov.uk)

## **Report Author**

Jane O'Brien, Senior Officer - Environmental Health (Residential).

Tel: 01992 531494. [jane.obrien@eastherts.gov.uk](mailto:jane.obrien@eastherts.gov.uk)

This page is intentionally left blank

# **East Hertfordshire District Council**

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

**Draft for review by Overview and Scrutiny  
Committee Sept 2020**

## 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>	<b>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.....	14
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

<b>Policy 4 - Making an entry to the database of rogue landlords and property agents under the Housing and Planning Act 2016 .....</b>	<b>20</b>
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
<b>Glossary of Terms - Housing Enforcement.....</b>	<b>24</b>
<b>Key reference documents .....</b>	<b>26</b>

## **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.



## **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](#)

## **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.

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.

**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.

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:

<b>Score</b>	<b>Penalty</b>	<b>Possible situation</b>
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.

## **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.

### **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)

## **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.

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.

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.

### **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.

## **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:

### **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.

### **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 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 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 Councils 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.

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.

## **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



## **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**

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.

- 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.

## Glossary of Terms – Housing Enforcement

<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.
<a href="#">The Management of Houses in Multiple Occupation (England) Regulations 2006</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="#">Housing and Planning Act 2016</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.
First Tier	The Housing Act 2004 changed the need to use the magistrates’

<a href="#">Housing Act 2004</a>	<p>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.</p>
<p>Tribunal Property Chamber</p>	<p>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></p>
<p>Upper Tribunal</p>	<p>Appeals against a decision from the First Tier Tribunal Property Chamber is to the Upper Tribunal (Lands Chamber)</p>

## 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
<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	20	
<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.	15	
<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.	1	
<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).	*Score is doubled on this section	
						40	
<b>Total Score</b>						<b>76</b>	

<b>Total Penalty (£):</b>	£	<b>20,000.00</b>
---------------------------	---	------------------

<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

### Overview and Scrutiny Committee

**Date of Meeting:** 15 September 2020

**Report by:** Scrutiny Officer

**Report title:** Overview and Scrutiny Committee – Draft Work Programme

**Ward(s) affected:** All

---

### Summary

- This report reviews actions included in the committee's existing Work Programme and seeks Members' views on any proposed amendments to the ongoing Work Programme.

### **RECOMMENDATION FOR OVERVIEW AND SCRUTINY COMMITTEE, that:**

**(A) the proposed Work Programme, as included in Appendix A, be approved.**

#### **1.0 Proposal(s)**

1.1 Items previously required, identified or suggested for the Overview and Scrutiny (OS) work programme as set out in **Appendix A**. The Appendix is now presented as a consolidated report to include those issues for consideration by Audit and Governance Committee. It was felt that consolidating the work of both Committees in one report would give all Members of both committees a better perspective from the viewpoint of scrutiny.

1.2 Scrutiny committees have the power of influence and are

entitled to review and scrutinise the functions of the Council and the decisions of the Executive. The Committee serves as a 'critical friend' and is not a decision-making body but can make recommendations to the Executive and who must respond formally to recommendations within a given timeframe.

## **2.0 Background**

- 2.1 The draft agenda for 2020/21 meetings of Overview and Scrutiny Committee and Audit and Governance Committee is shown in **Appendix A**. The timing of some items shown may have to change depending on availability of essential data (e.g. from central government) external sources and officers.
- 2.2 Members are reminded that for a topic to be valid for Scrutiny it needs to be relevant to the work of the council and impact on a number of residents / or the wider area. In addition, there needs to be evidence, whether readily quantifiable or anecdotal, that this is an issue requiring investigation.
- 2.1 Members are welcome to submit a scrutiny proposal at any time by completing a Scrutiny Proposal Form (Available from the Scrutiny Officer) which will provide officers with sufficient information to assess if it is appropriate for Scrutiny and to ensure their specific questions are addressed. The Scrutiny Officer will then liaise with officers and the Scrutiny Chairman to consider the best way to address the subject and complete a scoping document.
- 2.2 Members are also asked whether there is any training relevant to scrutiny or to the function and remit of the OS Committee that they wish to suggest.
- 2.3 At the request of the Leader and the Chief Executive the Centre for Public Scrutiny (CfPS) was asked to undertake a Review of Scrutiny at East Herts. The Draft Report has been received and is being reviewed by Key Officers before the CfPS produce a Final Report.

### **3.0 Report to the Executive – Review of East Herts Parking Policy: Report of the Parking Task and Finish Group**

3.1 Members will recall that, following a substantial review of East Herts Parking Policies a Parking Task and Finish Group reported their findings to the Executive on 11 February 2020. At that meeting, Members received the findings of the Parking Task and Finish Group and agreed that the Head of Operations, in consultation with the Chairman of the Overview and Scrutiny Committee and Chairman of the Parking Task and Finish Group, and with the Executive Member for Environmental Sustainability, would assess the full viability of the recommendations by the Executive and report back to the Executive setting out cost implications. This was included on the Forward Plan published on 21 May 2020 as “deferred”.

3.2 The Head of Operations has subsequently advised that the report back to the Executive was due to be presented in the context of the Medium Term Financial Plan (i.e. a £200k uplift in parking income). However, owing to COVID-19 the Council ceased parking charges and has lost a significant level of income (approx. £900k). Furthermore, parking behaviour has changed in the short term with less commuters in the Council’s car parks. The matter is being reviewed weekly with the portfolio holder and the Council now needs to explore how best to respond to these changes. Officers are working with the chairman of Overview and Scrutiny to revisit this work.

### **4.0 Reason(s)**

4.1 This report provides an update on the current situation in relation to issues raised by Members.

### **5.0 Options**

5.1 The Work Programme will be kept under review by the

committee throughout the coming year.

## **6.0 Risks**

- 6.1 The establishment of an Overview and Scrutiny Committee is enshrined in the Local Government Act 2000 (section 9). The 2000 Act obliges local authorities to adopt political management systems with a separate Executive. Various sub sections (of the 2000 Act), set out the powers and duties for Overview and Scrutiny Committees including the right to investigate and make recommendations on anything which is the responsibility of the Executive. Legislative provisions can also be found in the Localism Act 2011 (Schedule 2) with options to retain or re-adopt a “committee system” (section 9B).
- 6.2 Potential risks arise for the council if policies and strategies are developed and/or enacted without sufficient scrutiny. Approval of an updated Work Programme contributes to the mitigation of this risk by ensuring key activities of the council are scrutinised.

## **7.0 Implications/Consultations**

- 7.1 Scrutiny is an important part of the local democratic process and represents the interests of residents. It holds the Executive to account on behalf of residents and helps review and improve services and functions run by the Council and its local partners.
- 7.2 The proposed Work Programme has implications for Members’ time and the resources of the council devoted to scrutinizing the issues included.

## **Community Safety**

No

## **Data Protection**

No

## **Equalities**

Yes – scrutiny of the services provided eg by registered providers of social housing will investigate how some of the most vulnerable people in the district, including those with protected characteristics, receive housing services.

## **Environmental Sustainability**

Yes – although not subject to a further Task and Finish Group, the proposed Work Programme envisages the Overview and Scrutiny Committee receiving reports on the progress of the council's Environmental and Climate Forum.

## **Financial**

No

## **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

No

## **Legal**

Yes - scrutiny is enshrined in Statute (the Local Government Act 2000) as amended by the Localism Act 2011.

## **Specific Wards**

No

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

## 8.1 Appendix A – Draft Work Programme

**Contact Officer:** James Ellis, Head of Legal and Democratic Services, Tel: 01279 502170  
[James.ellis@eastherts.gov.uk](mailto:James.ellis@eastherts.gov.uk)

**Report Author:** Lorraine Blackburn, Scrutiny Officer, Tel: 01279 502172.  
[lorraine.blackburn@eastherts.gov.uk](mailto:lorraine.blackburn@eastherts.gov.uk)

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**

*(this is a working document and is subject to regular amendment)*

<b>Meeting Date</b> <b>Overview and scrutiny</b>	<b>Topic and Notes</b>	<b>Lead Member and Officer</b>	<b>Meeting Date</b> <b>Audit and Governance</b>	<b>Topic and Notes</b>	<b>Lead Member and Officer</b>
<b>15 September 2020</b>	<p>Update on the progress in relation to the Climate Change Action Plan and progress in relation to the 2030 Carbon neutrality aspirations.</p> <p><i>With the agreement of Members at the last (June 2020) meeting, updates would be presented prior to each meeting.</i></p>	<p>Executive Member for Environmental sustainability and David Thorogood</p>	<b>22 September 2020</b>	<p>External Audit Fees</p>	<p>Suresh Patel, Ernst Young</p>

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

Meeting Date <b>Overview and scrutiny</b>	Topic and Notes	Lead Member and Officer	Meeting Date <b>Audit and Governance</b>	Topic and Notes	Lead Member and Officer
	<p>Social Housing – Report of the Task and Finish Group.</p> <p><i>Report and recommendations following the Task and Finish Group’s review of collaborative arrangements with two housing associations and a sample of their tenants.</i></p>	Head of Housing and Health			
	Large Scale Projects – Project	Respective Project Managers		SIAS Update	Simon Martin SIAS Audit Manager



**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

Meeting Date <b>Overview and scrutiny</b>	Topic and Notes	Lead Member and Officer	Meeting Date <b>Audit and Governance</b>	Topic and Notes	Lead Member and Officer
	<p>Management in terms of Expenditure Vs Budget, delivery timescales</p> <p><i>Members' briefing provided on 16 July on Hertford Theatre. Request by Councillor Goldspink for an update on Hartham Leisure</i></p> <p><b><i>(request for information later withdrawn by the</i></b></p>	.			

## Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21

*(this is a working document and is subject to regular amendment)*

Meeting Date <b>Overview and scrutiny</b>	Topic and Notes	Lead Member and Officer	Meeting Date <b>Audit and Governance</b>	Topic and Notes	Lead Member and Officer
	<i>Member on 31 July 2020) as there would be briefing to all members "Shaping Hertford" on 20 August 2020</i>				
	Policy for Enforcing Standards for Private Sector Landlords	Head of Housing and Health			
	Council Tax Reduction Scheme 2021/22	Head of Revenues and Benefits Shared Services		SAFs Update	Nick Jennings Head of Service (SAFs)
	Work Programme	Lorraine Blackburn, Scrutiny Officer	<b>17 November 2020</b>	Section 106 Agreements: a) review of	Helen Standen Dep CE and Jackie Bruce Infrastructure and

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

Meeting Date <b>Overview and scrutiny</b>	Topic and Notes	Lead Member and Officer	Meeting Date <b>Audit and Governance</b>	Topic and Notes	Lead Member and Officer
				policy and also of the receipt and b) the utilisation of funds received	Contributions Spend Manager
<b>3 Nov 2020</b>	<p>How the Council reacted to the Corona Virus</p> <p><i>Requested by the Chairman of OS Committee at the meeting on 16 June. At the request of the CE and with the agreement of the Chairman this would</i></p>	<p>Invitation to the Leader and CE to present an interim report</p>		Annual Governance statement	Bob Palmer Head of Strategic finance and Property

## Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21

*(this is a working document and is subject to regular amendment)*

Meeting Date Overview and scrutiny	Topic and Notes	Lead Member and Officer	Meeting Date Audit and Governance	Topic and Notes	Lead Member and Officer
	<i>be provided to Members on 3 November 2020.</i>				
	Annual Scrutiny Report	James Ellis, Head of Legal and Democratic Services			
	Code of Conduct Review	James Ellis, Head of Legal and Democratic Services		Corporate Budget Monitoring Quarter 1	Ben Wood, Head of Communications Strategy and Policy and Bob Palmer Head of Strategic Finance and Property
	Work Programme	Lorraine Blackburn, Scrutiny Officer		Constitution Review	James Ellis Head of Legal and Democratic Services
	Annual Complaints	Head of		Standards Update	James Ellis Head of

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

<b>Meeting Date</b> <b>Overview and scrutiny</b>	<b>Topic and Notes</b>	<b>Lead Member and Officer</b>	<b>Meeting Date</b> <b>Audit and Governance</b>	<b>Topic and Notes</b>	<b>Lead Member and Officer</b>
	Report	Communications, Strategy and Policy			Legal and Democratic Services
				Work Programme	Lorraine Blackburn, Scrutiny Officer

**Updates**

<b>Overview and Scrutiny Committee</b>	<b>Audit and Governance</b>
<p><b>Social Housing Event:</b> Members will recall that this Task and Finish Group was established to review the relationship between the Council and Social Housing providers. The Task and Finish Group met on 19 December 2020 to agree a Terms of Reference. Virtual meetings took place on 10 March, 16 March and 25 June (adjourned because of a zoom related</p>	<p><b>Corporate Budget Monitoring Report (formerly the Financial Health Check reports) will be provided quarterly.</b></p> <p>The dates for the quarterly Corporate Budget Monitoring reports to go to A&amp;G:                      Quarter 3 (2019/20) – March 2020</p>

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

<b>Overview and Scrutiny Committee</b>	<b>Audit and Governance</b>
<p>issue then reconvened on 30 June). The report to Members summarises the findings of the meetings and proposes a number of recommendations for consideration by O&amp;S and to the Executive for further consideration. Members also noted that a both Clarion Housing and Network Homes would be making a presentation to all Members later in the year.</p> <p><b>Parking Policies – Report of the Task and Finish Group</b> following consideration by the Executive: Update</p> <p>Members will recall that this was considered by the Executive on 11 February. At that meeting it was agreed that Head of Operations, in consultation with the Chairman of the Overview and Scrutiny Committee and Chairman of the Parking Task and Finish Group, and with the Executive Member for Environmental Sustainability were tasked with assessing the full viability of the recommendations</p>	<p>Outturn (full year 2019/20) – July 2020            Quarter 1 (April – June 2020) – September 2020            Quarter 2 (July – September 2020) - November 2020            Quarter 3 (October – December 2020) – March 2021</p> <p>Complaints lodged with the Monitoring Officer (Head of Democratic and Legal Support Services). When there are updates.</p> <p>Changes to Constitution Review Update (Head of Democratic and Legal Support Services): When there are updates.</p> <p>Shared Anti-Fraud Service Report (SAFs). At every meeting.</p> <p>Shared Internal Audit Service (SIAS). At every meeting.</p>

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

<b>Overview and Scrutiny Committee</b>	<b>Audit and Governance</b>
<p>by the Executive and report back to the Executive setting out cost implications. This matter was to be reported back to the Executive in the context of the MTFP i.e. a £200k uplift in parking income. Due to COVID-19 the council ceased parking charges and have lost a significant level of income (approx. £900k). Furthermore, parking behaviour has changed in the short term i.e. with less commuters in our car parks. The Head of Operations is reviewing the position with the portfolio holder weekly but fundamentally the landscape of parking has changed and Officers need to explore how best the Council can respond to that.</p>	

**Looking Forward 2020/21**

<b>Overview and Scrutiny Committee</b>	<b>Due date</b>	<b>Audit and Governance</b>	<b>Due Date</b>
RIPA and Use of Social Media - report back (Head of	June 2021		

**Overview and Scrutiny Committee and Audit and Governance Committee - Consolidated Work Programmes 2020/21**  
*(this is a working document and is subject to regular amendment)*

Overview and Scrutiny Committee	Due date	Audit and Governance	Due Date
Legal and Dem Svs)			

**Notes:**

*Members will note the new format of the Consolidated Work Programme. It was felt that by combining both work programmes might provide Members with a better insight into the issues to be considered by both committees and respective timeframes and so aid the process of scrutiny.*

*Additionally, Members should note that the Chairman and Vice Chairman of both Committees are now meeting quarterly with the Leader and Deputy Leader to consider both work programmes in the context of the Council's Forward Plan to facilitate better scrutiny and review where necessary.*