



CABINET

11 October 2017

A meeting of the CABINET will be held on Thursday, 19th October, 2017, 6.00 pm
in Committee Room 1, Marmion House, Lichfield Street, Tamworth, B79 7BZ

A G E N D A

NON CONFIDENTIAL

1 Apologies for Absence

2 Minutes of Previous Meeting (Pages 1 - 4)

3 Declarations of Interest

To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.

When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.

4 Question Time:

To answer questions from members of the public pursuant to Executive Procedure Rule No. 13

5 Matters Referred to the Cabinet in Accordance with the Overview and Scrutiny Procedure Rules

None

6 Future Delivery of the Disabled Facilities Grant Programme (Pages 5 - 8)
(Report of the Portfolio Holder for Assets and Finance)

7 Staffordshire Pilot for 100% Business Rates Retention in 2018/19 (Pages 9 - 56)

(Report of the Portfolio Holder for Assets and Finance)

- 8 Mandatory and Discretionary Rate Relief Policy** (Pages 57 - 106)
(Report of the Portfolio Holder for Assets and Finance)
- 9 Public Space Protection Orders (Renewal of Dog Control and Designated Public Place Orders)** (Pages 107 - 124)
(Report of the Portfolio Holder for Communities)
- 10 Council Tenants Fire Safety Strategy** (Pages 125 - 144)
(Report of the Portfolio Holder for Housing Services)
- 11 Anti-Social Behaviour Policy** (Pages 145 - 168)
(Report of the Portfolio Holder for Communities)
- 12 Festive Ward Grant proposal** (Pages 169 - 172)
(Report of the Solicitor to the Council and Monitoring Officer)

Yours faithfully



Chief Executive

People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail committees@tamworth.gov.uk preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.

To Councillors: D Cook, R Pritchard, S Claymore, S Doyle, J Goodall and M Thurgood.



MINUTES OF A MEETING OF THE CABINET HELD ON 28th SEPTEMBER 2017

PRESENT: Councillor D Cook (Chair) S Claymore, S Doyle, J Goodall and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate Services), Rob Barnes (Corporate Director Communities, Partnerships and Housing), Andrew Barratt (Corporate Director Growth, Assets and Environment), Nicki Burton (Director - Technology and Corporate Programmes), Stefan Garner (Director of Finance), Anica Goodwin (Director - Transformation and Corporate Performance), Jane Hackett (Solicitor to the Council and Monitoring Officer), Tina Mustafa (Head of Landlord Services) and Tracey Tudor (Head of Customer Services)

33 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R Pritchard

34 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 7 September 2017 were approved and signed as a correct record

(Moved by Councillor S Claymore and seconded by Councillor J Goodall)

35 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

36 QUESTION TIME:

None

37 MATTERS REFERRED TO THE CABINET IN ACCORDANCE WITH THE OVERVIEW AND SCRUTINY PROCEDURE RULES

None

38 CUSTOMER PORTAL

The Portfolio Holder Assets and Finance seeking approval to commence the procurement process to establish a contract for the provision of a Customer Portal and to release the contingency funding already requested via the Council's budget process and to give delegated authority to award the contract to the Director of Transformation and Corporate Performance in conjunction with the Portfolio Holder for Assets and Finance.

- RESOLVED:** That Members
- 1 agreed that the capital contingency of £115k identified as part of the budget process is released;
 - 2 approved to commence the procurement process to establish a contract for the provision of a Customer Portal for a period of three years with the option to extend for a further two years; and
 - 3 agreed that delegated authority to award the contract is given to the Director of Transformation and Corporate Performance in conjunction with the Portfolio Holder for Assets and Finance.

(Moved by Councillor D Cook and seconded by Councillor S Claymore)

39 PLANNING OBLIGATIONS EXPENDITURE AND ALLOCATION

The Portfolio Holder for Regeneration seeking authorisation for the release of Section 106 (S106) monies to fund appropriate projects and to establish a process for the efficient release of S106 monies in future.

- RESOLVED:** That Members agreed
- 1 that existing developer contribution monies (totalling approximately £52,675) are released to the appropriate project budgets;
 - 2 the revised process for allocation of other existing (approximately £178,505) and future developer contribution monies is adopted; and
 - 3 the sum of £1,048 in account R6057 be released to the Gateways Project Phase 1 budget.

(Moved by Councillor S Claymore and seconded by Councillor d Cook)

40 COUNCIL LANDLORD SERVICE PERFORMANCE REPORT

The Portfolio Holder for Housing Services provided details of the Councils Landlord Performance for 2016/17 as required under the Homes and Community Agency (HCA) Landlord Regulatory Framework 2012.

RESOLVED:

- That Members
- 1** approved production of the Council's Landlord Annual Report to Tenants' (2016/17) complying with required governance under the Landlord Regulatory Framework; and
 - 2** delegated further scrutiny of performance; detailed under each of the Landlord national consumer standards; to Tamworth's relevant Scrutiny Committee(s) in consultation with the Scrutiny Chair(s) and Portfolio Holder for Housing

(Moved by Councillor M Thurgood and seconded by Councillor D Cook)

41 CASTLE HLF PROJECT UPDATE

The Portfolio Holder for Environment and Culture updated members on the current position of the Castle's Heritage Lottery bid project which, if successful in this development phase will allow a full refurbishment to the Tamworth Story on the upper level of the Castle. In addition further approval is being sort, subject to the bid being successful, to procure architectural services for the Castle over a period of 3 years and the use of existing retained/revenue budgets for repairs to the Castle required within this project.

RESOLVED:

- That Members
- 1** noted the current progress of the Heritage Lottery bid for the Castle and delegated authority to the Executive Director of Corporate Services to increase the Capital budget to £732,930 should the bid prove successful;
 - 2** endorsed the procurement of architectural services over a period of 3 years for the Castle including delegating authority to the Corporate Director Growth, Assets & Environment to enter into contract with the most economically advantageous tenderer, after consultation with the Portfolio Holder for Environment and Culture

and the Solicitor to the Council; and

- 3 approved the use of existing retained/revenue budgets to complete repairs work as necessary in this project.

(Moved by Councillor J Goodall and seconded by Councillor D Cook)

Leader

THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE**FUTURE DELIVERY OF THE DISABLED FACILITIES GRANT PROGRAMME****EXEMPT INFORMATION****PURPOSE**

This reports sets out information on the proposed service delivery mechanism for the future of the Disabled Facilities Grant process, seeks approval to participate in the County wide agreements and sets out arrangements for the appointment of a new County wide service provider.

RECOMMENDATIONS

It is recommended that Cabinet approve:-

- Proposals for the future delivery of the Disabled Facilitates Grant process from April 1st 2018 for a period of up to 7 years.
- Tamworth Borough Council's participation in the County wide arrangement for delivery of Disabled Facilities Grants, subject to the outcome of the competitive tender process.
- Invitation of competitive tenders through a process to be administered by Staffordshire County Council participation agreement.
- Delegation of authority to Portfolio Holder for Assets & Finance and Chief Operating Officer to enter into an agreement for the appointment of a County wide service provider following a competitive procurement process administered by Staffordshire County Council, subject to the outcome of the competitive tender process being favourable to Tamworth Borough Council.

OR

- Delegation of authority to Portfolio Holder for Assets & Finance and Chief Operating Officer to withdraw from the County wide arrangement should it be found that following procurement process it would not be financially viable for Tamworth Borough Council to participate.

EXECUTIVE SUMMARY

There is a statutory obligation for Councils to provide grants in relation to disabled adaptations, this is provided for under the 'Housing Grants Construction and Regeneration Act 1996', at present funding is provided by DCLG through the Better Care Fund, this funding is intended for the sole purpose of providing Disabled Facilities Grants [DFG] under the Act.

The service is currently being delivered by Staffordshire Housing Association through their Home Improvement Agency [HIA] trading as Revival for all of the districts within Staffordshire with Staffordshire County Council being the Contracting Authority. The HIA manages the whole process from the point at which an Occupation Therapist [OT] referral has been made through to completion of an adaptation, this work is currently funded through the DFG budget

allocation; in addition to adaptation works the HIA also provides an advice service to service users, this has previously been funded by Staffordshire County Council although in the current financial year this has been funded by the member District Councils. The current contract arrangements come to an end on 31st March 2018 and as such new arrangements are required to deliver the service from 1st April 2018.

Six of the Eight districts in Staffordshire have agreed in principle to work together along with Staffordshire County Council to procure and deliver a new DFG and advice service that will come into effect from 1st April 2018. It is anticipated that the new service will deliver an all-inclusive service to service users, this will include an assessment service, the provision of advice and the completion of adaptations as required under the 'Housing Grants Construction and Regeneration Act 1996', the process will continue to be funded through the DFG budget allocation from DCLG routed through the Better Care Fund.

A considerable amount of work has been done by the Districts and County Council in designing a new service that will meet the needs of service users whilst taking into account the financial pressures across all organisations and recognising the fact that each organisation will have differing statutory obligations. Soft market testing and service provider events have been conducted to ensure that the specification is realistically achievable and to ensure that there is genuine appetite within the market to deliver the project as specified. As a result we have an agreed specification for the service that will be used for the purposes of inviting competitive tenders. The soft market testing has shown that for the project to be successful service providers would need sufficient time to develop services and as such tenders will be invited for a contract period of 5 years with the option to extend to a maximum of 7 years.

Under the new arrangements Staffordshire County Council will be the Contracting Authority with the six Districts being parties to a 'Participation Agreement' there will be a Strategic Management Board made up of the District Chief Executives and a Director from Staffordshire County Council, there will also be a Project Management Board consisting of representatives of the Districts and Staffordshire County Council who will be responsible for overseeing the operational and performance management of the contract.

It is anticipated that the new arrangements will enable a wider range of services to be delivered within the existing budget envelope, with the inclusion of advice and assessment services it is hoped that there will be a greater degree of prevention that will allow funding to be stretched further, it is also envisaged that the new service provider will seek to use innovative procurement methods and take advantage of the combined budget allocation to enhance value for money in delivery of the service. However it must be recognised that Tamworth Borough Council is in a somewhat unique position in that the budget allocation from DCLG has proven to consistently be insufficient to meet the level of demand and that the inclusion of additional services may exacerbate that position.

The Council has no choice but to deliver Disabled Facilities Grants, the alternative to working with the County and other Districts would be to deliver the service in-house, for the time being the County wide arrangement appears to be the most practical, however we must reassess this once tenders have been received as it may prove to be unaffordable.

Fundamental changes to the way in which the service would be delivered under the new arrangements would mean that we were no longer delivering mandatory grants under the 'Housing Grants Construction and Regeneration Act 1996' as such we would need to implement new arrangements using the Regulatory Reform Order [RRO] process. It is proposed that this be considered once a decision has been made on the outcome of the procurement process and would be subject to a separate Cabinet report and approval process.

OPTIONS CONSIDERED

Do nothing – This is not an option as we have a statutory obligation to provide Disabled

Facilities Grants. The current contractual arrangements come to an end and as such a mechanism for delivery of grants has to be put in place.

Direct in-house delivery – this remains an option for consideration should it not be possible to participate in the County wide arrangements. There is currently a revenue budget in place to fund a technician role, however in order to deliver grants within the required timescales it would be necessary to employ at least one additional full-time technical officer.

In-House using Home Improvement Agency - this remains an option for consideration should it not be possible to participate in the County wide arrangements. There is currently a revenue budget in place to fund a technician role which could be used to fund an administrator to process grant applications. A Home Improvement Agency could be employed to project manage the delivery aspect of the works, the cost of this service would be capitalised against individual grants.

Mandatory process only – under the Act we are obliged to review and approve mandatory grant applications, there is no obligation on us to provide technical services or advice, reverting to the mandatory process would place all of the onus on the grant applicants. There would be a need for an in-house resource to undertake administrative tasks, this could be funded from the existing revenue budget. There would most likely be a drop in applications as vulnerable users would find it difficult to successfully apply resulting in an increase in unmet demand in the area.

RESOURCE IMPLICATIONS

It is anticipated that for the duration of the contract the capital works elements will continue to be funded through DCLG allocation to the Better Care Fund, it is not anticipated that there will be any reduction in the annual allocations. All work and the associated services will be funded entirely through the capital allocation.

Should we withdraw from the participation arrangements there will be a need for a revenue resource to fund the management of the DFG process. If we are able to appoint a Home Improvement Agency the revenue costs could be met from existing budgets, if a technical officer is required there would be an additional revenue budget requirement.

If the service is taken in-house there may be TUPE implications from the existing service provider.

LEGAL/RISK IMPLICATIONS BACKGROUND

- The Council has a statutory obligation to provide grants where a valid grant application is received, whatever the outcome the grants service has to continue.
- Following the tendering exercise it is possible that the costs of delivering the service are so high that it would not be possible for us to continue with our participation, this would result in us having to deliver the grants process through other means. Initially it is likely that we would have to revert to accepting mandatory grants only whilst we either set up an in-house service or seek to engage an external service provider on terms more favourable to us. There would be a fall in customer satisfaction and an increase in complaints but we could maintain statutory compliance.
- If we withdraw post tender it could jeopardise the viability of the County wide contract which would have consequences for the other Districts and all service users, this would also have detrimental impact on our reputation.
- The service is already underfunded in Tamworth, it is unlikely that the implementation of the new arrangements will have any positive or negative impact on that issue as we will remain underfunded and will be unlikely to meet our statutory obligations.

SUSTAINABILITY IMPLICATIONS

Although the delivery of Disabled Facilities Grants is, at the time of entering into the

agreement a statutory function that falls to the individual districts the Invitation to tender [ITT] and contract document have been written in such a way that there is no guarantee of a minimum spend level; it has also been made clear that the contract is dependent upon continued funding being available through the DCLG DFG allocations.

BACKGROUND INFORMATION

Disabled Facilities Grants are a statutory function under the 'Housing Grants, Construction & Regeneration Act 1996'. Under the Act District Councils have a statutory duty to provide grants of up to £30,000 for qualifying private sector applicants (excludes council housing tenants). At present the Council receives an annual allocation from DCLG through the Better Care Fund which is administered by Staffordshire County Council.

Although there has been an increase in the allocation from DCLG in 2016/17 and further increases are anticipated in future years it should be noted that the current allocation is insufficient to meet current demand and it is unlikely that even with the increased allocation we will be able to meet the ongoing annual demand.

REPORT AUTHOR

Paul Weston – Head of Asset Management

APPENDICES

THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

STAFFORDSHIRE PILOT FOR 100% BUSINESS RATES RETENTION IN 2018/19

PURPOSE

- 1.1 To provide Cabinet with details of the potential for the Council to participate in a Business Rates Pilot in 2018/19.
- 1.2 To outline the Business Case and relevant risks and rewards from pilot arrangements.
- 1.3 To update Members on the implications to existing pooling, and membership of Local Enterprise Partnerships, resulting from membership of a pilot.
- 1.4 To present the draft governance arrangements (Memorandum of Understanding) for the new pool.
- 1.5 To note the “No Detriment” requirements of the pilot application.

RECOMMENDATIONS

Cabinet are recommended to:

- 2.1 **Approve participation in the Expression of Interest to form a Staffordshire and Stoke on Trent Pool based upon piloting the 100% Business Rates Scheme based upon all eleven Authorities covering the full Staffordshire Geography;**
- 2.2 **Subject to 2.1 above, to**
 - a) **Notify the GBSLEP pool of the Council’s intention to be part of a pilot application and if successful leave that pool;**
 - b) **in the event of the pilot application not being successful, continue membership of the GBSLEP pool;**
 - c) **in the event of the pilot application being successful, continue to support a GBSLEP ‘virtual’ pool through a voluntary contribution; and**
 - d) **in the event of the pilot application not being successful and the GBSLEP pool being dissolved, take appropriate action to join the Stoke-on-Trent and Staffordshire Pool.**
- 2.3 **Subject to above authorise the Chief Operating Officer and Section 151 Officer in consultation with the Leader and Portfolio Holder to submit a firm Expression of Interest to be a member of one of the above pools.**

EXECUTIVE SUMMARY

- 3.1 The Department for Communities and Local Government (DCLG) published on 1 September 2017 an “Invitation to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier split models”.
- 3.2 The prospectus provides a framework for the extension of the existing voluntary pooling of business rates revenues to Two Tier Authorities, following the establishment of pilots for Devolution areas only in 2017/18.
- 3.3 A pilot enables 100% of future growth to be retained by the pilot area as compared to the current 50% subject to Fiscal Neutrality. Tariffs or Top Ups are adjusted to reflect the 100% share and the relevant government grants consolidated within the Business Rates Regime.
- 3.4 “Fiscal Neutrality” is based upon the initial (notional) baselines created at the commencement of the 50% scheme in 2013/14. There is a clear and simple financial advantage therefore if the combined current amount of Actual Business Rates Income (ABR) is in excess of the Government determined Business Rates Baseline as contained within the 50% scheme.
- 3.5 All Staffordshire Authorities are in a “growth position” with growth ranging from 1% to 14% with an average of 7% being achieved across the wider Staffordshire proposed pool for 2017/18. This net growth position is at least likely to be maintained for 2018/19 but more likely to increase. Growth within the two tier (County Council) area is estimated to be £13.7million whereas Stoke on Trent City Council is forecast to be £11m (£24.7m in total). At present only 50% of such growth is retained within Staffordshire and hence an additional £12.35million can be retained under pilot arrangements.
- 3.6 The creation of a pilot would see each Authority receive a minimum of £200k additional resources in 2018/19. The actual direct benefit is based upon proposed locally agreed tier splits.

The Tier splits for Districts/boroughs have been maintained at 40% with this Council forecast to receive in the region of £400k in 2018/19.

The Tier split for the Upper Tier Authorities has been increased from 9% to 59% with Staffordshire County Council forecast to receive in the region of £3.7million in 2018/19.

The Tier split for the Unitary Authority in Staffordshire has been increased from 49% to 99% with Stoke on Trent forecast to receive in the region of £5.6million in 2018/19.

The Tier split for the Fire and Rescue Service has been maintained at 1% with additional resources of £125k forecast in 2018/19.

- 3.7 Pilots have been designated for one year only however it is more than likely that pilots will remain in operation until the full 100% Business Rates Scheme is implemented.
- 3.8 In accordance for the selection criteria for a new pilot there are three potential models for Staffordshire Authorities:
- a) Existing Staffordshire & Stoke on Trent Pool;
 - b) Two Tier Only – County Council & Districts ;or
 - c) All eleven authorities covering the full Staffordshire Geography;

and ultimately the model selected will be dependent upon the respective decision of each Authority. However it is considered that only c) All eleven authorities covering the full Staffordshire Geography would fully meet the prospectus criteria.

- 3.9 The terms of the new pilots may be slightly different from the 2017/18 pilots with Government yet to determine whether the “no detriment” clause will still apply. This clause ensures that collectively the Authorities in the pilot are no worse off than if they remained in the 50% scheme. Prospective Pilots have been asked to indicate if they would wish to proceed with a pilot if this clause is not in place.
- 3.10 The “No Detriment Policy” was felt essential by initial pilots to mitigate the impact of volatility in relation to the transfer of existing funding streams and additional responsibilities into the Business Rates funding regime. This in itself has been mitigated by only Revenue Support Grant and Rural Services grant being foregone under the 2018/19 arrangements.
- 3.11 In order for a “ No Detriment “ clause to be triggered, in relation to not being worse off as compared to the current 50% scheme for the Staffordshire wide pilot, there would need to be a loss of Business Rates income of in excess of 7% (£12 million) in 2018/19.
- 3.12 Nevertheless the greatest risk in relation to net Business Rates Income is the impact of Appeals following the 2017 revaluation, and future changes in Government Policy. It is therefore proposed that the Expression of Interest is caveated with a No Detriment Clause for :
- The consolidation of hereditaments as a single assessment e.g. Virgin Media;
 - Transfer from the Local Rating List/Central Rating Lists;
 - Changes in Mandatory Relief Policy / outstanding claims for Charitable Status;
 - Changes in the methodology of determining the basis of Rateable Values e.g. GP Surgeries;
 - Change in Government/Valuation Office agency (VOA) policy; and
 - The backdated cost of new appeals post 1 April 2018.

3.13 The pool itself will operate a “No Detriment / loss” policy funded as first call against additional growth retained in Staffordshire.

“No loss” is determined to be that a Member will be no worse off

- by being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool;
- No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business Rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool; and
- No Member will be worse off as a result of the increased retained % arising from Tier Splits of the Pilot Scheme.

3.14 Membership of the pilot would not affect the sovereignty of each Authority. Each authority would still receive separate allocations from Government; would set its own budget and collect and retain Business Rates.

3.15 To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income. However, Authorities cannot be members of two pools.

3.16 Authorities will therefore need to determine whether they would wish to be part of a Pilot or not in accordance with the three models as outlined in paragraph 3.8.

3.17 If the pilot application was successful there would be a requirement to leave the current pools. Two pooling arrangements exist in Staffordshire. Cannock Chase; East Staffs; Lichfield and Tamworth are members of the Greater Birmingham and Solihull Pool (GBSP), and Newcastle Under Lyme; South Staffs; Stafford; Staffordshire Moorlands; Stoke on Trent; Staffordshire Fire and Rescue and Staffordshire County Council are members of the Staffordshire and Stoke on Trent Business Rates Pool (S&SOTP).

3.18 Given the timetable for pilot applications and the proximity to the finalisation of the local government finance settlement, all applications must outline, with agreement from all participating Authorities, what pooling arrangements they would like to see if their application to become a pilot were unsuccessful.

3.19 The rationale of the existing pools, in addition to sharing the risk and reward, is to provide a local incentive so that a proportion of additional resources is retained by the generating authority and to provide a mechanism to support economic growth at a Local Enterprise Partnership or at a Pool area level.

3.20 The adoption of the proposed “no loss” basis as compared to the 50% scheme, will maintain the status quo at a financial level. The current levy passed to the pool would be retained by each Authority at the outset. The contribution to the Economic Developments partnerships i.e. LEP’S can be maintained either by:

- Re-designation of the existing pools as Economic Development Growth Pools to be funded by the equivalent amount of levy as now (virtual pool);
- Direct contributions to the relevant LEP based upon:
 - a) 40% of retained levy (Current pool arrangements);
 - b) Fixed contribution;
 - c) Lump sum / % contribution; or
 - d) Determining alternative arrangements with the relevant Pool/LEP.

3.21 Informal discussions have taken place with the existing Pools and LEPs and the potential creation of a pilot is not considered a barrier to current membership / working relationships. DCLG have confirmed that the GBS pool will remain open to current members in the event that the pilot application is unsuccessful.

3.22 Expressions of Interest (EOI) are required by the 27 October 2017 and subject to determination of whether the Council wishes to proceed with an EOI delegated authority to the **Chief Operating Officer** and **Section 151 Officer** is required to meet this tight deadline.

3.23 **Appendix D** details the draft Governance Arrangements for the proposed pilot/pool and delegated authority is required to agree the final pooling Agreement in accordance with the principles as contained in the Memorandum of Understanding.

3.24 Successful pilots will be announced as part of the Draft Local Government Settlement in late November / early December and will come into effect from 1 April 2018.

OPTIONS CONSIDERED

As outlined within the report.

RESOURCE IMPLICATIONS

The financial implications of a Business Rates Pilot have been discussed within the report.

In accordance with the locally agreed “No Detriment” Clause the Council will not only receive the same level of resources as determined by the current 50% Business Rates Retention Regime but also additional resources of c.£400k are envisaged for 2018/19 reflecting this Council’s share of the previous 50% growth passed to Central Government. It is proposed that this additional resource is initially treated as windfall income until decisions are made whether the pilot scheme is extended.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Risk Management Implications of pooling arrangements for the proposed pilot have been referred to throughout the report but can be summarised as follows.

The pooling of Business Rates under pilot arrangements enables a greater proportion of Business Rates to be retained by Authorities by retaining the Government's share of growth achieved within the pooled area. An equivalent risk exists whereby the Council would be responsible for the Government's share if business rates contracted below the current level..

There are a large number of risks that already exist in relation to Business Rates Retention however the greatest risk is in relation to the level of appeals.

The Expression of Interest therefore includes a caveat that the Staffordshire Pilot requires a " No Detriment " clause in relation to changes in Policy/ the basis of determining Rateable Values and successful backdated appeals received after 1 April 2019.

SUSTAINABILITY IMPLICATIONS

It is very unlikely that the government, having set up such an arrangement, will unravel the governance arrangements after only one year. The Government's commitment to give local authorities greater control over the money they raise locally suggests that pilots will probably exist until the full 100% Business Rates Retention system is implemented. The very earliest this could be introduced is 2020/21 and more likely 2021/22. Hence any pilot will have minimum 1 year duration but more likely 2 to 3.

BACKGROUND INFORMATION

4. Background

- 4.1 The 50% Business Rates Retention Scheme was introduced with effect from April 2013 and was effectively a 50/50 risk and reward sharing arrangement between Central and Local Government. The scheme enabled each authority to retain its tier share of growth although such growth, for Tariff Authorities, was potentially subject to a 50% cap or levy.
- 4.2 All Staffordshire Authorities have avoided the levy payment by the joining of a Business Rates Pool. Cannock Chase; East Staffs; Lichfield and Tamworth are members of the Greater Birmingham and Solihull Pool (GBSP) with Newcastle Under Lyme; South Staffs; Stafford; Staffordshire Moorlands; Stoke on Trent; Staffordshire Fire and Rescue and Staffordshire County Council being members of the Staffordshire and Stoke on Trent Business Rates Pool (S&SOTP).

- 4.3 The pooling arrangements avoid the levy enabling a) additional resources to be retained by each Authority; b) resources to be allocated across the pool for growth projects and c) provide a contingency to make safety net payments. A pool is subject to Government Safety Net protection at 92.5% at an overall pool level rather than individual Authority.
- 4.4 The previous Government had announced in 2015 that it wished to progress to a 100% retention scheme whereby in exchange for additional responsibilities authorities would be able to retain 100% of the growth they generated. Tariffs and Top ups would still apply to ensure the scheme was cost neutral.
- 4.5 On 1st April 2017 the Government launched six pilots of 100% business rates retention to areas with ratified devolution deals. These pilots now retain 100% of business rates income and forego some existing grants. Over the pilot period they will retain all of their growth in business rates income
- 4.6 In response to the Consultation on Self Sufficient Local Government, the Government made a commitment to launch a further pilot scheme in 2018/19.

A pilot prospectus (see Appendix A) was issued on the 1 September 2017 entitled "Invitation to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier split models".

Existing Business Rate Pilots

- 4.7 Six Pilots have been established as part of the 2017/18 Local Government Finance Settlement for devolution areas as follows - Greater Manchester; Liverpool Region; Greater London Authority; West of England CA (Combined Authority); West Midlands CA and Cornwall.
- 4.8 The pilots effectively test out the new 100% system and at a very basic level increase the amount of other Government Funding that is funded from Business Rates by increasing the % share accordingly.
- 4.9 A number of existing funding streams have been incorporated into the Pilots. All pilots include Revenue Support Grant however other funding streams to be financed via Business Rates vary from pilot to pilot but include the Better Care Fund; Rural Services Grant ; Public Health Grant; TFL investment Grant; Highways Maintenance (Capital);Highways Maintenance (Efficiency); and the Integrated Transport Block.
- 4.10 The pilots are deemed to be cost neutral at the point of delivery and have no impact on the funding available for other areas.

Cost Neutrality has been achieved by re-calculating the *baseline funding levels* (BFLs) and *business rates baselines* (BRBs) for each of the participating authorities to reflect:

a) the value of the funding streams that they are foregoing; and

b) the value of their increased share of business rates.

For each Authority, the difference between its new BFL and BRB represents the revised tariff or top-up that it will pay, or receive in 2017-18.

BFLs, BRBs, tariffs and top-ups will be recalculated for each Authority in 2018-19 to reflect changes to grant totals between 2017-18 and 2018-19.

2018/19 Business Rates Pilots

4.11 The terms of the invitation for the 2018/19 pilot as contained in the prospectus are aimed at:

- exploring how rates retention can operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas;
- deepening the Government's understanding of how different local arrangements work and improving the information that it holds on business rates retention; and
- testing Authorities' administration (e.g. how they tackle avoidance), technical planning for implementation, and looking at system maintenance; how the accounting, data collection and IT system will work.

The Government expects to learn from the pilots' experiences in the design of any national system of business rates retention and hence the opportunity exists for a Staffordshire pilot to influence the final design and ensure the attributes and complexity of Economic Development partnerships are taken into account.

4.12 The prospectus (see **Appendix A**) however contains a number of changes to the agreements made with existing pilots as follows :-

- To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income (paragraph 2.4 of the prospectus). Authorities cannot be members of two pools (paragraph 4.6);
- The 2018/19 pilot programme will last for one year only (Paragraph 7.4);
- No additional responsibilities are indicated within the prospectus with only Revenue Support Grant (RSG) and Rural Services Grant funding streams to be directly funded from Business Rates (paragraph 2.8); and
- The pilots may not be subject to a "No Detriment" policy (paragraph 2.6).

5. Business Case for a Pilot – Evaluation of Risks and Benefits.

Agreement between DCLG and Pilot Area

- 5.1 Existing Pilots are effectively an agreement between an “Area” and DCLG to test the system with the “Area” being potentially able to influence the design of the final system. To this end a Memorandum of Understanding is drafted, agreed and signed by all relevant parties. It is effectively a negotiation of what is to be included; its basis and the protection required. The Agreements to date have varied from pilot to pilot however a template exists to ensure commonality over a number of basic issues.
- 5.2 The 2018/19 Pilots are slightly different in that the prospectus is effectively the Memorandum of Understanding and the submission of an Expression of Interest is effectively signing up to becoming a Pilot (subject to being approved).
- 5.3 The only caveat being that in submitting the Expression of Interest the pool would need to indicate whether it would be willing to become a pilot without the benefit of “No Detriment”.

Duration of Pilot

- 5.4 The 2018/19 pilot programme will last for one year only with the 2017/18 pilots continuing into 2018/19. It is difficult to determine the rationale for a one year pilot, other than a pilot by its nature will have a limited life.
- 5.5 Nevertheless it is very unlikely that the government, having set up such an arrangement, will unravel such governance arrangements after only one year. The Government’s commitment to give local authorities greater control over the money they raise locally suggests that pilots will probably exist until the full 100% Business Rates Retention system is implemented. The very earliest this could be introduced is 2020/21 and more likely 2021/22. Hence any pilot will have minimum 1 year duration but more likely 2 to 3.

Financial Benefit

- 5.6 A pilot scheme is determined to be “Fiscally Neutral” for each party at the commencement of the pilot based upon the initial Government Assessments of Business Rates Baseline (BRL- Amount in theory to be collected) and the Business Rates Funding Level (BFL- Needs Amount). The Baselines and Funding Levels represent the initial 2013/14 allocations.
- 5.7 Business Rate Baselines were not a precise science and winners and losers were created at the outset of the system. A local authority will in addition since 2013/14 have generated economic growth or seen a major industry close

resulting in actual business rate income varying considerably from the Government assessment. This net growth or reduction has then been shared 50/50 between the Government and authorities based upon their tier split.

- 5.8 The Business Rates Pilot “Cost Neutrality” takes no account of this net growth (or loss) in Business Rates income.
- 5.9 A Business Rates Pilot enables a greater share of future Business Rates Growth however more importantly there is a clear and simple financial advantage of the pilot if the current combined Actual Business Rates Income is in excess of the Government Assessment. A pilot now retaining the Government’s 50% share in addition to its current 50% share.
- 5.10 A Steering Group of the Staffordshire Chief Finance Officers Group (SCFOG) has undertaken work in relation to this which confirms that all authorities within Staffordshire, that are responsible for collecting business rates, are in a “growth position” with growth ranging from 1% to 14%, averaging out at 7% for the proposed overall pool for 2017/18 and this is likely to be at least maintained for 2018/19 (At present 50% of such growth is retained within Staffordshire).
- 5.11 The ability to retain “100%“ of growth would represent new money to be retained in Staffordshire rather than paid to the Government. This is currently estimated to be £12.35 million for 2018/19.

No Detriment- Pilot Area

- 5.12 All existing Pilots have been created on a no detriment basis .The “no detriment” provision ensures that collectively the Authorities in the Pilot are no worse-off than if they had remained in the existing 50% scheme. In particular the agreement ensures that if new burdens arise or the assumptions in relation to the funding stream change, then the Pilot Area is protected.
- 5.13 The 2018/19 prospectus however states that proposals for the 2018/19 pilots should include details of how Authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 Pilots Programme does not include a ‘no detriment’ clause. DCLG are not clear at this stage whether this will be applied across the board for 2018/19 or whether applications that do not require such a clause will operate as such regardless of the final policy decision.
- 5.14 In considering the “No Detriment “requirement a key factor is whether the reward of retaining 100% growth outweighs the risk. “No detriment “as applied to existing pilots would only apply if the proceeds from the scheme were less than the 50 % scheme and if the cost of additional responsibilities were greater than the resource required.

- 5.15 Paragraph 5.10 above indicates that Business Rates would need to contract by in excess of £12 million or 7% for this clause to apply .The extent of the requirement for a no detriment clause has further been reduced by the proposed funding streams being limited to Revenue Support Grant and Rural Services Grant and hence the cost pressures from other funding streams has been avoided.
- 5.16 All Authorities currently manage the risk in volatility of business rates by being a member of a Business Rates pool. The respective governance arrangements share the risk and reward on the basis that no Authority will be worse off as compared to not being part of a pool. However at present 50% of the risk/reward is shared with Central Government.
- 5.17 Two key risks exist in relation to pooling without a “No detriment” clause
- a) A major Business closes in the Area; and
 - b) The level of Appeals exceeds Governments expectation/provision made by each Authority.
- 5.18 **Appendix B** provides an analysis of the potential exposure of each Authority to a major business with the biggest single exposure relating to Alton Towers (Staffordshire Moorlands). In this context it should be noted that the Closure of Rugeley Power Station did not trigger any Safety Net requirements with Cannock Chase Council still remaining in a growth position. An impact on the Levy did however arise but this in itself would not have triggered the “No detriment“ Clause.
- 5.19 **Appendix B** also highlights the diverse nature of businesses within Staffordshire and identifies some unique high value hereditaments. In addition to the single exposure and unique high value hereditaments additional exposure will exist in relation to single operators with multiple hereditaments in one authority or across Staffordshire. DCLG have indicated that “a variation in the types of business rates base represented“ forms part of the further assessment criteria for becoming a Pilot.
- 5.20 In the context of closures the 50% scheme has been in operation for four years and only two Safety Net payments have been required for Staffordshire Authorities, the Safety Net payments being triggered by appeals.
- 5.21 The Safety Net provision for a Pilot area increases from its current 92.5% (under the 50%scheme) to 97%. however this still applies at Pool rather than individual Authority level. The current exposure, before the safety net is triggered, for the overall Staffordshire Pool is £13.7 million but this will reduce to £8.0 million under pilot arrangements. However it should be noted that due to actual business rates being 7% above baseline, the pool would need to lose

over £20 million (additional growth above baseline of £12 million and £8m reduction to initiate trigger) before the safety net applied.

- 5.22 The greatest risk in relation to the “No Detriment” clause not being in place is the level of appeals. This is particularly important at this current time due to the close proximity to the 2017 Revaluation. The 50% scheme was introduced 3 years after the 2010 Revaluation and hence the Government had already borne 100% of the cost of appeals agreed before the 50% Scheme came into force. The current position is something different in that there is a backlog of appeals still outstanding and the “authenticity” of current assumptions (the Government has effectively allocated 2.1p of the multiplier to meet the cost of appeals), has yet to be tested.
- 5.23 Regardless of the level of appeals ultimately the greatest risk across the country is whereby there is a change in Policy or treatment of hereditaments. This is particularly borne out by the change in valuation of GP surgeries and appeals in relation to Telecommunications. The latter included the potential consolidation of such assessments in a single assessment. Similar risks therefore exist in relation to the transfer of hereditaments from the Local Rating List to the Central List whereas there are outstanding challenges in relation to whether Hospitals should receive Charitable Status and 80% Mandatory Relief.
- 5.24 It is therefore recommended that although the Pool will accept the risk of volatility due to changes in circumstances and its share of appeals, it is unwilling to become a pilot unless a “No detriment” clause applies for the loss of business rates income due to
- The consolidation of hereditaments as a single assessment;
 - Transfer from the Local Rating List/Central Rating Lists;
 - Changes in Mandatory Relief Policy Charitable Status;
 - Changes in the basis of determining the basis of Rateable Values; and
 - The backdated cost of new appeals post 1 April 2018.
- 5.25 The Government is considering a new approach to the management of the risk of business rates appeals under the full national business rates system. An option therefore maybe be to pilot this on a no detriment basis within Staffordshire. In developing the Expression of Interest it is intended that further dialogue takes place with DCLG in terms of providing options to provide a mechanism that addresses the above risks.
- 5.26 DCLG have confirmed that each Authority would continue to receive specific Section 31 grants in relation to Business Rates e.g. Small Business Rates Relief etc. and that funding re existing or new Enterprise Zones would also be protected.

No Detriment – Individual Authorities

- 5.27 It is important to note that the “no detriment” provision would protect the Pilot, not individual Authorities. Existing pooling arrangements ensure no Authority is worse off being a member of a pool and it is proposed as part of the Governance arrangements for the Staffordshire wide pilot/pool that this is extended that no Authority is worse off as compared with the 50% business rates scheme. At worst, each authority would receive the same level of funding as it would in the existing 50% scheme.

Individual Sovereignty and Funding Allocations Maintained

- 5.28 The amount of core funding for each Authority in any potential pilot will still be separately identified as part of the Local Government Settlement.

Each authority will receive their allocated amount. There is no commitment as part of the pilot to share needs/resources and risk other than under the current 50% scheme. Business rates will still be collected and retained by each authority with only the additional resources arising from the 100% scheme being accounted for on a Staffordshire “Area” basis.

Existing Pooling Arrangements

- 5.29 The introduction of 100% Business Rates/the creation of a Pilot would in theory end the need for pooling arrangements with no Levy being imposed (pools were initially primarily established to avoid a levy being paid to Central Government). The Government’s consultation paper on Business Rates Retention however promoted new pooling arrangements with an incentive of Local Growth Zones; ability to retain growth at a reset; a different level of safety net and different or additional responsibilities.
- 5.30 As stated earlier Staffordshire Authorities have aligned to either the Staffordshire and Stoke on Trent Business Rates Pool or the Greater Birmingham and Solihull Business Rates Pool. The latter includes two Worcestershire Authorities (Redditch and Bromsgrove) as well as Birmingham and Solihull.
- 5.31 The last two mentioned authorities are members of the West Midlands Combined Authority Pool/Pilot. Under the 2017/18 pilot arrangements the Devolution Area pilots are allowed to operate alongside existing business rates pools with no requirement for any pool to be dissolved. However since the rationale and governance arrangements of the pool related to the “non payment of the levy”, not applicable to pilot authorities, separate governance arrangements were put in place to passport the levy saving from the Pilot Authority to the pool.

- 5.32 To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income. The 2018/19 pilots will see the continuation of the West Midlands Combined Authority Pool/Pilot in its current format. In addition the GBS pool will, subject to the agreement of current members, remain in place in 2018/19 regardless of whether Pilot applications are successful or not. However, Authorities cannot be members of two pools in relation to the creation of new pilots in 2018/19.
- 5.33 Authorities will therefore need to determine whether they would wish to be part of a Pilot or not. The pilot could either be in the form of the existing Staffordshire and Stoke on Trent Pool (however, acceptance of such a pilot is unlikely), a wider Staffordshire pool including all the Districts /Boroughs (two tier) or a more wider pool including Stoke on Trent City Council.

The Council is currently a Non Constituent Member (NCM) of the West Midlands Combined Authority and although discussions were held with DCLG to include NCMs in a potential Pilot, the approved pilot was limited to the Constituent (Metropolitan) Members .The WMCA Pilot has been re-affirmed as part of the Prospectus and the standing of NCMs in relation to joining such a pilot seems very unlikely.

In particular insufficient time now exists to prepare a Business Case and ascertain the risks involved in a pilot involving a Devolution Deal and without the benefit of a “no Detriment” clause.

- 5.34 If the Pilot Application is successful then the relevant Authorities would then cease to be a member of the current pools. The future of such pools would then be dependent upon what other members of the pool resolved in terms of pilot membership (DCLG have confirmed that all current pools can remain in place in 2018/19, however authorities cannot apply to be members of more than one pool). However, options to retain the Economic Development objective of the existing pools exist as detailed below.
- 5.35 Finally DCLG require, as part of the Expressions of Interest submission, that all interested Authorities specify what pool arrangements should apply in 2018/19 if the application to be a pilot was unsuccessful. As indicated above subject to the pool not being dissolved by existing members the option exists to remain with the GBS pool if the pilot application was not successful.

Impact on LEP and other partnership arrangements

- 5.36 The current Pooling arrangements applicable to Staffordshire Authorities are based upon retaining additional resources within Staffordshire, resources that would have otherwise be paid to Central Government. Each provides financial benefit to each growth authority and the wider economic development policy direction of each pool.

- 5.37a The Staffordshire & Stoke on Trent Pool includes a Central Investment Fund based upon an annual funding stream representing 40% of the retained levy. The Central Investment Fund is used to invest in projects to generate economic growth in Staffordshire and Stoke on Trent based upon investment strategies set in the context of the Stoke on Trent and Staffordshire Local Enterprise Partnership priorities.
- 5.37b The Greater Birmingham and Solihull Pool includes an allocation to the GBS LEP based upon an annual funding stream representing 40% of the avoided levy, with the proviso to allocate up to 60% subject to contingency requirements. The allocation is used to support the LEP's strategy for growth and consists of meeting central core costs together with initiatives in support of the Strategic Economic Plan (SEP) Business Plan.
- 5.38 A further separate allocation is made from Wyre Forest Council, a member of the Worcestershire Business Rates Pool, based upon a "contribution methodology" for non members. Similar arrangements have been put in place within GBS LEP for any Council who ceases to be a member of the pool but wishes to remain a member of the LEP and contribute to initiatives. The contribution methodology is as follows:
- £16,500 per annum contribution towards the Programme Delivery Director, Growth Hub and Inward Investment allocations for 2013/14;
 - A % contribution based upon the proportion of the Council's business rates baseline (as calculated by the Government) as a percentage of the combined business rates baseline of the GBS Pool Authorities:
- This equates to:
- 3.9% for Cannock Chase;
 - 6.4% for East Staffordshire;
 - 3.9% for Lichfield; and
 - 3.7% for Tamworth.
- 5.39 The pilot proposals would see each Council retaining the Levy Saving directly enabling a voluntary contribution to be paid to the relevant LEP and hence the current policy direction to be maintained.
- 5.40 A variety of options therefore exist to maintain the status quo these include:
- Re-designation of the existing pools as Economic Development Growth Pools to be funded by the equivalent amount of levy as now; or
 - Direct contributions to the relevant LEP based upon:
 - (i) 40% of retained levy (Current pool arrangements);
 - (ii) Fixed contribution;
 - (iii) Lump sum / % contribution; or
 - Determine alternative arrangements with the relevant Pool/LEP.

- 5.41 In considering such options it should be noted that as a result of the creation of the WMCA pilot the affected GBS Authority has adopted the retained levy option to ensure “No detriment” applied to the Pool.
- 5.42 In accordance with the prospectus any potential change in pooling arrangements needs to be communicated with affected pools. Informal discussions have taken place with the GBS Pool and a meeting of Finance Directors took place on the 16 September 2017. It was noted at the meeting that in addition to the two WMCA Pilot authorities the potential does exist for the current shire district members to apply to be a pilot as part of two tier applications. Similarly as highlighted in paragraph 5.33 insufficient time existed for an extension of the WMCA pilot. It was however agreed that the GBS pool would remain in existence enabling the Staffordshire /Worcestershire Authorities to remain as part of the pool if the pilot application was unsuccessful or if only part of current members were successful in becoming a pilot. In the event of the pilot applications being successful, arrangements would be put in place to maintain the voluntary contribution scenario as detailed above.
- 5.43 Informal discussions have taken place directly with the Director of the GBS LEP and the LEP would welcome any proposal that ensures the maintenance of existing policy arrangements and the ongoing commitment to the LEP. An application to be a Pilot authority would not impact upon this relationship.
- 5.44 In the event of a Pilot being established it would be necessary to amend the Governance arrangements of each pool to reflect the preferred option to support Economic Growth via pooling and partnership arrangements.

6. The proposal for a Staffordshire Pilot.

- 6.1 Section 3 of the Prospectus details the criteria for becoming a pilot. Although any authority or group of authorities can apply to become a pilot the selection criteria focuses on Proposed pooling arrangements which operate across a functional economic area (i.e. the county council(s) and all relevant district councils; groups of unitary authorities; or groups of county councils, all their districts and unitaries);
- i.
 - i. In addition supplementary assessments focus on the wide spread of geographical areas and rural areas;
 - ii. Two Tier Authorities;
 - iii. Financial sustainability; and
 - iv. How pooled growth will be used.

6.2 Three models are currently being developed in order that a Pilot could be created in Staffordshire.

Staffordshire & Stoke on Trent Pool (2012) - already in existence
Staffordshire County Council & Districts - two tier Authorities
Staffordshire County Council/ Districts and Stoke on Trent City Council
(Each Model includes the Fire and Rescue Service)

6.3 In accordance with the criteria it is believed that the wider entire Staffordshire geographical/regional area offers the best chance of success. In particular its unique and complex Economic Geography with links to the North, South and East is considered to be a key selling point against the selection criteria. The Staffordshire Economic area includes participation in two Local Enterprise Areas, two Business Rate Pools, Non Constituent Membership of a Combined Authority, the Midlands Engine and the Constellation Partnership (Northern Gateway). Partnership arrangements with each of these bodies, although complex, is fundamental to economic growth and hence a Staffordshire Pilot could test how Business Rates Retention could continue to operate either on a stand alone or integrated basis.

6.4 In relation to Criteria ii) a potential advantage of a Staffordshire Pilot is that it is nearly self sufficient based upon the grants/funding streams available to be financed solely from retained business rates. Self sufficiency effectively means that there is no payment to/or from Government (a Tariff or Top up is not effectively required).

6.5 **Appendix C** below shows the current Business Rates generated in Staffordshire and the amount currently passed back to Government. Although the Pilot would not consolidate any of the additional grants it can be seen that under existing arrangements the area could be self sufficient under the full 100% scheme.

6.6 In relation to Criteria iv) how pooled funds are to be used, a number of principles are proposed

- The pilot operates at no detriment to the existing 50% funding Scheme. In particular the contribution to wider Economic Development is protected;
- The pilot adopts local agreed tier splits whereby additional resources as generated through growth above baseline figures are effectively directed to redress the balance in relation to Social Care.

6.7 To this end it is proposed that the additional 50% risk and reward secured as part of Pilot Arrangements in relation to new growth is directed to the upper tier authorities and a locally agreed Tier Split arrangement is put in place.

6.8 Adopting the “no detriment” policy the use of a 59 % (County) /40% (District) and 1% (Fire) split would be adopted. Districts and Boroughs would remain as at present with additional reward (risk) accruing to the County Council and in the case of the Unitary Authority (Stoke on Trent City council). The latter receiving 99% of future growth as compared to 49% under the current system, with the County Council receiving 59% as compared to 9%.

6.9 In order to share the risk and apply the no detriment policy it is proposed that the Pool will be based upon a “No Loss“ basis for each Member.

“No loss” is determined to be that a Member will be no worse off:

- By being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool;
- No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business Rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool; and
- No Member will be worse off as a result of the increased retained % arising from the Pilot Scheme.

6.10 Each Authority will in addition receive a proportion representing its relevant tier split of additional resources generated by the creation of a pool for that Authority.

Each Authority will receive a minimum payment of £200k per annum for the duration of the pool enabling core services and in particular economic development and preventative social care initiatives to be protected.

7. Governance Arrangements

7.1 The Draft Governance arrangements for the proposed pool are attached as **Appendix D** in the form of a Memorandum of Understanding.

7.2 The existing Pooling Agreement(s) of the two pools have been used as a Template for the Memorandum of Understanding. The Template Model has been extended to reflect the additional resources retained under the proposed 100% pilot scheme.

7.3 The Governance arrangements reflect the Membership of the Pool; Duration; Governance & Voting Rights; Amounts to be pooled and Distribution methodology; Safety Net; Accountable Body and Termination.

8. Process and Timetable

- 8.1 The Outline Business Case for a Staffordshire Pool is to be considered by each of the potential eleven Pilot Authorities within Staffordshire.
- 8.2 Subject to the determination by each authority it is intended to submit an Expression of Interest (EOI) application based upon the following options in hierarchal order
- Staffordshire County Council/ Districts / Stoke on Trent City Council
Fire Authority (preferred option);
Staffordshire County Council/ Districts/Fire Authority; and
Existing Staffordshire Pool.
- 8.3 The EOI would need to confirm the Lead Authority . The Lead Authority would be supported by Staffordshire Chief Finance Officers Group and nominated policy officers in further discussions with DCLG.
- 8.4 The Deadline for Expressions of Interest is 27 October 2017 with successful applications being designated informally as part of the provisional Local Government Settlement in late November/Early December.
- 8.5 Potential successful pilots will be informed of the proposals in advance of the Draft Local Government Settlement enabling any implications of the Tariff/Top Up adjustments to be assessed and the final Memorandum of Understanding with Government agreed. The application can be withdrawn at this stage.
- 8.6 If the Council wishes to proceed with an EOI then Delegated Authority is required for the **Chief Operating Officer** and **Section 151 Officer** to submit the EOI and agree the necessary Governance arrangements in accordance with the principles as contained in the Memorandum of Understanding attached.

REPORT AUTHOR

If Members would like further information or clarification prior to the meeting please contact John Wheatley, Executive Director Corporate Services, tel. 709252 or Stefan Garner, Director of Finance, tel. 709242.

LIST OF BACKGROUND PAPERS

Department for Communities and Local Government (DCLG) - Invitation to Local Authorities in England to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier-split models, September 2017 (attached at **Appendix A**).

APPENDICES

Appendix A Pilot Prospectus

Appendix B Analysis of Rateable Values within Staffordshire

Appendix C Assessment of Financial Self sustainability under 100% Scheme

Appendix D Draft Memorandum of Understanding



Department for
Communities and
Local Government

Invitation to Local Authorities in England

to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier-split models.

September 2017

Department for Communities and Local Government



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Section 1 – The purpose of these invitations

- 1.1 The Government is committed to continuing to give local authorities greater control over the money they raise locally. It is in this context that the Government has decided to proceed with the already announced expansion of the pilot programme for 100% business rates retention for 2018/19. These will run alongside the five current 100% pilots which have been in operation since 1 April 2017.
- 1.2 The current pilots, and a new wave in 2018/19, will help explore options, with local government, for the design of future local government finance reforms.
- 1.3 Alongside the 2018/19 pilots, the Government will continue to work with local authorities, the Local Government Association, and others on reform options that give local authorities more control over the money they raise and are sustainable in the long term.

Background

- 1.4 On 1st April 2017 the Government launched five pilots¹ of 100% business rates retention, which Ministers have granted to areas with ratified devolution deals. These pilots will retain 100% of business rates income and forego some existing grants. Over the pilot period they will retain all of their growth in business rates income. The five current 100% pilots which launched on 1 April 2017 will be continuing on in 2018/19, running alongside this new wave of 2018/19 pilots.
- 1.5 Spring Budget 2017 announced that authorities in London are working with the Government to explore piloting 100% business rates retention from 2018/19 and to retain a greater share of business rates in 2017/18.
- 1.6 In response to the Consultation on Self Sufficient Local Government, the Government made a commitment to launch a further pilot scheme in 2018/19. All interested authorities are invited to apply.
- 1.7 The 2018/19 pilots are an opportunity for the Department to test more technical aspects of the 100% business rates retention system, such as tier-splits. This will provide the opportunity to evaluate how collaboration

¹ These pilots are in Greater Manchester, Liverpool City Region, The West Midlands, Cornwall and The West of England.

between local authorities works in practice.

- 1.8 The Government would like to see authorities form pools and, with agreement in place from all authorities, to apply jointly for pilot status. The opportunity to work together as a pool across a functional economic area will allow authorities to make coherent strategic decisions about the wider area and to jointly manage risk and reward.
- 1.9 Finally, in addition, the pilots will test authorities' administration (e.g. how they tackle avoidance), technical planning for implementation, and look at system maintenance; how the accounting, data collection and IT system will work. The Government expects to learn from the pilots' experiences in the design of any national system of business rates retention.

Section 2 - The invitation to authorities to pilot

- 2.1 This invitation is addressed to all authorities in England, excluding those in London and participants in the 2017/18 pilots of 100% business rates retention which are expected to have separate discussions with the Department.
- 2.2 These authorities are now invited, if they so wish, to make a proposal to become a pilot of 100% business rates retention in 2018/19.

Terms of the invitation

- 2.3 The Government is interested in exploring how rates retention can operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas. Accordingly, the Government encourages, in particular, areas to apply as pools (either on existing, or revised pool boundaries), which comprise county council(s) and all relevant district councils; groups of unitary authorities; or groups of county councils, all their districts and unitaries. Arrangements would also need to reflect the position of precepting authorities, such as Fire and Rescue authorities.
- 2.4 To be accepted as a pilot for 2018/19, agreement must be secured locally from all relevant authorities to be designated as a pool for 2018/19 (in accordance with Part 9 of Schedule 7B to the Local Government Finance Act 1988) and to put in place local arrangements to pool their additional business rates income.
- 2.5 We require pooled areas coming forward to propose a split for sharing additional growth. We particularly want to see additional growth being used to promote the financial stability and sustainability of the pooled area. In addition, we would expect some retained income from growth to be invested to encourage further growth across the area.
- 2.6 For the 2017/18 pilots the Government has agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. However, proposals for the 2018/19 pilots should include details of how authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 pilots programme does not include a 'no detriment' clause. Applications should make it clear whether or not they would be willing to become a 100% BRR pilot if the 2018/19 pilots

were expected to operate without the benefit of ‘no detriment’.

- 2.7 The Government will use the 2018/19 pilots to deepen its understanding of how different local arrangements work and improve the information that it holds on business rates retention. As such, participating authorities will be expected to share additional data and information, as required.
- 2.8 Authorities selected as pilots for 2018/19 will be expected to forego Revenue Support Grant (RSG) and Rural Services Grant. The value of the grant foregone will be taken into account in setting revised tariffs and top-ups, which will be used to ensure that the changes are cost neutral, except for the value of any growth retained.
- 2.9 Pilot areas will be expected to operate under the arrangements that currently determine safety net payments for pools. In other words, each “pool” will have a single safety net threshold determined on the basis of the pool’s overall baseline funding level and business rates baseline. However, the pool’s safety net threshold will be set at 97% of its baseline funding level, instead of 92.5%, to reflect the additional risk of greater retention. Pilots will operate with a “zero levy”, as is the case for the current 2017/18 pilot areas.
- 2.10 Given the timetable for pilot applications and the proximity to the finalisation of the local government finance settlement, all applications must outline, with agreement from all participating authorities, what pooling arrangements they would like to see if their application to become a pilot were unsuccessful. In addition, any authority which is part of a current pool but wishes to apply to become a pilot as part of a different pool, must inform the current pool of its intention.
- 2.11 Alongside this prospectus we are publishing supplementary information on how pooling arrangements will be managed in line with applications to become pilots. Please consult this document for further information.
- 2.12 The Government reserves the right to pilot a full range of options and so to create a single authority pilot if it is deemed useful as a result of our discussions with applicants. The Government will not compel any authority to become a pilot that does not wish to, and we cannot designate a pool without explicit agreement from all participating local authorities.

Response to the invitation

- 2.12 It is wholly at the discretion of authorities whether or not they choose to apply to the pilot scheme outlined above.
- 2.13 Any proposals for new pilots must be received by the Department for Communities and Local Government on or before Friday 27 October 2017.
- 2.14 It is expected that successful applications will be announced before or alongside the publication of the draft local government finance settlement.

Section 3 - The criteria for becoming a pilot

- 3.1 The Department will consider all applications to pilot 100% business rates retention that are received by Friday 27 October 2017 and which conform to the scheme outlined in Section 2.
- 3.2 Because of affordability constraints, it may be necessary to assess applications against selection criteria. In these circumstances, the following criteria will apply:
- Proposed pooling arrangements operate across a functional economic area (i.e. the county council(s) and all relevant district councils; groups of unitary authorities; or groups of county councils, all their districts and unitaries);
 - Because they were not included in the 2017/18 pilot scheme, the Government is particularly interested in piloting in two-tier areas;
 - The proposals would promote the financial sustainability of the authorities involved; and,
 - There is evidence of how pooled income from growth will be used across the pilot area.
- 3.3 If further assessment criteria are required, the Government will:
- Seek a wide spread of geographical areas across England;
 - Focus on rural areas (given that the majority of 2017 pilots are in urban areas);
 - Achieve a variation in the types of business rates base represented (e.g. whether there a small number of large rate payers in the area).

Section 4 – The authorities’ proposal to become a pilot

- 4.1 Any proposal must be in accordance with the invitation outlined in Section 2, and summarised in paragraph 4.3.
- 4.2 The proposal must be in the form of a business case with supporting financial analysis.
- 4.3 The business case should clearly set out the following:

Membership details/ Housekeeping

- i. Local authority membership of the proposed pool, explaining its relevance to the economic geography of the area;
- ii. Evidence that each local authority fully supports the application and the proposed pooling arrangements;
- iii. A clear outline, with agreement from all participating authorities, on what pooling arrangements you would like to see if your application to become a pilot was unsuccessful
- iv. A clear indication of whether or not you would still like your application to be considered if you were expected to operate without a ‘no detriment’ clause.
- v. The lead authority;
- vi. The proposed position of precepting authorities such as Fire and Rescue;

Governance arrangements

- vii. The governance agreement, including how any additional business rates income is to be used; how risk is to be managed; and how residual benefits/liabilities would be dealt with once the pilot ends;
- viii. An indication of how the pool will work together in the longer term;
- ix. Proposals for sharing additional growth. We particularly want to see additional growth being used to promote financial stability and sustainability. In addition, we would expect some retained income from growth to be invested to encourage further growth across the area.

Additional supporting evidence

- x. The benefits to the area of participation in the 2018/19 pilots, including the financial case;
- xi. In two-tier areas, applications should propose a tier split and explain how this will promote sustainability; and

xii. A brief explanation of the business rates base in your area.

4.4 We understand application lengths may vary, however, as a guide, we would expect applications to be around four typed pages in size 12 font.

Membership

4.5 Proposals should include the identities of all authorities in any proposed pool and evidence that each fully supports the application and the proposed pooling of a proportion of additional income.

4.6 Authorities cannot apply as part of more than one pool and, where they have two possible options, must choose which pilot they wish to apply to participate in.

4.7 If existing pooling arrangements need to be reconfigured as a result of a pilot proposal, the Department would expect to make the necessary determinations at the same time as confirming its agreement to the pilot arrangements. In the event that a pilot proposal is not accepted, the Government will make 2018/19 pooling arrangements with the authorities concerned in line with their expressed preferences on their pilot application, as requested in paragraphs 2.7 and 4.3 (iii).

Benefits

4.8 Applications must include details on how participation in the pilot scheme will benefit the area and should cover the potential pilot's approach to pooling and the sharing of growth, including how authorities will collaborate to use pooled retained income to promote further growth across the area. In two tier areas applications should propose a tier split and explain how this will promote sustainability. The financial case should reflect these considerations. An indication of how the area will work together in the longer term should also be included.

Lead Authority

4.9 Participating pools will be treated as one entity by the Department for the purposes of business rates retention and one calculation will be made regarding top-up/ tariff and the safety net payment. Therefore, the pool must nominate a Lead Authority to receive payments from and make payments to the Department on behalf of the entire pool. Any authority within the pool is eligible to fulfil this role. Applications must state which authority will be acting

as the Lead Authority for the duration of the pilot.

Governance agreement

- 4.10 Pools should submit a governance agreement setting out how the pooling arrangements will work in terms of financial distribution and service provision and evidencing how business rates income growth will be shared. The governance agreement should also include how balances and liabilities will be treated if the pool were to be dissolved.

- 4.11 Please ensure that the s.151 officer of each authority has signed off the proposal before it is submitted. The Department will work closely with all successful applicants to support the implementation and running of the pilot.

Other information

- 4.12 Authorities may include any further materials they see fit in support of their proposal.

Section 5 – The Government’s handling of proposals

- 5.1 All proposals received on or before Friday 27 October 2017 by the Department will be carefully considered between then and December 2017.
- 5.2 The first assessment of proposals will ensure that all conform to the terms of the invitation (see Section 2).
- 5.3 If it is necessary for a selection to be made, for reasons of affordability, then the proposals will be subject to a further assessment against the criteria outlined in Section 3, 3.2.
- 5.4 If a third round of assessment is required, then proposals will be assessed against further criteria to ensure a variety of useful pilots are created, including those outlined in Section 3, 3.3.
- 5.5 The Government may request further information in carrying out this assessment from the authorities submitting the proposal and from other persons and bodies that it deems appropriate.
- 5.6 Where information is not available the Government reserves the right to make assumptions and estimates as it sees fit.
- 5.7 Successful pilots will be announced in December 2017 and launched in April 2018. Between these dates the Department will support authorities in preparing for implementation.

Section 6 – Submission of proposals

6.1 Any proposals for new pilots must be received by the Department for Communities and Local Government on or before Friday 27 October 2017. The Secretary of State may publish proposals in the Libraries of Parliament.

6.2 Proposals should be submitted to:

Local Government Finance Reform Team

The Department for Communities and Local Government

Fry Building

2 Marsham Street

Westminster

London

SW1P 4DF

Email: Businessratespilots@communities.gsi.gov.uk

Section 7 – Conditions

- 7.1 In designating a pool for 2018/19, the Department will attach conditions to the designation in accordance with paragraph 35(1) of Schedule 7B to the Local Government Finance Act 1988 by appointing a lead authority and requiring the authority to take the steps set out in its application in the event that the pool is dissolved.
- 7.2 It also reserves the right to attach such other conditions as it sees fit, in accordance with paragraph 35(2) of Schedule 7B. If the Department attaches conditions these are likely to be around the publication of information by the lead authority in the interests of transparency.
- 7.3 The Department also reserves the right to modify or remove conditions at any point in the future, as becomes necessary.
- 7.4 The 2018/19 pilot programme will last for one year only, and does not prejudice the discussion the Department will be continuing to have with Local Government on the future of the business rates retention system as a whole.

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Table 1: Exposure of each staffordshire Authority based upom largest single heridatement and top 10 Rateable Values

Authority	Total Number of Hereditaments	Total Rateable Value	Largest Single Hereditament	Category	% of Total Rateable Value	Top 10 Hereditaments % of Total Rateable Value
Cannock Chase	3,344	83,541,397	3,370,000	warehouse	4.03%	19.38%
East Staffordshire	4,128	137,022,684	3,260,000	brewery	2.38%	16.88%
Lichfield	3,025	88,219,764	3,250,000	supermarke	3.68%	16.57%
Newcastle-Under-Lyme	3,505	89,375,337	2,900,000	university	3.24%	20.82%
South Staffordshire	2,665	63,338,530	3,980,000	warehouse	6.28%	25.37%
Stafford	4,153	121,707,656	2,590,000	warehouse	2.13%	12.46%
Staffordshire Moorlands	2,994	55,338,667	8,380,000	theme park	15.14%	31.20%
Tamworth	2,073	82,261,369	2,290,000	supermarke	2.78%	18.63%
Stoke	8,981	233,732,856	6,770,000	hospital	2.90%	11.62%
Total	34,868	954,538,260	36,790,000		3.85%	17.13%

**Top 10 Rateable Value by Category
for Staffordshire & Stoke on Trent**

Type of Hereditament	Rateable value (RV)	% of Total Staffordshire RV	Number of properties	Average RV
WAREHOUSE AND PREMISES	172,621,325	18.08%	3059	56,431
SHOP AND PREMISES	116,262,670	12.18%	7706	15,087
OFFICE AND PREMISES	72,809,941	7.63%	4919	14,802
WORKSHOP AND PREMISES	70,554,585	7.39%	5189	13,597
SUPERMARKET AND PREMISES	65,804,250	6.89%	93	707,573
FACTORY AND PREMISES	64,489,330	6.76%	446	144,595
RETAIL WAREHOUSE AND PREMISES	49,343,900	5.17%	253	195,035
PUBLIC HOUSE AND PREMISES	34,880,575	3.65%	1005	34,707
SCHOOL AND PREMISES	33,342,550	3.49%	518	64,368
HOSPITAL AND PREMISES	13,678,000	1.43%	27	506,593
Total of Table	693,787,126	72.68%		
Total of Staffordshire	954,538,260			

Top 10 Hereditament Average RV by Category for Staffordshire & Stoke on Trent

Type of Hereditament	Number Hereditaments	Average RV per herditament
THEME PARK AND PREMISES .	2	4,690,000
CEMENT WORKS, QUARRY AND PREMISES .	1	1,700,000
WASTE INCINERATOR AND PREMISES .	2	1,655,000
COAL FIRED POWER STATION AND PREMISES .	1	1,370,000
MOTORWAY SERVICE AREA .	5	1,271,000
COMPUTER CENTRE AND PREMISES .	2	1,140,000
PRISON AND PREMISES .	4	1,124,375
TELECOMMUNICATIONS CABLE NETWORK AND PREMISES	4	1,115,425
FOOTBALL TRAINING GROUND AND PREMISES .	3	987,667
MALTINGS AND PREMISES .	1	945,000

Appendix C

Financial sustainability :Tariff available to meet other Funding Streams		
	Current 50% Scheme	Business Rates 100% Pilot
	£m	£m
Total Net Business Rates	344.72	344.72
less Government Share	(172.36)	
Retained	172.36	344.72
Plus Top up	26.10	
Plus Revenue Support Grant	64.00	
Total Income	262.47	
Settlement Funding assessment	262.47	262.47
Balance Available to fund other streams		82.25
Potential other streams		
Public Health Grant		59.18
Integrated Transport		5.09
Highways Mtce		19.76
Highways Efficiency		3.56
Total Required		87.59

Appendix D

Memorandum of Understanding - Subject to Contract Business Rates Pooling Agreement Pilot Arrangements

- (a) All Local Authorities are currently obligated to pay a percentage of their Business Rate collection to Central Government. In accordance with the proposed 100% Business Rates Retention Scheme all Business Rates will be retained by Local Government
- (b) In order to pilot the 100% scheme Members have agreed , subject to designation by DCLG, to join together the net Business Rates collected and establish a Business Rate Retention Scheme in accordance with the Local Government Finance [Bill July 2012] (“the Pool”).
- (c) The rationale of the Pool is
- (i) to utilise the additional resources available to the pool , resources that would otherwise have been returned to central government, to
- deliver sustained economic growth by building on and strengthening its partnership arrangements reflecting the economic geography of Staffordshire
 - the generation of additional resources for both direct service provision, and preventative , social care
- (ii) to utilise tier splits to manage the risks and rewards across the pool

1. Membership

- 1.1 Membership of the pool is open to the following Councils/ authorities;
- Cannock Chase District Council
 - East Staffordshire Borough Council
 - Lichfield District Council
 - Newcastle-under-Lyme Borough Council
 - South Staffordshire District Council
 - Stafford Borough Council
 - Staffordshire County Council
 - Staffordshire Fire and Rescue Service
 - Staffordshire Moorlands District Council
 - Stoke-on-Trent City Council
 - Tamworth Borough council

- 1.2 The Pool Board will review its membership annually and will consider requests for new members to join or existing members to leave provided applications to join or leave are made at least 2 months prior to the Department for Communities and Local Government (“DCLG”) deadline for pre designation of a Pool each year.
- 1.3 The Pool is open to the possibility of accepting additional members to its pooling arrangement. New members, as existing members, will be accepted subject to:
- there being a unanimous decision of the Pool Leaders to accept the new member(s)
 - new membership will begin from 1 April of the following financial year
 - consultation and designation requirements of DCLG.
 - their full acceptance of the DCLG’ s Business rates retention scheme – pooling prospectus and any subsequent amendments to or iterations thereof.

2. Duration

- 2.1 Subject to the pool being designated by DCLG, the pool will come into effect from 1 April 2018. The period of membership will be for a minimum of the 2018/19 financial year.
- 2.2 The Pool is a voluntary arrangement and Members will be able to review their continuing membership up to [2 months] prior to the annual nomination of the forthcoming year’s Pool in accordance with DCLG’ s timetable.
- 2.3 Should a Member withdraw from the Pool during the annual settlement consultation period the Pool will be dissolved in accordance with DCLG rules.

3. Governance

- 3.1 A Pool Board consisting of a representative from each of the Members will be responsible for the Governance arrangements of the Pool.
- 3.2 The Pool Board will be made up of one nominee from each of the Members, being the Leader/Chief Executive or nominated substitute.
- 3.3 Each Member will have equal voting rights and voting will be by a simple majority. If there are an equal number of votes for/against a decision, the Chair will provide a casting vote.

- 3.4 A schedule of meetings will be agreed annually in advance of each financial year and a quorum for meetings will be 50% of the Membership of the Pool Board.
- 3.5 The Board will be hosted in each turn by each Member and chaired by the host Member.
- 3.6 The Pool Board will receive appropriate Legal and Financial support as required as from the Lead Authority.
- 3.7 The Members shall at its first meeting agree terms of reference for the Pool Board, subject to the clauses as contained in Section 4 of these Heads of Terms.

4. Pooled Fund

- 4.1 The Pool will be based upon a “No Loss “basis for each Member.
- 4.2 “No loss” is determined to be that a Member will be no worse off
- by being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool.
 - No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool.
 - No Member will be worse off as a result of the increased retained % arising from the agreed Tier Splits of the Pilot Scheme.
- 4.3 Each Member will retain the net Business Rates calculated in accordance with the 50% Business Rates Scheme (pre to any Levy Deduction). Member authorities will pay the same level of tariff or receive the same level of top up and receive the same level of safety net payment as if they were not in the pool;
- 4.4 Tariffs/Top ups for each Member as determined by the Annual Settlement, as adjusted for the consolidation of Revenue Support Grant and Rural Services Grant will be paid into/ received from the Pool via the Accountable Body in accordance with the timetable as approved by the Board. The accountable body will be responsible for payment/ receipt of the net Tariff or Top Up due to/from Central government.

- 4.5 Additional income in excess of the amount that would have been retained under the 50% Business Rates Scheme will be paid into the pool via the Accountable Body no later than the point at which they would otherwise have been paid to the Government had no pool existed.
- 4.6 The pool will be distributed in accordance with the following methodology
- The Accountable Body will receive a fixed annual sum of £**To be confirmed**
 - Each Member Authority will receive a guaranteed payment of £200,000 per annum
 - Compensation to a Member arising from the change in tier splits between the 50% and 100% scheme whereby an authority is worse off due to the increased % arising from the pilot.
- 4.7 The residual balance representing “ongoing growth” to 31 March 2018 and new growth thereafter will be split in accordance with the following Tier Splits reflecting the growth achieved by that Member

Two Tier Authorities	2018 Pool	(50% Scheme)
Staffordshire County Council	59%	9%
Staffordshire Fire and Rescue Service	1%	1%
District /Borough Councils	40%	40%
Unitary Authority	2018 Pool	(50% Scheme)
Stoke-on-Trent City Council	99%	49%
Staffordshire Fire and Rescue Service	1%	1%

- 4.8 The above distribution mechanism will remain in place for the duration of the pool
- 4.9 The distribution of pooled funds will be made by 30 June following the end of the relevant financial year.
- 4.10 Billing authority Members will retain their own collection funds and will retain their existing responsibility for bearing any shortfall in collected business rates.

5. Levy Savings

- 5.1 The amount retained by each Member is gross of the 50% levy payments that would have been paid to the Government. Each Member will determine how such Levy savings are distributed and are outside of the remit of the pool. However the pool is to operate on a “no detriment” basis with other partners/stakeholders.
- 5.2 Each Member should agree with the relevant partner or body how/whether existing arrangements are to be addressed

	S&SOT (2012)	GBS Pool
Local Retention- Tariff	40%	32.5%
- Top Up		7.5%
Economic Development	40%	40%
Contingency	20%	20%

6. Safety Net/Contingency Fund

- 6.1 If a Member’s business rate income drops by more than the Government determined safety net trigger, then a Party will be entitled to receive a Safety Net Payment from the Pool.
- 6.2 The overall Pool, under pilot arrangements, will receive a Safety Net payment that guarantees 97% of its Baseline figure. Individual Members are not protected by the Government Safety Net provision. However in accordance with the “no detriment provision” existing 50% Business Rates Retention safeguards will apply.
- 6.3 Safety Net payments ensuring each authority receives 92.5% of its Business Rates Baseline will be paid from the Pool. The payment will match any safety net payments that would otherwise be made if they were outside the Pool.
- 6.4 At the formation of the pool each Member will be required to transfer to the Accountable Body their proportion of the Contingency Fund held within the Staffordshire and Stoke on Trent Business Rates (2012) Pool or Greater Birmingham and Solihull Business Rates Pool.
- 6.5 In addition, in accordance with previous pooling arrangements, Members will make a contribution amounting to 20% of its Levy Saving to the Contingency Fund.

- 6.6 The amount of the Contingency Fund will be reviewed on an annual basis by the Pool Board.
- 6.7 If in a Financial Year there are insufficient sums in the Contingency Fund then Staffordshire County Council and Stoke-on-Trent City Council will transfer an amount equal to the shortfall to enable the Contingency Fund to make the Safety Net Payments. This payment will be split on a pro rata basis, based on respective population sizes in the two areas.
- 6.8 Staffordshire County Council and Stoke-on-Trent City Council will be reimbursed for any such payments made from the contingency in the following financial year.
- 6.9 Safety net payments will be made as a first call on sums in the contingency fund, before reimbursements are made.
- 6.10 The Contingency Fund will be reviewed on an annual basis by the Pool board. Where the existing contingency fund is, or is anticipated to be, insufficient, the % of the “levy savings” will be amended to increase the proportion allocated to the contingency fund and to reduce the allocation to the local incentive fund accordingly on a pro rata equal basis as agreed by the Pool Board.
- 6.11 If Staffordshire County Council and Stoke City Council are required to make Payments to the Contingency Fund in two (plus) consecutive Financial Years then they may notify the Members that a Variation to or Termination of the is needed.

7. The Lead Authority/Accountable Body

- 7.1 The Pool Board will nominate ***To be confirmed*** as Lead Authority.
- 7.2 The Lead Authority is responsible for all accounting and administration of the Pooled Fund and the Contingency Fund.
- 7.3 The Lead Authority is responsible for all auditing and accounting requirements as set out in legislation.
- 7.4 Each Member is be required to provide all relevant information to the Lead Authority as required to carry out its responsibilities. [to be determined by DCLG].

- 7.5 Each Member will transfer the relevant funds to the Lead Authority enabling the Lead Authority to carry out its responsibilities under this agreement.
- 7.6 The Members agree that the Pool will operate on a cash flow neutral basis. Payments should be actioned in accordance with the dates as determined by DCLG (as reasonably practical) on a net basis.
- 7.7 In addition Members will be required to provide medium term forecasts and monitoring information as determined by the Pool Board.
- 7.8 The Lead Authority will be accountable for producing as a minimum an annual report to the Pool Board or other such reports as required by the Pool Board.
- 7.9 The Lead Authority will be subject to no additional burdens other than those required to meet the normal requirements associated with the administration of the Pool and will receive an agreed fixed annual sum (as determined by the Board) for undertaking the Accountable Body status ..

8. Termination

- 8.1 A Pool will remain in place for each financial year that it has been designated by DCLG. Once designated, Members are not able to withdraw from the Pool for that financial year.
- 8.2 Prior to designation, the Pool is on a voluntary basis and all members will be able to choose to be a Member of the Pool for the forthcoming year's designation. In considering their continued Membership, Members will need to have due regard to the Pool Fund aims and objectives and the impact on remaining Members.
- 8.3 Members must give a minimum of 2 months' notice of intention to withdraw from the Pool prior to the provisional designation of the Pool in accordance with DCLG' s timetable.
- 8.4 If a Member or Members leave the Pool without the required notice set out in 8.3 and it is not possible for other Members to form an alternative pool for the forthcoming year then the exiting Member or Members shall pay 50% of the lost benefit to the Member Authorities directly affected in accordance with the Tier splits. The lost benefit relates to the additional retained growth as compared to the 50% scheme that would have been available to the Members in the forthcoming year had the Member or Members not exited.

8.5 Clause 8.4 of this Memorandum of Understanding shall not apply to the first year of the Pool or if the Pool Board unanimously agrees that it shall not apply.

8.6 In the event that the Pool is terminated the Pool Board must unanimously agree how any balances in the Pooled Fund or the Contingency Fund are shared amongst the Members. For the avoidance of doubt this will include both positive and negative balances which will be netted off each other. If the pool board cannot reach a unanimous decision then the matter will be referred to mediation and/or arbitration as per the dispute resolution procedure set out in the pooling agreement.

9. Other Terms

9.1 The Pooling Agreement will also include other terms standard in documents of this type e.g.: Freedom of Information Act provisions, anti-discrimination provisions, Data Protection Act provisions etc.

9.2 Each Member will be responsible for its own legal fees in the connection with the drafting, negotiation and completion of the Pooling agreement.

9.3 A dispute resolution shall be included in the Pooling agreement.

Signed (for and on behalf of):.....

Name:.....

Title:.....

Date:.....

19 October 2017

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE**MANDATORY AND DISCRETIONARY RATE RELIEF POLICY****EXEMPT INFORMATION**

Not applicable

PURPOSE

To seek Cabinet approval of the proposed Discretionary Rate Relief Policy (**Appendix A**) with effect from 1 April 2017.

RECOMMENDATIONS

- 1. Members note the Government Funding for Supporting Small Business Rate Relief and Public House Relief.**
- 2. Members endorse the Council's proposed Local Discretionary Rate Relief Scheme which has been subject to consultation with major preceptors.**
- 3. That Cabinet approves the Discretionary Rate Relief Policy (Appendix A) which will be applied with effect from 1 April 2017.**

EXECUTIVE SUMMARY

The Government's March 2017 Budget review resulted in amendments to rating legislation which has prompted a revision of the Council's approach to both Mandatory and Discretionary Rate Relief awards to Business Ratepayers ('ratepayers'). The current framework, which has served the Council well, has been in effect since 1 April 2014.

The proposed framework continues the key principles of the previous policy in the support of local organisations. The key changes are as follows:

1. The removal of the following reliefs:
 - Unoccupied New Structures;
 - Retail Relief; and
 - Re-Occupation Relief.
2. The introduction of three new Discretionary Rate Reliefs announced by the Chancellor which are to be implemented with effect from 1 April 2017 in respect of Business Ratepayers:
 - Supporting Small Business Relief – Government is providing financial support through funding Discretionary Rate Relief awards to ratepayers who satisfy the Government criteria at no cost to the Council;
 - Public House Relief – Government is providing financial support through funding Discretionary Rate Relief awards to ratepayers who satisfy the Government criteria at no cost to the Council. Pub Relief is currently being awarded and to date there are 19 pubs in Tamworth who have been awarded this relief; and

- Local Discretionary Rate Relief – The Council has the opportunity to provide financial support to local businesses over the next four years to help mitigate increases in Business Rates following the 2017 revaluation. This is subject to a pot of funding provided by Government which needs to be fully utilised each year.

3. The inclusion of section 44a in respect of Partly Occupied Hereditaments and section 49 for Hardship Relief.

The Local Discretionary Rate Relief scheme has been consulted upon with Staffordshire County Council, Staffordshire Fire and Rescue and other Staffordshire Authorities. A general approach has been adopted by all which is similar to the Council Tax reduction scheme. All have adopted the same general principles and qualifying criteria. However the amount of relief granted by each Authority differs according to the size of the pot allocated to them and their ethical approach to those who may qualify for relief.

The Government has established a £300m Discretionary fund over four years from 2017/18 to support those businesses that face the steepest increases in their Business Rates bills as a result of the 2017 revaluation. The intention is that every Billing Authority in England will be provided with a share of the £300m to support their local businesses. Billing Authorities are expected to use their share of the funding to develop their own Discretionary Relief schemes to deliver targeted support to the most hard-pressed ratepayers.

Officers recommend that a caveat be included in the Council's scheme to enable a review of the scheme at any time. This will mean the Council can decide to alter the amount of relief subject to the amount and value of successful applications. As the aim is to utilise as much of the pot of money allocated in respect of the Authority without adding an additional financial burden on the Council and its preceptors. Any underutilisation will be reclaimed back by the Government

OPTIONS CONSIDERED

The 2 options considered in respect of Local Discretionary Rate Relief are either a formulaic or case by case approach. The formulaic approach requires officers to check that the application fits with the set criteria. Whereas a case by case approach would require a more in depth consideration of the application and would be administratively burdensome.

RESOURCE IMPLICATIONS

The cost of the existing Business Rate reliefs are shared between the Council, the County Council, the Fire and Rescue Authority and Central Government in line with the respective retained shares:

50% Central Government
 40% Borough Council
 9% County Council
 1% Fire & Rescue Authority

The Council's 40% share applies to all reliefs awarded relating to rate liabilities from 1st April 2013 onwards and for any backdated reliefs awarded from 1st April 2013 in respect of earlier liabilities.

The cost of providing Discretionary Relief to existing claimants, in accordance with this policy, following the introduction of the Retained Business Rates Regime is expected to be within the limits of the current budget – as detailed within the annual Business Rates Income Forecast report. Any additional relief granted will have a direct impact on income levels and will need to be contained within the net budgeted business rates income level or from the Council's own Discretionary Relief budget of £17,120 (for the Council's 40% share).

Cabinet approval would be required for any major changes to Discretionary Rate Relief expenditure in excess of the budget allocation or with a material impact on the collection fund – together with identification of the funding source.

In addition the Government will provide funding for the three new Discretionary Rate Reliefs discussed in this report. Supporting Small Business Relief and Public House Relief will be funded in full. Whilst the funding they have provided in respect of our Local Discretionary Rate Relief scheme over the period of four years is shown below:

Local Discretionary Rate Relief	2017/18	2018/19	2019/20	2020/21
Government Funding (000s)	£213	£104	£43	£6

This is the full funding under the Business Rates Retention scheme of which the Council receives 50%.

Under the proposed scheme the estimated relief showing the number of properties to be granted is as follows:

Rateable Values (£)	Amount of Relief (£)					Total
	Up to £500	£500-£1,000	£1,000 - £5,000	£5,000 - £10,000	£10,000 - £20,000	
0-49,999	81	1	-	-	-	82
50,000- 99,999	4	12	23	-	-	39
100,000 – 149,999	-	1	5	5	4	15
150,000 – 199,999	-	1	1	2	2	6
Grand Total	85	15	29	7	6	142

It should be noted that any amounts underspent must be returned to the Government at the end of each financial year.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Council can decide to spend more than its allocated funding. However this would have to be funded by the Council and its preceptors in the normal way.

SUSTAINABILITY IMPLICATIONS

The granting of relief will ensure the continued stability of funding for the organisations concerned.

BACKGROUND INFORMATION

The Council already has in place a policy regarding the application and award of Discretionary Rate Relief. Under the Business Rates Retention Scheme the Council will fund 40% of the cost.

The Department for Communities and Local Government (DCLG) published a Business Rates information letter on 9 March 2017 which identified three new Discretionary Rate Relief Schemes to be implemented in 2017.

The three new relief categories are intended to help lessen the effects of the revaluation of rateable values from 1 April 2017. The Government has confirmed that it will reimburse Local Authorities awarding the extra relief either through additional funding calculated on a formula basis (Local Discretionary Rate Relief through a £300m fund) or through a grant under Section 31 of the Local Government Act 2003 (Supporting Small Business Relief and Public House Relief).

Supporting Small Businesses

The relief is made available to those ratepayers facing large increases as a result of the reduction in Small Business Rate Relief or Rural Rate Relief due to the 2017 rateable value revaluation.

The number of small businesses being able to qualify for Small Business Rate Relief has increased due to changes to the thresholds from 1 April 2017. As at this date a ratepayer with a rateable value of less than £12,000 qualifies for 100% relief (unless they have more than two commercial properties in England, each rateable value is more than £2,900 per property and the combined rateable values are more than £20,000. This is known as the Second Property Test and is designed so that large companies with many small retail units do not qualify for relief).

A tapered Small Business Rate Relief is available to small businesses which pass the Second Property Test and have a rateable value of between £12,001 and £14,999. Properties with a rateable value of £15,000 or more do not qualify for Small Business Rate Relief.

However, there are small businesses that previously qualified for small business rate relief that have had a large increase in their rateable value which means they are above the £15,000 threshold and no longer qualify for Small Business Rate Relief.

This relief will be available from 2017/18 to 2021/22 where the increase in the rateable value for these ratepayers is the greater of either:

- The matching cap on increases for small properties in the transitional relief scheme or
- A cash value of £600 per year

In the first year of the scheme this means that all ratepayers losing some or all of their Small Business Rate Relief will see the increase in their bill capped at £600. The cash minimum increase is a further £600 per year thereafter.

Those businesses who were previously receiving Small Business Rate Relief in 2016/17 but whose rateable value is more than £51,000 from 1 April 2017 also qualify under the scheme. These will not be liable for a supplement on their Business Rate bills to fund Small Business Rate Relief (as other ratepayers who do not come under the scheme do. The supplement is 1.3p in the £ for the Rateable Value).

This relief as with all Discretionary Reliefs is subject to State Aid regulations.

Ratepayers entitled to Mandatory Relief (for example Charities and Community Amateur Sports Clubs) or Section 44a Relief (apportionment of Rateable Value for partly occupied properties) are not entitled to Supporting Small Business Rate Relief. However ratepayers entitled to this relief can still apply for other Discretionary Rate Relief once Supporting Small Business Rate Relief has been considered.

Public House Relief

This is a relief for pubs that have a rateable value of below £100,000 for one year only. Those that qualify will receive a £1,000 discount on their bill. Local Authorities are compensated in full for awarding the relief under a section 31 grant.

Properties not considered for this relief include restaurants, cafes, nightclubs, hotels, snack bars, guesthouses, boarding houses, sporting venues, music venues, festival sites, theatres, museums, exhibition halls, cinemas, concert halls and casinos.

Eligible pubs can also qualify for Small Business Rate Relief. If indeed this is the case Small Business Rate Relief must be awarded before other Discretionary Reliefs.

Pub Relief is currently being awarded and to date there are 19 pubs in Tamworth who have been awarded this relief.

Local Discretionary Rate Relief

At the Spring Budget the Government announced the establishment of a £300m Discretionary fund over four years from 2017/18 to support those businesses that face the steepest increases in their Business Rates bills as a result of the 2017 revaluation. The intention is that every Billing Authority in England will be provided with a share of the £300m to support their local businesses. Billing Authorities are expected to use their share of the funding to develop their own Discretionary Relief schemes to deliver targeted support to the most hard-pressed ratepayers. The £300m will cover the four years from 2017/18 and is as follows:

- £175m in 2017/18
- £85m in 2018/19
- £35m in 2019/20
- £5m in 2020/21

They have determined the funding for Tamworth based on a formula calculation, intended for Local Authorities to award this relief to applicants.

In a letter to Local Authorities on 15 May 2017 the Government confirmed the allocations to all Authorities and urged that we develop our own schemes whilst ensuring that we consult with our major precepting authorities before the scheme is finally approved.

The Head of Revenues has met with other colleagues in the Staffordshire Revenue Managers Group to ascertain whether a County Framework is achievable. This would follow a similar approach adopted in respect of Council Tax Reduction schemes. In the discussions the following criteria has been approved:

- That the ratepayer is in occupation of the property from 31 March 2017 onwards;
- There is an increase in the net rates charge as a result of revaluation from 2016 to 2017;
- All other eligible Mandatory and Discretionary Reliefs have been awarded to the ratepayer;
- The property is not vacant or subject to Empty Property Rates;
- The ratepayer will be required to make an application for the relief;
- The ratepayer will be required to inform the Council of any change in circumstance which may affect the amount of relief awarded (e.g. moving out of the property);
- Relief will be targeted to local businesses and not those that are national or multi-national in nature;
- The ability to delegate powers to officer level; and
- The ability for the Council to review the scheme each year.

Each Authority would then decide on the other aspects of their scheme. Decisions need to be made on whether they adopt a formulaic approach or a case by case approach.

A case by case approach would be much more administratively burdensome. Each approach will require an application form to be submitted by the ratepayer. The formulaic approach requires officers to check the application fits with the set criteria whereas a case by case approach would require a more in depth consideration of the application. Our initial estimates indicate that 142 ratepayers could apply for relief.

It has been agreed with The Executive Director Corporate Services and The Director of Finance that Tamworth will adopt a formulaic approach as it will be transparent to ratepayers and easier to administer. However we do reserve the right to consider cases in exceptional circumstances. Approvals of relief can be delegated to officer level, and a new relief code can be added to the Capita Revenues system so that the relief can be monitored over the full term of the scheme (four years).

For each year the of the scheme the following level of relief will be provided:-

2017/18

Providing all the criteria are met the awards of relief shall cap charges to 2016-17 liability plus 11%;

2018/19

Providing all the criteria are met the awards of relief shall be calculated as 50% of the 2017/18 award;

2019/20

Providing all the criteria are met the awards of relief shall be calculated as 40% of the 2018/19 award; and

2020/21

Providing all the criteria are met the awards of relief shall be calculated as 14% of the 2019/20 award.

Officers recommend that a caveat be included in the Council's scheme to enable a review of the scheme at any time. This will mean the Council can decide to alter the amount of relief subject to the amount and value of successful applications. As the aim is to utilise as much of the pot of money allocated in respect of the Authority without adding an additional financial burden on the Council and its preceptors. Any underutilisation will be reclaimed back by the Government.

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LIST OF BACKGROUND PAPERS

Business Rates Income Forecast report, Cabinet 23 January 2014
Local Government Finance Act 1988, Local Government & Rating Act 1997 Non Domestic Rating (Discretionary Relief) Regulations, Local Government Act 2003,
Localism Act 2011
Business Rates Information Letter (2/2017), Spring Budget 9 March 2017
Spring Budget 2017 Business Rate Relief schemes letter and guidance 15 May 2017

APPENDICES

Appendix A Discretionary Rate Relief Policy

**Tamworth Borough Council
Policy for the granting of Discretionary
Non-Domestic Rate Relief**

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	July 2017	LM	Policy
2	July 2017	DA	Revisions
3	July 2017	LM	Revisions
4	August 2017	DA	Sign Off
5	September 2017	LM	Revisions MB

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Tamworth Borough Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers subject to certain criteria being met. In the case of new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.4 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and reductions;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.5 This document covers all aspects of discretionary rate relief (subject to changes in legislation). Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has recently been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs).
- 2.2 The Council has discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities of the Council’s area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 3.6 Granting of the relief falls broadly into the following categories:
 - a. Discretionary Relief – Charities who already receive mandatory relief.
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - c. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - d. Local Newspaper Relief (from 1st April 2017 for a period of two years);
 - e. Local Public House Relief (from April 2017 for a one year period);
 - f. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
 - g. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);
 - h. S44a Part Occupied Premises Relief; and

i. S49 Hardship Relief.

3.7 The decision to grant or not to grant relief is a matter purely for the Council.

The Council's approach to granting Discretionary Relief

3.8 In deciding which organisations should receive discretionary Rate relief, the Council has taken into account the following factors and priorities:

- a. The policy should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
- b. Help and encourage business, charities, organisations, groups and communities to become self-reliant;
- c. Awarding discretionary relief should not distort competition or significantly change the provision of services within Tamworth;
- d. Every business/ organisation should contribute something towards the provision of local services;
- e. The Council will consider whether the applicant organisation is receiving any form of financial assistance from the Council, other organisations, private companies or commercial suppliers. Annual turnover, value of assets or unallocated reserves. Where an organisation has unallocated reserves greater in value than 12 months running costs, the organisation will be required to demonstrate the reasons for holding those reserves
- f. Local organisations will be given priority over national organisations. The organisation will need to supply the Council with clear evidence of the amounts of monies raised and used / invested locally within Tamworth. This will be particularly important where the organisation is national in nature.
- g. To support appropriate organisations that deliver outcomes to the community which relate to the priorities of the Council. In particular, how the work of the organisation furthers the work of the Council to provide tangible benefits to the community;
- h. The Council will not normally provide relief where it already provides core funding or receives services under a contract arrangement; and
- i. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it and in respect of the cost to local taxpayers.

3.9 Discretionary relief shall not be granted to any organisation that has a political affiliation.

3.10 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.

4.0 Effect on the Council's Finances

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

Appendix	Relief Type	Granted after 1 st April 2013
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies	40% borne by the Council
	Localism	
C	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Local Newspaper Relief	
D	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of two years)	Section 31 Grant
	Public House Relief	
E	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of one year)	Section 31 Grant
	Supporting Small Business Relief	
F	Supporting Small Businesses Relief (from 1 st	Section 31 Grant

Appendix	Relief Type	Granted after 1st April 2013
	April 2017 for a period of up to five years if conditions are met	
	Discretionary Business Rates Relief Scheme	
G	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
	S44a Part Occupied Relief	
H	Discretionary relief where premises are part occupied and part unoccupied for a short term	40% borne by the Council
	S49 Hardship Relief	
I	Granting relief where the ratepayer is suffering hardship	40% borne by the Council

5.0 Discretionary Relief – EU State Aid requirements

- 5.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 5.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)³. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).
- 5.4 Where the relief to any one business is greater than the De Minimis level then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

6.0 Administration of Discretionary Relief

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

Applications and Evidence

- 6.2 All reliefs must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief. The relevant application forms for all reliefs and reductions are shown within an Appendix to this policy. The Council will specify how applications are to be received and this may vary from time to time
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. Normally 2 years audited accounts will usually be required to support any application.
- 6.4 Applications should initially be made to the Business Rates Section and will be determined in accordance with Section 7 of this policy.

Granting of relief

- 6.5 In all cases, the Council will notify the ratepayer of decisions made within 28 days (or as soon as practicable) of any application being received provided all information requested has been supplied.
- 6.6 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 6.7 Where relief is not granted then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).

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

- 6.8 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made.
- 6.9 A decision to award discretionary relief and how much relief is given, is only applicable to the financial year for which the application is made.
- 6.10 A fresh application for discretionary relief will, if required by the Council, be necessary for each financial year.

Variation of a decision

- 6.11 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased by the Council, from the date to be decided by the Council;
 - Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason takes effect at the expiry of a financial year, and so that at least one year's notice is given
- 6.12 A decision may be revoked at any time and the change will take effect at the expiry of a financial year.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 7.2 The Council's scheme of delegation allows for the Head of Revenues to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature, will be subject to consultation with the S151 Officer of the Council prior to final determination.
- 7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

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

Appeals

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Revenues. Where a decision is revised then the ratepayer shall be informed. If the original decision is upheld the case will be considered by the S151 Officer.

8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief to be reported as soon as possible and in any event, not more than 21 days from the happening of the event. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

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

Appendix A

Discretionary Relief - Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

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

Charity registration

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

⁵ Registered with HMRC as a CASC

⁶ S67(10) Local Government Finance Act 1988

⁷ Income Tax Special Commissioners v Pemsell (1891)

- any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
- units of the Boy Scouts Association or the Girl Guides Association; and
- voluntary schools within the meaning of the Education Acts of 1944 to 1980.

A.6 The Council would consider charitable organisations, registered or not, for mandatory relief.

Use of Premises - wholly or mainly used

A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection but on occasions the Council has had to question the actual use to which the premises are to be put. It will be an essential part of the process of the application for the Council to inspect any premises fully.

A.8 Guidance from the Department of Communities and Local Government (DCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities.

A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which could be equally considered for discretionary rate relief.

Offices, administration and similar premises

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

Charity shops

A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64(10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.

- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received.

Charity Relief - Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- A.13 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.

- A.14 In determining the application, the following matters will be taken in to consideration:

1. How the charity supports and links into the Council's corporate vision and priorities;
2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested;
3. Where the organisation has a bar - the mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined and its ability to trade will be a consideration in determining and award granted; and
4. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity;

- A.15 The Council is keen to support businesses that have a critical role to play in the local economy and the achievement of the Council's Economic Strategy.

- A.16 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:

1. The ratepayer occupies the whole hereditament;
2. Relief cannot be granted in respect of premises that are occupied by the Council or any Town and Parish Council, although the latter could be a minority tenant of such premises;
3. How the CASC supports and links into the Council's corporate vision and priorities;
4. The membership and fee structure and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
5. Membership numbers and the number and percentage of these members that are Tamworth residents;
6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
7. Whether facilities are available to the wider community regardless of ability. We will also require additional financial information including; and
8. If the CASC runs a bar or food provision, the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.

- A.17 Organisations already in receipt of mandatory relief such as;

-
- Charity Offices
 - Community Centres, Village Halls
 - Cultural Organisations
 - General Welfare Groups
 - Scouts, Guides, Youth Clubs,

currently receive an additional 20% discretionary relief (currently Classified by the Council as Group A recipients)⁸

- A.18 Any Community Amateur Sports Clubs (CASC) that apply are currently granted either 5% or 10% discretionary relief (currently Classified by the Council as Group B (i) recipients).
- A.19 Charity shops or educational establishments that receive mandatory relief, current receive no additional assistance through the discretionary relief scheme (currently Classified by the Council as Group C recipients)⁹
- A.20 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.

⁸ Discretionary rate relief application and guidelines for qualifying organisations 2011 onwards - Cabinet 16th March 2011.

Appendix B

Discretionary Relief - Non-Profit Making Organisations including Recreation

Discretionary Relief - Non-Profit Making Organisations including Recreation

General explanation

Non-Profit

- B.1 The legislation¹⁰ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.¹¹

Recreation Clubs

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

¹⁰ S47 Local Government Finance Act 1988

Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following¹²

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

¹² Definition last reviewed by Sport England in 2002

Access to clubs

- B.8 Guidance issued by the DCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.
- B.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Provision of facilities

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

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

- B.15 Applications will be considered from non-profit making organisations, which can demonstrate the following:
- a. That the activities of the organisation are consistent with the Council's core values and priorities;
 - b. That they are non-profit making associations, groups, clubs which are accessible to all potential users, possess a representative management group and are clearly accountable to users, beneficiaries and members (e.g. evidence of constitution, GM, membership and/or participation are required);
 - c. That the membership comprises mainly residents of Tamworth or that activities are of direct

benefit to residents of Tamworth;

- B.16 When making decisions on the applicability of awarding discretionary rate relief the Council takes into consideration the ability of the applicant to:
- generate funds from it's activities (e.g. bar trading); and
 - utilise its current assets to obtain funds/funding; and
- B.17 Currently these organisations fall within Group B (ii) of the Council's policy and receive either 25% or 50% depending on individual circumstances. A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.

Appendix C

Discretionary Relief - Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

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

Discretionary Relief – Localism – the Council’s Policy

- C.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- C.4 Details of any other business owned by the ratepayer will be considered. This will indicate if the owner could rely on the income of another branch of business. It will also indicate if the profits of one business could be invested in the applicant business to aid survival.
- C.5 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities or non profit making organisations) must meet **all** of the following criteria and the amount of relief granted will be dependant on the following key factors:
 - a. The ratepayer **must not** be entitled to mandatory rate relief (Charity Relief);
 - b. The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - c. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - d. The premises and organisation **must** be of *significant* benefit to residents of Tamworth;
 - e. The premises and organisation **must not** be in receipt of a Central Government fully funded discretionary relief scheme;
 - f. The premises and organisation **must** relieve the Council of providing similar facilities;
 - g. The ratepayer **must**;
 - a. Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**

-
- b. Provide *significant* employment or employment opportunities to residents of Tamworth; **or**
 - c. Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
 - h. The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term; **and**
 - i. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.
- C.6 Where a ratepayer can demonstrate that **all** the above criteria are met, relief will be considered for initially a short period.
- C.7 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

Appendix D

Local Newspaper Relief

- D.1 This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- D.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- D.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for two years from 1 April 2017.

Local Newspapers

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

Office Space

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

Amount of Relief

- D.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 6 of this policy.

Local Newspaper Relief - the Council's policy for granting discretionary relief.

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

Appendix E

Supporting Small Businesses Relief

General Explanation

- E.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. Unfortunately, despite these changes, some small businesses may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- E.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business rate relief may face large percentage increases in bills from 1 April 2017.
- E.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- E.4 The relief is to be known as the 'Supporting Small Businesses Scheme'.

Who is eligible for the relief and how much relief will be available?

- E.5 The Supporting Small Businesses relief will help those ratepayers who, as a result of the change in their rateable value at the revaluation, are losing some or all of their small business rate relief and, as a result, are facing large increases in their bills.
- E.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).
- E.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.
- E.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or

less to more than £15,000) would under this scheme be paying £3,000 in year 5.

- E.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- E.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts)(England) Regulations 2016).
- E.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- E.12 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- E.13 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
 - The awarding of another relief.
- E.14 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

Other Reliefs

- E.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill further under the Supporting Small Business scheme.
- E.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.

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- E.17 The Council has decided to grant relief strictly in accordance with Central Government guidelines. Officers may grant relief without a formal application where the relief amount is up to £1,000.

Appendix F

Public House Relief

General Explanation

- F.1 This is a temporary relief for 2017-18 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- F.2 Central Government guidelines have been received and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- F.3 The Council's policy will provide a relief of £1,000 relief for one year only (1st April 2017 to 31st March 2018) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- F.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- F.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- F.6 Pubic House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief - the Council's policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines. Officers may grant relief without a formal application where the relief amount is up to £1,000.

Appendix G

Discretionary Business Rate Relief Scheme

General Explanation

- G.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- G.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- G.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- G.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- G.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government is unclear at this stage as to whether any underspend can be 'vired' from one year to the next although their initial guidance is that any underspend will be returned to Treasury¹³.
- G.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- G.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - Tamworth Borough Council			
2017-18	2018-19	2019-20	2020-21
213	104	43	6

¹³ DCLG Letter 27th April 2017 - Discretionary Rates Relief Scheme - Payment of Section 31 grant to reimburse cost of relief

Consultation

- G.8 The Council has consulted with the major preceptors at the SCFOG (Staffordshire Chief Finance Officer Group) meeting of 8/9/17 on the main principles and actions in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.
- G.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- G.10 In the case of Tamworth Borough Council the major precepting authorities that have been consulted are:
- Staffordshire County Council;
 - Staffordshire Police and Crime Commissioner; and
 - Staffordshire Fire and Rescue Service.

State Aid

- G.11 The rules relating to State Aid (as defined within section 6 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- G.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.
- G.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

Applications for relief under this scheme

- G.14 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.
- G.15 The Council has decided that relief under the scheme will be awarded under the following criteria:
- a. The scheme is designed solely to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
 - b. The ratepayer or occupier is **not** a Local Government agency or an organisation providing service directly to Local or Central Government;
 - c. In assessing any potential entitlement to an award under this scheme, The Council will compare the following;

The rate liability of the ratepayer at 31 March 2017 for the 2016/17 financial year after any reliefs; and

The rate liability of the ratepayer at 1 April 2017 for the 2017/18 financial year after any reliefs;
 - d. Relief will only be given to premises which are liable for occupied rates. **No relief within this scheme will be granted for unoccupied premises or where the premises becomes re-occupied;**
 - e. Relief will only be granted to ratepayers who were in continuous occupation from the 31 March 2017. Relief will cease at any point the hereditament becomes unoccupied and will not be re-granted;
 - f. Ratepayers (included previous ratepayers) taking up occupation after the 1 April 2017 will **not** be eligible for relief on the basis that new ratepayers would be expected to be aware of the rates payable;
 - g. Relief will be targeted to local businesses and not those businesses that are National or Multi-National in their nature. Local businesses are for the purposes of this scheme those which have premises that operate principally in the Council's area;
 - h. Relief may be awarded for more than one premises as long as all other criteria are met;
 - i. Relief will not be granted in respect of any of the following:
 - Bookmakers and Gambling establishments;
 - Pawnbrokers;
 - Payday Lenders;
 - Hereditaments which have a 1st April 2017 Rateable Values of £200,000 or more;
 - Ratepayers who are in receipt of mandatory relief; and
 - Properties where s 44a relief has been applied for or awarded.
 - j. Relief (or further relief) will not be awarded where the ratepayer has an increase in rateable value after the 1 April 2017 which increases the rate charge above the 1 April 2017 value

Amount of Relief

G.16 The amount of relief shall be awarded as follows:

2017/18

Providing all of the criteria are met the awards of relief shall cap charges to 2016-17 liability plus 11%

2018/19

Providing all the criteria are met the awards of relief shall be calculated as 50% of the 2017/18 award

2019/20

Providing all the criteria are met the awards of relief shall be calculated as 40% of the 2018/19 award

2020/21

Providing all the criteria are met the awards of relief shall be calculated as 14% of the 2019/20 award

G.17 The Council may increase awards in exceptional circumstances. The Council reserves the rights to refuse awards. Reductions in awards will be in accordance with S47 of the Local Government Finance Act 1988. Officers may grant relief without a formal application where the relief amount is up to £1,000. The Council may reduce or refuse awards in exceptional circumstances, including but not restricted to applications made after the period to which they relate, or where other funding is reasonably available to the applicant.

Variation and amendment of relief under the scheme

G.18 As with all reliefs, the amount of relief awarded under the Discretionary Business Rates relief scheme will be recalculated in the event of a change of circumstances. In effect relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.

G.19 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

Appendix H

Section 44a - Partly Occupied Hereditaments

Section 44a - Partly Occupied Hereditaments

General explanation

- H.1 A ratepayer is liable for the full non-domestic rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a **short term**, the local authority has discretion in certain cases to award relief in respect of the unoccupied part.

How will the relief be provided?

- H.2 The Council will consider written (including email) applications. The ratepayer will need to provide the following:
- a. A detailed plan of the premises clearly identifying the occupied and unoccupied areas;
 - b. Access to the premises so that they can be inspected fully by the Council's representative;
 - c. Details of how long the premises are likely to be temporarily unoccupied;
 - d. Details of any future plans to occupy the premises; and
 - e. Full contact details of the ratepayer and any agent they have representing them

Section 44a Partly Occupied Hereditaments - the Council's Policy

- H.3 The Council will also consider applications for S44a from all ratepayers, whose premises meet the criteria. Each case will be considered on its own merits on a case-by-case basis. The Head of Revenues will consider applications.
- H.4 In determining the application the following matters will be taken in to consideration:
- a. Whether, the premises will be unoccupied for a short term;
 - b. The reasons for the temporary un-occupation;
 - c. Whether it would be more appropriate for the ratepayer to apply to the Valuation Officer Agency to have the premises reassessed; and
 - d. Whether it is reasonable to grant the relief;
- H.5 The Council will grant any relief based on the Valuation Office Agency's certificate (as required by the legislation). The Head of Revenues will determine the period of any relief and it will be for a short term only. **It should be noted that Applications will not be considered for retrospective periods after which full occupation has taken place.**

Appendix I

Section 49 - Hardship Relief

Section 49 - Hardship Relief

General explanation

- I.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief - the Council's Policy

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

THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR COMMUNITIES**PUBLIC SPACE PROTECTION ORDERS (CONVERSION OF DOG CONTROL AND DESIGNATED PUBLIC PLACE ORDERS)****EXEMPT INFORMATION**

None

PURPOSE

To consider implication of the automatic renewal of Designated Public Place and dog control orders in Tamworth orders as Public Space Protection Orders under the ASB Crime and Policing Act 2014

RECOMMENDATIONS

Members are asked to:

1. Approve the automatic conversion of the current Tamworth Dog Control Orders to Public Space Protection Orders based on continued need and proportionality
2. Approve the automatic conversion of the current Designated Public Place orders in the town Centre and Amington to Public Space Protection Orders based on continued need and proportionality

EXECUTIVE SUMMARY

The ASB, Crime and Policing Act 2014 replaced Dog Control Orders and Designated Public Place Orders (alcohol exclusion zones) with Public Space Protection Orders.

The transitional arrangements set out in Section 75 of the Anti-Social Behaviour, Crime and Policing Act 2014 apply to gating orders, designated public places orders (alcohol bans) and dog control orders.

The existing Dog Control and Designated Public Place Orders in Tamworth will still be in place until 20th October 2017 and will then automatically be treated as if the orders had been made under the ASB, Crime and Policing Act and will become a Public Spaces Protection Order.

Where the existing orders are not reviewed they will only remain in place for three years. At the end of this period they will be revoked unless a review is undertaken and they become a Public Space Protection Order, as set out within the legislation.

In order to bring into effect this legislation in a proportionate and effective manner, the recommendation is to review the orders currently and consider bringing them

formally under a new PSPO. At a minimum a change to the signage is required to refer to the new legislation

A Public Space Protection Order is then required to be reviewed every three years to ensure their ongoing effectiveness and whether they continue to address the reasons they were implemented.

Penalties for breach of a Public Space Protection Order can be issued by designated Council Officers and the Police (who also have powers under the ASB, Crime and Policing Act 2014).

Implementation of a new PSPOs requires a period of public consultation. There is no legislative requirement to undergo further consultation if the orders are being renewed and the Council deem that the orders are still fit for purpose.

The Tamworth Local Policing Team Inspector has also been consulted as to this approach and fully endorses the renewal at this time for officers to respond in a proportionate manner as appropriate to address public concerns and within resourcing levels.

Public Space Protection Order (Tamworth Dog Control)

Based on the public consultation in 2012 for the implementation of Dog Control Orders, the majority of respondents were in favour and the orders have not been restrictive on the ability of dog owners to exercise dogs responsibly.

The Kennel Club and relevant landowners also deemed the control orders in Tamworth to be reasonable in addressing both the health concerns around fouling and the need for public safety with regards to dogs on lead and out of control dogs.

It is proposed that the reasons for the implementation of the Dog Control Orders have not changed, there is no material change in the restrictions and that the Council seek to endorse the renewal of these orders as the Public Space Protection Order (Tamworth Dog Control) with effect from 20 October 2017 until 31 October 2020.

The introduction of a Public Space Protection Order increases the fixed penalty notice on breach to £100 (reduced to £85 for early payment).

A copy of the proposed updated order is found as Appendix 1.

Public Space Protection Order (Alcohol Control in a Public Place)

The DPPOs in Tamworth Town Centre and Amington were introduced in response to concern with regard to street drinking and drink related Anti-Social Behaviour in and around the Castle Grounds and along the canal in Amington.

The orders have been in place for 10 years and were introduced to address concerns with regard to alcohol related ASB and the nuisance caused to the community.

The renewal of a blanket order represents a zero tolerance approach to drinking in a wider public place to deter anti-social behaviour, however the officers will have the discretion to make a considered decision as to whether the continued drinking of alcohol is anti-social eg a picnic in the Castle Grounds.

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone.

In all instances where the person is deemed to be causing anti social behavioural issues, they will be requested to stop drinking in the first instance. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

Under current legislation, police officers are already able to confiscate alcohol from under 18s and the officer(s) providing the request will use their discretion about confiscation and disposal of alcohol from those over 18.

Dependent on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. Whilst FPNs can be legally be issued to anyone over the age of criminal responsibility (10 years), in accordance with the Tamworth Borough Council ASB Policy, there is discretion to consider other sanctions including warnings and Acceptable Behaviour Contracts to show a proportionate response to the behaviour.

The introduction of the Public Space Protection Order (Alcohol Control in a Public Place) does not restrict the consumption of alcohol where a premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003 or section 115E of the Highways Act 1980 applies. The licensing system already includes safeguards against premises becoming centres for anti-social behaviour.

The town centre is currently a priority for the Council and is working with local businesses to become a Business Improvement District. The wider environmental and public safety/enforcement aspects of the town centre could be considered for a wider Public Space Protection Order at that time based on any anti social behaviour issues that requires attention.

The introduction of a Public Space Protection Order increases the fixed penalty notice on breach to £100 (reduced to £85 for early payment).

It is proposed that the reasons for the implementation of the Designated Public Place Orders have not changed, there is no material change in the restrictions and that the Council seek to endorse the renewal of these orders as the Public Space Protection Order (Alcohol Control in a Public Place) with effect from 20 October 2017 until 31 October 2020.

A copy of the proposed Order and relevant mapped areas are found at Appendix 2 a, 2b and 2c.

OPTIONS CONSIDERED

Under the ASB, Crime and Policing Act 2014 the Council have two options:-

- To agree the current orders and confirm the requirement for an ongoing PSPO for 3 years
- To discharge the existing order as no longer needed

RESOURCE IMPLICATIONS

Community Wardens, Clean Neighbourhood Officer have delegation to issue penalties under the current legislation and will do so based on intelligence and proportionality

Police officers are delegated automatically to issue penalties under the ASB, Crime and Policing Act 2014 and will work with the Council as part of the Community Safety Partnership and will do so proportionately and in response to concerns as they arise.

A review of signage will be undertaken and funded from current revenue budgets as necessary.

Updates required to current fixed penalty stationery and Dog Control information to be met from existing resources.

Additional training for designated officers as appropriate to be funded from existing resources.

There will be no significant increase in income received due to the change in the amount charged for each fixed penalty notice.

LEGAL/RISK IMPLICATIONS BACKGROUND

Legal implications covered by report

SUSTAINABILITY IMPLICATIONS

A review is required on all Public Space Protection Orders every 3 years or as circumstance changes or as circumstance dictate. Any reviews of existing orders will be subject to current processes.

BACKGROUND INFORMATION

Dog Control Orders

The Council has had Dog Control Orders in place since 2012:

- Fouling of Land by Dogs Order - the effect of this Order is to make it an offence for a person in charge of a dog to fail to remove faeces forthwith from any land to which the Order applies – the whole of the Borough
- Dogs on Lead by Direction Order – the effect of the Order is to make it an offence for a person in charge of a dog to fail to put that dog on a lead under the direction of an authorised officer on any land to which the Order applies. (The whole of the Borough of Tamworth)
- Dogs On Lead at ALL times Order - the effect of the Order is to make it an offence for a person in charge of a dog to fail to ensure that a dog is kept on a lead on any land to which the Order applies - Cemeteries, roads and adjacent footpaths (as defined by the RTA 1988), Anker Valley football pitches, pedestrian area of the town centre and Upper Lawn of the Castle Grounds
- Dog Exclusion Order – the effect of the Order is to make it an offence for a

person in charge of a dog to permit the dog to enter or remain on any land to which this Order applies (Designated play areas only)

The public consultation undertaken at that time showed overwhelming support for these measures.

Until 20 October 2017 the penalties for breach of a Dog Control order is £80 (reduced to £50 for early payment). Penalties can only be issued by Council officers.

Designated Public Place Orders

Tamworth currently has two DPPOs covering the town centre and Amington.

The Designated Public Place Order gives the Police the powers to require anyone drinking what an officer believes to be alcohol within the designated area, to cease doing so. They must also surrender the alcoholic drink and any other intoxicating liquor they may have in their possession. Failure to comply with such a request constitutes an offence.

There is no enforcement of the legislation against those drinking alcohol outside of a licensed venue provided that the alcohol was purchased from the venue and is being enjoyed within the confines of the premises, including whilst seated at tables owned by that venue (street café). Clearly, if any persons in such areas are behaving in an anti-social manner, the Police will enforce the legislation.

Licensed events organised or authorised by the Borough Council within the boundary of the town centre designated area are treated in the same manner by the Police and as such notice needs to be given under the Castle Grounds Licence or as a Temporary Events Notice.

The current level of fixed penalty is £30 and can only be issued by the Police. To date no fixed penalties have ever been issued

The test for the use of a PSPO is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made/renewed/amended by the Council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

REPORT AUTHOR

Jo Sands , Head of Community Safety

LIST OF BACKGROUND PAPERS

Anti-social Behaviour, Crime and

APPENDICES

Appendix 1 – Draft PSPO (Tamworth Dog Control)

Appendix 2a – Draft PSPO (Alcohol Control in a Public Place)

Appendix 2b – Town Centre Alcohol controlled area

Appendix 2c - Amington Alcohol Controlled area

TAMWORTH COMMUNITY SAFETY PARTNERSHIP

NOTICE OF INTENTION TO APPLY A PUBLIC SPACE PROTECTION ORDER

Section 59 Anti-Social Behaviour Crime and Policing Act 2014

Public Space Protection Order (Tamworth Dog Control)

In relation to evidence that has been gathered and reviewed relating to Tamworth Dog Control Orders (2012) the Tamworth Community Safety Partnership (lead agency Tamworth Borough Council), intends to apply a Public Spaces Protection Order.

The Public Space Protection Order (PSPO) covers four areas of dog control:

- A. The Fouling of Land by Dogs**
- B. Dogs on leads**
- C. Dogs on leads by direction**
- D. Dogs exclusion**

A. The Fouling of Land by Dogs

This relates to the offence of fouling of land by dogs. The public health implications of dog foul are well documented.

If a dog defecates at any time on land to which this order applies, and the person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless;

- a. he has a reasonable excuse for failing to do so; or
- b. the owner, occupier, or other person or authority having control of the land has consented (generally or specifically) to his failing to do so;

This Order applies to land described in the Schedule A below, being land in the area of Tamworth Borough Council.

For the purpose of this article:

- a. placing the faeces in a receptacle on the land which is provided for this purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- b. being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces;

Schedule A: Dog fouling of land

Subject to the exception in paragraph 2 below, this Order applies to all and which is within the area of Tamworth Borough Council and which is –

1. Open to the air (which includes land that is covered but open to the air on at least one side); and to which the public are entitled or permitted to have access with or without payment.
2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.

B. Dogs on Leads

Dogs whilst not on a lead and poorly supervised, or startled, have a greater potential to cause road traffic accidents, or to cause injury to pedestrians and other dogs. The restrictions in this Order are designed to facilitate a sharing of our public spaces, whilst recognising that dogs do need to be exercised off lead.

A person in charge of a dog shall be guilty of an offence, if at any time, they fail to keep their dog on a lead, unless:

- a. he has a reasonable excuse for failing to do so, or
- b. the owner, occupier, or other person, or other authority having control of the land has given consent (generally or specifically);

This part of the Order applies to land described in the Schedule B below being land in the area of the Council.

Schedule B: Dogs on leads

1. Subject to the exception in paragraph 2 below, this Order applies to the following designated land:-

Amington Cemetery, Wilnecote Cemetery (Old and New), Glascote Cemetery, Wigginton Cemetery, Anker Valley Sports Pitches, Pedestrian area of the Town Centre, Upper and Lower Lawn (Castle Grounds), St Edithas Church Graveyard and all current and future public footpaths and grass verges to highways in Tamworth (as defined by the Road Traffic Act 1988)

2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.



C. Dogs on leads by direction

In parts of the Borough where dogs are permitted off leads, a minority of irresponsible dog owners allow their dogs to cause damage to property, and cause problems for pedestrians and other dog owners.

This part of the Order is designed to enable authorised Council Officers/Police to direct that the owner put their dog on a lead.

A person in charge of a dog will be guilty of an offence if at any time, on land to which this Part applies, they fail to comply with a direction given them by an authorised officer of the Council to put and keep the dog on a lead, unless;

- a. he has a reasonable excuse for failing to do so; or
- b. the owner, occupier, or other person or authority having control of the land, has given consent (generally or specifically);

For the purposes of this request an authorised officer of the Council/Police may only direct a person to put and keep a dog on a lead if such restraint is reasonably necessary to prevent either a nuisance, or behaviour by the dog likely to cause annoyance or disturbance to any other person, or the worrying of other animals on designated land to which this order applies.

This Part of the Order applies to land described in Schedule C below being land in the area of the Council.

Schedule C: Dogs on leads by direction

Subject to the exception in paragraph 2 below, this Order applies to all and which is within the area of Tamworth Borough Council and which is –

1. Open to the air (which includes land that is covered but open to the air on at least one side); and to which the public are entitled or permitted to have access with or without payment.
2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.



D. Dogs exclusion

There are specific parts of the Borough from which dogs should be excluded for their safety and that of pedestrians, and for public health and aesthetic reasons. This part of the Order states the relatively few places from where dogs will be excluded.

A person in charge of a dog will be guilty of an offence if at any time he takes the dog onto, or permits the dog to enter or remain on, any land specified in the Order, unless;

- a. he has a reasonable excuse for failing to do so; or
- b. the owner, occupier, or other person or authority having control of the land, has given consent (generally or specifically);

This Part of the Order applies to the land described in Schedule D below being land in the area of the Council.

Schedule D: Dogs exclusion

1. Subject to the exception in paragraph 2 below, this Order applies to designated play areas (fenced or unfenced) within the Borough of Tamworth as specifically but not excluding other designated areas and future areas as follows –

Amington Recreation Play Area, Beauchamp Road Play Area, Brendon /Ealingham Play Area, Castle Pleasure Grounds Activity Centre (former outdoor swimming baths), Castle Pleasure Grounds Play Area, Castle Grounds Skate Park, Castle Grounds Tennis Courts, Crowden Road Play Area, Dosthill Park Play Area, Hamble Play Area, Hawksworth Play Area, Irwell Play Area, Lakenheath Play Area, Lakeside Park Play Area, Linthouse Walk Play Area, Lothersdale Play Area, Park Farm Road Play Area, Parkfield Crescent Play Area, Rainscar Play Area, Reedmace Play Area, St Georges Way/Rosemary road Play Area, Wigginton Park Play Area

2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.

General Point For the purpose of parts A, B, C, and D of this Public Space Protection Order:

Nothing in this Public Space Protection Order applies to a person who:

- a. is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948, or “severely sight impaired”, or “sight impaired” under the Care Act 2014; or



- b. has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, in respect of a dog trained by a "prescribed charity" and upon which he relies for assistance;
- c. each of the following is a "prescribed charity"
 - i) Dogs for the Disabled (registered charity number 700454)
 - ii) Support Dogs (registered charity number 1088281)
 - iii) Canine Partners for Independence (registered charity number 803680)
 - iv) Hearing dogs for deaf people (registered charity number 293358)
 - v) Any charity created subsequent to this Order, which covers the issues detailed in point 1.b. above.

For the purpose of this article, a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Offences under this Public Space Protection Order

A person who is guilty of an offence shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale

A Fixed Penalty Notice of £100.00 will be issued to offenders to be paid within 28 days (reduced to £85.00 if paid within 14 days) which would discharge any liability to conviction for an offence under Section 67(1) of the Act.

This order may be cited as 'The Public Space Protection Order (Tamworth Dog Control)' and shall come into force on 20 October 2017 and remain in force for a period of three years.

If any interested person desires to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within six weeks from the date on which this order is made.



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TAMWORTH COMMUNITY SAFETY PARTNERSHIP

NOTICE OF INTENTION TO APPLY A PUBLIC SPACE PROTECTION ORDER

Section 59 Anti-Social Behaviour Crime and Policing Act 2014

Public Space Protection Order (Alcohol Control in a Public Place)

1. Tamworth Community Safety Partnership (lead agency Tamworth Borough Council) is satisfied that alcohol related anti-social behaviour is being carried out within the area to which this order applies, it is likely that these activities will continue to be carried out and that this is having or it is likely to have a detrimental effect on the quality of life of those in the locality by causing harassment, alarm and distress.

This order relates to the land inside the area Tamworth town centre and Amington marked on the attached map (Schedule 1 & 2) which is outlined in red ('the Restricted Area').

This includes all spaces within this boundary that are accessible to the public.

2. Under the terms and restrictions of the Public Space Protection Order, the following applies:-
 - 2.1. **ALL** persons are **prohibited** from consuming alcohol and must dispose of any vessel believed to contain alcohol, when asked to do so by an authorised person, when it is believed that they are either committing or likely to commit Anti-Social Behaviour in a public place.
 - 2.2. **ALL** persons who are or appear to be under the age of 18 are **prohibited** from consuming alcohol at all times and must dispose of any vessel believed to contain alcohol, when asked to do so by an authorised person at all times
 - 2.3. An authorised person can also require any person:
 - a) To not consume alcohol or anything the authorised person reasonably believes to be alcohol, in sealed or unsealed vessels.
 - b) To surrender anything in the person's possession which is, or the authorised person reasonably believes to be, alcohol or likely to be used as a container for alcohol.

Any surrendered items are to be retained by the authorised person and safely disposed of as appropriate.

3. Exemptions

This provision does not apply to alcohol being consumed within premises (including designated outdoor areas) that have obtained a license under the Licensing Act 2003 or section 115E of the Highways Act 1980.



4. Offences under this Public Space Protection Order

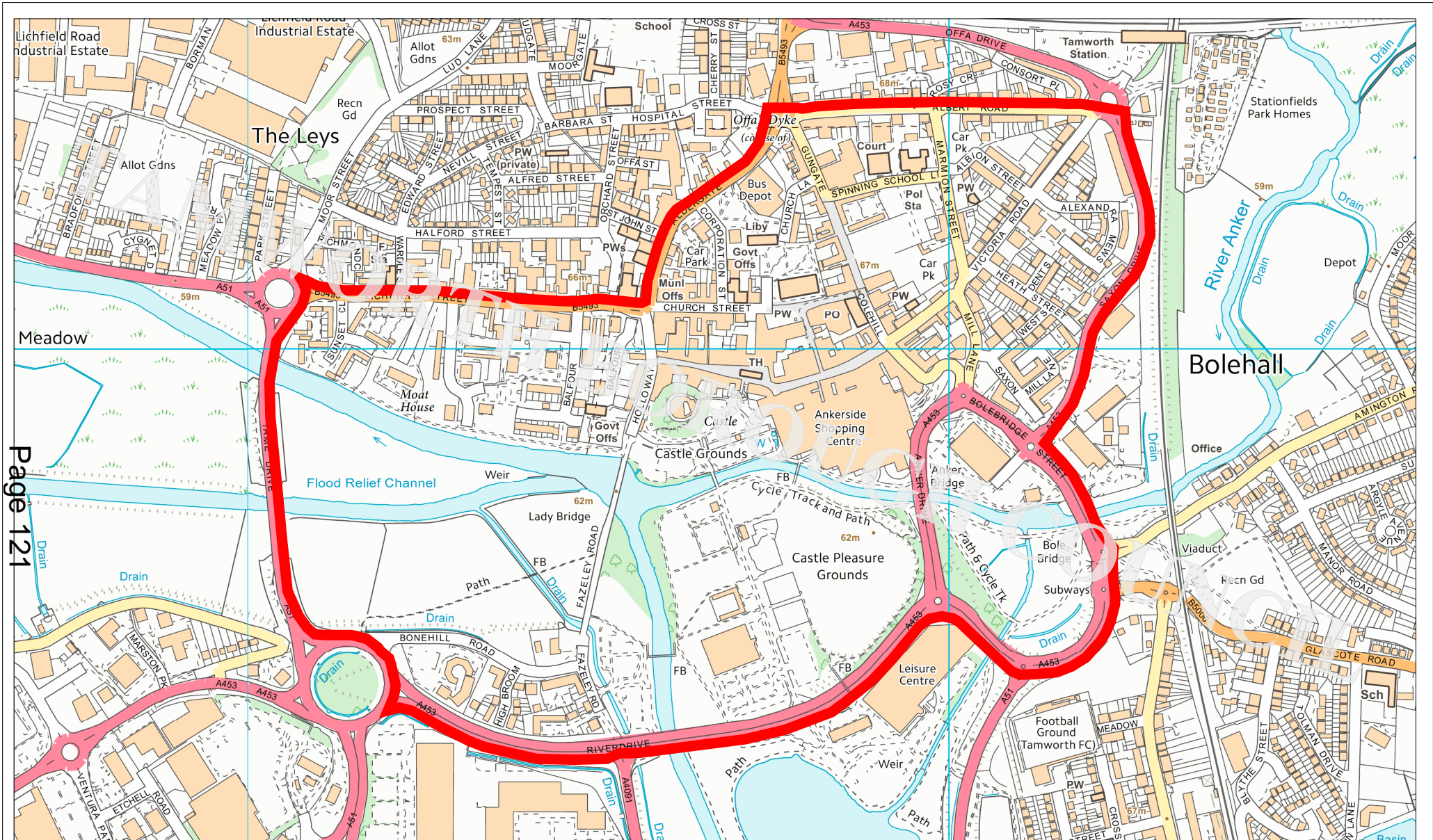
A person who is guilty of an offence shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale

A Fixed Penalty Notice of £100.00* will be issued to offenders to be paid within 28 days (reduced to £85.00 if paid within 14 days) which would discharge any liability to conviction for an offence under Section 67(1) of the Act.

**At the discretion of the officer, persons found to be under the age of 16 years may be subject to alternative sanctions as outlined in the Tamworth Borough Council ASB Policy.*

This order may be cited as 'The Public Space Protection Order (Alcohol Control in a Public Place)' and shall come into force on 1 November 2017 and remain in force for a period of three years.

5. If any interested person desires to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not be complied with in relation to this Order, he or she may apply to the High Court within six weeks from the date on which this order is made.



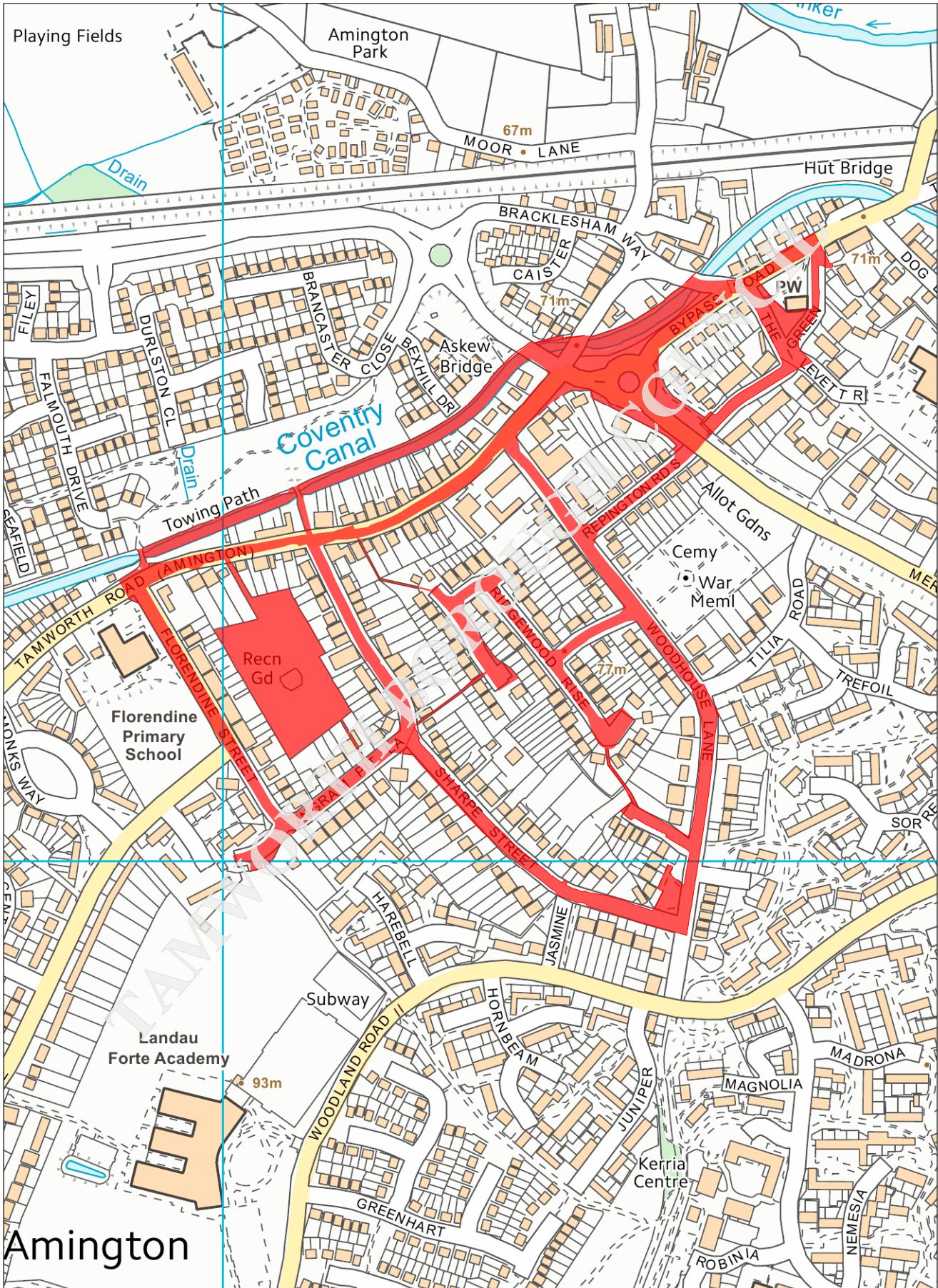
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Ordnance Survey 100018267

Town Centre Alcohol Free Zone

Tamworth
Borough Council

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THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR HOUSING SERVICES**COUNCIL TENANTS FIRE SAFETY POLICY 2017-2020****EXEMPT INFORMATION**

N/A

PURPOSE

The purpose of this report is to detail the Councils policy statement with regard to fire safety in its Council Owned housing stock.

RECOMMENDATIONS**Cabinet are recommended to:-**

- Approve the Fire Safety Policy attached at annex one
- Delegate authority to the Portfolio Holder of Housing; in consultation with the relevant Directors; to approve development of associated action plan and procedural arrangements to deliver key policy commitments.
- Endorse the involvement of Health & Well-being Scrutiny to inform the policy development, details of presentations and FAQs emerging are shown on the Councils dedicated web area for landlord fire safety. <http://www.tamworth.gov.uk/fire-safety>
- Include an annual review of fire safety on the relevant scrutiny work-plan

EXECUTIVE SUMMARY

'Living a quality life' is one of Tamworth's key strategic priorities underpinning its vision "One Tamworth, perfectly placed – open for business since the 7th century AD". Integral to this is ensuring the built environment is protected and that effective regulatory and statutory services are delivered. The national focus since the tragedy at Grenfell Tower on 14th June 2017 has highlighted just how important and fundamental managing fire safety is. The Council's housing stock has always been subject to robust health and safety arrangements and strict fire safety risk assessments. Over the last 3 months, led by the Portfolio Holder for Housing, in collaboration with Staffordshire Fire & Rescue Services (SFARs), corporate partners for health and safety and supported by the Councils Health & Wellbeing Scrutiny committee – the approach to fire safety has been subject to review and the approach translated into the attached fire safety policy shown in annex one.

Cabinet over the last 3 years has received a range of reports on fire safety; including reports in January 2014 endorsing the retrofitting of sprinkler suppression systems into its high rise stock as well as authorising over £125k to invest in additional fire safety measures, such as improvements to fire doors and associated compartmentalisation. Then in August 2017, endorsing further work around the sprinklers and commencement of a fixed installation

electrical testing programme across all its stock; aimed at preventative maintenance and in recognition that electrical faults are often a principle cause of fire.

Cabinet are aware of the high profile nature of the Grenfell Tower Tragedy and Officers are following the range of public inquiries carefully to ensure any learning is incorporated into its standard operating procedures. Alongside the Grenfell public inquiry, chaired by Sir Martin Moore-Bick, the Building Safety Programme and expert panel, chaired by Sir Ken Knight, is taking the opportunity to share best practice with the housing sector as matters progress. Concurrently an independent review into fire safety and associated building regulations is also ongoing. The Councils landlord service is regulated by the HCA and in August¹ the Director of Regulation reminded landlords of their obligations under the Home Standard confirming LAs should meet all statutory requirements relating to Health & safety, failing to do so could result in a range of Central Government interventions.

Therefore it is highly likely that government recommendations and codes of guidance around fire safety will emerge and it is imperative the attached policy remains flexible and subject to review, allowing it to develop maximising all opportunities. It is for this reason, that it is recommended that Health & Well-being scrutiny receive an annual opportunity to discuss and inform research and development in this area of the business.

Health & Well-being Scrutiny, at its meeting on the 8th August 2017, endorsed the Councils approach to fire safety and principles set out in the attached policy. Scrutiny members also congratulated officers and SFARs partners co-presenting; on the immediacy and professional response to the Grenfell Tower tragedy in its communications to its own tenants and leaseholders. Copies of the Scrutiny presentation, FAQs and minutes are available by clicking on <http://www.tamworth.gov.uk/fire-safety>

The Policy attached details the strengths highlighted through Tamworth's proactive response to fire safety. Respectfully the policy may be coming to Cabinet for the first time, but the detail has been standard practice for many years, officers' recognising that capturing this on a formal basis provides a clear framework going forward.

Strengths:-

- Strong political leadership and cross party support for fire safety
- Policy statement, if approved, evidencing a clear framework for fire risk management
- Track record in service delivery enhanced by collaboration with SFARs and corporate partners through shared H&S services
- Commissioned service for 'safe and well' checks provided by SFARS to all its council properties and households
- Independently accredited third party (currently Grahams Environmental Services "GES") to undertake comprehensive annual fire risk assessments (FRA) and associated legionella and asbestos testing
- Evidence of up-to-date annual FRA and action orientated monitoring through the range of Council contractors
- Detailed and annual joint fire safety inspections of all sheltered schemes with officers in partnership with SFARs, with scheme manager focus on intensive housing and property management
- Programme of estate and routine flatted estate inspections by the network of cleaners and caretakers servicing council housing
- Financial Commitments of over £2m of HRA funding into retrofitting of sprinklers at all of its high-rise blocks and consideration of a further £1.5m in a 5 year electrical testing programme.

The fire safety policy details the above and also recognises the areas to ensure continual improvement. If Cabinet approve this policy, it is intended to produce a SMART action plan, in consultation with the Portfolio Holder for Housing and the Councils Tenant Consultative Group (TCG), that ensures Tamworth continues to 'thrive' and not just 'survive' in this area of

work. SFARS would inevitably support this as will the Councils corporate health and safety team.

Action Planning Recommendations to include:-

- Successfully re-procure third party auditors to continue the approach to Fire Risk Assessments
- Re-procure home fire safety service, currently delivered by SFARs, to ensure this service continues
- Install and develop guidance around sprinkler suppression systems planned for the high rise blocks
- Develop a training and competency framework for landlord service aligned to roles and responsibilities around fire safety
- Development of mobility scooter guidance and policy that conforms to fire safety standards
- Develop the councils web site to allow for the public production of redacted FRA – so tenants and residents can view on line and actions can be monitored
- Annually scrutinise and review the policy commitments

RESOURCE IMPLICATIONS

Cabinet resolved on the 17th August 2017 to approve option two (Electrical Routine Testing PIR) to allow routine checks to be completed on electrical installations and consider including an additional £306kpa during the medium term financial budget setting process to fund a cyclical 5-yearly programme. A policy change has been submitted to give effect to this recommendation.

There are no other & direct financial implications arising from the fire policy as funding and investment for planned and reactive maintenance, concerning fire safety, is built into the usual budget setting process.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Regulatory Reform (fire safety) Order 2005 and Housing Act 2004 detail the requirements and obligations on landlords. Fire safety guidance is now also available on the Governments website and this link is on Tamworth's own pages detailing its localised approach to fire safety. <https://www.gov.uk/government/collections/fire-safety-guidance>

SUSTAINABILITY IMPLICATIONS

Sustainability and community cohesion is a clear Council ambition and having a comprehensive approach to fire safety directly contributes to achieving and delivering quality services in this area.

REPORT AUTHOR

LIST OF BACKGROUND PAPERS

APPENDICES

Annex one – Fire safety Strategy 2017-2020 (annual review)

ⁱ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639735/Grenfell - letter to NTOs.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/639735/Grenfell_-_letter_to_NTOs.pdf)



Housing Landlord Services

Fire Safety Policy 2017-2020

Version 1 (071017)

Notice to staff using a paper copy of this policy or guidance

The policies and procedure database holds the most recent and approved version of this guidance. Staff must ensure they are using the most recent guidance.

Author/Editor: Tina Mustafa

Fire Policy version:

Fire Policy version:

Document Approval:

Document Prepared By:

Signed: Date:

John Murden – Repairs Contract Manager

Document Approved By:

Signed: Date:

Tina Mustafa – Head of Landlord Service

Contents

- 1 Scope
- 2 Policy Statement
- 3 Fire Risk Assessments
- 4 Fire Risks
- 5 Fire Precaution
- 6 Fire Prevention
- 7 Fire Protection
- 8 Partnerships
- 9 Vulnerable People
- 10 Publicising the Policy
- 11 Review of the Policy
- 12 Further Information available at <http://www.tamworth.gov.uk/fire-safety>

1 Scope

- 1.1 This policy applies to all of the Councils own stock managed by Housing Landlord Services only. This policy does not relate to any corporate buildings managed by Fixed Assets.

The policy applies to Secure and Non-Secure Tenants and non- housing stock.

This policy also applies to tenants living in and around the Councils 11 sheltered schemes,

2 Policy Statement

- 2.1. Tamworth aims to provide a safe environment in which our residents are reassured that the risk of injury or damages to their homes caused by fires is minimised.
- 2.2. The Council will comply with the regulatory HOME standard with particular regard to 1.2(b) that it will “meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes”.
- 2.3. In aiming to deliver this environment, Tamworth Borough Council, as a general principle, will seek to identify, assess and reduce risks to ensure compliance with Regulatory Reform (Fire Safety) Order 2005 and Housing Act 2004. Paying particular attention to the latest legislation and current regulations and guidance in force.
- 2.4. To encourage the assurance and confidence of our residents, regular fire safety awareness information will be made available. This will include ensuring residents are aware of their own obligations to comply with their tenancy agreement and thereby minimise the risk to themselves and other occupants of the flatted blocks or sheltered accommodation in which they reside.
- 2.5. Tamworth will continue to develop the highly regarded professional relationships it has with its partners; particularly Staffordshire Fire & rescue Services (SFARS)

to deliver high quality services aimed at fulfilling its strategic priorities to live a quality life in Tamworth; grow stronger together and deliver quality services.



2.6. In discharging our obligations to fire safety, Tamworth will:

- Have regard for all current and relevant legislation; regulations and guidance, as at October 2017 includes:-
 1. The Housing Act 2004
 2. The Regulatory Reform (Fire Safety) Order 2005
- Carry out Fire Risk Assessments in accordance with the Regulatory Reform (Fire Safety) Order 2005
- Undertake Fire risk Audits in conjunction with Staffordshire Fire & Rescue Service (SFARs) and ensure all fire risk assessments are independently

produced; monitored and associated actions tracked by a third party accredited supplier.

- Provide relevant employees with Fire Safety training in conjunction with Corporate health & safety staff under the shared service arrangements;
- Maintain and improve fire safety as required through the recommendations of the Fire Risk Assessments and the Fire Audits;
- Carry out joint training exercises with Staffordshire Fire & Rescue Service and other agencies as necessary to ensure readiness for emergencies;
- Carry out all necessary servicing to ensure that fire prevention equipment is in full operation at all times;
- Carry out all necessary servicing to ensure that firefighting equipment i.e. fire extinguishers, are in full working order at all times;
- Consider Fire Safety in all improvement programmes carried out by Tamworth Borough Council.

3	Fire Risk Assessments
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3.1 Regulatory Reform (Fire Safety) Order 2005

3.1.1 Under the fire legislation, Regulatory Reform (Fire Safety) 2005, as the responsible person (landlord) we must carry out a fire risk assessment and take reasonable steps to remove or reduce any risks that have been identified.

3.1.2 Tamworth will ensure that all residential communal blocks and non-housing stock under it's ownership have a fire risk assessment carried out.

3.1.3 Where practical Fire Risk Assessments (FRA) will be located within the premises. On some sites this may not be practical and in this event the FRA will

be located centrally and accessed via the portal on the councils housing management systems.

3.2 Management and review of Fire risk Assessments (FRA)

3.2.1 The fire risk assessment is carried out annually, but will be reviewed monthly via routine health and safety meetings. Situations which might prompt a review include:

- A change in the number of people present or the characteristics of the occupants including the presence of people with some form of disability.
- Introduction of new equipment, structural alterations to the building, including the internal layout, significant changes
- Alterations to building such as replacement entrance doors or internal decoration to communal areas
- The introduction or increase in the storage of hazardous substances; or
- If fire occurs.
- Updates in legislation.

3.2.2 Tamworths approach to Fire Inspections

Fire Risk Assessments (FRA) across all blocks will be done at least annually. Inspections to fire safety measures in place i.e. fire doors and support robust FRA be categorized based on risk:-

Categorisation of stock	Risks	How often inspected
High Rise	Red	Block Daily and Fire Doors 6-monthly
Eringden	Amber	Block Daily and Fire Doors 6-monthly
Sheltered	Red	Daily and Fire Doors 6-monthly
Low Rise	Green	6-monthly
Single Communal Areas (maisonette type stock)	Green	6-monthly

4. Fire Risks

- 4.1 The Regulatory Reform (Fire Safety) Order 2005 (FSO) places a duty on Tamworth, as Landlord, to take general fire precautions to ensure, as far as is reasonably practicable, the safety of the people on the premises and in the immediate vicinity.

Therefore, the main fire risks identified in communal areas are;

- Arson
- Faulty electrical installations
- Accumulation of flammable rubbish
- Smoking
- Failures in construction (fire doors, lack of emergency lighting and smoke ventilation etc)

5. Fire Precautions

- 5.1 Fire precautions are designed to protect people, property and assets against the loss of life, injury and damage caused by fire.

- 5.2 Tamworth will undertake and maintain the following fire precautions:

5.2.1 Fire Prevention Measures (expanded in item 6)

- Good housekeeping e.g. removal of rubbish in communal areas, fire stopping etc.,
- Program of inspections to ensure fire doors, signage and compartmentalisation are in good repair

- Adequate security measures, (e.g maintenance of secure entries, CCTV camera where it exists),
- Maintenance, inspection and testing of electrical installations and equipment,
- Prohibition of smoking in communal areas including lobby areas and lifts.
- Control of contractor's operations on our premises (i.e. method statement, risk assessment, permit to works)

5.2.2 Fire Protection Measures

- Retrofit Sprinkler Suppression systems to its high rise and high risk blocks to provide complimentary fire protection to its residents
- Install smoke detection systems – where necessary
- Install and maintain fire alarms – where necessary
- Install and service Fire Fighting Equipment, e.g. fire extinguishers, dry risers – where necessary
- Maintain compartmentation and fire doors
- Maintain and communicate evacuation plan
- Maintain Fire exits
- Install and maintain emergency lighting
- Install and maintain smoke ventilation where possible

5.2.3 Pre-Planning

- Carry out fire drills – where blocks have a central alarm system
- Train, educate and inform (residents, staff and contractors)
- Formulate and maintain fire policy and procedures
- Carry out Fire Risk Assessments and Fire Audits as necessary
- Co-operation and co-ordination with other premises users
- Place and maintain clear safety signage

6.1 Housekeeping – in order to prevent possible sources of fire and to minimise the risk to our residents the following principles will be applied:

- No dumping of rubbish is permitted in chute areas
- Rubbish should not be left outside of flat doors and should be disposed of in the designated bin chute or taken to the bin outside
- No rubbish should be left in communal areas especially flammable material
- Keep clear all corridors, walkway, landings and exit routes (means of escape) • Electrical and Service cupboards must not be used for storage of any material

6.2 Fire stopping – to maintain the integrity of communal areas and prevent the spread of fire the following principles will be applied:

- High Rise blocks will be inspected periodically to check for fire stopping breaches where services pass through floors and walls, and where necessary filled with an appropriate material to prevent fire and flame spread
- Contractors working on any block should take care to avoid penetrating walls ceiling or floor slabs for passing through cable, pipes or conduits, where this is unavoidable the contractor will ensure that the penetration is sealed and fire stopped adequately and where necessary with intumescent fillers. This must be agreed with Tamworth before work commences and inspected directly upon completion
- Service and electrical cupboards within the communal areas must be kept locked at all times.

6.3 Electricity –the electrical installation to the communal parts of the building will be checked every years, with all domestic and individual council properties checked every 5 years in accordance with the guidance provided by the Institute of Electrical Engineers Wiring Regulations 17th Edition (as amended). Five yearly checks will ensure fixed installations are safe and does not extend to tenants

own appliances. Portable Appliance Testing (Pat) will be carried out to Council supplied electrical equipment in sheltered and communal areas within blocks.

- 6.4 Gas Installation – in order to prevent a gas escape or combustible incident with blocks of flats, the building/individual heating systems are annually serviced to ensure compliance with the Gas Safety (Installation and Use) Regulations 1998.
- 6.5 Smoking – to prevent the likelihood of a fire starting, Tamworth operates a no smoking policy in all communal areas of a building. In accordance with the Health Act 2006 and the Smoke Free (Premises and Enforcement) Regulations 2006.
- 6.6 Regular testing of Lightning Protection systems for high rises.

This applies to all communal areas and work areas under Housing Landlord control, and therefore affects sheltered housing as well as high and low rise blocks of flats, including the lifts. It does not apply to residents smoking in their own dwellings within a block.

7. Fire Protection

- 7.1 In order to minimise the risk from any fire that may occur within the blocks and to ensure safe evacuation, the following control measures have been implemented:

- 7.1.1 Evacuation Routes

To ensure safe evacuation the routes must be kept free of sources of ignition, flammable and combustible material and obstructions at all times. In High Rise blocks of flats daily inspections will be carried out to identify and deal with such issues.

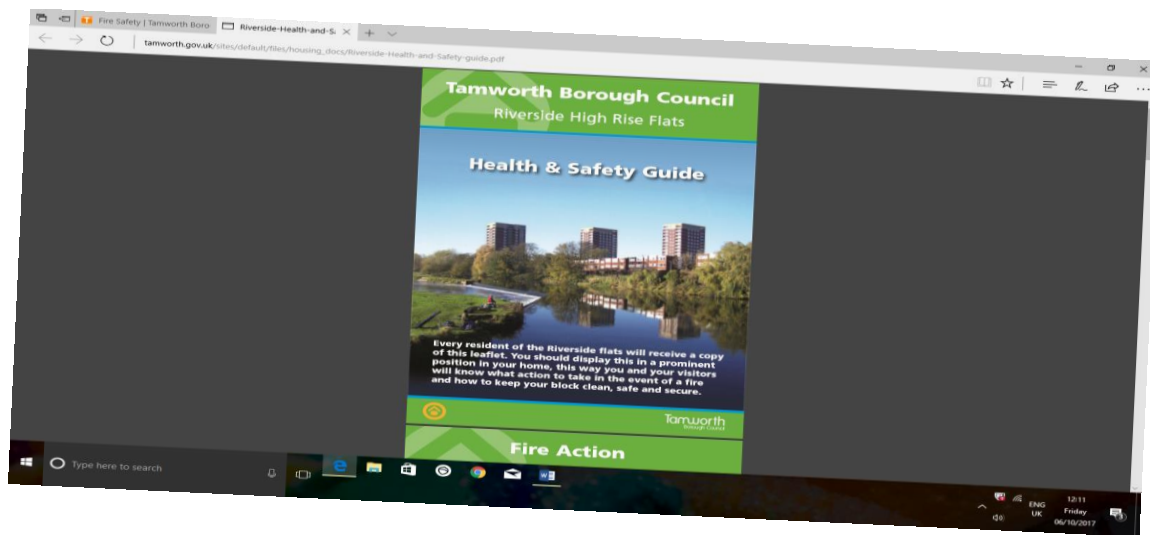
- 7.1.2 Evacuation Plan

The following applies to all High Rise and Sheltered blocks:

Providing that the integrity of the front door, to each individual flat, is maintained and not compromised in any way, in a potential fire an individual flat will act as a sealed fire compartment. The flat should contain a fire for up to 30 minutes, with the fire doors and concrete walls resisting before spreading into the common parts of the block. In addition residents in other flats will have 1 hour protection when their own front door is taken into consideration.

Staffordshire Fire & rescue have a delayed evacuation policy which is detailed in the guidance shown on the Councils website and by clicking the link here.

http://www.tamworth.gov.uk/sites/default/files/housing_docs/Riverside-Health-and-Safety-guide.pdf



7.1.3 Fire Exits

All fire exits must be kept free of all obstructions, both inside and out, and be available for use when required. Fire exits will not be left open to ensure that security of the building is maintained, nor shall fire exits be used by the occupants of the building as a main entrance/exit to the building. In High Rise blocks of flats daily inspections will be carried out to identify and deal with such issues.

7.1.4 Fire Doors – common areas

Fire doors are provided to help prevent the spread of smoke and fire and must be kept closed. Fire doors are checked regularly to ensure they are operating correctly and are not damaged. Fire doors', including entrance

doors to tenant's flats and cupboards, should NOT be propped open, tampered with or compromised in any way, i.e.; materials affixed to frame/door to prevent banging noises. Any problems should be reported immediately to Tamworth.

7.1.5 Fire Extinguishers

Fire extinguishers are positioned in boiler / lift rooms, kitchens and communal areas and are not for use by the residents or the public. They should not be removed from their designated location.

Fire extinguishers are maintained and tested annually.

7.1.6 Dry Risers – High rise flats only

Dry risers are positioned and secured on each floor within the block. The riser is located within an internal duct and outlets in secure cupboard to prevent theft of the valve, using an FB17 padlock (Fire Brigade approved). They are inspected by the Fire Service and wet tests are carried out, risers are tested, maintained and serviced on a regular basis.

7.1.7 Signage

Appropriate fire safety signage (including low level signage) is displayed throughout communal areas of the building, indicating the fire exit/s and action notice information. Fire doors are marked to keep shut and no smoking signs are affixed inside the block.

7.1.8 Smoke Alarms

All flats are fitted with hard-wired smoke detectors.

Smoke detectors are not installed in communal areas, where fire risk assessments have determined a low level of risk (i.e no combustible material or ignition sources should be found in communal areas). In addition there is a high probability of vandalism in communal areas. If smoke detectors are fitted, it introduces a further risk in that tenants will be relying on smoke detectors which are likely to be damaged through vandalism

Sheltered housing blocks with have their own fire alarm systems. Smoke detectors within each property are connected to the community alarm services and part of the infrastructure testing and maintenance for door entry; life lines and fire detection.

Gas servicing engineers will carry out an annual check on the Smoke Detectors as part of the gas servicing programme; a separate programme will pick up properties that do not have individual gas boilers.

8. Partnerships

8.1 Tamworth work closely with Staffordshire Fire & Rescue Service and independently accredited specialist Fire Risk Assessor on the following aspects:-

- To carry out an annual audit of the housing and non-housing stock. The purpose of this inspection is to identify immediate risks and to ensure that actions from the previous inspection have been implemented.
- Regular training exercises with the Fire Service to ensure procedures are in place and that they are familiar with block layouts in the event of a real fire
- Jointly producing relevant policies and procedures

- Training to Tamworth staff
- Awareness campaigns for our residents
- Specialist support on retrofitting and planned investment works to flatted estates, in particular the sprinkler suppression systems

9. Customer Profiling

- 9.1 For designated blocks; including high rise; sheltered schemes and Eringden a comprehensive customer profiling exercise has been undertaken to ensure where necessary personal evacuation plans are in place and that business continuity arrangements exist in the event of a fire for civil contingency purposes.
- 9.2 Mobility Scooters - the policy is being reviewed for storing scooters within blocks especially in the Sheltered Blocks, which covers the associated risks. As a general rule Tamworth will impose size and weight restrictions on its use where there is lift and/or single staircase access. This part of the policy is currently under review.

10. Publicising the Policy

- 10.1 Tamworth will market and publicise its policies and procedures on Tenancy Rights and Obligations to residents and staff in a number of ways:-
- Tenant Handbook
 - Factsheets
 - Housing Matters
 - Tamworths Website
 - Staff Briefings and
 - Training

11. Review of the Policy

- 11.1 This policy will be reviewed annually to ensure that it meets the needs of the Council and its tenants and adopts latest legislative and regulatory changes with regard to fire safety
- 11.2 The relevant Council scrutiny committee will receive an annual update in order to support the research and policy development in this area.

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THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR COMMUNITIES**CORPORATE ANTI SOCIAL BEHAVIOUR POLICY****EXEMPT INFORMATION**

None

PURPOSE

To secure Members' approval to adopt the proposed Corporate Anti-Social Behaviour policy which outlines a "whole Council" approach to tackling Anti-Social Behaviour

RECOMMENDATIONS

Members are asked to

1. Approve the revised Corporate Anti-Social Behaviour (ASB) policy.
2. Approve a corporate mandate to progress towards integration of ASB procedures within the Council and with partners subject to future reports on this matter as appropriate.

EXECUTIVE SUMMARY

The proposed revised corporate ASB policy for the first time includes the approach the Council will take in tackling issues across all Council departments, including that of Landlord Services and our approach to working with Community Safety Partners including Staffordshire Police.

Historically the Council has taken a departmental approach to tackling ASB with each department responsible for receiving, assessing, investigating and closing cases. There is little evidence of a corporate approach with each department having different systems and processes to record and manage ASB incidents.

This policy outlines the new approach and processes and procedures will be put in place via the Community Safety Partnership Hub to ensure:

- Staff are trained to effectively deliver the new ASB policy
- Development of partnership procedures to underpin the policy principles
- Development of a high level ASB process with related performance indicators
- Structuring the Community Safety team with detailed recommendations for the housing element.
- Developing shared systems and information sharing in line with the Staffordshire One protocols to which all agencies are signed up to
- Identifying and tackling hot spot locations based on community need

The policy is attached as Appendix 1.

OPTIONS CONSIDERED

None

RESOURCE IMPLICATIONS

To move towards integration of ASB procedures and closer partnership working following the introduction of powers under the ASB, Crime and Policing Act 2014, a review of all processes and staffing structures within the Community Safety service is ongoing to ensure it is fit for purpose. Resources will be met within current staffing budgets

LEGAL/RISK IMPLICATIONS BACKGROUND

This policy has been developed with due regard to legal powers.

SUSTAINABILITY IMPLICATIONS

The policy will be reviewed at least every three years to ensure its accuracy and fit for purpose to ensure a robust continuing approach to preventing and tackling ASB.

BACKGROUND INFORMATION

ASB has consistently been identified as one of the key areas of concern by residents and is included in the Community Safety Partnership plan.

There has been a reduction in recorded ASB incidents over the last 5 years; however a key component in improving our services to victims is to adopt a robust process to assess the vulnerability of victims via partnership meetings.

The risk to an individual can be heightened by mental health or capacity, physical health or demographics; however how a person is affected by anti-social behaviour regardless of this determines their risk and the actions which may be taken.

Traditionally ASB policies have been perpetrator focused, whilst maintaining this, we also need to take a victim centred approach.

The introduction of the ASB, Crime and Policing Act 2014 has required a new approach to the tools and powers available and requires agencies to work closely in partnership. The Council adopted the approach it would take to the implementation of the Act in June 2015.

A risk assessment tool is being developed to with partners to understand:-

- How the ASB is affecting the victim or their family
- Increasing frequency of escalation of nature of incidents
- Any additional factors (Hate Crime, disability, mental health, substance misuse)
- History of the perpetrator
- Support services which may be available

The ongoing development of the Community Safety Multi-Agency Teams ensures that information is shared on a timely basis and there is an accurate and timely record of any agency intervention to an incident. It will enable a more professional approach to identify repeat victims, perpetrators and locations in accordance with the policy principles.

REPORT AUTHOR

Jo Sands, Head of Community Safety
Tina Mustafa, Head of Landlord Services

LIST OF BACKGROUND PAPERS

APPENDICES

Appendix 1 – Draft Tamworth Borough Council Corporate Anti-Social Behaviour Policy

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Corporate Anti-Social Behaviour Policy – April 2017

Document Hierarchy: Policy

Document Status: Final

Document Ref: DOC ASB Policy

Originator: J Sands

Owner: Head of Community Safety

Version: 1

Date: 19 October 2017

To be approved by Cabinet

Classification: SEC1 - Routine

Document Location

This document is held by Tamworth Borough Council, and the document owner is Jo Sands, Head of Community Safety.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

Revision History

Revision Date	Version Control	Summary of changes
31/3/17	1	Drafts

Approvals

Name	Title	Approved
Andrew Barratt	Corporate Director, Assets, Growth and Environment	31/3/17
Tony Goodwin	Chief Executive Officer	14/8/17
Cabinet		19/10/17

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with the agreement of the document owner.

Distribution

The document will be available on the Intranet and access by authorised users.

Security Classification

This document is classified as SEC 1 Routine with access restricted to Tamworth Borough Council Staff and business partners.

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Foreword Councillor Stephen Doyle, Portfolio Holder – Communities and Wellbeing

I am pleased to present this Corporate Anti-Social Behaviour Policy on behalf of Tamworth Borough Council.

This document provides a framework for all services within the Council to work toward achieving a safer Tamworth. The Policy explains the Council's approach to tackling Anti-Social Behaviour and what you should expect if you report a complaint of Anti-Social Behaviour to us.

Tackling Anti-Social Behaviour and making Tamworth a safer place is a key corporate objective of the Council. To achieve this, the Council is committed to working with our partner agencies such as the police and the local community to take a stand against the types of behaviour that spoils the lives of others.

In Tamworth we will not tolerate Anti-Social Behaviour and will use a full range of prevention and enforcement measures to work together to deal with problems and make our communities safer, more confident and better places to live.

1. Scope and purpose of this policy document

The Corporate Anti-Social Behaviour policy document supports Tamworth Borough Council's vision 'One Tamworth Perfectly Placed' and is intended to fulfil the requirements of section 218A of the Housing Act 1996 (as inserted by section 12 of the Anti-social Behaviour Act 2003) with regard to the publication of the policies and procedures of a local housing authority in relation to anti-social behaviour and integrates service responses to anti-social behaviour providing a consistent and uniformed approach to service users.

The policy directly supports our corporate priority:- 'Living a quality life in Tamworth'

To achieve this we will:

- Support and protect individuals and communities that are or may become vulnerable,
- Enable residents to improve their health and quality of life,
- Work together with partners and residents to tackle the causes of inequality in Tamworth
- Work together with residents to maintain and improve a safe, clean and green environment,
- Work together to improve housing quality in Tamworth.

The policy tells you what we mean by 'anti-social behaviour' (ASB) and sets out the guiding principles for those officers in the Council who deal with ASB.

It says what we want our services to achieve for people experiencing ASB, and sets out the principles on the kind of service level and quality we aim to provide.

This policy document is intended to be a framework with clear principles. For specific service area procedures you should contact the relevant Council directorates. We will develop and maintain procedures for the effective handling of ASB complaints and work closely through the Community Safety Partnership to achieve a satisfactory outcome for the complainant and the community.

The approach will be based on demand lead intelligence to both prevent and act upon ASB by working across departments and with partners to determine the best course of action and captured in and fully supporting the Tamworth Community Safety Partnership priorities and annual action plan.

2. The Council's Responsibilities

Tamworth Borough Council believes that no-one should tolerate anti-social behaviour and will use appropriate tools and powers available to local authorities to prevent and address all forms of nuisance. These powers arise from three complementary roles

The Council's role as a Responsible Authority of the Tamworth Community Safety Partnership (TCSP) as defined by the Crime and Disorder Act 1998.

The Act states that the Council must work with the police and other agencies to reduce crime and disorder in Tamworth. The Council cannot always resolve ASB complaints in isolation. Often incidents of ASB are complex and require the input of a number of different agencies. The Tamworth Community Safety Partnership is a group made up of the Council, Police, Primary Care Trust, Fire and Rescue Service and other agencies that together work to reduce crime and disorder and improve community safety in the Borough of Tamworth.

This policy supports the Tamworth Community Safety Partnership plan.

As a landlord the Council has a duty to respond to ASB affecting the properties we manage.

The Council has signed up to the Respect ASB Charter for Housing consisting of seven commitments. By signing up to this Charter, we are committed to delivering high quality ASB services focused on outcomes for our tenants. The commitments are as follows:

- We demonstrate leadership and strategic commitment
- We provide an accessible and accountable service
- We take swift action to protect communities
- We adopt a supportive approach to working with victims and witnesses
- We encourage individual and community responsibility
- We have a clear focus on prevention and early intervention
- We ensure that a value for money approach is embedded in our service

Our landlord duties and powers complement the duties and powers we have to deal with ASB by non-council tenants. In this document, and our Anti-social Behaviour Procedure document, we will make it clear when a duty or a power only applies to Council tenancies

As an environmental protection champion the Council has a range of legal powers to deal with environmental anti-social behaviour such as noise, graffiti, litter, rubbish and abandoned vehicles.

This list is not exhaustive and represents most the most common offences and may be added to as legislation is updated or amended. In addition there are additional powers which can assist the Council control accumulations of litter and refuse and will seek to take the appropriate action for these offences using a wide range of enforcement actions as prescribed by legislation.

As a Community Champion – the Council will actively support the communities we serve by promoting campaigns and projects to raise awareness of and improve the perception of ASB

3. What is anti-social behaviour?

A broad definition of anti-social behaviour is difficult but what is important to us in defining anti-social behaviour is the effect of the behaviour on members of the community

Anti-social behaviour (ASB) is defined under section 2 of the Anti-social Behaviour, Crime and Policing Act 2014.

(a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,

(b) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or

(c) conduct capable of causing housing-related nuisance or annoyance to any person.

For the purposes of the community trigger, ASB is defined as "behaviour causing harassment, alarm or distress to members or any member of the public" (section 105(4) of the Anti-social Behaviour, Crime and Policing Act 2014 refers).

The Council will record initial reports for ASB based on the National Standard for Incident Recording (NSIR) that will ensure that cases of ASB are initially coded and logged consistently across the Authority and is consistent with our main partners the police.

The three codes are:-

- **Personal** – designed to identify ASB incidents that are perceived as deliberately targeted at an individual or group rather than the wider community. Such incidents can impact on individuals in different ways, ranging from minor annoyance to a serious deterioration of health, mental or emotional wellbeing. Examples include an individual or family repeatedly having their windows broken, car vandalised, graffiti daubed on their property or being taunted or harassed by the same group of individuals on a regular basis
- **Nuisance** – focuses on an act, person, condition or 'thing' that causes annoyance, inconvenience, offence or suffering in the local community rather than an individual. Different aspects of tolerance affect how communities perceive ASB issues. What is deemed acceptable in one community may cause significant distress in another. Examples include neighbours causing distress by being noisy, rowdy, loud and inconsiderate. Inconsiderate use of vehicles, off road bikes, quad bikes or group of individuals hanging around in areas which are not suitable eg outside shops, off licences or drinking in public places and behaving in a rowdy manner.
- **Environmental** – deals with interface between people and places. It includes incidents where individuals and groups have an impact on their natural, built and social surroundings. This category seeks to encourage acceptable and reasonable behaviour so people can enjoy both private and public spaces. Examples include littering, fly tipping, dog fouling and graffiti

Not every allegation reported to us will be accepted as being anti-social. All calls will be risk assessed and passed to the relevant responsible department.

If the calls are not determined to be ASB (eg some complaints may be about lifestyle differences or everyday living noises) we will inform the complainant of any actions which may or may not be taken.

Any intervention taken as a result of alleged ASB will be proportionate and considered on a case by case basis.

Legal action will only be sought as a last resort where all other interventions have failed or the action is necessary to protect the community

3.1 Case Categorisation

The focus in defining anti-social behaviour is the effect of anti-social behaviour on members of the community. The severity of any case received will be determined by a risk scoring matrix.

The management of risk-assessed individual Anti-social behaviour cases will be categorised according to the type of behaviour and department/agency who lead on the complaint.

The Council will use a range of demand led intelligence to frame its response so that the approach is reasonable and proportionate and focuses on prevention and rehabilitation as well as enforcement to remedy incidents.

4. Policy principles

These principles underline our approach to tackling anti-social behaviour, how we manage cases and work with our customers and partners.

4.1 No one should have to suffer from ASB

We will:

- make people aware of what anti-social behaviour is and empower them to understand their role in this.
- publicise and promote our various services to tackle ASB
- empower and encourage people to report ASB and make it possible for them to do this using a range of reporting methods.
- respond to each reported case of ASB within our target times.
- support victims of ASB throughout the case.
- ensure our Housing tenants are aware of the obligations of the tenancy agreement relating to anti social behaviour

4.2 Reports of ASB will be treated seriously and dealt with professionally.

We will:

- assess the seriousness of ASB reported to us, and take action in accordance with our service standards.
- treat all reports as confidential unless we consider that we should share information for safeguarding purposes, prevention of crime disorder or where it is in the public interest.
- Identify and access support for new Housing tenants and victims to sustain their tenancies where applicable

- Agree an action plan with customers within an agreed timescale
- share information only with other organisations that can help with the problem and observe data protection laws and in accordance with the One Staffordshire Information Sharing Protocol.
- ensure that criminal activities reported to the Council are quickly passed on to the police.
- register each case appropriately to maximise opportunity to achieve multi-agency cooperation.
- fully investigate the complaint in accordance with relevant legislation
- formally close cases with reasons for closure, using the complainant's preferred method of correspondence
- explain our reasons should we choose to take no action, and advise on self-help or other alternative courses of action whenever it is possible and appropriate to do this.

4.3 ASB will be addressed firmly, fairly and proportionately.

We will:

- appropriately risk assess all complaints and prioritise accordingly, acting swiftly to protect people and property.
- investigate the circumstances and seek to understand all the facts of any matter reported to us.
- seek where possible to resolve cases at the lowest level of intervention, taking formal action when the ASB is serious or persistent or when it threatens people's safety or health.
- use appropriate legal tools and powers available to us under the law and Council policy, according to our best professional judgment.
- Consider relevant legislation (ie the Equality Act/Care Act/Human Rights Act) and adjust our approach as necessary, when a victim or a perpetrator is a vulnerable person.
- with the consent of the people involved, refer suitable low-level cases to mediation.
- Publish case outcomes and reserve the right to use campaigns to target areas of concern

4.4 We will actively seek to prevent ASB

We will:

- use intelligence lead approach to determine the best cause of action using a wide range of available powers to tackle ASB
- work with partners to identify appropriate diversionary activities
- work with residents, tenant and community groups to develop a neighbourhood approach to tackling ASB
- focus on locally agreed strategies for preventing and tackling ASB with due regard to environmental and social concern
- Provide new Housing tenants with information on their community responsibilities
- Support and assist partners with the rehabilitation of offenders where appropriate

4.4 We will work with partners in order to deliver an effective, value for money ASB service across our communities.

We will:

- play a full part as a lead member of the Tamworth Community Safety Partnership. participate in relevant strategic or preventative initiatives, being mindful of our core activities, current workload and costs of participation relative to the likely benefits.
- set shared objectives for all partners and external agencies for the prevention and tackling of ASB
- participate in multi-agency workgroups dealing with specific ASB issues.
- work with Registered Providers, private landlords, letting agents, schools, colleges and businesses, providing professional advice and support as required so that these organisations can act confidently to prevent or tackle ASB making use of their own resources.
- Work in partnership to identify appropriate funding opportunities and community projects to address concerns

4.5 We will deliver high quality customer service.

We will:

- ensure that staff dealing with ASB are trained in equality, diversity and safeguarding.
- ensure that staff dealing with ASB follow agreed policies and procedures.
- set ourselves demanding service standards, and publicly report on our performance against the standards.
- provide a range of opportunities for tenants and residents from all groups to get involved in shaping and scrutinising our services
- obtain customer feedback through surveys of users of the ASB service provided by Tamworth Borough Council to rate their satisfaction with the service.
- Seek views of service users and partner organisations as part of each review.
- Regularly undertake sample quality audits of ASB complaints to ensure that policies and procedures are followed

Based on this approach we will seek to ensure a “place based solution” that builds community resilience and allows for informed and empowered outcomes.

5. Action we can take

The majority of complaints can be resolved through early intervention methods and these are considered with the complainant during the initial interview and risk assessment with the emphasis on stopping bad behaviour before it escalates. Legal action will usually be approved where all early interventions have failed or the behaviour is serious enough to warrant necessary legal action.

5.1 Early and Informal Interventions

No Action

In some cases that no action will be taken in cases where there is little or no evidence or where an alleged offender has fully co-operated with information given in accordance with this policy.

Verbal Warnings/Written Warnings

Warnings are issued initially if ASB is admitted or the investigating officer feels ASB has or is likely to occur. The perpetrator will be told the nature of the behaviour which has resulted in the warning and the consequences of not adhering to the warning.

Mediation

Mediation can be used successfully in most low level disputes. Officers can offer an independent mediator on a confidential impartial basis for neighbour disputes, disputes between up to 10 residents, family mediation and also offer mediation in an attempt to avoid court action.

Good Neighbour Agreement

These agreements are useful for issues in small blocks of flats or streets where anti social behaviour is affecting the whole block or street. An example of this would be obstructing communal areas, leaving bins out or children playing in the street until late at night. The onus is put back onto the residents to comply with the requirements of the agreement.

Acceptable Behaviour Agreement/Parenting Contracts

These are voluntary written agreements between an individual, the Council and sometimes other agencies including education and Staffordshire Police. They are useful in dealing with children age 10 plus and in relation to truanting and ASB. These agreements are not legally binding however they are useful in highlighting children's behaviour to their parents and letting them know the consequences if they are not adhered to, which can impact on the tenancy.

Surveillance

Tamworth Borough Council reserves the right to work with partner agencies to carry out surveillance. This can include applying for CCTV footage where there is a need for the prevention and detection of crime in accordance with prevailing legislation.

Community Protection Warnings

Community Protection Warnings were introduced in the Anti Social Behaviour, Crime and Policing Act 2014 and can be used in ongoing problems or nuisances which negatively impact on the community's quality of life, for example graffiti, rubbish or noise. These are prescribed forms advising what behaviour needs to stop and by when, followed by positive behaviour expected in the future.

Support and Counselling

Support is useful for a number of reasons from low self esteem to extreme behaviour. Local agencies can provide this support and counselling depending on the need.

Community Resolution

For less serious issues of ASB where informal agreements are reached between the parties involved to avoid progression through the legal action route.

Fixed Penalty Notices (FPNs)

A Fixed Penalty Notice (FPN) will be issued to persons who have committed a relevant offence - eg littering, breach of Public Space Protection Order. Full payment of the FPN will discharge the original offence for which the individual cannot then be prosecuted, provided that full payment is received within the specified time period.

FPNs provide the Council with an effective and visible way of responding to low level environmental ASB eg littering and breach of a Public Space Protection Order. They can also be considered for breach of Community Protection Notice.

Experience has shown that the public generally welcomes the use of FPNs provided they are issued sensibly, enforced even-handedly and are seen as a response to a genuine problem.

FPNs will not normally be issued to juveniles (see Section 7)

It is essential for the issuing of a Fixed Penalty Notice that the authorised officer collects adequate evidence to support any legal proceedings if the notice is returned unpaid.

The Council's standard approach will be to set the level of FPN's payable to the maximum set by statute in the prevailing legislation.

5.2 Legal Actions

If a perpetrator is unwilling to change their behaviour or acts in a manner that is threatening or violent, there are formal tools available to the Council and agencies within the Tamworth Community Safety Partnership.

Community Protection Notices (CPN)

These Notices are intended to deal with persistent problems that are impacting on the community's quality of life for example graffiti, rubbish or noise. Breach of a CPN can result in a Fixed Penalty Notice issued by any delegated officer of the Council or Police officer or prosecution through the magistrates' court.

Public Space Protection Orders (PSPO)

This order imposes conditions which may include multiple restrictions and requirements either throughout the borough or in specific areas for example parks or communal areas, where ASB is being caused and is detrimental to the community.

They are designed to ensure that the majority of people can enjoy public spaces and feel safe for example restrictions around the use of alcohol, noise or dogs.

Breach of a PSPO can result in a Fixed Penalty Notice issued by any delegated officer of the Council or Police officer or prosecution.

Civil Injunction

This is a court order to stop or prevent individuals engaging in ASB. It can be used to stop issues escalating and positive requirements can be added to encourage the perpetrator to change their behaviour.

Injunctions are available to use from the age of 10 years and for anybody, not just social housing tenants.

Breach of an injunction can result in a fine or imprisonment for up to 2 years for over 18's. For under 18's the court can issue a supervision order or detention up to 3 months.

Where a breach has occurred by a tenant of Tamworth Borough Council, a new mandatory ground for possession has been introduced.

Closure Notices and Orders

This Notice can be used by the Chief Inspector of Police and/or the Chief Executive of Tamworth Borough Council. Where there are high levels of nuisance, disorder or illegal activity either currently ongoing or expected imminently, a Closure Notice can be served quickly, closing the property for up to 48 hours. To apply for a property to be closed longer than this, a Closure Order can be requested through the court.

Prosecution

In certain cases prosecution through the courts may be the most appropriate course of action, or where other enforcement actions have had no effect. This will only be with due regard to the Enforcement Strategy principles.

Prosecution will likely follow when:

- A Fixed Penalty Notice is issued to an alleged offender is returned unpaid after the 14 day payment period

- An offence is of a size or nature where other enforcement actions are considered to be insufficient.
- Previous actions have failed and there is no option for other enforcement action
- The nature of the offence is deemed to be in the interest of the public
- The offence has a serious or significant impact on the environment and community

Criminal Behaviour Order (CBO)

These Orders can be issued against a person aged 10 upwards who has been convicted of an offence to tackle the most persistent anti social behaviour where involvement includes criminal activity. Breach of a CBO for over 18's can result in up to 5 years' imprisonment, a fine or both. For under 18's, the court can issue a two year detention order.

Notice of Intention to Seek Possession (Landlord Services)

This is a legal Notice served on the tenant/s advising them of their Landlord's intention to seek possession of their home. A Notice will usually be served where previous early interventions have not been successful and ASB is escalating.

Possession Proceedings (Landlord Services)

This is an application by the landlord to the court which can lead to the tenant/s being evicted from their home. There will have been several warnings prior to this stage which is usually the last resort. The landlord would need to show that it is reasonable for the court to evict the tenant/s. A new mandatory ground for possession 'Absolute Grounds' was introduced in the Anti Social Behaviour, Crime and Policing Act 2014 and this can be used where ASB or criminality has already been proved in another court. As long as the landlord follows the correct procedures, the court must grant possession.

Demotion Orders (Landlord Services)

In circumstances where anti social behaviour is prolonged and detrimental but of a less serious nature than required for a possession order, the Landlord can ask the court to reduce the security of tenure but it can still lead to possession if breached. These orders remove certain rights including the right to buy and the right to exchange. Demoted tenancies last for a year and may be extended if notice to seek possession of the property is served during this period.

Other Registered Social Landlords form part of the Tamworth Community Safety Partnership and we will work with them to use appropriate powers as necessary

6. Roles and Responsibilities

6.1 Complainants and Witnesses

It is important that all witnesses and complainants understand the importance of working with us to resolve issues of ASB. This includes:

- Responding to calls and/or letters
- Providing information requested
- Providing written statements to support legal action

- Attending court to give evidence where necessary
- Engaging with suggested methods of resolution
- Not making malicious complaints about anybody

If you don't engage with us, this may lead to the case being closed due to lack of evidence.

6.2 Landlord Services Tenants

There are different types of agreements in use in relation to the management of Tamworth Borough Council Landlord Services properties and these include:

- Secure Tenancies
- Fixed Term Tenancies
- Licence Agreements

Regardless of the type of agreement, all tenants have signed an agreement outlining conditions that must adhere to during your tenancy

7. Vulnerable people and Juveniles

In the course of an investigation an officer may come across a person whose welfare may raise safeguarding concerns. Whether or not the subject has a direct connection to the case under investigation, it remains the duty of officers to ensure that these safeguarding concerns are properly logged and passed to the appropriate agency in line with the Council's Safeguarding Children and Adults at Risk of Abuse and Neglect Policy.

We recognise that perpetrators of ASB may themselves be vulnerable and we will consider the provision of support to help an individual address their unacceptable behaviour. Where the perpetrator has vulnerability issues, such as poor parenting skills, disabilities, mental health problems, drug or alcohol dependency, we will work with partner agencies to provide intervention and support.

7.1 Hate Incidents and Hate Crime

A hate crime or incident is any crime or incident which is perceived, by the complainant or any other person, to be motivated by hostility or prejudice based on a person's actual or perceived social group or groups, and this could be one or more of the following:

- Disability
- Gender
- Race
- Religion and belief
- Sexual Orientation
- Transgender

We will:

- Respond to hate reports by the next working day
- Take all reports of hate seriously

- Encourage victims to report hate crime to the police
- Work with partner agencies to support victims
- Take hate complaints from third parties on behalf of the victim/s

Investigating officers are trained in dealing with reports of hate and are aware of how to access support services for victims.

7.2 Domestic Abuse

Domestic Abuse is a specific type of hate crime usually, but not always, directed towards women. Some examples of this type of abuse are:

- Controlling and coercive behaviour
- Physical abuse
- Sexual abuse
- Emotional abuse
- Honour based crimes including forced marriage
- Female Genital Mutilation (FGM)

We are committed to highlighting issues as early as possible and providing early support and intervention to complainants through our partner agencies.

The Anti Social Behaviour Crime and Policing Act 2014 added strength to already powerful domestic abuse legislation in place such as Non Molestation Orders, Occupation Orders, Domestic Violence Protection Notices (DVPN's) and Domestic Violence Protection Orders (DVPO's).

7.3 Juveniles and ASB

Fixed Penalties

When a juvenile is alleged to have committed an environmental or other ASB offence for which a Fixed Penalty can be issued, the name, address, age and date of birth of the suspected offender should be obtained, together with the name and address of his or her parent or legal guardian. Once the age of the offender has been ascertained, the correct course of action can then be followed.

For offenders between 10 and 15 years old, DEFRA guidelines (environmental ASB) state that a fixed penalty should not normally be issued in the first instance.

Legally fixed penalty notice can be issued to anyone over the age of 10 and authorities are recommended to adopt special procedures for issuing notices to young offenders.

To tackle the issue of environmental ASB by young people we will introduce a restorative justice intervention scheme for 10-17 year olds, where there is an alternative option to the fixed penalty notice financial and/or Court action.

Young people who fail to respond to either the litter pick option or to payment of Fixed penalty payment following the prescribed process, will receive one final visit and letter from the Council reminding them of the consequences of the offence and offering a final chance of litter pick or payment . Following this, failure to respond to best efforts will result in prosecution.

We see this scheme as a positive way to reduce environmental crime without criminalising juveniles, whilst still ensuring the community can see that justice is being done.

For offenders aged 16 or 17 years old, a Fixed Penalty Notice can be issued using the same procedure as for adults.

Nuisance/Personal ASB

The Council has the lead role in the Community Safety Partnership to deal with juvenile ASB. In the first instance our partners will share the names and details of young people involved in matters of community concern.

The approach is designed to provide a proportionate response to young people and reduce the risks of offending.

All young people will be dealt with in the following way:

- First offence – first stage letter
- Second offence – Multi Agency visit
- Third Offence – Anti Social Behaviour contract signed by the child and parent
- Further offences – potential Youth Injunction (in consultation with all agencies)

8. Community Trigger

Any person has the right to activate a Community Trigger if they feel their complaint(s) regarding ASB has not been dealt with appropriately.

The Community Trigger is designed to ensure the Council and our partners are responding to cases of persistent ASB, especially where the victim is vulnerable or at greater risk.

The trigger gives victims and communities the right to request a case review to examine how local agencies have responded to previous ASB complaints and consider whether further action should be taken

Tamworth Borough Council with our partners in the Tamworth Community Safety Partnership has agreed that the local threshold for activating a trigger will be:

- Three separate incidents have been reported in the last 6 months to the police, council or social landlord
- The last report was within one month of the day of the trigger application

A victim of ASB and someone acting on their behalf can ask to activate a Community Trigger by telephoning Staffordshire Police on 101. Local partners are required to review their response

The Police and other partner agencies will share relevant information for the purpose of carrying out the case review.

The ASB Crime and Policing Act 2014 places a duty on the relevant bodies to respond to the victim at particular points in the Community Trigger process. These include:

- The decision as to whether or not the threshold is met
- The outcome of the review, and
- Any recommendations made as an outcome of the review.

9. Supporting and Future legislation

This policy fulfils the requirements of section 218A of the Housing Act 1996 (as amended by the Anti-Social Behaviour Act 2003) with regard to the publication of the ASB procedures of a local authority landlord

It also contributes to the council statutory requirement under the Crime and Disorder Act 1998 that places a legal duty on the council to work in partnership to tackle the Borough's crime and disorder priorities, specifically section 17 that states that "each authority needs to do all it reasonably can to prevent crime and disorder and to ensure services give due regard to crime and disorder."

Together with our partners, we will make full use of relevant legislation including but not limited to:

- Anti-Social Behaviour Crime and Policing Act 2014
- Anti-Social Behaviour Act 2003
- Crime and Disorder Act 1998
- Data Protection Act 2003
- Equalities Act 2010
- Housing Acts 1985, 1996 and 2004
- Environmental Protection Act 1990
- Clean Neighbourhoods Act 2002
- Refuse Disposal (Amenity) Act 1978
- Mental Health Act 1983 (amended 2007)
- Human Rights Act 1998
- Freedom of Information Act 2000
- Care Act 2014
- Local Government Act 2000
- Serious Crime Act 2015

The council will develop and publish revised procedures necessary to implement any future legal powers.

10. Protecting Our Staff

Tamworth Borough Council will not tolerate, under any circumstance, any threats, violence or abusive behaviour towards our staff or contractors. We will take firm action against any person who shows acts of aggression towards any person carrying out their work in respect of this ASB Policy or any other service. We will involve the police if it is decided that this action is appropriate.

Where there is a risk of harm or violence from someone at an address, a 'HAT' (Harassment, Assault and Threat) marker will be added to all Tamworth Borough Council systems as a warning to staff that may come in to contact with this person

11. Supporting Policies and Strategies

This Corporate Anti Social behaviour policy links to a number of existing strategies and policies that may impact on the reduction of ASB in the borough of Tamworth. Some of these are listed below:

- TBC Allocations Policy
- TBC Tenancy Management Policy
- Tamworth Community Safety Partnership Plan
- TBC Lone Working Policy
- TBC Domestic Abuse Policy
- TBC Hate Crime Policy
- TBC Safeguarding Children and Adults at Risk of Abuse and Neglect Policy
- TBC Equality Scheme 2015-2019
- TBC Enforcement Strategy
- TBC Environmental Crime Policy

12. Comments, compliments and complaints

The Borough Council provides a wide range of services for people who live and work in Tamworth and for visitors to the town.

We want to know what you think about these services so that we can make sure that they meet our needs and expectations.

You can also take a look at our Tell Us policy which details how to make a comment, compliment or complaint.

Our Tell Us Scheme helps us to learn from your views and improve our services. However, for more serious matters you may wish to make a formal complaint.

To ensure we receive customer feedback, either positive or negative, please use our on-line form that can be found here: <http://www.tamworth.gov.uk/making-complaint> or call us on our mainline number: 01827 709709 email: enquiries@tamworth.gov.uk

13. Media Arrangements

Where possible and if it is deemed to be in the wider community interest we will publish the outcomes of court decisions taken where prosecutions have been undertaken by the Council.

14. Monitoring and Review of the Policy

We will review this policy every 3 years to ensure that any changes in legislation or best practice are included and updated.

We will consult with service users, staff, internal and external partners in the review.

The Council will maintain procedural documents for the use of ASB enforcement powers and this will be subject to scrutiny and monitoring by the Healthier and Safer Scrutiny Committee.

Any changes to policy will be subject to Cabinet approval.

19 OCTOBER 2017

**REPORT OF THE SOLICITOR TO THE COUNCIL
AND MONITORING OFFICER****FESTIVE GRANT PROPOSAL****PURPOSE**

To consider a proposal for Festive Grants across the Borough in each Ward to replace the Mayoral Hamper Scheme.

RECOMMENDATIONS

That Cabinet:

- 1. consider the Proposal for a Festive Grant Scheme**
- 2. adopt the Proposal for a Festive Grant Scheme as outlined in the report and**
- 3. agree the process to administer the Festive Grant Scheme**

EXECUTIVE SUMMARY

A Working Party consisting of 6 members (former Mayors) was proposed following the Joint Scrutiny Budget workshop in January 2016. The Working Party was tasked with looking at the current Mayoral Hamper Scheme, making suggestion for amendment and asked to feed the findings back to Cabinet.

The Working Party met on 12 October 2016 and again on 4 October 2017. The Working Party propose that £3000 allocated in the budget for Mayoral Hampers be processed each year through the Municipal Charity meeting.

The Municipal Charity Trustees meet in November each year. The Trustees of the Municipal Charity do not have a current remit to deal with monies separate from the charities account.

Alternatively the allocated amount could be processed through the Cabinet (Grants) Sub- Committee which meets 4 times each year and has a meeting in the month of December.

It is for members to decide which forum is more suitable for processing applications

for distribution of the Festive Grants in each Ward across the Borough.

The aim of utilising £3000 throughout the Borough is -
To relieve social isolation at the Festive Season

It is proposed that each Ward has £300 to be utilised for the residents of the Ward who attend a local group.

Ward members will need to get together to put their proposals for distribution of the £300 in their Ward or for the benefit of residents that reside in their Ward to the Municipal Charity meeting on 15 November 2017 or the Cabinet (Grants) Sub-Committee meeting on 20 December 2017.

If Ward members have several proposals which exceed £300 in total the Trustees of the Municipal Charity/Members of the Cabinet (Grants) Sub-Committee will decide the allocation of the funds. Such decisions are final and cannot be challenged

If a Ward does not put a proposal(s) forward or the proposal(s) are less than £300 the monies will go back into Council funds. It is not possible to carry unspent monies forward into the next financial year.

Members will need to meet soon to collate proposals whether that be through local knowledge or by putting requests for funding of an activity on the website/through the Herald with the assistance of the Communications Team. It will be up to the Ward members to decide their approach.

Nominations from members will need to be submitted no later than Monday 6 November 2017.

OPTIONS CONSIDERED

In the budget proposals for 2017/18 the budget for the mayoral hamper scheme was being removed. Members considered that this altruistic scheme should be retained. It was not considered an option to stop such charitable offering completely, thus a working party was set up to provide alternative proposals for a festive season grant in the Borough.

RESOURCE IMPLICATIONS

In this Municipal year there is budgetary provision in the sum of £3,320 for Mayoral Hampers. The proposal is to utilise £3,000 towards the proposed Festive Grant Scheme. It is proposed going forward that a sum of £3,000 is set aside in each municipal year for the proposed Festive Grant Scheme. The administration of the Scheme would be absorbed within current services as provided.

LEGAL/RISK IMPLICATIONS BACKGROUND

None.

SUSTAINABILITY IMPLICATIONS

None.

BACKGROUND INFORMATION

For many years the Mayor offered to senior citizens in the Borough a festive hamper. Senior Citizens were invited to apply for a hamper through the Website and from an article in the local newspaper. The Council also received nominations for hampers from several associations in the Borough e.g. Age Concern. The administration of the Mayoral Hampers is time consuming at a period when we have less staff resource, there was no control over the hampers delivered to outside agencies and on at least two occasions hampers did not reach local residents. Perhaps more importantly it was felt that only one social group received assistance when it would be more inclusive to widen the scope of this charitable giving to all age groups in the Borough. It was said at the Working Party that the hamper scheme had had its day.

REPORT AUTHOR

Jane M. Hackett, Solicitor to the Council & Monitoring Officer tel: 709258

LIST OF BACKGROUND PAPERS

None

APPENDICES

None

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