

CABINET

WEDNESDAY, 12TH SEPTEMBER, 2018, 6.00 PM

SECOND FLOOR, CIVIC CENTRE, WEST PADDOCK, LEYLAND,
PR25 1DH

AGENDA

1 Apologies for Absence

2 Minutes of meeting Wednesday, 11 July 2018 of Cabinet

(Pages 5 - 8)

3 Declarations of Interest

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

Leader of the Council

4 Lead the development of the Borough Community Strategy

(Pages 9 - 16)

Report of the Director of Neighbourhoods and Development attached.

5 Communicating with residents and businesses

(Pages 17 - 20)

Report of the Director of Neighbourhoods and Development attached.

Cabinet Member (Assets and Transformation)

6 30 Rhodesway, Hoghton

(Pages 21 - 28)

Report of the Director of Planning and Property attached.

Cabinet Member (Public Health, Leisure and Wellbeing)

7 New Service Delivery Model of Preventative Health

(Pages 29 - 36)

Report of the Director of Neighbourhoods and Development attached.

Cabinet Member (Strategic Planning, Housing and Economic Growth)

8 Approval of the Housing Enforcement Policy and Civil Penalties Guidance Document (Pages 37 - 96)

Report of the Director of Neighbourhoods and Development attached.

Cabinet Member (Finance)

9 Council Tax Support Scheme

Report of Specialist Consultant – Leadership and Organisational Development (to follow).

10 Corporate Peer Challenge Action plan and response to Statutory Recommendation (under Section 24 of the Local Audit and Accountability Act 2014) (Pages 97 - 114)

Report of the Chief Executive attached.

11 Cabinet Forward Plan (Pages 115 - 124)

12 Exclusion of Press and Public

To consider the exclusion of the press and public for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

By Virtue of Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Condition:

Information is not exempt if it is required to be registered under-
The Companies Act 1985

The Friendly Societies Act 1974

The Friendly Societies Act 1992

The Industrial and Provident Societies Acts 1965 to 1978

The Building Societies Act 1986 (recorded in the public file of any building society, within the meaning of the Act)

The Charities Act 1993

Information is exempt to the extent that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town & Country Planning General Regulations 1992(a).

Cabinet Member (Assets and Transformation)

13 One asset approach to refurbishment and future management of Civic Centre

(Pages 125 - 138)

Report of the Director of Neighbourhoods and Development attached.

Cabinet Member (Public Health, Leisure and Wellbeing)

14 Leisure Campus (Contract Award)

(Pages 139 - 144)

Report of the Director of Neighbourhoods and Development attached.

Joint Report of the Cabinet Members (Strategic Planning, Housing and Economic Growth/Assets and Transformation)

15 South Ribble Home Build

(Pages 145 - 170)

Report of the Director of Planning and Property attached.

Heather McManus
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Cabinet Councillors Mary Green (Chair), Caroline Moon (Vice-Chair), Warren Bennett, Susan Snape, Karen Walton and Cliff Hughes

The minutes of this meeting will be available on the internet at www.southribble.gov.uk

Forthcoming Meetings

6.00 pm Wednesday, 17 October 2018 - Shield Room, Civic Centre, West Paddock, Leyland, PR25 1DH

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MINUTES OF CABINET

MEETING DATE Wednesday, 11 July 2018

MEMBERS PRESENT: Councillors Caroline Moon (Vice-Chair), Warren Bennett, Michael Green, Karen Walton and Cliff Hughes

OFFICERS: Jennifer Mullin (Director of Neighbourhoods and Development), Jane Blundell (Deputy Section 151 Officer), Dave Whelan (Legal Services Manager/Interim Monitoring Officer), Tim Underwood (Digital Communications Officer), Rebecca Heap (Senior Community Works Officer) and Darren Cranshaw (Assistant Director of Scrutiny & Democratic Services)

OTHER MEMBERS AND OFFICERS: Councillor William Evans, Councillor Jon Hesketh, Councillor Jacqueline Mort (Member Champion (Member Development)), Councillor Michael Nathan (Member Champion (Young People and Community Safety)), Councillor Alan Ogilvie (Member Champion (Armed Forces)) and Councillor Phil Smith

PUBLIC: 0

8a Apologies for Absence

Apologies for absence were received from Councillor Mary Green and Councillor Susan Snape.

9 Minutes of meeting Thursday, 21 June 2018 of Cabinet

RESOLVED (Unanimously):

That the minutes of the meeting held on 21 June 2018 be approved and signed as a correct record.

10 Declarations of Interest

There were no declarations of any interests made at the meeting.

11 Corporate Performance Report at the end of Quarter 4 (31 March 2018)

The Cabinet considered a report by the Specialist Consultant which provided an overview of performance against the corporate plan for 2017-2018 at the end of the fourth quarter up to 31 March 2018. The Scrutiny Committee had previously considered the report.

Decision Made: (Unanimously)

That:

1. The performance at the end of Quarter 4 for 2017/18 be noted;
2. The corporate risks and controls that have been in place to mitigate risks in 2017/18 as identified in the Corporate Risk Register be noted.

Reason for Decision:

The Council's performance management framework sets out how performance will be monitored by Cabinet. The report outlined the performance at the end of the fourth quarter and included risk controls. A total of 34 performance indicators were presented with 14 showing an improvement in performance, 3 remaining the same, with 6 worsening and 11 not having comparable data at this time.

Alternative Options Considered and Rejected:

As the report was a routine performance report, other options were not relevant.

12 Refurbishment of the Coach House, Hurst Grange Park

The Cabinet considered a report from the Director of Neighbourhoods and Development seeking approval to apply for external funding from the Heritage Lottery Fund for the improvement of the Coach House Building at Hurst Grange Park, Penwortham.

Cabinet commented on the comprehensive report and that it was a positive move to attract external funding to Penwortham and South Ribble area.

Decision Made: (Unanimously)

That approval of the compiling and submission of a funding bid to the Heritage Lottery Fund be granted based on Option E of the Options Appraisal contained within the report.

Reasons for Decision:

Hurst Grange Park is the principal park in the Penwortham area and contains the Coach House, which has been identified for a number of years as requiring repairs/restoration. The Friends of Hurst Grange Park were previously successful in obtaining a Resilience Grant to look at the options available, which has led to applying for a Heritage Lottery Fund grant.

Alternative Options Considered:

A range of options for the future use and improvement of the Coach House building have been considered and consulted upon as outlined in the report.

13 Review of Discretionary Fees and Charges

The Cabinet considered a report by the former Deputy Chief Executive (Resources and Transformation), which had been updated by the Principal Management Accountant, reviewing discretionary fees and charges. Updates were provided to clarify that it was in January 2018, not February that Full Council received a report to

set discretionary fees and charges for the 2018/2019 financial year. The reference to appendix A in the first recommendation was also to be removed.

It was highlighted that the review dealt with the fees and charges that the Council had discretion to set, with the exception of car parking charges, which would be subject to a future report. The report also recommended the removal of charges for the treatment of domestic properties for rats and mice.

Decision Made: (Unanimously)

That

1. the 2.5% increase to standard charges from 1 August 2018 be approved;
2. the removal of all charges for the treatment of domestic properties for rats and mice be approved;
3. the policy for building control fees detailing the new rates to be implemented from 1 August 2018 be approved;
4. the increases to Fixed Penalty Notices that had been previously approved and are in place be noted;
5. the increase in 25% on Pre-Planning Advice be approved;
6. the introduction of a £50 fee for pre-planning advice to householders be approved; and
7. the generation of an additional income of £100k due to the increases in a full year, some of which is directly related to increases in the cost of service delivery be noted.

Reasons for Decision:

As part of agreeing the budget and medium term financial strategy for 2018/2019 a target of additional income from fees and charges was set at £60,000, increasing to £121,000 in 2019/2020.

Alternative Options Considered:

There are other options available for Cabinet on what rates of increase, if any, should be applied. The proposals reflect current market conditions, are comparable to those charged by other North West councils. Recognised indices have also been used where it is proposed that an inflationary increase be applied.

Chair

Date

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
Lead the Development of the Borough Community Strategy	Leader of the Council	Director of Neighbourhoods and Development

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	No
Is this report on the Statutory Cabinet Forward Plan ?	No
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 To update Cabinet on progress with the development of South Ribble's Community Strategy; the reasons why the strategy is being developed and intended outcomes.

2. PORTFOLIO RECOMMENDATIONS

- 2.1 Cabinet to receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.

REASONS FOR THE DECISION

The reason for the report is to provide Cabinet with an update on progress with Developing the Community Strategy, as a key project within the Corporate Plan.

3. CORPORATE PRIORITIES

- 3.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	
Place	✓

Projects relating to People in the Corporate Plan:

4. BACKGROUND TO THE REPORT

4.1 South Ribble Borough Council committed in its Corporate Plan to a strong working relationship with the Partnership and identified a number of areas that it would like to work with Partners. Identified were a number of areas for focusing partnership work, which included;

- ▶ Development of the Borough Community Strategy
- ▶ Supporting Communities and Volunteering (Volunteer Strategy)
- ▶ Tackling Social Isolation and Loneliness
- ▶ Influencing the Lancashire Mental Health Strategy

4.2 Following the approval of the Corporate Plan, the South Ribble Partnership strategic board met, 13th April 2018, and acknowledged its current strategy (2008-2020) is no longer fit for purpose and agreed to a complete redesign of the Community Strategy.

4.3 As part of the development of the strategy, the involvement of members and the Council will directly support the commitment, within the Corporate Plan, to work collaboratively with a wide range of public sector agencies, and businesses and seek to improve outcomes for local people and communities through having a strong voice for South Ribble.

4.4 The Council already plays a key role within the Partnership; the Leader of the Council is the Partnership's Vice Chair and the Chief Executive has a seat on the Strategic Board and is further represented in the key task group delivering the Community Strategy project.

4.5 The aim of the project is to develop a Community Strategy owned by partners across all sectors as well as the wider community; and that each participant understands their role, responsibility and are actively participating in its delivery.

5. DETAILED CONSIDERATION

5.1 The development of the Community Strategy is set against the background of local and national transformation journeys, together with the Council's own commitment to transformation and developing its services.

5.2 The District Council's Network (DCN) recently published a '**Transformation in Localities**' toolkit. It recognised that district councils are on the front line and is the key local organisation with the democratic mandate and are the 'gatekeepers' to the consensus that is essential to underpin public sector reform. The toolkit sets out the principles of collaboration and of those the most pertinent are that collaboration is;

- ▶ Driven by a place based vision for success
- ▶ Responsive to a detailed understanding of locality, residents and businesses
- ▶ Consensus led and supportive of aspirations of place based partners

- 5.3 Moving 'intention to action' with respect to collaboration and partnership working; it is essential that there is 'time' and 'space' for partners to come together at all levels in order to make it work. The development of the South Ribble Community Strategy and the role of South Ribble Partnership is a key component in facilitating collaboration through establishing a structure to provide the time and space needed to place based partners.
- 5.4 The Transformation Toolkit further recognises a significant role for district councils with regards early prevention and intervention. District Councils are providers of key preventative services such as housing, homelessness, leisure and environmental health and it is important that health partnerships recognise the role of these services as part of the local health system.
- 5.5 This work has already begun with 'Our Health Our Care' and the Central Lancashire Prevention and Early Intervention Framework. The framework advocates a 'place based' approach to strengthen and maintain physical and mental wellness as well as building resilience in communities and aiding recovery. The framework has been developed against the backdrop of national, regional and local plans and can be linked back to the Sustainability and Transformation Plans, STPs (Lancashire and Cumbria).
- 5.6 The approach seeks to adopt and work towards:
- ▶ A fundamental shift in thinking towards prevention, wellbeing and place
 - ▶ Developing new skills for the wider public service workforce
 - ▶ A new relationship between public services and citizens
 - ▶ Alignment with wider clinical and non-clinical transformation strategies
- 5.7 The framework acknowledges there is not a 'one size' fits all and that localities need to be at the heart of shaping this place based approach. South Ribble will as part of the Community Strategy design process use all the information that has been collated, to develop an early action, prevention and intervention framework that is South Ribble Focused and meets the needs of residents and all those who work as well as visit the Borough.
- 5.8 **The Role of South Ribble Partnership**
 In shaping and designing Council services, the role of partnership working will be a critical vehicle in developing a place based approach and the Community Strategy will be at its heart. The role of the Partnership in the development of a Community Strategy has two key aims
- ▶ A redefinition of the relationships between citizen and organisation
 Recognition that the council cannot do everything for everyone. Creating a new relationship were both agree to support and provide different things to achieve the same goal
 - ▶ A strategy that is coproduced and owned
 Those involved within the strategy will have sufficient stake and ownership that they will be involved actively in its delivery
- 5.9 The proposal accepted by the Strategic Board adopted a collaborative approach, involving communities; residents, businesses and service delivery organisations.
- 5.10 **What we will be doing**
- ▶ Consulting with residents, members, community groups, businesses and service delivery organisations to define the community strategy; identify the hopes, aspirations and priorities that are important to us all
 - ▶ Engage with members throughout the process and deliver a members learning hour on the 17th September 2018

- ▶ Identify opportunities for collaboration with partners when undertaking consultation
- ▶ Establish an on-going dialogue and redefine the relationship between residents, community groups, businesses and service delivery organisations so that they can influence decisions and can shape/define projects
- ▶ The Central Lancashire Local Plan, the strategic land use plan for the area, is also currently being reviewed. It is important that the Local Plan and the Community Strategy align with each other so that they both contribute to the shared vision for the Borough.
- ▶ Develop the Volunteer Strategy alongside the Overarching Community Strategy, combining consultation and engagement activities to inform and design
- ▶ Identify the best structure for the Partnership to deliver its strategy and be accountable to its partners and the community
- ▶ Set out the actions agreed by Partners stating who will deliver what, by when, and how.

5.11 Key Milestones

- ▶ Approval from the Board to undertake Programme and allocation of finance Apr 18 **(COMPLETED)**
- ▶ Consultant Appointed MAY 18 **(COMPLETED)**
- ▶ Stakeholders Identified and agreed MAY 18 **(COMPLETED)**
- ▶ Survey and question framework developed and agreed May 18 **(COMPLETED)**

Engagement Stages

- ▶ Stage 1 – May/July 18 **(COMPLETED)**
 - Interviews, Survey's and data analysis completed (IN PROGRESS)
 - Community Engagement events completed
- ▶ Stage 2 – June/July/August/Sep18 **(IN PROGRESS)**
 - Workshop Session Day 1 – Outcome is to develop a draft skeleton strategy **(COMPLETED)**
 - Workshop Session Day 2 – Outcome is to begin defining and giving detail to the strategy SEP 2018
- ▶ Stage 3 Oct/Nov 2018
 - Draft Strategy submitted to Scrutiny Committee Nov 18
 - Final Strategy Approved by Partnership Board Dec 18
 - Strategy Launched at Big Do January 18

5.12 Project Management

The project is being delivered by a Task Group. This task group is chaired by Chief Inspector Mike Adamson and Vice Chaired by Linda Alcock (Progress Housing Group)

5.13 The group meets monthly to receive updates and monitor progress.

5.14 Consultancy Support

To support the Partnership Manager and the Task Group a consultant has been recruited to develop key materials, support interviewing and to deliver 2 key workshops. The purpose of the consultant is to provide the required capacity to deliver the strategy within the timescales set and to further provide impendence in the process and a critical friend.

5.15 The consultant is directly responsible to the Partnership Manager on a day to day basis, but will report periodically to the Task Group.

5.16 Neighbourhood and Community Summit Day (PoWWow)

A proposal is being developed to deliver a Neighbourhood and Community Summit day, 28th September. The purpose is to bring together those organisations as well as groups and residents who are interested in ‘getting involved’ and ‘participating’ in community. This will help develop and inform the volunteering strategy and framework that will be critical in supporting the delivery of the overarching community strategy.

5.17 The day will be a conference in its style with key speakers and seminar breakout groups. The organisations that will be invited to speak and lead workshops, will be currently delivering models of participation and engagement in other areas of the UK. Links have already been made and a number of speakers have agreed to take part.

5.18 As a result of the workshops, we will expect to see organisations and active citizens defining the model for South Ribble, and what it looks like and the infrastructure they need to be active and participate in Community life; which will support the Council in its overall objective of continuing to deliver excellent services to the residents and people who work and visit South Ribble.

6. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

6.1 In developing the plans and process for the Community Strategy, the Strategic Board had been consulted on 13th April. Following that consultation they approved the process and budget to undertake the refresh of the Community Strategy.

6.2 As the programme progresses there is a programme of consultation to inform and develop the strategy. Key stakeholders and groups had been identified in the initial proposal and these are being engaged as phase 1 of the consultation process.

6.3 The results of the consultation will be presented as part of the findings at each Workshop and in the final strategy document.

7. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7.1 The alternative option was to do nothing and continue with the existing strategy until 2020. However the current strategy was not fit for purpose. However it was composed in 2008 and designed against the backdrop of Local Area Agreements. The partners around the table are different, the environment in which the Partnership operates is different and its financial resources are limited. Therefore the Partnership need to completely consider its strategy and structure to ensure it is fit for purpose and can support a co-ordinated and effective cross sector approach to public sector reform across South Ribble.

8. FINANCIAL IMPLICATIONS

8.1 The finance for the project is being met by the Partnership’s residual Performance Reward Grant. It has committed the following expenditure;

Item	£ Net	
Consultancy Support	£10,000	Maximum of £10,000
Visual Scribing	£1,500	Specific scope provided
Running Costs	£2,000	To meet any costs for printing, meetings, workshops etc.

Strategy Launch (BIG DO)	£3,000	To support the BIG DO event in October 2018
Contingency	£2,500	Delegated to SRP Manager for spends under £500 for ongoing Partnership costs in general

9. LEGAL IMPLICATIONS

9.1 None

10. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

10.1 The strategy will inform the Council's own Corporate Plan and priorities in the future which may have organisational development implications.

11. ICT/TECHNOLOGY IMPLICATIONS

11.1 None

12. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

12.1 The Community Strategy will be used to support the delivery of the property and asset management strategy.

13. RISK MANAGEMENT

13.1 A risk log is maintained on GRACE and summary of the key risks relating to success of the project are;

- ▶ Lack of engagement from stakeholders on attending workshops or responding to consultation methods
- ▶ Resources/Capacity will not allow for every single type of partner to be engaged and as a result key partners or ones crucial to success could be missed.
- ▶ Consultant is unable to deliver required outputs
- ▶ Project drift
- ▶ Capacity of Partners to engage
- ▶ Poor quality of feedback, outputs from consultation and engagement events
- ▶ Project Schedule Slippage - a tight schedule with end date of September 2018 for final draft

13.2 In managing the risk the Community Strategy Task Group meet monthly too address any major issues that arise. Existing risks are mitigated with a clear budget set for the project as well as stakeholder assessment and identification to ensure we target key partners.

13.3 A range of consultation methods are also being used to gather a wide range of views and then cross referenced against knowledge of partners.

14. EQUALITY AND DIVERSITY IMPACT

14.1 Equality has been carefully considered budget has been placed within the project to accommodate any reasonable adjustments to ensure individuals and groups are able to engage in the process.

- 14.2 Stakeholder analysis has also identified key groups with protected characteristics which will be engaged to ensure their views and ideas are considered.
- 14.3 Before approving the strategy an equality impact assessment will also be undertaken and submitted to the Strategic Board.

15 RELEVANT DIRECTORS RECOMMENDATIONS

- 15.1 To receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.

16 COMMENTS OF THE STATUTORY FINANCE OFFICER

- 16.1 The expenditure committed to this project is set out in the financial implications. There are no budgetary implications as these costs can be funded from residual Performance Reward Grant funding which is set aside in earmarked reserves.

17 COMMENTS OF THE MONITORING OFFICER

- 17.1 There are no legal issues or concerns that need to be raised or discussed. Clearly the Council cannot do everything that it would wish acting alone and to realise its vision for the borough it needs to work effectively with its partners – the development of a community strategy is key to achieving that goal.

18 BACKGROUND DOCUMENTS (or There are no background papers to this report)

- 18.1 Mapping Presentation to the Strategic Board 13th April
- 18.2 Project Initiation Document v3
- 18.3 Transformation in Localities Toolkit, District Councils Network, May 2018
- 18.4 Central Lancashire Prevention and Early Intervention Framework, Our Health Our Care

21. APPENDICES

There are no appendices to this report

Jennifer Mullin

Director of Neighbourhoods and Development

Report Author:	Telephone:	Date:
Howard Anthony, Partnership Manager	01772 625546	03/07/2018

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
Communicating with residents and businesses	Leader of the Council	Chief Executive

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	No
Is this report on the Statutory Cabinet Forward Plan ?	No
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 To propose the way the Council will communicate with residents and businesses in the borough until April 2019.

2. PORTFOLIO RECOMMENDATIONS

- 2.1 Cabinet approve the production of three Forward newspapers the first produced in October 2018, second in December 2018 and the third edition in March 2019.
- 2.2 Cabinet approve a delivery method of the paper edition of Forward from a combination of both Option one Council employees will had deliver the editions and Option two where Council staff will ensure the paper is available in community buildings.
- 2.3 Cabinet approve the evaluation of both the paper edition of Forward and e-mail newsletter with a report of the evaluation being presented to Cabinet at a future date.

REASONS FOR THE DECISION

A Communications Strategy was developed in 2017 that would transform how we communicate with our key stakeholders. One of the objectives in the medium-term action plan was to undertake a rigorous and evidence-based review of the Forward newspaper. The report sets out below the recommendations for the delivery of three Forward newspapers this financial year and the development of a new way of communicating via an electronic mailing system.

3. CORPORATE PRIORITIES

- 3.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	✓
Health and Wellbeing	
Place	

Projects relating to People in the Corporate Plan:

People	
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4. BACKGROUND TO THE REPORT

- 4.1 In March 2017 a Communications Strategy was approved by the Cabinet. One of the objectives in the medium-term action plan was to undertake a rigorous and evidence-based review of the Forward newspaper, to review its effectiveness, cost, demand on resources and ways to simplify the process.
- 4.2 On the 6th September 2017 a proposal to establish a cross party member working group to review the way the Council should communicate with residents and businesses in the borough in the future was approved by Cabinet.
- 4.3 The cross party group met to discuss the options for the future which were:
- ▶ Continuing to produce Invest (for business) and Forward (for residents), supplemented by existing social media channels (no change)
 - ▶ Merging the two publications as a new product aimed at both businesses and residents, supplemented by existing social media channels
 - ▶ Continuing to produce the Invest newsletter, but to distribute Forward as an e-newsletter with the option for residents to select areas / services they are most interested in hearing news about, supplemented by existing social media channels
 - ▶ Cease all production of paper newsletters in favour of electronic means
- 4.4 A presentation was made to the group detailing the current position in relation to communicating with both residents and businesses. This included the methods and costs of existing mechanisms. Information was also provided on current communication trends nationally and resident preferences identified in the 2017 Residents' Survey.

5 PROPOSALS

- 5.1 A full investigation was undertaken into email newsletter distribution software, which enables organisations to issue attractive newsletters (based on simple templates) with links to more detailed information. This approach facilitates quick and effective evaluation through access to statistics on how many recipients have opened the newsletter and how many have clicked through to more information. This can subsequently be used to target future communications more effectively and enables newsletters to be customised to very specific audiences, e.g. small businesses as well as to a general audience.
- 5.2 Following this investigation and recommendations of the cross working party, new email distribution software was purchased.
- 5.3 The Council's website is integral to this process as the electronic newsletters will be accessed via the website. The website is currently being reviewed to ensure that it can be

accessed using mobile technology and once this is in place the distribution software can be used to communicate with our residents.

5.4 As the Council is not in a position to go ahead with the electronic newsletter due to the web site review, it is proposed to produce three printed editions of Forward newspaper. The editions will be produced in October 2018, December 2018 and March 2019.

5.5 As part of the Council's priorities of being an efficient, effective and exceptional Council it is prudent to re-consider delivery options and costs:

Option1: Council employees hand deliver to every household in the district at an estimated cost of £6,500.

Option 2: Arrange for postal delivery at an estimated cost of £8,000.

Option 3: Council staff will ensure the paper is available in community buildings, such as the Council offices and leisure centres and be made available for members to hand deliver to their residents.

5.6 The Communications team will continue to seek feedback on the value of Forward newspaper and views will be sought from our residents in the next scheduled residents' survey and in the next paper editions of Forward when residents will be asked if they wish to continue to receive it.

5.7 Once the e-mail distribution is up and running a review of both the e-mail and paper Forward, via the analytics provided by the software and in the residents' survey, will be undertaken and a report of the evaluation will be presented to Cabinet at a future date for a decision on whether to continue with Forward newspaper in the longer term.

6 FINANCE IMPLICATIONS

6.1 The production and printing with the third delivery option and e-mail distribution software will be delivered through existing resources within the Council's communications budget. If options one or two are chosen there will have to be a process of centralising costs associated with communications, advertising and promotion.

7. LEGAL IMPLICATIONS

7.1 None

8. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

8.1 None

9. ICT/TECHNOLOGY IMPLICATIONS

9.1 The Communications team will be working closely with the ICT team to ensure that the website is able to be accessed via mobile technology to ensure the electronic newsletter is accessible.

10. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

10.1 None

11. RISK MANAGEMENT

11.1 A team has been established which will guide the Council’s work towards delivering this project. A project plan will be developed and key milestones will be monitored by the project group.

12. EQUALITY AND DIVERSITY IMPACT

12.1 There are many positive equality implications emerging from the recommendations in this report. Every resident, regardless of demographic or geographic factors, will be able to receive current, up to date and useful information on public services and activities within their community.

13. RELEVANT DIRECTORS RECOMMENDATIONS

13.1 Cabinet approve the production of three Forward newspapers the first produced in October 2018, second in December 2018 and the third edition in March 2019.

13.2 Cabinet approve a delivery method of the paper edition of Forward from a combination of both Option one Council employees will had deliver the editions and Option two where Council staff will ensure the paper is available in community buildings.

13.3 Cabinet approve the evaluation of both the paper edition of Forward and e-mail newsletter with a report of the evaluation being presented to Cabinet at a future date.

14. COMMENTS OF THE STATUTORY FINANCE OFFICER

14.1 The report considers options for more efficient and effective communication with residents and businesses. The financial implications are set out in the body of the report.

15. COMMENTS OF THE MONITORING OFFICER

15.1 There are no issues or concerns to raise from a Monitoring Officer perspective.

16. BACKGROUND DOCUMENTS

16.1 There are no background papers to this report

17. APPENDICES

17.1 There are no appendices to this report

Report Author:	Telephone:	Date:
Jennifer Mullin Director of Neighbourhoods and Development	01772 625329	23/07/18

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
30 Rhodesway, Hoghton	Assets and Transformation	Director of Planning and Property

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	No
Is this report on the Statutory Cabinet Forward Plan ?	No
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 This report provides an update to a Cabinet Report dated 6 November 2013 in respect of the property known as 30 Rhodesway, Hoghton, Preston, PR5 0JY. That report concerned the detrimental Impact of said property on the environment and amenity of the local area, providing options to deal with the property and recommends a way forward.

2. PORTFOLIO RECOMMENDATIONS

It is recommended that Cabinet:

Authorises the Interim Assistant Director of Property & Housing to continue negotiations and seek to conclude terms to acquire the property by agreement, in an attempt to avoid the need for a Compulsory Purchase Order (CPO), and to instruct the Legal Services Manager to draft the necessary documents and to execute such documents.

- 2.1 Subject to the outcome of the negotiations, Authorises the use of the powers of compulsory purchase and to authorise the making of an Order under Section 17 of the Housing Act 1985 (as amended) and all other powers as appropriate for the compulsory purchase of land for the purpose of re-sale and renovation in accordance with the Council's Empty Properties Policy 2013; namely 'The South Ribble (30 Rhodesway Hoghton) CPO 2013'.

That the Legal Services Manager be authorised:

- 2.2 To take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all notices, and the presentation of the Council's case at any Public Inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be, the execution of General Vesting Declarations.
- 2.3 To negotiate and enter into agreements and undertakings, prior to or following the making of the Order, with any owners of any interest in the land effected by the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order and to authorise the Interim Assistant Director of Property & Housing

and Legal Services Manager to draft, agree and execute all necessary legal documents to record any such agreements and/or undertakings;

- 2.4 To authorise the Legal Services Manager to appoint suitable Counsel to advise and represent the Council at any Public Inquiry held in respect of the Order and to provide legal support to the project team through the process;
- 2.5 That following the confirmation of the CPO or acquisition by agreement, that the Interim Assistant Director of Property & Housing be authorised to enter into negotiations with a purchaser, identified following a marketing exercise and agreed in consultation with the Cabinet Member for Assets and Transformation, for the disposal and renovation of the property with minimal financial impact to the Council, to bring it back to a habitable condition for occupation.
- 2.6 The Legal Services Manager to approve and execute all legal documentation that is considered necessary to give effect to the above.

3. REASONS FOR THE DECISION

- 3.1 The Council believes that the proposals for the CPO are necessary for the following reasons:
 - The property has been vacant for over fourteen years, having been registered as empty since April 2002 on Council Tax records;
 - The Council has sought to bring the property into acceptable use by way of negotiation to no avail;
 - The Council has made repeated attempts to acquire the property by agreement;
 - No works have been carried out to remedy the sub-standard condition and contribute to the property's re-use for housing purposes, despite having highlighted its condition and its effect on adjoining and neighbouring properties; and
 - The compulsory purchase will achieve a clear housing gain by bringing a sub-standard property back into residential use.
- 3.2 Accordingly, the Council considers there to be no other prospect of the property being brought back into residential use. This is consistent with the Council's Empty Properties Policy (adopted 4 September 2013), which is used to identify and tackle properties that have been vacant for a long time and are causing problems for neighbouring properties and residents.

4. EXECUTIVE SUMMARY

- 4.1 The property is a two-bed semi-detached bungalow incorporating integral garage and drive way with gardens to front and rear. It is situated in a semi-rural location on a residential street known as Rhodesway in the parish of Hoghton.
- 4.2 The dwelling is in very poor condition having been vacant and unoccupied since at least April 2002. The dwelling is uninhabitable and its condition is affecting the adjoining property, 28 Rhodesway.
- 4.3 Negotiations have been undertaken with the Reputed Owner in respect of the property with frequent requests made to both the Reputed Owner and solicitors acting on his behalf since

September 2013. The Reputed Owner has not taken any meaningful steps to remedy the disrepair, or bring the property back into residential use.

- 4.4 Section 17 Housing Act 1985 empowers the Council to acquire housing by compulsion and involves an application to the Secretary of State for confirmation of the CPO. One of the main uses of this power is to bring empty properties into housing use and to improve substandard or defective properties.
- 4.5 As a last resort, it is recommended that the Council uses its powers of compulsory purchase to bring this vacant, sub-standard property back into residential use. It is estimated that the net cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000.
- 4.6 Should the Order be confirmed it is to be recommended that the property will be offered for sale by way of either a building agreement requiring works be complete within a 12-18 month period, or a conditional contract containing a schedule of works.

5. CORPORATE PRIORITIES

5.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	✓
Place	✓

Projects relating to People in the Corporate Plan:

People	
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6. BACKGROUND TO THE REPORT

- 6.1 The property is a two-bed semi-detached bungalow incorporating integral garage and drive way with gardens to front and rear. It is unregistered land. The property is situated in a semi-rural location on a residential street known as Rhodesway in the parish of Hoghton.
- 6.2 The dwelling is in very poor condition having been vacant and unoccupied since at least April 2002. In that time, the dwelling has fallen into significant disrepair and is deteriorating severely both internally and externally. The dwelling is now uninhabitable and its condition is affecting the adjoining property, 28 Rhodesway.
- 6.3 The state of obvious neglect not only impacts negatively on the adjoining owner but also on the surrounding community. A unit of much needed family sized accommodation is being withheld from a market where there is established demand.
- 6.4 The dwelling is reputed to be owned by a private individual ("the Reputed Owner"). The Reputed Owner was last known to live in private rented accommodation in Lancaster. The Council have made numerous attempts to encourage the Reputed Owner to provide evidence of his interest in the dwelling and to bring about the improvement and reoccupation of the dwelling. The dwelling, however, remains neglected and unoccupied.
- 6.5 One of the key responsibilities of local authorities is to preserve their housing stock. The Housing Act 2004 places duties on local authorities to review housing standards within their districts and take enforcement action where necessary. The Housing Act 1985 (Section 17)

enables local authorities to acquire underused property land for housing. The Town and Country Planning Act 1990 (section 226) also allows local authorities to acquire land, where such acquisition will lead to the improvement of an area. In response to the above the Council has both a Housing Framework, which identifies empty properties as a priority, and an Empty Properties Policy.

- 6.6 Negotiations have been undertaken with the Reputed Owner in respect of the property, however the Council has yet to receive evidence of his legal interest in the property despite frequent requests having been made to both the Reputed Owner and solicitors acting on his behalf since September 2013. The Reputed Owner has not taken any meaningful steps to remedy the disrepair, or bring the property back into residential use.

7. PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)

- 7.1 The property has been registered empty since 1 April 2002. It is in a poor state of repair and is not deemed fit for habitation by the Council's Environmental Health Team. The adjoining semi-detached property is also affected by the disrepair.
- 7.2 Despite the best efforts on the part of the Council, the property has continued to remain empty, resulting in a deterioration in its condition and causing problems in the immediate neighbourhood. Therefore, as a last resort, it is recommended that the Council uses its powers of compulsory purchase.
- 7.3 The proposals in the report link to the Council's Corporate priority of a clean, green and safe Borough; also with the priorities of strong and healthy communities, and an efficient and effective Council.

8. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

- 8.1 Officers from Legal and Finance have been consulted and comments reflected in the report.

9. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Option 1 – No Action

- 9.1 Take no action. There are obvious problems and issues with this position and the property will continue to blight the neighbourhood. It will also continue to decline, potentially resulting in vandalism and the property becoming a dangerous structure.

Option 2 – Disrepair Notice

- 9.2 Serve a statutory disrepair notice and carry out the work in default. However, the Council would have to fund the cost of repairs, and then place a land charge on the property. This will cost approximately £65,000 after taking into account estimated professional fees and officer time. This could potentially leave the property empty as the party believed to be the Reputed Owner has indicated that he is unlikely to return, and the financial cost is likely only to be recovered on disposal of the property.

10. FINANCIAL IMPLICATIONS

- 10.1 It is estimated that the net cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000. This will reflect all compensation due to the owner under the CPO procedure and the receipts realised on sale which in turn depend on the costs of renovation.

- 10.2 If negotiations to purchase by agreement are successful this net cost will fall to approximately £13,500 to £16,500.
- 10.3 If the Reputed Owner does not come forward to provide evidence of ownership and receive their market value compensation, the General Vesting Declaration procedure will be followed and payment will be made in to Court. After a period of 12 years, if the owner has not come forward to claim payment, the Council can request money back from the Court.
- 10.4 The project budget includes an estimate for the costs associated with the CPO process excluding a public inquiry. This estimate allows for the costs of surveyors / solicitors fees and would exclude any references to the Lands Tribunal in respect of compensation.

11. LEGAL IMPLICATIONS

- 11.1 A CPO is the final sanction available to the Council to improve substandard private sector housing where persuasion or statutory notices have failed.
- 11.2 Section 17 Housing Act 1985 empowers the Council to acquire housing by compulsion and involves an application to the Secretary of State for confirmation of the CPO. One of the main uses of this power is to bring empty properties into housing use and to improve substandard or defective properties with current practice for authorities acquiring land or property compulsorily being to dispose of it to the private sector, housing associations or owner-occupiers.
- 11.3 This route can be lengthy if objections are received (possibly 18-24 months) and the Council must demonstrate that attempts have been made to work with the owner on a voluntary basis and that the human rights of the owner are not contravened.
- 11.4 While an authority should use compulsory purchase powers where it is expedient to do so, in considering whether to confirm the CPO the Secretary of State will need to be convinced that there is a “compelling case in the public interest for compulsory acquisition” and Members should apply a similar test before authorising its making on the balance of the information contained in this report.
- 11.5 When considering whether to confirm such an order the Secretary of State will normally wish to know the length of time the property has been vacant, steps which the authority has taken to encourage the owner to bring it into acceptable use and what works have been carried out by the owner towards its reuse for housing purposes.
- 11.6 The acquiring authority is also expected to show that if compulsory acquisition is authorised this is likely to bring the property back into residential use. As already noted the recommendation in this report, the recommendation is to proceed with the CPO. Should the Order be confirmed it is to be recommended that the property will be offered for sale by way of either a building agreement requiring works be complete within a 12-18 month period, or a conditional contract containing a schedule of works.
- 11.7 Those receiving notice of the making of the CPO have a right to object and, if they wish, have their objections heard at a local public inquiry. As acquiring authority, the Council will need to make the case for the Order at any inquiry. The CPO does not take effect until confirmed by the Secretary of State. However, once the Order is confirmed an affected party aggrieved by the decision would have a further six weeks after receiving notification of the confirmation to challenge the decision in the Administrative Court on a point of law. This could result in the Order, or the decision to confirm it, being quashed in whole or in part.
- 11.8 In addition to the above the Council may enter into an agreement prior to the making of the CPO for the acquisition of the property (rather than by use of CPO powers). The Council has the power pursuant to s120 of the Local Government Act 1972 to acquire land by agreement. Therefore, the Interim Assistant Director of Property & Housing will continue to try to engage

with the owner but should this not proceed an application to the Secretary of State will be made for confirmation of a CPO.

11.9 Once this is confirmed the Interim Assistant Director of Property & Housing will arrange for the property to be marketed for sale to identify a buyer who is prepared to commit to its renovation and reoccupation, ensuring that a full marketing exercise is carried out and that the buyer provides value for money. The Council will then enter into a 'back to back' transaction to minimise any financial risk to the Council.

11.10 At this stage the Legal Services Manager will give Notice to all parties of an intention to make a General Vesting Declaration (GVD) which transfers legal ownership to the Council. 28 days after making the GVD the Council will be in a position to transfer the property to a buyer subject to a building license or conditional contract which requires a schedule of works to be carried out.

12. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

12.1 There are no human resource implications that arise from the scheme.

13. ICT/TECHNOLOGY IMPLICATIONS

13.1 There are no ICT/Technology implications that arise from the scheme.

14. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

14.1 This will return a long term empty home back into use and improve the surrounding area

15. RISK MANAGEMENT

Compensation awarded to the owner of the Land's Tribunal is higher than anticipated

15.1 The figures assembled to date reflect all statutory payments, costs and compensation to which the owner is entitled under current legislation. The market value of the property in its current condition will be tested as part of the resultant marketing exercise to attract a bidder to purchase and renovate and the disposal will be back-to-back to minimise the liability to the. Unless there are any significant unforeseen complications, the risk is considered slight.

Purchaser does not carry out the agreed works

15.2 The property will be sold subject to a building license or conditional contract. In the event of a failure to bring the property back into good repair within 12-18 months, the Council will be able to take the property back and identify an alternative party with whom to treat.

Objections to CPO and a public inquiry is required

15.3 It is not possible to accurately assess the costs of a public inquiry and there is a risk that the CPO will not be confirmed as a result of representations at the public inquiry or a subsequent judicial review. The strength of the Council's case as set out above mitigates this risk.

16. EQUALITY AND DIVERSITY IMPACT

16.1 There are no equality or diversity implications that arise from the scheme.

17. RELEVANT DIRECTORS RECOMMENDATIONS

It is recommended that Cabinet:

- 17.1 Authorises the Interim Assistant Director of Property & Housing to continue negotiations and seek to conclude terms to acquire the property by agreement, in an attempt to avoid the need for a Compulsory Purchase Order (CPO), and to instruct the Legal Services Manager to draft the necessary documents and to execute such documents.
- 17.2 Subject to the outcome of the negotiations, Authorises the use of the powers of compulsory purchase and to authorise the making of an Order under Section 17 of the Housing Act 1985 (as amended) and all other powers as appropriate for the compulsory purchase of land for the purpose of re-sale and renovation in accordance with the Council's Empty Properties Policy 2013; namely 'The South Ribble (30 Rhodesway Houghton) CPO 2013'.

That the Legal Services Manager be authorised:

- 17.3 To take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all notices, and the presentation of the Council's case at any Public Inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be, the execution of General Vesting Declarations.
- 17.4 To negotiate and enter into agreements and undertakings, prior to or following the making of the Order, with any owners of any interest in the land effected by the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order and to authorise the Interim Assistant Director of Property & Housing and Legal Services Manager to draft, agree and execute all necessary legal documents to record any such agreements and/or undertakings;
- 17.5 To authorise the Legal Services Manager to appoint suitable Counsel to advise and represent the Council at any Public Inquiry held in respect of the Order and to provide legal support to the project team through the process;
- 17.6 That following the confirmation of the CPO or acquisition by agreement, that the Interim Assistant Director of Property & Housing be authorised to enter into negotiations with a purchaser, identified following a marketing exercise and agreed in consultation with the Cabinet Member for Assets and Transformation, for the disposal and renovation of the property with minimal financial impact to the Council, to bring it back to a habitable condition for occupation.
- 17.7 The Legal Services Manager to approve and execute all legal documentation that is considered necessary to give effect to the above.

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18. COMMENTS OF THE STATUTORY FINANCE OFFICER

- 18.1 The estimated net capital cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000, including all compensation due to the owner under the CPO procedures and the receipts realised on sale. The scheme was previously included in the Housing Strategy capital budget but was removed from the capital programme due to the uncertainty of timing of the process. The budget will need to be reinstated and can be funded from capital receipts previously earmarked for this scheme. The figure will alter depending on any changes to the estimates costs of renovation.
- 18.2 If negotiations to purchase by agreement are successful this net cost will fall to approximately £13,500 to £16,500. If the owner does not come forward to evidence the ownership of the property and receive their market value compensation, payment will be made into Court and after a period of 12 years, if the owner has not come forward to claim payment, the Council can request the money back from the Court.

18.3 Bringing the property back into use will generate additional council tax revenue.

19. COMMENTS OF THE MONITORING OFFICER

19.1 In terms of Human Rights Acts implications, Government advice is that local authorities must strike a fair balance between the demands of the community and the need to protect an individual's fundamental rights. In considering the balance, one of the issues that a court would look for is whether compensation is negotiable between the Council and the property owner's valuer or fixed by the Land's Tribunal in the absence of agreement. In addition, individual rights are protected by the statutory object and inquiry procedure.

19.2 The statutory process outlined above will be followed once Members have approved the way forward.

20. BACKGROUND DOCUMENTS (or There are no background papers to this report)

Previous Cabinet Report (6 November 2013)
Empty Homes Policy
Enforcement Policy
Register of Activities

21. APPENDICES

Site Plan

Jonathan Noad
Director of Planning and Property

Report Author:	Telephone:	Date:
Cath Conroy	01772 62 5228	23 rd July 2018

REPORT TO	ON
SCRUTINY CABINET	30 August 2018 12 September 2018



TITLE	PORTFOLIO	REPORT OF
New Service Delivery Model of Preventative Health	Public Health, Leisure and Wellbeing	Director of Neighbourhoods and Development

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	No
Is this report on the Statutory Cabinet Forward Plan ?	Yes
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 To inform Cabinet about the initial stages of development of a new service delivery model of preventative services. Including the proposal to establish a cross party member working group on Health and Wellbeing with the terms of reference to make recommendations to Cabinet on the Health and Wellbeing agenda.

2. PORTFOLIO RECOMMENDATIONS

- 2.1 To receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.
- 2.2 Approve a Cross Party Working Group on Leisure, Health and Wellbeing managed by Democratic Services. The terms of reference for this group would be to make recommendations to the Cabinet on the Leisure, Health and Wellbeing agenda.

REASONS FOR THE DECISION

The reason for this decision is to position ourselves at the forefront of the discussion of re-shaping the debate on wellbeing and prevention. Moving away from a medical model of care based on the treatment of disease and towards a holistic view of the promotion of person-centred wellbeing and healthy lifestyle choices.

3. CORPORATE PRIORITIES

- 3.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
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Health and Wellbeing	✓
Place	

Projects relating to People in the Corporate Plan:

People	
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4. BACKGROUND TO THE REPORT

- 4.1 South Ribble Borough Council is committed in its Corporate Plan to wellbeing for all: promoting healthy living and improving the quality of life for our growing population into the future, improving awareness of dementia and of how to support people with dementia their families and supporting our aging population.
- 4.2 As a district council we are focused on improving quality of life and working to reduce problems for our residents and businesses one family, street and place at a time. As the local democratically elected representatives of our community we are well placed to be the foundations for collaboration and partnerships at a local level.
- 4.3 As a Council we are stepping up to offer an innovative solution through the development of a new service model to use our skills and network of connections with our communities to enable change with a democratic mandate to respond to our residents' needs and interests.
- 4.4 The Council's role within health services is as a significant influencer, but we can also help more directly to improve the stability of health through our roles as providers of key preventative services including housing, homelessness, leisure and environmental health. There is currently a lack of awareness in the Health sector of the value that district councils can bring to promote good health and wellbeing and prevention of ill-health.

4.5 The table below demonstrates the current evidence-base for the numerous benefits that districts bring to the health agenda:

	Homelessness prevention	Leisure, parks and green spaces	Corporate Projects	Advice (housing, benefits, employment, Environmental Health)	Home adaptations
Prevention Offer	2017/18 We prevented or relieved 380 homelessness cases.	Through provision of leisure, green links and green spaces districts prevent physical inactivity and mental health before they become a burden on acute health services.	Veterans Café Dementia Action Alliance MH2K project Workplace Health Project	We provide unique intelligence on the most hard-to reach and vulnerable people in local communities, helping partners target interventions.	We supported home improvement measures to keep 332 elderly or vulnerable people in their homes.

4.6 Reform is acutely needed within the current health and social care landscape. We have played a key role in preventing demand for health and social care through services such as benefits and housing. It is time now to position ourselves at the forefront of the discussion of re-shaping the debate on wellbeing and prevention. The most ambitious form of care aims to improve health by tackling the causes of illness and the wider determinants of health. We have a natural advantage with this model as we can draw on our experience of our commitment to better lives and reducing health inequalities in our communities.

4.7 Wider determinants of health are often described as ‘the causes of the causes’, factors exist which although are generally beyond the individuals control, can be improved upon with support from organisations such as the Government, Local Authorities and the NHS. These factors concern the environment, the economy, society and health as a whole and are generally interconnected with one another as shown in the model below.



Dahlgren and Whitehead 1991

- 4.8 Early intervention and prevention is a proven method for reducing costs of delivering services across the whole of public services, while improving outcomes at the same time. This is particularly the case where it is effectively targeted.
- 4.9 There is a clear evidence-based case that the Council providing key preventative services will reduce demand on social care and acute health services. To really make a difference we need to do this via a partnership to target and best serve the interests of local people at the heart of these discussions.
- 4.10 The evidence shows that individuals and communities experience better outcomes by receiving appropriate support before they become ill, and the delivery of such services generally tends to be less expensive than services provided in crisis situations or over long periods.
- 4.11 Policy and demographic changes are increasing the demand for services. Long-term factors, such as an ageing population, increases in chronic diseases and increasing population in South Ribble will continue to place pressure on public services, and will make it more difficult to maintain and improve outcomes for residents if we continue to deliver services in the current model.

5 DETAILED CONSIDERATIONS

- 5.1 The District Council's Network (DCN) recently published a 'Transformation in Localities' toolkit. It recognised that district councils, in order to achieve real change, require a coherent, whole system, whole society approach. We will need to mobilise the resources that our places have to offer, including our people, physical assets, schools, GPs and local businesses. Using all the resources at our disposal to enable and maintain physical and mental wellness, build resilience and aid recovery.
- 5.2 This work has already begun with 'Our Health, Our Care' and the Central Lancashire Prevention and Early Intervention Framework. The framework advocates a 'place based'

approach to strengthen and maintain physical and mental wellness as well as building resilience in communities and aiding recovery. The framework has been developed against the backdrop of national, regional and local plans and can be linked back to the Sustainability and Transformation Plans, STPs (Lancashire and Cumbria).

5.3 Place based prevention is grounded in an understanding of people, their motivations, aspirations and the impact of the physical and social factors that shape their lives:

- ▶ It is about creating a shared vision and objectives, reflecting the local context and the needs and wants of those population groups
- ▶ It recognises and makes the most of the assets and resources that exist within our communities
- ▶ It offers a workable scale to initiate and achieve real cultural shift, building on existing work and driven by those organisations closest to communities; namely district councils, primary care and locally based third sector groups
- ▶ It is not specific to a particular geography, it is about any 'place' that people identify with and what it means to them – whether it is a town, a neighbourhood or a street
- ▶ Place based prevention is rooted in enabling wellness and is the responsibility of every person, group and organisation in all settings, situations and pathways across the life course of an individual.

5.4 If we get ahead of the decline and improve the longer term wellbeing of our population, we need to move beyond addressing ill-health and start concentrating on a new model of maintaining wellness by addressing the wider determinants of health. This means focusing on activities that keep people healthy and active, able to recover well after periods of illness, and capable of doing as much for themselves as possible.

5.5 The work to develop this new model will focus on the benefits that could be delivered by having services focussed on early intervention and preventing demand for services arising in the first place. Integration and joint-working, with good data and intelligence sharing, would make early intervention more effective and efficient.

5.6 There are many factors that affect an individual's wellbeing and resilience, including age, lifestyle, community, housing, socio-economic status, family and support networks. With such a wide range of factors, it is unrealistic to think that any one sector or organisation could achieve significant change. South Ribble Borough Council has good working relationships with partners but at times they are fragmented, cumbersome and clunky in terms of both delivery of services for individuals. We therefore need to work to develop and strength our relationships with partners, to deliver an improvement to the health and wellbeing of our community.

5.7 **What we will be doing to develop a preventative model of health:**

- ▶ Hold a workshop with our partners to map out a preventative model of service delivery. Key partners would include: Lancashire Care Foundation Trust, The DWP, The Police, leisure partners and the voluntary sector. Work with partners 'Focusing the system on the individual' by facilitating partners coming together in the same location at the Civic Centre, sharing intelligence and co-ordinating our efforts.
- ▶ With approval of Cabinet establish a Cross Party Community Health and Wellbeing Working Group to help develop a new service delivery model of preventative services.

- ▶ Establish an on-going dialogue and redefine the relationships between residents, community groups, businesses and service delivery organisations so that they can influence decisions and can help the define and shape a new service delivery model via the Community Strategy
- ▶ Encourage people to feel and to be part of their own solution, and communities to be more involved and supported. Empowering people and places with interventions that are 'done with' rather than 'done to' and enabling people to take responsibility for their own health and wellbeing.
- ▶ Explore through IT solutions how we can share and disseminate information relevant to all involved.
- ▶ Co-produce health and wellbeing outcomes in partnership with communities. Disseminate outcomes throughout the community as well as more widely.
- ▶ As well as publishing our own outcomes, to look for and learn from other examples of good practice to see how integrated delivery models have evolved.

5.8 How would our South Ribble look if we got the preventative model right?

- ▶ Communities will be healthy, empowered to help themselves and resilient to life's challenges
- ▶ People will have access to education, employment opportunities and appropriate housing in a safe environment.
- ▶ People will make valuable contributions and reap the rewards in terms of motivation, confidence and quality of life.
- ▶ When people do need support, either due to age or significant life events such as bereavement, strong community networks and self-care will be the natural first response.
- ▶ Interaction with public services will be time limited and in the most appropriate setting to address the individual's needs, with sustainable support that is offered as soon as possible.
- ▶ Public services become more sustainable if organisations because working together more effectively around functions that supported prevention and early intervention.

6 FINACIAL IMPLICATIONS

6.1 None at this current time.

7 LEGAL IMPLICATIONS

7.1 Under the Health and Social Care Act 2012 (section 12) the council has a duty to take such steps as it considers appropriate to improve the health of people in its area. The Localism Act 2011 introduced the "general power of competence", i.e. that a local authority has power to do anything that individuals generally may do, including for, or

otherwise for, the benefit of the council, its area or people resident or present in its area. As with other council powers this power must be exercised reasonably.

8 HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

- 8.1 This work will inform the Council's own Corporate Plan and priorities in the future which may have organisational development implications.

9 ICT/TECHNOLOGY IMPLICATIONS

- 9.1 None at this current time, but integration of ICT systems will be an important consideration.

10 PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

- 10.1 Please see associated property and asset paper on the Agenda.

11 RISK MANAGEMENT

- 11.1 A risk log will be maintained on GRACE and summary of the key risks relating to success of the project are;

- ▶ Lack of engagement from stakeholders on attending workshops or responding to consultation methods
- ▶ Resources/Capacity will not allow for every single type of partner to be engaged and as a result key partners or ones crucial to success could be missed.
- ▶ Poor quality of feedback, outputs from consultation and engagement events

- 11.2 In managing the risk the project group will meet monthly too address any major issues that arise. Existing risks are mitigated with a clear budget set for the project as well as stakeholder assessment and identification to ensure we target key partners.

- 11.3 A range of consultation methods are also being used to gather a wide range of views and then cross referenced against knowledge of partners.

- 11.4 A key risk for the development of this service is the complexity that is currently in place in the way that services are managed, commissioned and delivered.

12 EQUALITY AND DIVERSITY IMPACT

- 12.1 None

13 RELEVANT DIRECTOR'S RECOMMENDATIONS

- 13.1 To receive this report for information and express any feedback or suggestions that can help shape/inform the ongoing process.

- 13.2 Approve a Cross Party Working Group on Leisure, Health and Wellbeing managed by Democratic Services. The terms of reference for this group would be to make recommendations to the Cabinet on the Leisure, Health and Wellbeing agenda.

14 COMMENTS OF THE STATUTORY FINANCE OFFICER

- 14.1 There are currently no financial implications at this stage in the process of developing the new service delivery model.

15 COMMENTS OF THE MONITORING OFFICER

15.1 There are no concerns or issues with this report from a Monitoring Officer perspective. Please see the Legal Implications section for details of the enabling legislation.

16 BACKGROUND DOCUMENTS

16.1 There are no background papers to this report

17. APPENDICES

17.1 There are no appendices to this report

Jennifer Mullin

Director of Neighbourhoods and Development

Report Author:	Telephone:	Date:
Jennifer Mullin, Director of Neighbourhoods and Development	01772 625329	23/07/18

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
Approval of the Housing Enforcement Policy and Civil Penalties Guidance Document	Strategic Planning, Housing and Economic Growth	Director of Neighbourhoods and Development

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	Yes
Is this report on the Statutory Cabinet Forward Plan ?	Yes
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 The report seeks Members' approval of the draft 'Private Sector Housing Enforcement Policy' and 'Private Sector Housing Civil Penalties Enforcement Guidance'.

2. PORTFOLIO RECOMMENDATIONS

- 2.1 That Cabinet agree to adopt the draft 'Private Sector Housing Enforcement Policy' and 'Private Sector Housing Civil Penalties Enforcement Guidance'.

3. REASONS FOR THE DECISION

- 3.1 Statutory guidance issued by the Ministry of Housing, Communities and Local Government specifies that Local authorities are expected to develop their own policies and procedures on how the new powers are to be implemented.
- 3.2 The Private Sector Housing Enforcement Policy has been developed and outlines the enforcement approach and the available enforcement powers the council have at our disposal to manage non-compliance with the law within a private housing setting.
- 3.3 The policy seeks to:
- 3.3.1 clearly set out in one place our approach to enforcement and the range of enforcement options available to officers under multiple pieces of legislation
 - 3.3.2 ensure our enforcement is consistent and transparent
 - 3.3.3 ensure all new legislation is incorporated and acted on within working practices. This includes clearly stating what monetary amounts will be charged if a civil penalty is issued - The Housing and Planning Act 2016 introduced a new financial penalty regime in April 2017, permitting local authorities to impose a civil penalty of up to £30,000.

3.4 The Private Sector Housing Civil Penalties Enforcement Guidance details the methodology to be utilised when issuing Civil penalties in line with the enforcement policy to ensure that a suitable, fair effective penalty is imposed in each case.

4. CORPORATE PRIORITIES

4.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	X
Place	X

Projects relating to People in the Corporate Plan:

People	
--------	--

5. BACKGROUND TO THE REPORT

5.1 Under the Housing and Planning Act 2016 a range of new measures were introduced designed to ‘crackdown’ on rogue landlords. These included new powers for Local authorities in relation to the administration of civil penalties, the use of Banning Orders for rogue landlords, extension of Rent Repayment Orders and a Rogue Landlord database.

5.2 The draft ‘Enforcement Guide’ sets out the procedures to be followed when dealing with housing related issues and those matters which need to be considered when taking enforcement action, while the ‘Civil Penalties Guidance’ document provides further details on how civil penalties will be calculated in each individual case should a decision be made to issue a civil penalty.

5.3 The two documents have been written in line with statutory guidance and discussions with a number of local authorities across the country.

5.4 The Civil Penalties would range from £500 to £30,000 (the maximum allowed by the Act) as an alternative to prosecution depending on the individual circumstances of each case. These would have the same standard of proof as for a prosecution. The imposition of a Civil Penalty could provide a way to deal with offences in a more straightforward and efficient manner without the need for criminal proceedings. Criminal Proceedings would still be considered where serious breaches of legislation have occurred.

5.5 While the decision to impose a civil penalty would be the responsibility of the Director of Neighbourhoods and Development, the decision would be made following consultation with the Council’s legal team as to whether the civil penalty would be appropriate.

6. PROPOSALS

6.1 That the draft ‘Private Sector Housing Enforcement Policy’ and ‘Private Sector Housing Civil Penalties Enforcement Guidance’ be approved.

7. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

7.1 None, the provisions have been provided via a statutory instrument.

8. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8.1 None.

9. FINANCIAL IMPLICATIONS

9.1 Approval of the policies and guidance will have no direct financial implication. Any sums paid in respect of a civil penalty are ring-fenced for use to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

10. LEGAL IMPLICATIONS

10.1 The '*Private Sector Housing Enforcement Policy*' has been written in line with the Council's general enforcement policy taking into account the Regulators Compliance Code & the Enforcement Concordat. Any decisions would need to be in line with the Planning and Housing Act 2016, and the Housing Act 2004.

10.2 The '*Private Sector Housing Civil Penalties Enforcement Guidance*' details the process to be followed to determine an appropriate and fair penalty for housing offences. The document has been written in line with the statutory guidance accompanying the Planning and Housing Act 2016.

11. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

11.1 None.

12. ICT/TECHNOLOGY IMPLICATIONS

12.1 None.

13. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

13.1 None.

14. RISK MANAGEMENT

14.1 May result in additional appeals.

15. EQUALITY AND DIVERSITY IMPACT

15.1 The '*Private Sector Housing Enforcement Policy*' and '*Private Sector Housing Civil Penalties Enforcement Guidance*' apply to all housing enforcement work undertaken by the Council.

16. RELEVANT DIRECTORS RECOMMENDATIONS

16.1 That Cabinet agree to adopt the draft '*Private Sector Housing Enforcement Policy*' and '*Private Sector Housing Civil Penalties Enforcement Guidance*'.

17. COMMENTS OF THE STATUTORY FINANCE OFFICER

17.1 *This section is to be completed by the Chief Finance Officer (s151) (or by the Deputy Section 151 Officer if not available) as it must also comment on the impact on all aspects of the total organisational budget.*

18. COMMENTS OF THE MONITORING OFFICER

- 18.1 *The relevant statutory provisions underpinning the proposals are set out in the Housing and Planning Act 2016 (the 2016 Act) and the Housing Act 2004 (the 2004 Act).*
- 18.2 *By virtue of section 126 and Schedule 9 of the 2016 Act the council now has the power to issue a financial penalty as opposed to a prosecution in respect of a number of specified offences under the 2004 Act.*
- 18.3 *The maximum penalty that the council can impose is £30,000. The council must be satisfied that they can prove their case beyond reasonable doubt. Whilst the decision to impose a financial penalty will rest with the Director of Neighbourhoods and Development nevertheless it is important that advice is obtained from the Legal services team before making any such decision in order to assess whether the evidence is sufficiently strong and robust.*
- 18.4 *Schedule 13 A to the 2016 Act sets out the detailed procedural steps that must be followed as well as explaining that an individual has a right of appeal to the First Tier Tribunal against any decision to impose a financial penalty or against the amount of such a penalty.*
- 18.5 *The attached Civic Penalties Enforcement Guidance is intended to provide detailed guidance on how this new regime will apply.*
- 18.6 *The Private Sector Housing Enforcement Policy has been written in line with relevant guidance and statutory provisions.*

19. BACKGROUND DOCUMENTS

- 19.1 Housing Act 2004
 19.2 Planning and Housing Act 2016
 19.3 Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities

21. APPENDICES

- 21.1 Appendix A - Private Sector Housing Enforcement Policy
 Appendix B - Private Sector Housing Civil Penalties Enforcement Guidance

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 Director of Neighbourhoods & Developments

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SOUTH RIBBLE BOROUGH COUNCIL Private Sector Housing Enforcement Policy



September 2018

Appendix A

Introduction

This policy sets out South Ribble Borough Council's approach to its housing standards compliance and enforcement activities in relation to private sector housing conditions, including the owner-occupied, private rented and social rented sectors of the housing market.

It sets out the general principles the Council will follow in relation to regulation and more particularly enforcement of the Housing Act 2004 and other housing related legislation. It describes what property owners and tenants can expect if enforcement action is warranted and the circumstances that may lead to prosecution for non-compliance with legislation.

The Council has had regard to the Regulators Compliance Code and the Enforcement Concordat in developing this enforcement policy.

South Ribble Borough Council are committed to improving standards within the housing sector, ensuring that landlords are aware of the standard of property they should be offering, and that all properties are well managed, properly, maintained, habitable and safe.

The Council expect landlords to comply with the law and proactively manage their properties to ensure that the health and welfare of tenants is protected. Where individuals or companies are failing in their responsibilities and duties, the Council will take enforcement action.

The Council will provide advice and guidance to assist landlords in complying with their legal requirements to keep tenants safe and healthy. The council will seek to help with opportunities to develop their knowledge and understanding, which should reduce the risk of enforcement action being taken.

The enforcement of housing standards legislation is primarily undertaken by the Environmental Health Section at South Ribble Borough Council.

This document is divided into 3 sections:

Part A – Policy Aims and Objectives

Part B – Legislation and Guidance

Part C – General Enforcement Policies and Principles

Appendix A

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Part A

Policy Aims and Objectives

Aims

To explain the legal responsibilities, principles and priorities the Council will follow when enforcing legislation in relation to the private rented sector.

To protect public health and safety from housing and housing related activities,

To increase the public confidence in the private rented sector

To ensure Officers make a balanced and consistent enforcement decisions when carrying out their duties.

To ensure the Council meets its statutory duties as a public authority.

Objectives

To ensure that when brought to the Council's attention, tenants of a private landlord or registered social landlord live in homes free from hazards that pose risks to their health and welfare above the norm.

To ensure that satisfactory management of all rented properties including houses in multiple occupation (HMO's)

To ensure letting and management businesses are members of a Government registered Redress Scheme

To ensure all HMO's which require mandatory licensing are licensed when require, and that licensing conditions are met and the properties are safe.

To work with Lancashire Fire and Rescue Service to ensure satisfactory means of escape and means of detection and alarm are provided in rented accommodation.

In serious cases, to support owner occupiers who are living in homes which could be detrimental to their health and wellbeing.

Part B

Legislation

Housing Act 2004, Part 1 – Housing Conditions

The Housing Act 2004 (the Act) is the significant piece of legislation enforced by the Environmental Health Team in relation to housing standards. The Act together with regulations made under it, prescribes the Housing Health and Safety rating System (HHSRS) as the means by which Local Authorities assess housing conditions and decide on the action to be taken to deal with poor housing. The HHSRS is a risk based assessment method which looks at how housing conditions effect the health of occupants. 29 hazards are assessed and scored for their severity. The scores for each hazard are ranked into Bands. Hazards falling into Bands A-C are more serious, and are classed as Category 1 hazards. Less serious hazards fall into bands D to J and are classified as Category 2 hazards.

The scoring is based on the risk posed to the most vulnerable potential occupant of the property over a 12 month period. In determining what action to take the Council will not only consider the score but will also take account of the duty to act, the view of the occupiers and the presence of other hazards along with any history of the relevant landlord.

The Council must take appropriate action in respect to Category 1 hazards and may do so in relation to Category 2 hazards. Generally appropriate action will be undertaken on high Category 2 hazards, i.e. those scoring bandings D & E. While action on lower Category 2 hazards will generally be considered when Category 1 and high category 2 hazards exist.

It is still permissible to take informal action unless there are indicators to the contrary such as a previous history of non-compliance or where it is known that the person responsible for the premises has been aware of the hazard and has not taken any remedial action. Informal action will be replaced by a statutory notice if at any time it appears that satisfactory progress to reduce or remove the hazard(s) is not being made.

The Council will liaise with Lancashire Fire and Rescue Services in relation to fire safety within all properties to ensure satisfactory means of escape and means of detection and alarm are provided in rented accommodation, specifically when considering enforcement action.

Enforcement Options

The statutory notices for category 1 hazards can include:

- Improvement Notice
- Prohibition Order
- Hazard Awareness Notice
- Emergency Remedial Action
- Emergency Prohibition Order
- Demolition Order
- Declaration of a Clearance Area

The statutory notices for category 2 hazards can include:

- Hazard Awareness Notice
- Improvement Notice
- Prohibition Order

Appendix A

Standard of Remedial Work

As a minimum, category 1 hazards should be reduced to category 2 hazards assessed below a band F. Regard will be had to the extent of the work that is reasonable in order to reduce the hazard(s) significantly without incurring excessive costs.

A “patch and mend” approach should be avoided wherever possible. The works should be substantial and specified to be effective for a minimum of five years.

Powers of Entry

Authorised Officers have powers of entry to carry out a survey and examination of any residential premises to determine whether any action under the Act should be taken or whether any offence has been committed.

Where ever possible, when occupiers and owners will be given at least 24 hours’ notice, usually in writing of an intended inspection.

It is a criminal offence to obstruct an Authorised Officer from inspecting a house.

Authorised Officers will be wearing photographic identification and carry a letter of authorisation signed by the Environmental Protection Manager or the Private Rented Sector Manager.

If entry to a property is refused the Council will consider applying to the Magistrates Court for a Warrant to authorise entry especially where the Council believe serious hazards exist at the property.

Powers to Require Documents

Section 235 of the Act allows the Council to require documents from a person to assist the Council undertaking their duties in relation to the Act of for the purpose of investigating whether any offence has been committed.

Owner Occupiers

As explained in the introduction to this policy the Council will in the main deal with the private rented properties, however occasions will arise whereby Category 1 hazards are identified in owner occupied properties. The duty to take action still applies although it would not generally be in the public interest to enforce compliance unless the health and safety of the public or visitors was being endangered by the hazard.

Offences

Failure to comply with an appropriately served enforcement notice or order is a criminal offence. The Council will determine whether a prosecution case should be taken in cases where there are serious or repeated breaches of license conditions. Any decision to authorise a prosecution or impose civil penalties will be made by the ‘Director of Neighbourhoods and Development’ or another senior manager within ‘Regeneration and Growth’ in consultation with the Council’s Legal team.

Appendix A

Housing Act 2004, Part 2 – Licensing of Houses in Multiple Occupation

South Ribble Borough Council does not have many Houses in Multiple Occupation (HMO's) but they are an important part of the private sector housing market. They are recognised as higher risk accommodation in relation to fire, inadequate facilities, overcrowding and poor management.

Sections 254-259 of the Act define what an HMO is, although not an extensive explanation a HMO means a building or part of a building which:

- Is occupied by more than two households, in which amenities are shared
- Is occupied by more than two households which is a converted building which does not comprise of self-contained flats
- Is a building comprises of converted self-contained flats which do not meet the standards required by the 1991 Building Regulations.

Part 2 and provisions in Part 7 of the Act require certain mandatory licensing of HMO's by the authority. At the time of writing this is restricted to 3 storey properties occupied by 5 or more households. However from the 1st October 2018 this will be extended to any property with 5 or more households.

The Act places the following duties on Council's:

- **To effectively implement a licensing regime** – a regime is in place and requires the owner of a licensable HMO to apply for a license. Details are contained on the council's website.
- To determine licence applications within a reasonable time – the Council will work towards determining all HMO licence applications within 90 days of a valid application being received. To be valid the application must:
 - Be fully completed with all required signatures and dates
 - Have all associated documentation attached e.g. gas safety certificates, electrical certificates
 - Payment of the correct fee
 - A plan of the property
 - Any other information requested by the Council to assist in determining the application

If the above is not received within 90 days the application will be determined as invalid.

Mandatory licenses last for a period of 5 years from the date of issue. Where non-compliance with the Licensing conditions has been identified a number of enforcement options are available to ensure risks to the health and safety of the occupants are reduced to acceptable levels.

Additional Licensing

Section 56 of The Act permits Council's to extend the licensing of HMO's beyond the scope of the mandatory licensing regime. Additional Licensing is not currently in place within South Ribble.

Housing Act 2004, Part 3 – Selective Licensing

There are currently no selective licensing areas within South Ribble. The Council may in the future declare areas of the Borough as selective licensing designation areas. A license will be required for each rented dwelling within these areas.

Appendix A

Offences

Failure to apply for a license if one is required is a criminal offence. Any decision to authorise a prosecution or impose civil penalties will be made by the 'Director of Neighbourhoods and Development' or another senior manager within 'Regeneration and Growth' in consultation with the Council's Legal team.

Failure to comply with a license condition is a criminal offence. The Council will determine whether a prosecution case should be taken in cases where there are serious or repeated breaches of license conditions. Any decision to authorise a prosecution or impose civil penalties will be made by the 'Director of Neighbourhoods and Development' or another senior manager within 'Regeneration and Growth' in consultation with the Council's Legal team.

Failure to obtain a licence for a licensable house or a HMO can have serious financial consequences for the landlord. If the landlord is found guilty of an offence for failing to apply for a licence the Council will consider pursuing a **Rent Repayment Order (RRO)**. Such an order is made to the Residential Property Tribunal requiring the landlord to repay the housing benefit received during the time the house was not licensed.

Management Orders

The Local Authority will use Management Orders to take over the control of problematic properties:

- When there is no reasonable prospect of the property being licensed;
- To protect the health, safety or welfare of the tenants;
- To protect the health, safety or welfare of other occupiers or landowners in the neighbourhood of the property.

Variation of licences

The Council can vary the terms of a licence with or without the agreement of the licence holder if the circumstances regarding the relevant HMO or other property have changed.

Revocation of licences

The Council may have to revoke a licence. The grounds for revoking a licence include:

- A request of revocation from the owner
- Where the Council believes that the licence holder is no longer a fit and proper person
- As a result of the number of occupants or other current standards that apply the HMO would not have been licensable under its current conditions.

Temporary Exemption Notice

The Council may serve a temporary exemption notice where a person who is required to be licensed notifies the Council that they propose to take steps to ensure the property is no longer required to be licensed. The notice is served on this person and exempts that property from being licensed for a period of 3 months.

In exceptional circumstances the Council may serve a second temporary exemption notice that lasts a further 3 months. No further notice can be served after the expiry of the second.

Appendix A

The Council can refuse to serve a temporary exemption notice which allows a right of appeal. Such circumstances where the Council may refuse to serve a temporary exemption notice is where the owner has failed to supply clear evidence showing that they are taking steps to exempt the HMO or other property from the criteria for licensing.

Licence Appeals

The applicant or any relevant person may appeal to the First Tier of the Lands Tribunal against a decision by the Council to:

- Refuse or grant a licence
- Grant a licence
- To vary or revoke a licence
- To refuse to vary or revoke a licence.

Public Registers

Section 232 of the Housing Act 2004 requires every housing authority to establish and maintain a register of:

- all licenses granted under Part 2 and 3 of the Act (HMO and selective licensing);
- all temporary exemption notices served and
- all management orders made.

The register may be in such a format as the authority consider necessary subject to requirements prescribed in regulations.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The regulations require private rented sector landlords, to have:

1. At least one smoke alarm installed on every storey of their rental property which is used as living accommodation.
2. A carbon monoxide alarm in any room used as living accommodation where solid fuel is used.
3. The landlord must make sure the alarms are in working order at the start of each new tenancy.

Failure to comply with these regulations will result in a remedial notice being served. Failure to comply with the remedial notice could result in a penalty fine not exceeding £5,000. The Council's statement of principles for determining the financial penalties in relation to this legislation is available on the Council's website.

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

It is a legal requirement for all lettings agents and property managers in England to join one of three Government-approved redress schemes.

Whilst the majority of lettings agents and property managers provide a good service there are a minority who offer a poor service and engage in unacceptable practices. This requirement will mean that tenants and landlords with agents in the private rented sector and leaseholders

Appendix A

and freeholders dealing with property managers in the residential sector will be able to complain to an independent person about the service they have received. Ultimately the requirement to belong to a redress scheme will help weed out bad agents and property managers and drive up standards.

The requirement is enforced by the Council who can impose a fine of up to £5,000 where an agent or property manager who should have joined a scheme has not done so.

HOUSING ACT 1985 (as amended)

Section 265 - Power to make Demolition Order

A demolition order is an option for the Council to use to deal with the existence of Category 1 hazards on a residential premises. A demolition order requires the property to be vacated within a specific time and subsequently demolished. It is a criminal offence to allow the property to be occupied after the demolition order has come into effect. If the person upon whom the order has been served does not demolish the building, the Council can demolish it instead and recharge the person accordingly. Should the Council be required to demolish the property, and the demolition leaves an adjacent terrace property party wall exposed, then the Council will construct a new gable wall and will recover the cost from any compensation monies owing to the owner.

Section 289 - Declaration of clearance area

A clearance area is an area that is to be cleared of all buildings. Where Category 1 hazards exist on a residential premises, the Council can declare a clearance area. If this is chosen as the most appropriate enforcement action. The Council is required to consult on the declaration of a clearance area and publish its intentions. Owners and in certain cases occupiers of properties are compensated accordingly.

Section 324 – Overcrowding

A property is overcrowded when the number of persons sleeping in the dwelling contravenes either the specified room or space standard. It is an offence for either an occupier or landlord to cause or permit overcrowding. The Council can prosecute the person causing such an offence. Where a dwelling is found to be overcrowded the Council may serve notice on the occupier, in writing requiring him to abate the overcrowding within 14 days from the date of service of notice.

Appendix A

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Section 16 - Requisition for Information

When the Council need to obtain information about a property in respect of which we are proposing to take enforcement action we will serve a requisition for information on the occupier and/or any person who has a legal interest in it, or who directly or indirectly receives rent, or is authorised to manage or to arrange for its letting.

It will always indicate the Act and section of the Act that it is proposing to enforce. Generally speaking a Requisition for Information is served at an early stage to ensure that it is corresponding with the correct person(s) but where the Council feel that urgent enforcement action is necessary it may be served at the same time as a formal Notice.

Part C

General Enforcement Policies and Principles

The Regulators' Compliance Code

The Council are required by the Legislative and Regulatory Reform Act 2006, to have regard to The Regulators' Compliance Code.

This Enforcement Policy is compliant with the Code in that it aims to promote efficient and effective approaches to regulatory inspection and enforcement, thereby improving regulatory outcomes without imposing unnecessary burdens upon property owners and occupiers. Any departures from the Code will be properly reasoned, documented and based upon material evidence.

The Code does not however apply to actions under Part 1 of the Housing Act 2004 relating to the HHSRS. Actions under Part 1 will therefore continue to be subject to the principles of the Enforcement Concordat.

Human Rights Act 1998

All enforcement activity will be undertaken with due regard to the provisions of the above legislation, which derives from the European Convention on Human Rights especially:

Article 6 – the right to a fair trial;

Article 8 – the right to respect for private and family life;

Article 1 of the First Protocol, which relates to the protection of property.

Data Protection Act 1988

In the course of their work Officers will comply with the Data Protection Act. All information and evidence gathered during the course of carrying out the duties will be treated confidentially. Confidential information will not be divulged unless required by law or by some other significant reason that is in the public interest.

Intervention

The Council will work both proactively and reactively to improve the conditions and management of private sector housing.

Proactively

Proactively we will

- Identify houses in multiple occupation (HMOs) by carrying out surveys of the borough
- Inspect licensed HMOs to assess hazards under the HHSRS, to ensure compliance with the licence conditions and the management regulations
- Inspect properties in priority areas and selective licensing areas to assess hazards under the HHSRS and to ensure compliance with the licencing scheme and the associated licence conditions

Appendix A

- Inspect property portfolios in the ownership or management of a particular landlord or managing agent where serious concerns over management standards or condition are identified in any one of the properties in the portfolio.

Reactively

Reactively we will respond to:

- Requests for advice and assistance from owners and residents of all tenures on housing condition and the management of those houses.
- Private sector tenants who contact the Council complaining about disrepair in the properties they live in.
- Registered Social Landlord (RSLs) tenants who contact the Council about disrepair in the properties they live in.
- An official complaint from a MP, local Councillor or Officers in other partner agencies such as Social Services, the Fire Brigade or the Police explaining that hazards may exist in a residential premises.
- Inspect any property within the borough where a 'Bond guarantee' scheme application has been made to the Council

Ensuring Compliance with the Legislation

As detailed in this policy there are a variety of tools available to the Council to ensure the required standards are met and improved in Private Sector Housing.

Advice and Guidance

We will provide advice on appropriate housing standards, HMO standards, fire safety, legislation and legal procedures to stakeholders within the private housing sector. We cannot however give specific legal advice on a particular matter.

Advice and guidance is an essential part of the work that we do to raise standards within the private rented sector. The following methods will be used to provide advice:

- The posting of information on the Council's website,
- Verbal advice,
- Written advice, guidance, information leaflets, dissemination of official good practice guidance,
- The provision of training for landlords and managing agents through Landlord Development Days
- Attending meetings of professional bodies regarding the private rented sector
- Ensuring officers undertaking Housing Inspections are appropriately qualified, trained and receive adequate updates of private sector housing enforcement matters

No Action

The assessment may conclude that some cases cannot be resolved by the range of powers detailed in this policy. In such cases the decision to take no action will be confirmed in writing and where appropriate sign posted to other units within the Council or to other organisations.

Appendix A

In other cases it may not be appropriate to pursue action. This can be where the cost of the remedial action to ensure compliance far outweighs the detrimental impact of the contravention.

Pre-Enforcement Action

Through the referral of a complaint or request for inspection, officers will review the information held and contact the subject to discuss the issues to hand. Where appropriate a visit will be arranged to vet the property to determine if an inspection is required.

Where an inspection of the property is required a letter will be sent to the Landlord detailing the identified works required and requesting they contact the department within 7 days to discuss the works. An offer of an accompanied inspection of the property will be made at this time.

The Council reserves the right to make a charge for requests to inspect from letting agents, landlords or other bodies.

In considering whether pre-enforcement action is appropriate in particular cases, consideration will be given to the track record (if any) of the person (or company). In particular, Officers will consider whether any enforcement notices have had to be served in the past, the recipient's response to them and the ability and willingness of the recipient to keep to agreed timetables of work.

It should be noted that it is not always possible to use pre-enforcement action especially where the legislation requires formal action to be taken straight away and on occasion the risk posed by the hazards identified will be so great that emergency works will be required. However, even though advice has been given initially, the Council reserves the right to proceed to formal action where the property owner is clearly not going to carry out the repairs within a timescale acceptable to the Council.

Formal Action

Formal action involves the serving of enforcement notices and orders. Most notices and orders served require the recipient of the notice or order to commence and complete specified works within the specified time limits.

The decision regarding when to serve a notice or order depends upon whether there is a duty or a power to take such action and will take into account the following:

- Where the pre-enforcement action has not resulted in compliance with the legislation,
- There is a lack of confidence that the recipient of the notice or order will comply,
- There is a history of non-compliance,
- The consequences of non-compliance have a serious risk of harm to the health, safety or welfare of the public.
- The owner/person having control is unknown or unable to be contacted,
- The owner/person having control is incapable of undertaking the required works (Usually owner occupied property).

Appendix A

All notices and orders have notes with them that explain the effect and the recipient's right of appeal. Officers will always be willing to discuss the works specified in the notice or order and the reason for the service.

Statutory notices and orders are legal documents. Once served failure to comply with them has serious implications, normally resulting in one or more of the following sanctions. Any extensions of time limits for compliance with a statutory notice or order, once served must be justified, recorded and confirmed in writing to all recipients of the notice or order.

Charging for enforcement activity

Section 49 of the 'Act' allows for Council's to make a charge for certain enforcement activities to recover the costs involved in those actions. In line with the requirements of this section of the act the Council will generally make a charge when we:-

- Serve an improvement notice
- Make a prohibition order
- Take emergency action
- Make an emergency prohibition order, and
- Make a demolition order

The authority will not normally charge for making a serving a hazard awareness notice. The council reserves the right not to invoice or to waive the charge for enforcement action in exceptional circumstances with each case being considered on its own merits. This decision will be made by the Director of Neighbourhoods and Development.

Sanctions

Failure to comply with a statutory notice or order will normally result in the Council seeking to prosecute, issue a civil penalty and/or undertake the work in default. Alternatively some of the statutory provisions impose monetary penalties for failing to comply.

Work in Default

Work in default is a power contained in several types of statutory notice. The legislation authorises the Council, to employ a contractor to enter the property and carryout the work required to ensure compliance. If the Council has to do this, it will charge the appropriate person for the cost of the works, together with the costs involved in arranging for the work to be done. These costs will be added to those already incurred in serving the original notice.

The Council has a duty to ensure that the works are carried out a fair price and to an adequate standard. However the Council has to undertake the works in a short timescale. This can be expensive as contractors carrying out emergency works often do so at a premium rate. It is usually cheaper for the landlord or manager to organise their own remedial work.

It should be noted that carrying out work in default does not exclude the Council from either issuing a formal caution or prosecuting the offender. The Council is entitled to ensure that the work is carried out and Officers will then also consider if it is appropriate to take further action.

Rent Repayment Orders

Where housing benefit has been paid to a landlord and the Council is satisfied that the landlord has committed one or more specific offence, the Council can apply for a Rent Repayment Order. Where

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the landlord is convicted of one of the relevant offences, the Council is under a duty to consider applying for a Rent Repayment Order. The Specific offences are:

- Failure to comply with an Improvement Notice
- Failure to comply with a Prohibition Order
- Offences in relation to licensing of HMO's
- Offences in relation to licensing of HMO's under Part 3 of the 'Act'
- Breach of a Banning order
- Using violence to secure entry to a property
- Illegal eviction or harassment of the occupiers

The Council will usually apply for the full amount that can be recovered and lesser amounts will only be sought in exceptional cases.

Cautions

An alternative to prosecuting a person is the issuing of a formal caution. A formal caution is where an offender is given written details of the offence and he/she signs to say that he/she admits the offence. It is not a form of sentence.

A record of the caution will be kept at the Council for a period of three years and it may subsequently influence a decision to instigate proceedings should the offender break the law in the future. It may also be cited if the Council takes legal action for a subsequent offence.

The service of a formal caution will be considered when the circumstances of the offence satisfy the criteria detailed below:

- The offence is sufficiently serious to warrant prosecution; and
- It is a first offence; and/or
- The offence occurred through ignorance and the offender has expressed remorse and a willingness to comply with the law in future; and
- The officer believes that a formal caution will prevent repeat offences.
- A formal caution may only be issued if the following criteria are satisfied:-
 - There is sufficient evidence of the offender's guilt to give a realistic prospect of conviction.
 - The offender admits that they are guilty.
 - The offender will accept the formal caution and understands its significance.
 - It is in the public interest to issue a formal caution rather than instigate prosecution proceedings.

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Prosecution

The Council recognises that the decision to prosecute is important. In making a decision to prosecute, a two stage test is applied:

- The first stage is the evidential test, which requires that there must be sufficient, admissible and reliable evidence that an offence has been committed by an identifiable individual or company, that there is a realistic prospect of conviction. If the case does not pass this test, it must not proceed, no matter how serious or important it may be
- Secondly, a decision must be made as to whether a prosecution would be in the public interest.

A prosecution will normally be pursued in the following circumstances:

- Where an individual or company has deliberately, negligently or persistently breached legal obligations
- Where an individual or company has deliberately or persistently ignored written warnings or formal notices and / or orders
- Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or the public to a serious degree
- Where an individual has assaulted or obstructed an Officer in the course of their duties
- Where a HMO or house is required to be licensed and has been operating without a licence.

Any decision to authorise a prosecution or impose civil penalties will be made by the 'Director of Neighbourhoods and Development' or another senior manager within 'Regeneration and Growth' in consultation with the Council's Legal team.

All prosecutions will be brought without unavoidable delay, and there is a requirement to lay information with the Courts within six months of the identified date that the offence was committed.

Banning Orders

Where a landlord has been successfully prosecuted for a banning order offence, the Council can apply to the First-Tier Tribunal (Property Chamber) for a banning order against the landlord. A banning order will last for at least 12 months and means that the subject of the order cannot:

- Let housing in England;
- Engage in English letting agency work
- Engage in English property management work;
- Hold a license under Part 2 or Part 3 of the Housing Act 2004.

"Banning order offence" refers to an offence of a description specified in regulations made by the Secretary of State.

In determining whether to apply for a banning order the Council will have due regard to the guidance '*Banning Order Offences under the Housing and Planning Act 2016 Guidance for Local Housing Authorities*' issued by the Ministry of Housing Communities & Local Government and the South '*Ribble Borough Council Private Sector Housing Banning Order Policy*' .

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Civil penalties

The Housing & Planning Act 2016 introduced civil penalties as an alternative to prosecution for certain offences under the Housing Act 2004. Council's may serve notices imposing Civil Penalties, of up to a maximum of £30,000 in respect of the following offences:

- Failure to comply with an Improvement Notice
- Failure to license or other licensing offences relating to Houses in Multiple Occupation (HMOs)
- Failure to licence or other licensing offences under the Council's Selective Licensing Scheme
- Failure to comply with an Overcrowding Notice
- Failure to comply with a regulation in respect of an HMO
- Breaching a Banning Order

The Council will determine, on a case by case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any of the offences listed above.

Prior to issuing a civil penalty the local authority must serve a notice of intention on the person committing the offence, inviting them to make representation before the final notice is issued.

The person issued with a civil penalty has the right of appeal through the first-tier Tribunal against:

- The decision to impose the penalty, or
- The amount specified in a notice of intent or a final notice.

Burden of Proof

The criminal burden of proof, i.e. beyond all reasonable doubt must be satisfied before a Civil Penalty can be issued as an alternative to prosecution. The Council must satisfy itself that there would be a realistic prospect of conviction, applied objectively, to the evidence available.

In assessing the evidence regard must be given to the Code for Crown Prosecutors and when deciding whether there is sufficient evidence to prosecute consideration must be given as to whether the evidence can be used and is reliable.

Due regard must be given to any potential defences available and in certain circumstances the Local Housing Authority may decide to conduct an interview under caution in accordance with PACE codes of practice to assist in determining whether the issue of a Civil Penalty is appropriate or not.

Factors in deciding whether to issue a Civil Penalty

Each case will be decided upon its own merits taking into account all the evidence available.

Where the Council considers that a Housing Act offence has been committed it must decide whether to prosecute or to issue a civil penalty as an alternative to prosecution. The following factors, whilst not exhaustive, are examples of where it would be appropriate to consider the issuing of a Civil Penalty:-

- No previous convictions recorded

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- No evidence of previous non-compliance with appropriate legislation
- Not in the public interest to prosecute
- Offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence)
- Prosecution is likely to have a serious adverse effect upon an individual's e.g. a landlord physical or mental health, always bearing in mind the seriousness of the offence.

In circumstances where the Council has determined that it would be appropriate to issue a civil penalty as an alternative to prosecution, the level of the penalty would be calculated using the methodology detailed within the "*South Ribble Borough Council Private Sector Housing Civil Penalties Enforcement Guidance*".

This methodology has been developed having regard to the statutory guidance issued under Schedule 9 of the Housing and Planning Act 2016.

Factors in determining the level of Civil Penalty

In order to ensure that the civil penalty is set at an appropriate level the following factors will be considered

- The seriousness of the offence, determined by harm caused and culpability of the offender
- The history of compliance of the offender
- The punishment of the offender for the offence
- The deterrent from repeating the offence
- The deterrent from others committing similar offences
- Removing any financial benefit obtained from committing the offence

Harm Caused

In determining the level of harm the Local Housing Authority will have regard to

- The individual i.e. physical injury, damage to health, psychological distress
- To the community i.e. economic loss, harm to public health
- Other types of harm i.e. public concern/feeling over the impact of poor housing condition on the local neighbourhood

The nature of the harm will depend on the personal characteristics and circumstances of the victim e.g. tenant.

Where no actual harm has resulted from the offence the Local Housing Authority will consider the relative danger that persons have been exposed to as a result of the offenders conduct, the likelihood of harm occurring and the gravity of harm that could have resulted

Factors that indicate a higher degree of harm include:

- Multiple victims
- Especially serious or psychological effect on the victim
- Victim is particularly vulnerable

Culpability

In determining culpability the Local Housing Authority will have regard to 4 levels of culpability

Where the offender

- Has the **intention** to cause harm, the highest culpability where an offence is planned

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- Is **reckless** as to whether harm is caused i.e. the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences even though the extent of the risk would be obvious to most people
- Has **knowledge** of the specific risks entailed by his actions even though he does not intend to cause the harm that results
- Is guilty of **negligence**

Determining the Civil Penalty Amount

This will be undertaken in line with the above mentioned enforcement guidance document published in conjunction with the policy. This guidance sets out the methodology the council will use to determine the level of civil penalty to apply on a case by case basis, taking into the account the circumstances of each case, and individual offender to ensure that the civil penalties awarded are fair and appropriate In line with this policy.

Appendix A

Recovering Costs

The Council will recover all costs incurred in enforcing housing related legislation.

When a charge is imposed under section 49 of the 'Act' or by completing works in default, the sum recoverable becomes a local land charge on the premises concerned. Costs will include officer time in determining whether to serve a notice/order and serving a notice/order. In addition for works in default full contractor costs incurred and time for arranging and overseeing the contractors work plus an administrative cost will be charged.

If enforcement action has been taken against a named person or legal entity the Council will seek to recover the charge by invoice. If the debt is not recovered by payment of an invoice all outstanding debts will be registered with the Local Land Charges Registry as a financial charge. Once registered, interest will be added to the debt at a compound interest rate of 8%* starting on the date the charge became applicable until the debt is settled in full.

The Council may recover the costs incurred in carrying out work in default by one of the following methods:-

Invoice, followed by county court action	for debts less than £500.00 where debtor has sufficient means to settle the debt where other forms of debt recovery are not possible
Charge placed on property (compound interest of 8% *in exceptional circumstances the interest rate may be reduced)	Where owner occupies are unable to settle the debt Where landlords are unable to settle the debt and mortgage repayments make sequestering the rent unviable Where the responsible person cannot be traced
Sequestering the rent – by serving notice on the tenant requiring them to pay rent directly to the Council until costs are recovered	Where the property is tenanted and there are no or low mortgage repayments.
Enforced sale – under the Law and Property Act 1925 the Council can force the sale of the property through the Courts and recover the costs from the proceeds of the sale	Where the property is empty Where the property is tenanted but there are multiple debts on the property and the landlord is not maintaining the property

Miscellaneous

Targeted Enforcement Action

From time to time the Council may want to take enforcement action on a targeted basis. Where this is done it will be as a response to a particular problem or there will be a valid reason that led to the need for pro-active work.

The types of issues that may trigger targeted action are:-

- Concerns about unlicensed HMOs in an area
- Concerns about concentrations or increases in numbers of empty properties
- Concerns about concentration of HMOs in an area
- Low quality housing in an area predominantly in the private rented sector
- Checking HMO license conditions

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- Concerns about properties owned by a portfolio landlord where some properties have fallen significantly below legal standards or have Category 1 hazards present
- Investigating whether or not to introduce selective or additional licensing.

Working with Other Regulatory Bodies

Where other regulatory bodies have enforcement powers to investigate housing related matters referrals will be made to those bodies. Officers will liaise with that other body to ensure effective co-ordination, avoid inconsistencies, and ensure that contraventions of legal requirements are investigated by the most appropriate agency. These agencies include:

- Health and Safety Executive.
- Transco
- Lancashire Fire & Rescue Service.
- Police
- UK Border Agency
- Lancashire Social Care and Health
- South Ribble Borough Councils Revenues and Benefits Departments
- HMRC

Authorisation of officers

Decisions on enforcement action are a matter of professional judgement and officers will need to exercise discretion. However officers will be properly trained to ensure consistency in the decisions made.

The Delegated Officer under the Council's Scheme of Delegations will only authorise officers under the Housing Act 2004 that have been adequately trained and have suitable experience of HHSRS; officers must pass the "HHSRS Practitioners" course accredited by Warwick University, or equivalent course, prior to being authorised.

Other authorisations will be determined by other qualifications or relevant experience. Officers will carry this authorisation when inspecting premises and will produce the document when asked.

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SOUTH RIBBLE BOROUGH COUNCIL
Private Sector Housing
Civil Penalties Enforcement Guidance

September 2018

Appendix B

Introduction

- 1.1. This guidance document has been created in accordance with Section 3.5 of the 'Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities' ("the DCLG Guidance", published by the Department for Communities and Local Government).
- 1.2. This document is intended to work in accordance with the 'South Ribble Borough Council – Private Sector Housing Enforcement Policy' as published by South Ribble Borough Council.
- 1.3. In this document, the term "landlord" will be used to refer to the "owner", "person having control", "person managing" or "licence holder", as defined under the Housing Act 2004 ("the 2004 Act"). The term "Landlord" will also be used to refer to tenants of houses in multiple occupation who have committed offences under section 234 of the Housing Act 2004. The term "the Council" will be used to refer to South Ribble Borough Council in its capacity as a Local Housing Authority.

What is a Civil Penalty?

- 1.4. A civil penalty is a financial penalty of up to £30,000 which can be imposed on a landlord as an alternative to prosecution for specific offences under the 2004 Act. The amount of penalty is determined by the Council in each case; section 2 sets out how the Council will determine the appropriate level of civil penalty.
- 1.5. The Council considers that the most likely recipients of civil penalty notices will be those persons who are involved in the owning or managing private rented properties. However, the Council does have the power to impose them on tenants of Houses in Multiple Occupation, for offences under section 234 of the Housing Act 2004, and owner occupiers, and will consider doing so where it is deemed appropriate.

What offences can civil penalties be imposed for?

- 1.6. A civil penalty can be considered as an alternative to prosecution for any of the following offences under the 2004 Act:
 - Failure to comply with an Improvement Notice (section 30);
 - Offences in relation to licensing of HMOs (section 72);
 - Offences in relation to licensing of houses under Part 3 of the Act (section 95);
 - Contravention of an overcrowding notice (section 139);
 - Failure to comply with management regulations in respect of HMOs (section 234).

What is the legal basis for imposing a civil penalty?

- 1.7. Section 126 and Schedule 9 of the Housing and Planning Act 2016 ("the 2016 Act") enables the Council to impose a civil penalty as an alternative to prosecution for specific offences under the 2004 Act.

What is the burden of proof for a civil penalty?

- 1.8. The same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before a civil penalty can be imposed, the Council must be satisfied beyond reasonable doubt that the landlord committed the offence(s) and

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that if the matter were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

- 1.9. In determining whether there is sufficient evidence to secure a conviction, the Council will have regard to the South Ribble Borough Council - Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions. The finding that there is a realistic prospect of conviction is based on an objective assessment of the evidence, including whether the evidence is admissible, reliable and credible and the impact of any defence.

See appendix III for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Evidential Stage of the Full Code Test for criminal prosecutions.

Factors in determining the level of Civil Penalty

- 1.10. In order to ensure that the civil penalty is set at an appropriate level the following factors will be considered

- The seriousness of the offence, determined by harm caused and culpability of the offender
- The history of compliance of the offender
- The punishment of the offender for the offence
- The deterrent from repeating the offence
- The deterrent from others committing similar offences
- Removing any financial benefit obtained from committing the offence

What must be done before a Civil Penalty can be considered?

- 1.11. The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be properly served by imposing a civil penalty. The following questions should be considered:

- Does the Council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a Civil Penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by the appropriate senior colleague at the Council?
- Has the evidence been reviewed by the Council's legal services?
- Are there any reasons why a prosecution may be more appropriate than a civil penalty? I.e. the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.

- 1.12. See appendix II for an excerpt from the Crown Prosecution Service Code for Crown Prosecutors on the Public Interest Stage of the Full Code Test for criminal prosecutions.

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When will the Council consider civil penalties an enforcement option?

- 1.13. The Council will consider Civil Penalties for all landlords that are in breach of one or more of the sections of the 2004 Act listed in section 1.6. Enforcement action will be considered on a case-by-case basis in line with the South Ribble Borough Council – Private Sector Housing Enforcement Policy.

The Totality Principle

- 1.14. Where a landlord has committed multiple offences, and a civil penalty could be imposed for each one, consideration should be given to whether it is just and proportionate to impose a penalty for each offence.
- 1.15. When calculating the penalty amounts for multiple offences, there will inevitably be a cumulative effect and care should be taken to ensure that the total amount being imposed is just and proportionate to the offences involved.
- 1.16. The landlord may also have committed multiple similar offences or offences which arose from the same incident. In these cases, consideration should be given to whether it would be more appropriate to only impose penalties for the more serious offences being considered and to prevent any double-counting.
- 1.17. Having regard to the above considerations, a decision should be made about whether a civil penalty should be imposed for each offence and, if not, which offences should be pursued. Where a single more serious offence can be considered to encompass several other less serious offences, this is the offence that will normally be considered for the civil penalty. Deciding not to impose a civil penalty for some of the offences does not mean that other enforcement options, such as issuing a simple caution, cannot be pursued for those offences.

Determining the Civil Penalty Amount

Overview

- 2.1. The Council has the power to impose a civil penalty of up to £30,000; this section sets out how the Council will determine the appropriate level of civil penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's income and track record.
- 2.2. The civil penalty will be made up of two distinct components. The first is the penalty calculation; this is where the severity of the offence, the landlord's track record and the landlord's income are considered. The second considers the amount of financial benefit, if any, which the landlord obtained from committing the offence. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

This process is broken down into four main stages:

- Stage 1 determines the penalty band for the offence. Each penalty band has a starting amount and a maximum amount.
- Stage 2 determines how much will be added to the penalty amount as a result of the landlord's income and track record.
- Stage 3 is where the figures from stage 2 are added to the penalty band from stage 1. The total amount at this stage cannot go above the maximum amount for the particular penalty band.
- Stage 4 considers any financial benefit that the landlord may have obtained from committing the offence. This amount will be added to the figure from stage 3.

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Stage 1 – Determining the Penalty Band

Stage 1 Overview

- 2.3. This stage considers the landlord's culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.
- 2.4. A higher penalty will appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are four steps to this process and each step is set out below.

Step 1: Culpability

- 2.5. Table 1 sets out the four levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

Table 1 - Levels of Culpability

Very high	<ul style="list-style-type: none">• Deliberate breach of or flagrant disregard for the law
High	<ul style="list-style-type: none">• Offender fell far short of their legal duties; for example, by:<ul style="list-style-type: none">- failing to put in place measures that are recognised legal requirements or regulations;- ignoring warnings raised by the local Council, tenants or others;- failing to make appropriate changes after being made aware of risks, breaches or offences;- allowing risks, breaches or offences to continue over a long period of time.• Serious and/or systemic failure by the person or organisation to comply with legal duties.
Medium	<ul style="list-style-type: none">• Offender fell short of their legal duties in a manner that falls between descriptions in 'high' and 'low' culpability categories.• Systems were in place to manage risk or comply with legal duties but these were not sufficiently adhered to or implemented.
Low	<ul style="list-style-type: none">• Offender did not fall far short of their legal duties; for example, because:<ul style="list-style-type: none">- significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion;- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.• Failings were minor and occurred as an isolated incident

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Assessing a landlord's culpability

2.6. When assessing culpability, consider all of the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to the assessment of culpability.

Aggravating factors could include:

- Previous convictions for similar offence/s, having regard to the time elapsed since the conviction
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation i.e. record of having to take enforcement action previously whether complied with or not
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash
- Evidence of threatening behaviour/harassment of the tenant.

Section 2.12 below provides further guidance regarding when it is appropriate to consider past enforcement action taken against the landlord.

Mitigating factors could include:

- Cooperation with the investigation e.g. turns up for the PACE interview
- Voluntary steps taken to address issues e.g. submits a prompt licence application
- Willingness to undertake training
- Level of tenant culpability
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- Vulnerable individual(s) (owners not tenants) where there vulnerability is linked to the commission of the offence
- Good character i.e. no previous convictions and/or exemplary conduct

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord's behaviour falls within; where a landlord's behaviour could meet more than one of the categories, choose the highest one of those met.

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Step 2: Seriousness of Harm Risked

- 2.7. Table 2 separates the seriousness of harm risked into three levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.
- 2.8. The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.
- 2.9. When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

Table 2 - Seriousness of Harm Risked

Level A	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System ¹ .
Level B	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the 'Housing Health and Safety Rating System.
Level C	All other cases not falling within Level A or Level B (e.g. where an offence occurred but the level of harm to the tenants or visitors does not meet the descriptions for Level A or Level B).

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

¹ Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

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Step 3: Penalty Levels

- 2.10. Using the already determined level of culpability and the seriousness of harm risked, find the appropriate penalty level (1 – 5+) in Table 3.

Table 3 - Penalty Levels

Seriousness of Harm / Risk	Culpability			
	Very High	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

Step 4 Penalty Bands

- 2.11. Compare the penalty level from Step 3 to table 4 and this will give the penalty band for the offence. This penalty band determines both the starting amount and the upper limit for the penalty calculation.

Table 4 - Penalty Bands

Penalty Level	Penalty Band
1	£500 - £1200
2	£1000 - £3000
3	£2500 - £6500
4	£5000 - £10,000
5	£7500 - £20,000
5+	£15,000 - £30,000

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Stage 2 – Considering the Landlords income and track record

Stage 2 Overview

2.12. There are two elements to consider in stage 2: the landlord's income and the landlord's track record. Each of these will affect the penalty calculation and further details are set out below.

The landlord's Finances

2.13. Although the Council is permitted to consider all of a landlord's income and assets when calculating a civil penalty, full financial investigations will normally only be considered for the more serious offences.

2.14. For penalties that fall within bands 5 and 5+, a financial investigation of the landlord will be usually carried out and all sources of income received by the landlord can be considered as 'relevant income' for the purpose calculating the civil penalty. Specifically, the average weekly income of the landlord for the 12 months preceding the date of the offence will be used.

2.15. For penalties that fall within bands 1 to 4, the landlord's income will still be considered but the 'relevant income' will normally be limited to the income that the landlord received in relation to the property where the offence occurred.

2.16. For property owners, this will be the weekly rental income, as declared on the tenancy agreements, for the property where offence occurred and at the time the offence occurred.

2.17. For property agents, the relevant income will be any fees they received for the management of the property, as stated on the management contract between the agent and the other parties to the contract. Where the fees include VAT or any other charges, the gross amount of the fees will be used.

IMPORTANT: although the Council will not normally consider carrying out a full financial investigation where the offence falls within penalty bands 1 to 4, the Council does reserve the right to do so where it considers it reasonable and proportionate to the circumstances.

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How is the increase as a result of the landlord's income calculated?

2.18. This is a two-step process with step 1 determining what counts as relevant weekly income and step 2 determining what percentage of this relevant weekly income should be added to the penalty amount. These steps are set out in more detail below.

Step 1

2.19. Take the penalty band, as determined in Stage 1, and compare it to Table 5: this will state what can be considered as relevant weekly income for the offence.

Table 5 - Defining relevant weekly income

Penalty Level	Relevant Weekly Income
1	Gross rental income or management fees for the property where the offence occurred
2	
3	
4	
5	
5+	All income for the offender (carry out a financial assessment)

Step 2

2.20. Take the penalty band, as determined in Stage 1, and compare it to Table 6. This will give the percentage of the landlord's relevant weekly income will be added to the civil penalty.

Table 6 - % of relevant weekly income

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income
5+	600% of relevant weekly income

What if tenancy agreements or management contracts are not available?

2.21. Tenancy agreements and property management contracts can be requested using the Council's existing powers and this should be done where copies are not already available.

2.22. In cases where the landlord is not forthcoming with this information or documentation, an estimate of the average weekly income will be used instead and it will be for the landlord to make representations against this estimated figure if they deem it to be too high.

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- 2.23. Representations against estimated incomes will only be accepted where sufficient evidence of the landlord's income is provided to support these claims. Estimates of average weekly income will be calculated on a case by case basis but they will generally be based on an assessment of similar sized rental properties in the same area as the property to which the offence relates.

IMPORTANT – the Council will not normally consider a landlord's assets but does reserve the right to consider assets in any cases where the Council considers it reasonable and proportionate to do so. Each of these cases will be dealt with on a case by case basis.

The Landlord's track record

- 2.24. A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations; as such, the track record of the landlord will be an important factor in determining the final amount of the civil penalty that is imposed. Below are questions that must be asked for each landlord that will receive a civil penalty.

- a) Has the landlord had any relevant² notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years? If so, how many times have they been subject to such enforcement action in that timeframe?
- b) Has the landlord had any civil penalties imposed on them in the last 2 years? If so, how many civil penalties have been imposed on them in that timeframe?
- c) Has the landlord accepted any cautions for relevant¹ offences in the last 2 years? If so, how many cautions for relevant offences¹ have they accepted in that timeframe?
- d) Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a 'straight to enforcement action' approach?
- e) Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?
- f) Has the landlord breached any relevant³ notices, which resulted in works in default being carried out, in the last 2 years? If so, how many times have works in default been carried out under such circumstances in that timeframe?
- g) Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?
- h) Has the landlord been prosecuted for any relevant⁴ offences in the last 2 years? If so, how many times have such prosecutions taken place in that timeframe?

² any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

³ any notices served under any legislation relating to housing, public health or environmental health.

⁴ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

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- i) Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?
- j) Has the Landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?

IMPORTANT – question 1 refers to all relevant notices served during the two years: this means that where the offence is failure to comply with an improvement notice, that notice should also be included in the answer to the question.

How is the increase as a result of the Landlord's track record calculated?

2.25. Each of the questions will be placed into one of four categories, based on the seriousness of the offence or enforcement action to which the question refers. Each category of question is given a weighting that increases with the seriousness of the category. Table 7 shows the four categories and the weighting which is applied to each one.

Table 7 – Weightings

Category	Weighting
Category 1 (<i>Least serious</i>)	1
Category 2 (<i>Moderately Serious</i>)	5
Category 3 (<i>Very Serious</i>)	10
Category 4 (<i>Most serious</i>)	20

- 2.26. Any questions where the answer is 'no' will have a weighting of zero but 'yes' answers will accrue the weighting for that particular question. E.g. the weighting for a question is 10 and the answer to that question is 'yes' so the score for that particular question will be 10.
- 2.27. For those questions where the number of occasions is relevant, the total weighting for a 'yes' answer will be the weighting for that question multiplied by the number of occasions. E.g. if a question has a weighting of 5 and the landlord has committed the offence 3 times, this will give a total score of 15 for the question. Table 8 shows the category which each of the questions falls within and the subsequent weighting that is applied as a result.

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Table 8 - Questions & Weightings

Questions	Weighting for a 'Yes' answer	Multiplied by the number of occasions?
Has the landlord had any relevant notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years?	1	Yes
Has the landlord had any civil penalties imposed on them in the last 2 years?	5	Yes
Has the landlord accepted any cautions for relevant ⁵ offences in the last 2 years?	10	Yes
Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a 'straight to enforcement action' approach?	5	No
Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?	5	No
Has the landlord breached any relevant ⁶ notices, which resulted in works in default being carried out, in the last 2 years?	10	Yes
Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?	10	No
Has the landlord been prosecuted for any relevant ⁷ offences in the last 2 years?	20	Yes
Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?	20	No
Has the landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?	20	No

⁵ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

⁶ any notices served under any legislation relating to housing, public health or environmental health.

⁷ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

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- 2.28. Once all the questions have been answered, the weighting for each is totalled and compared to Table 9: this gives the percentage increase that will be applied to the penalty amount. The increase will be a percentage of the starting amount for the penalty band that the offence falls within. E.g. the total score for the questions is 23 and so the corresponding percentage increase in Table 9 will be 60%.

Table 9 - % Increase

Score	%	Score	%
0	0%	21	55%
1	5%	23	60%
3	10%	25	65%
5	15%	27	70%
7	20%	29	75%
9	25%	31	80%
11	30%	33	85%
13	35%	35	90%
15	40%	37	95%
17	45%	39+	100%

IMPORTANT - the penalty calculation will never be increased past the upper limit of the penalty band: however, where the landlord has a history of non-compliance, it is appropriate to factor this into your assessment of their overall culpability. This could affect your initial assessment of the appropriate penalty level and lead to a higher penalty band being used as the starting point.

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Stage 3 – Adding income and track Records amounts to the Penalty Band

Stage 3 Overview

2.29. Stage 1 gives the penalty band for the offence and this determines the starting amount and the upper limit for the penalty calculation. Stage 2 gives the amount that should be added as a result of the landlord's income and the amount that should be added as a result of the landlord's track record.

How are the figures from stage 1 and stage 2 combined?

2.30. To get the amount of the penalty calculation, the two figures from Stage 2 should be added to the starting amount for the penalty band. E.g. if the increase for income is £500 and the increase due to the landlord's track record is £1000, these two figures are added to the starting amount for the penalty to get the penalty calculation amount.

2.31. If the amount calculated, by adding the figures for the landlord's income and track record, is less than the upper limit for the penalty band, then this is the amount that will be used. However, if the amount calculated is greater than the upper limit for the penalty band, then the upper limit will be used instead.

Stage 4 – Financial benefit obtained from committing the offence

Stage 4 Overview

2.32. A guiding principle of civil penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the civil penalty imposed should never be less than it would have reasonably cost the landlord to comply in the first place.

How is the financial benefit determined?

2.33. Calculating the amount of financial benefit obtained will need to be done on a case by case basis but the table below gives some examples of potential financial benefit for each of the offences.

Offence	Examples of potential financial benefit
Failure to comply with an Improvement Notice (section 30)	The cost of any works that were required to comply with the improvement notice but which have not been removed by works in default.
Offences in relation to licensing of HMOs (section 72)	Rental income whilst the HMO was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offences in relation to licensing of houses under Part 3 of the Act (section 95)	Rental income whilst the property was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offence of contravention of an overcrowding notice (section 139)	Rental income whilst the property is being occupied in contravention of the overcrowding notice.
Failure to comply with management regulations in respect of HMOs (section 234)	The cost of any works that are required to avoid breaching the regulations.

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How is financial benefit added to the penalty amount?

- 2.34. The Council will need to be able to prove that financial benefit was obtained before it can be included in the civil penalty calculation. However, where it can be proven, the amount obtained should be added to the penalty calculation amount from Stage 3 and this will give the final civil penalty amount that will be imposed on the landlord.

IMPORTANT – where the landlord has obtained financial benefit in the form of rental income and this full amount has been added to the total penalty, it will be appropriate to take this into consideration when deciding whether or not to pursue a Rent Repayment Order. For more information on Rent Repayment Orders, see South Ribble Borough Council – Rent Repayment Orders Guidance.

Imposing a Civil Penalty

Where is the process for civil penalties set out?

- 3.1. Schedule 9 of the Housing and Planning Act 2016 sets out the process which must be followed when imposing a civil penalty.

Notice of Intent

- 3.2. Before imposing a civil penalty on a landlord, the Council must serve a 'notice of intent' on the landlord in question. This notice must be served within 6 months of the last day on which the Council has evidence of the offence occurring. This notice must contain the following information:
- The amount of the proposed civil penalty;
 - The reasons for proposing to impose a civil penalty, and;
 - Information about the Landlord's right to make representations to the Council.

Representations

- 3.3. Any landlord who is in receipt of a notice of intent has the right to make representations against that notice within 28 days of the date on which the notice was given. Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague.
- 3.4. Where a landlord challenges the amount of the civil penalty, it will be for the landlord to provide documentary evidence (e.g. tenancy agreements etc.) to show that the calculation of the penalty amount is incorrect. Where no such supporting evidence is provided, the representation against the amount will not be accepted.
- 3.5. Written responses will be provided to all representations made by the recipients of a notice of intent. No other parties have an automatic right to make representations but if any are received, they will be considered on a case by case basis and responded to where the Council considers it necessary.

Final Notice

- 3.6. Once the representation period has ended, the Council must decide, taking into consideration any representations that were made, whether to impose a civil penalty and the final amount of the civil penalty. The final amount of a civil penalty can be a lower amount than was proposed in the notice of intent but it cannot be a greater amount.
- 3.7. The imposing of a civil penalty involves serving a final notice and this notice must contain the following information:
- The amount of the financial penalty;
 - The reasons for imposing the penalty;
 - Information about how to pay the penalty;
 - The period for payment of the penalty;
 - Information about rights of appeal, and;
 - The consequences of failure to comply with the notice.

The period of payment for the civil penalty must be 28 days beginning with the day after that on which the notice was given.

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Withdrawing or Amending Notices

- 3.8. At any time, the Council may withdraw a notice of intent or a final notice or reduce the amount of a civil penalty. This is done by giving notice in writing to the person on whom the notice was served. Where a civil penalty has been withdrawn, and there is a public interest in doing so, the Council can still pursue a prosecution against the landlord for the conduct for which the penalty was originally imposed. Each case will be considered on a case by case basis.

Appeals to the Tribunal

- 3.9. If a civil penalty is imposed on a landlord, that Landlord can appeal to the First-tier Tribunal (“the Tribunal”) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the Council, or to cancel the civil penalty. Where an appeal has been made, this suspends the civil penalty until the appeal is determined or withdrawn.

Payment of a Civil Penalty

- 3.10. A civil penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the final notice.

Other consequences of having a Civil Penalty imposed

- 3.11. Where a civil penalty has been imposed on a landlord, this will form a part of our consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Housing Act 2004.
- 3.12. Whilst a civil penalty will not automatically preclude us from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person’s involvement in the property will be considered.
- 3.13. Where a landlord has two civil penalties imposed on them in a 12 month period, each for a banning order offence, the Council will include their details on the Database of Rogue Landlords and Property Agents.
- 3.14. “Banning order offence” means an offence of a description specified in regulations made by the Secretary of State under Section 14(3) of the Housing and Planning Act 2016.

Recovering an unpaid Civil Penalty

- 3.15. It is the policy of the Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the county courts. Some of the orders available to the Council through the county courts are as follows:
- A Warrant of Control for amounts up to £5000;
 - A Third Party Debt Order;
 - A Charging Order, and;
 - Bankruptcy or insolvency.

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- 3.16. A certificate, signed by the Chief Finance Officer for the Council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.
- 3.17. Where a Charging Order has been made, and the amount of the order is over £1000, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the Landlord and not just the property to which the offence relates.
- 3.18. Where the civil penalty was appealed and the Council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court. Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

Income from Civil Penalties

- 3.19. Any income from Civil Penalties is retained by the Local Housing Council which imposed the penalty. The Council must spend any income from Civil Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

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Worked Examples

Worked Example 1

Landlord B owns and manages a single family dwelling. During an inspection, a category 1 hazard (falls on stairs) and multiple category 2 hazards were identified at the property. The stairs were in an extremely dangerous condition but could be made safe fairly easily. An improvement notice was served on Landlord B and some of the works to reduce the category 2 hazards were carried out at the property with a cost of £2000. Landlord B was also prosecuted 18 months ago for failing to comply with an improvement notice. A financial investigation into Landlord B found that they have received an annual income of £50,000.

Offence: Failing to comply with an improvement notice.

Culpability: 'Very High' (Deliberate breach of or flagrant disregard for the law)

Justification: Landlord B was aware of the need to comply with the improvement notice as some of the works were completed. Landlord B is also aware of the consequences of failing to comply with the notice as previous enforcement action has been taken against them for this reason.

Seriousness of harm /risk: 'Level A'

Justification: the condition of the staircase creates a Category 1 hazard and if someone were to trip or fall on the stairs, they could reasonably end up with harm outcomes that meet the descriptions of class 1 or class 2 harm outcomes under the Housing Health & Safety Rating System. This means that the seriousness of harm risked meets the description of 'Level A'.

Penalty Band: 5+ = £15,000 to £30,000 ('Very High' culpability and 'Level A' harm)

Increase due to landlord's track record: £12,000 (80% of the starting point for the penalty)

Justification: In the last two years, Landlord B has been prosecuted for a relevant offence, has been served 1 relevant notice under Part 1 of the Housing Act 2004, and has been subject to works in default. This gives us a score of 31 for his track record and an increase of 80% of the penalty Amount. This is an increase of £12,000.

Increase due to the landlord's income: £5769.23 (600% of the Landlords average weekly income)

Penalty calculation amount: £30,000 (£15,000 + £12,000 +£5769.23 = £32,769.23)

Financial benefit obtained from committing the offence: None

Justification: Works in default were carried out at the property and cost of these works, plus an administration fee, were charged to Landlord B. As such, it cannot be said that Landlord B obtained financial benefit from committing the offence.

Final amount of the civil penalty: £30,000 (£15,000 + £12,000 +£5769.23 = £32,769.23 – civil penalties are capped at £30,000)

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Worked Example 2

Landlord C is the appointed manager of a three bedroom licenced HMO. The company is paid £90 per month to manage the property on behalf of the owner. During a compliance inspection, it was found that they had neglected to display any of the manager's details anywhere in the property. They were warned about this one year ago and stated that they were aware of the requirement but an oversight meant that they missed this property when displaying details. They have not been the subject of any formal enforcement action in the last 2 years and the property was otherwise in a satisfactory condition.

Offence: Failure to comply with management regulations in respect of Houses in Multiple Occupation.

Culpability: 'Low' (Failings were minor and occurred as an isolated incident)

Justification: the company does not have a history of non-compliance and the breach was fairly minor and easily rectified.

Seriousness of harm /risk: 'Level C' (All other cases not falling within Level A or Level B)

Penalty Band: 1 = £500 to £1200 ('Low' culpability and 'Level C' harm)

Increase due to landlord's track record: None

Justification: in the last two year. Landlord C has not been the subject of any formal enforcement action and so there is no increase in penalty amount due to their track record.

Increase due to the landlord's income: £10.39 (50% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is band 1 and Landlord C is the manager of the property where the offence occurred. As such, the relevant income for consideration is the weekly management fees received for the property and 50% of this will be added to the penalty amount. In this case, the relevant weekly income is £20.77 and so £10.39 will be added.

Penalty calculation amount: £510.39 ($£500 + £10.39 = £510.39$)

Financial benefit obtained from committing the offence: None

Justification: the cost of displaying Landlord C's management details would be negligible and so it would not be reasonable to claim that financial benefit was obtained from committing the offence.

Final amount of the civil penalty: £510.39 ($£500 + £10.39 = £510.39$)

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Worked Example 3

Landlord E owns and operates an unlicensed HMO. Landlord E has been made aware of the need to apply for an HMO licence but has failed to do so and has continued to operate unlicensed for the past 6 months. The rental income received by Landlord E during this 6 month period is £7500. This is the first time that Landlord E has been the subject of enforcement action.

Offence: Operating an unlicensed HMO

Culpability: 'Very High' (Deliberate breach of or flagrant disregard for the law)

Justification: Landlord A is aware of requirement to licence the property and the consequences of not doing so but has chosen not to comply anyway.

Seriousness of harm /risk: 'Level C' (All other cases not falling within Level A or Level B)

Justification: the specific offence of operating an unlicensed HMO does not implicitly mean that there are any defects or deficiencies in the property. As such, the seriousness of harm risked would not meet the descriptions of 'Level A' or 'Level B'.

Penalty Band: 4 = £5000 to £10,000 ('Very High' culpability and 'Level' C harm)

Increase due to landlord's track record: None

Justification: in the last two years, Landlord E has not been the subject of any formal enforcement action and so there is no increase in the penalty amount due to their track record.

Increase due to the landlord's income: £721.15 (250% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is 4 and Landlord E is the owner of the property where the offence occurred. As such, the relevant income for consideration is the weekly rental income for the property and 250% of this will be added to the penalty amount. In this case, the relevant weekly income is £288.46 and so £721.15 will be added.

Penalty calculation amount: £5721.15 ($£5000 + £721.15 = £5721.15$)

Financial benefit obtained from committing the offence: £8350 ($£7500 + £850 = £8350$)

Justification: Landlord A has received £7500 in rental income from the property during the time that it has been unlicensed and so this can be considered the financial benefit received from committing the offence. The application fee for an HMO license is £850

Final amount of the civil penalty: £14,071.15 ($£5721.15 + £8350 = £14071.15$)

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Example 4

Landlord F owns and manages a single family dwelling. During an inspection, a category 1 hazard (excess cold) and multiple category 2 hazards were identified at the property. The heating provision in the property was inadequate and not economic. An improvement notice was served on Landlord F and some of the works to reduce the category 2 hazards were carried out but the remainder of the works on the notice were not. They have not been the subject of any formal enforcement action in the last 2 years. The landlord receives an income of £150.00/week.

Offence: Failing to comply with an improvement notice.

Culpability: 'Very High' (Deliberate breach of or flagrant disregard for the law)

Justification: Landlord F was aware of the need to comply with the improvement notice as some of the works were completed.

Seriousness of harm /risk: 'Level B'

Justification: the lack of inadequate and uneconomical heating would result in insufficient heating of the property and could reasonably end up with harm outcomes that meet the descriptions of class 3 or class 4 harm outcomes under the Housing Health & Safety Rating System. This means that the seriousness of harm risked meets the description of 'Level B'.

Penalty Band: 5 = £7500 to £20,000 ('Very High' culpability and 'Level B' harm)

Increase due to landlord's track record: None

Justification: in the last two years, Landlord E has not been the subject of any formal enforcement action and so there is no increase in the penalty amount due to their track record.

Increase due to the landlord's income: £600 (400% of weekly rental income from the property where the offence occurred)

Justification: the penalty band is 5 and so the increase due to landlords income will normally be based on the rental income for the property. As such, the relevant income for consideration is the weekly rental income for the property and 400% of this will be added to the penalty amount. In this case, the relevant weekly income is £150.00 and so £600.00 will be added.

Penalty calculation amount: £8,100 (£7500 + £600 = £8,100)

Financial benefit obtained from committing the offence: £3000.00

Justification: The costs of providing a suitable and economic heating system has been identified at £3000 and so this can be considered the financial benefit received from committing the offence. *

Final amount of the civil penalty: £11,100 (£10,000 + £2,400 + £3000 = £15,400)

**It is normally not appropriate to allow a category 1 hazard to remain and as such works in default would normally be undertaken prior to the serving of the civil penalty. Had this been undertaken in the above case a invoice for the costs incurred would have been issued and the £3000 could not therefore be considered as a financial benefit.*

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Appendix 1 – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

“Examples for the Four HHSRS Classes of Harm

C1 The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.

C2 Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.

C3 The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.

Class I

This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.

Class II

This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.

Class III

This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.

Class IV

This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: I Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”

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Appendix II – Public Interest Stage of the Full Code Test

The following is an extract from pages 7-10 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Public Interest Stage

4.7 In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.

4.8 It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

4.9 When deciding the public interest, prosecutors should consider each of the questions set out below in paragraphs 4.12 a) to g) so as to identify and determine the relevant public interest factors tending for and against prosecution. These factors, together with any public interest factors set out in relevant guidance or policy issued by the DPP, should enable prosecutors to form an overall assessment of the public interest.

4.10 The explanatory text below each question in paragraphs 4.12 a) to g) provides guidance to prosecutors when addressing each particular question and determining whether it identifies public interest factors for or against prosecution. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

4.11 It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and those factors put to the court for consideration when sentence is passed.

4.12 Prosecutors should consider each of the following questions:

a) How serious is the offence committed?

The more serious the offence, the more likely it is that a prosecution is required.

When deciding the level of seriousness of the offence committed, prosecutors should include amongst the factors for consideration the suspect's culpability and the harm to the victim by asking themselves the questions at b) and c).

b) What is the level of culpability of the suspect?

The greater the suspect's level of culpability, the more likely it is that a prosecution is required.

Culpability is likely to be determined by the suspect's level of involvement; the extent to which the offending was premeditated and/or planned; whether they have previous criminal convictions and/or out-of-court disposals and any offending whilst on bail or whilst subject to a court order; whether the offending was or is likely to be continued, repeated or escalated; and the suspect's age or maturity (see paragraph d) below for suspects under 18).

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Prosecutors should also have regard when considering culpability as to whether the suspect is, or was at the time of the offence, suffering from any significant mental or physical ill health as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care to such persons.

c) What are the circumstances of and the harm caused to the victim?

The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim.

A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public.

Prosecutors must also have regard to whether the offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family.

Prosecutors also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence. If there is evidence that prosecution is likely to have an adverse impact on the victim's health it may make a prosecution less likely, taking into account the victim's views.

However, the CPS does not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

d) Was the suspect under the age of 18 at the time of the offence?

The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending. Prosecutors must have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.

As a starting point, the younger the suspect, the less likely it is that a prosecution is required.

However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

e) What is the impact on the community?

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The greater the impact of the offending on the community, the more likely it is that a prosecution is required. In considering this question, prosecutors should have regard to how community is an inclusive term and is not restricted to communities defined by location.

f) Is prosecution a proportionate response?

Prosecutors should also consider whether prosecution is proportionate to the likely outcome, and in so doing the following may be relevant to the case under consideration:

The cost to the CPS and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty. (Prosecutors should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs 4.12 a) to g), but cost is a relevant factor when making an overall assessment of the public interest.)

Cases should be capable of being prosecuted in a way that is consistent with principles of effective case management. For example, in a case involving multiple suspects, prosecution might be reserved for the main participants in order to avoid excessively long and complex proceedings.

g) Do sources of information require protecting?

In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

Appendix 3 – The Evidential Stage of the Full Code Test

The following is an extract from pages 6-7 of The Code for Crown Prosecutors (January 2013, 7th Edition) issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

The Evidential Stage

4.4 Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

4.5 The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which he or she might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.

4.6 When deciding whether there is sufficient evidence to prosecute, prosecutors should ask themselves the following:

Can the evidence be used in court?

Prosecutors should consider whether there is any question over the admissibility of certain evidence. In doing so, prosecutors should assess:

- a) the likelihood of that evidence being held as inadmissible by the court; and
- b) the importance of that evidence in relation to the evidence as a whole.

Is the evidence reliable?

Prosecutors should consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

Prosecutors should consider whether there are any reasons to doubt the credibility of the evidence.

Appendix 4 – Process Flow Chart

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REPORT TO	ON
Scrutiny Committee Cabinet Council	30 August 2018 12 September 2018 26 September 2018



TITLE	REPORT OF
Corporate Peer Challenge Action plan and response to Statutory Recommendation (under s24 of the Local Audit and Accountability Act 2014).	Chief Executive

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

Members are asked to consider this report which provides an update on the progress on the recommendations from the LGA Peer review from 2017 and the recent revisit in March 2018. The report also addresses the recommendations recently made by the council's external Auditors, Grant Thornton, which was concluded within the Annual Audit of the Statement of Accounts for 2017/18. The external auditors have issued a statutory recommendation for the council to set out how it has progressed with its implementation of the LGA Findings. Under the relevant regulation, the Council is required to submit a formal response within prescribed timelines.

2. RECOMMENDATIONS

For Council to:

- Accept the recommendation made by the external auditor;
- Note the actions completed with regard to implementation of the recommendations made following the LGA Corporate Peer Review; and
- Provide a formal response to the external auditors advising that all actions recommended within the Original Peer review visit, and Actions suggested in the revisited Peer review have been actioned and are either complete, or are currently in implementation.

3. BACKGROUND

In March 2017, the Council invited the Local Government Association to undertake a Corporate Peer Challenge. Following this review, several issues were raised as concern to the council, which included

- Staff morale was extremely low, with little confidence in the senior management team.
- The Governance arrangements were considered weak, with improvements required.
- The Council's financial position was poor, with a significant medium term gap in funding which was identified within the medium term financial strategy.
- Officer member relations was considered to be poor and unhealthy.
- There was limited confidence in performance management of any major projects or change programmes.

Following this review, the Councils set up a cross party Improvement Reference Group (IRG) and an action plan was agreed for 2017/2018.

In July 2017, the council appointed a permanent Head of Paid Service, and in August 2017, priorities were set for the new Head of Paid Service to progress and implement the IRG Action plan

By March 2018 (within an eight month period), all of the actions within the IRG work programme had been either completed, or where in implementation mode. Some examples of progress (which are not exclusive) include:

- The Council developed, agreed and implemented a Transformation/ Organisational strategy for the 2017/18 financial year.
- A 5 year corporate plan, following a full consultation process has been adopted by the Council.
- The council approved, for the first time, a 5 year medium term financial strategy.
- Governance committee set up review group and have a rolling programme of updating the Council's Constitution.
- The council has carried out a cultural mapping exercise, to baseline the current position on Staff Morale.
- A new officer leadership structure was approved by full council in Nov 2017, with the shared services structure having an amended structure approved in March 2018.
- The council has implemented a new leadership development programme.
- A new officer / member protocol has been developed and agreed.
- A robust Project management framework has been put in place, and is currently being used for the implementation of all Corporate Priority projects.

In early 2018, the council invited a follow up review from the LGA Peer challenge, and a number of key recommendations were made in a letter to the Council dated the 16th March 2018.

The Peer review feedback was considered by the IRG on the 19th March and a revised work plan was considered for the Group for the 2018/19 financial year.

Through April and May of 2018, the council's political leadership changed, with a new Leader, Deputy Leader and Cabinet being elected in May.

On the 16th May, the conservative Peer, working to the IRG notified the council that he needed to step down from the position due to his commitments nationally, however, the LGA sourced a new Conservative Peer in June 2018, and on the 10th July, the council commenced with its IRG meetings with new Peers in place. On the 10th July, a revised programme of works was agreed in line with the peer revisit.

On the 26 July 2018 the Governance Committee approved the annual Statement of Accounts 2017/18 and considered the External Audit (Grant Thornton) Audit Findings Report for 2017/18. This year, the external auditors have strengthened their opinion by making a statutory recommendation under Section 24 of the Local Audit and Accountability Act 2014.

Under this regulation, the Council must consider a formal response to the recommendation and inform the external auditors of their decision.

This report brings together the outcomes of both reviews and provides a formal response to the auditor's statutory recommendation.

4. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	X
Health and Wellbeing	
Place	

Projects relating to People in the Corporate Plan:

People	
--------	--

5. LGA CORPORATE PEER CHALLENGE Revisit

As detailed above, in March 2017, the LGA were invited by the Council to undertake a Corporate Peer Challenge. Peer challenge is one of the key tools to support sector led improvement and is tailored to meet individual council needs. The peer team provide feedback as critical friends and include both member and officer peers. Unlike external audit, the LGA peer review team are not formal inspectors and the review is feedback to the council.

The outcome of this review recognised the Council was in a challenging place although it concluded overall “the scale of the challenge is manageable providing capacity is addressed but will require clear leadership, good planning and a strong sense of pace”. At that time the Council officer structure was operating in the absence of a permanent head of paid service and followed a significant corporate governance failure.

A follow up visit in March 2018 reflected progress made in implementing the recommendations almost one year on which are set out within the background to this report. The follow up visit overall found the council had made good progress in taking forward a number of recommendations however, assurance was sought that the Council should progress at pace with its implementation plan.

The following recommendations were made:

- The need for political leadership and the robust implementation of officer/member protocol
- Implementing the new senior management structure
- Developing leadership potential of the new senior team
- Aligning political and officer processes to ensure decisions are implemented with no last minute changes
- Reviewing the governance committee with a view to separating the audit and general governance function
- Implementing with Chorley the agreed approach to shared services
- Improving internal communication and clarity with staff about the vision and next steps for transformation.
- Renewing the focus and commitment to the Improvement Reference Group (and agreeing a timeframe when the IRG should be stepped down).

As detailed above, the IRG considered these findings in March 2018, and have subsequently set a plan in place to ensure delivery is implemented at pace. It should be noted that the IRG meetings are held in private, but all agendas and minutes are forwarded to the Council's External Auditors, Grant Thornton.

Appendix A details the Actions captured by the Peer review, and provides an update on the current status.

It can be noted that, to date, all actions are either addressed and any outstanding actions to address from the LGA Peer review recommendations are included within the improvement model.

6. STATUTORY RECOMMENDATION

Recently, the Governance Committee 26 July 2018 approved the annual Statement of Accounts 2017/18 and considered the External Auditors (Grant Thornton) Audit Findings Report for 2017/18.

The external audit opinion consists of two elements. The first in relation to audit of the financial statements and the second in relation to the council's arrangements for securing value for money (VfM). At that meeting the Annual Audit had not been concluded although the final opinion with regard to the financial statements is expected to be unqualified. The VfM conclusion however will remain as an "except for" conclusion which has been in place since the financial year 2015/16.

This year however the external auditors have strengthened their opinion by making a statutory recommendation under Section 24 of the Local Audit and Accountability Act 2014. A copy of the statutory recommendation will also be forwarded by the external auditor to the Secretary of State.

The Statutory Recommendation as set out in the Audit Findings Report:

Recommendation made under section 24 of the Local Audit and Accountability Act 2014 ("the Act").

The Council needs to:

- Make demonstrable progress in relation to the eight recommendations that are made in the letter dated 16 March 2018 to the Chief Executive from the Local Government Association (LGA) in relation to the LGA Corporate Peer Challenge follow up visit to South Ribble Borough Council.
- In particular, the two recommendations in relation to the management structure should be implemented as a matter of urgency which are to place particular focus in the short term upon:
 - Implementing the new senior management structure
 - Developing the leadership potential of the new senior team to take forward the place, strategic finance and transformation agendas

Under this regulation, the Council must consider a formal response to the recommendation and inform the external auditors of their decision. External Audit have requested that a meeting of full Council considers its response to the following questions:

- (a) Whether the report requires the authority to take any action or whether the recommendation is to be accepted, and
- (b) What, if any, action to take in response to the report or recommendation.

Other minor matters have been raised by external audit as part of their Audit Findings Report. With regard to the presentation of monitoring reports, members will see in the coming weeks a refreshed approach to the presentation of budget monitoring with a focus on service financial performance with greater accountability by budget holders as recommended by the LGA.

Finally, concerns were raised with regard to developing detailed project plans for the schemes highlighted in the medium term financial strategy. The council does have a new Project management system and framework in place, which captures all major projects. This will be reported through our Performance management programme throughout the year to Members.

7. CONTEXT OF EXTERNAL AUDIT OPINION

In forming their professional opinion, external audit assess activity over the financial year up to 31 March 2018 which is concurrent with the findings of the follow up peer review. It is common practice for External Audit to also take a forward view, to fully assess the 2017/18 position. This year, it is disappointing to note that the Auditors have chosen to forward look at the council's S151 position, but not forward look as to the significant progress being made on the Management restructure.

Officers are also concerned that the Auditor has raised issues of strategic capacity with regards financial matters, however, the Council financial position during 2017/18 has significantly strengthened. There appears to be no recognition that this council has moved from a deficit position to a positive position, and that for the first time, the Council has an approved 5 year medium term financial strategy.

Notwithstanding the above, if we take the audit as a position statement for 2017/18, it can be demonstrated that the March position has been significantly progressed, with actions now completed, and in progress of implementation.

8. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

Discussions have taken place with Grant Thornton as part of the finalisation of the Statement of Accounts 2017/18 and also with the LGA through the IRG.

9. FINANCIAL IMPLICATIONS

The overall financial health of the council is intrinsic within the report, there are no additional financial pressures arising from this report.

10. LEGAL IMPLICATIONS

The report is submitted to full Council in accordance with the Section 24 of the Local Audit and Accountability Act 2014.

11. COMMENTS OF THE STATUTORY FINANCE OFFICER

- 11.1 The external auditor has given an unqualified opinion in relation to the Council's 2017/18 financial statements. With regard to the 2017/18 VFM qualification, the section 24 external audit recommendations relate to progress made in implementing the 8 recommendations from the latest LGA Peer Review with particular emphasis on the new senior management structure and leadership development. The action plan sets out the progress made and future plans with timelines. The action plan as presented doesn't impact on the Council's financial overall position.
- 11.2 The actions still in progress with regard to the Section 24 recommendation will be monitored by the Council's Internal Audit Service to provide the necessary assurances to External Audit in respect of their timely implementation.

12. COMMENTS OF THE MONITORING OFFICER

- 12.1 As is referred to above the council's External Auditors have decided – with regard to the Value for Money assessment – to make a recommendation pursuant to the provisions of Section 24 of the Local Audit and Accountability Act 2014. As we know the Value of Money assessment has been a qualified one since the financial year 2015/2016. However, by making a formal recommendation this year the External auditors have decided to strengthen the expression of their concerns. In accordance with the relevant statutory provisions it is necessary for this council to formally consider this recommendation, decide whether it accepts it and decide what, if any action it will take. This is a task for full Council to perform.
- 12.2 Whilst it is true to say that the audit carried out was an assessment of where the council was for the year ending 31st of March 2018 and that progress has been made since then to implement the relevant recommendations emerging from the LGA Peer Challenge nevertheless it is strongly advisable that we take on board the recommendation from External Audit and commit ourselves to completing all outstanding actions as soon as possible.

13. OTHER IMPLICATIONS: HR & Organisational Development

As set out in the body of the report there are significant HR & Organisational Development implications with some of the recommendations from the LGA. These are being addressed with the Council shift with their model of culture and with the new appointments within the Leadership team.

14. OTHER IMPLICATIONS: ICT / Technology

The Council are currently reviewing its approach to the ICT Strategy, as set out in the Action Plan, and with the appropriate systems in place ICT will be a key tool in improving communications.

15. OTHER IMPLICATIONS: Property & Asset Management

There is a significant programme of improving property assets to create a more efficient and effective environment to allow for flexible working.

16. OTHER IMPLICATIONS: Risk

There is a complex programme of improvement detailed within this report and the action plan. The Overall programme will be placed on the Council's project management system and the risk register.

17. OTHER IMPLICATIONS: Equality & Diversity

Equality and diversity implications have been considered as part of the restructure which has been addressed within previous papers to Cabinet (November 2017 & March 2018).

18. BACKGROUND DOCUMENTS

Audit Findings report 2017/18

19 APPENDICES

Appendix A: Action Plan

Appendix B: LGA Letter

ELT Member's Name Heather McManus

Job Title: Chief executive

Report Author:	Telephone:	Date:
Heather McManus	01772 625301	26 September 2018

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Appendix A

South Ribble Borough Council - Peer Review / S24 Recommendations Action Plan				
	LGA Peer Review Recommendation	Action taken	Timeline	Comment
1	Political leadership - Robust implementation of officer/member protocol	Member officer protocol has been developed through cross-party working, this was approved by council on 21st March 2018 subsequently individual member/officer commitment has been made through formal signature.	Council approved the member/officer protocol on 21 st March 2018 and as of June 2018, 98% - Member sign up 100% - Officer sign up	Ongoing monitoring through standards committee. Complaints received Nov 15/ Oct. 16 - 12 Nov 16/Oct. 17 - 23 Nov 17- present - 7
2	Implementing the new senior management structure	Council approved the new leadership structure in November 2017 with the amended shared services structure in March 2018. Budgetary provision was made to implement 1st April 2018. Internal recruitment was completed with effect from 1st April 2018. External adverts had a closing date of 10th August 2018 with interviews in progress.. The shared services structure was amended on the 21st March 2018. Job descriptions are currently being developed (see point 6). A shared services appointments panel has been convened on the 6th Sept 2018	Internal recruitment process completed November 17 - March 18 . Internal appointments made 1st April 2018. External appointments interview dates > DCE Offered 31st August > AD positions - 24th & 25th September	
3	Developing the leadership potential of the new senior team to take forward the place, strategic finance and transformation agendas	In August 2017, upon the appointment of the Chief Exec South Ribble Borough Council undertook a review of the current operating structure with a view to ensuring operations in the future fully meet the Council's culture and delivery focus in the most efficient and effective way. Issues of the previous 2 years also needed to be addressed. The restructure of Senior Leadership and Management posts was proposed moving from a transactional structure to a transformational structure. External independent employee support was engaged by the Council to support managers who roles were affected by the proposed changes. The support provided was bespoke on an individual basis and in the context of the changes that took place. The council has developed a new leadership model based on the principles of high performing teams which we have codesigned with the leadership team, and branded it as ' Blended Working' . This new model centres around development of individuals , and is value based . there is a comprehensive programme in place to drive this through all levels of the organisation. The leadership model now drives through all recruitments made within the council. The recruitment approach developed has been externally validated by Veredus' Occupational Psychologists. Menrva has worked with Veredus (SRBC appointed external recruitment partner), to co-design the final recruitment programme design and run the recruitment Assessment. Leadership Development Programme 2018: South Ribble Borough Council are undertaking a transformational developmental change programme with a view to ensuring operations in the future fully meet the Council's culture and delivery focus in the most efficient and effective way. Operations are being restructured and recruitment for some Senior Leadership roles is continuing. The development support is focused on embedding the South Ribble Blended Way of Working within the Senior Leadership Team, with the Cabinet, Members and other Key Stakeholders and with Staff across the Council as a whole. Support is being provided for the Senior Leadership Team as a Group and as individuals as they develop in their new roles and start to transfer learning and embed a Blended Way of Working in their teams. The development approach to be informed by and directly aligned with the Cultural Mapping Work recently undertaken across the Council. Member Development Programme: Develop the culture of the Members forum with guidance from the member to member information within the Member Officer Protocol. Review the Member Charter and provide the members with a workshop in due course.	Leadership On-going development of cultural mapping. Review our Developmental Appraisal Plan - January 2019. Members Provide workshops for Members to develop and implement the Member Charter.	The Shared Services developments (listed in action point 6) will be influential in developing the leadership team.
4	Aligning political and officer processes to ensure decisions are implemented with no last minute changes	Senior officer meetings programmed to clear all council reports. Portfolio holder discussions take place to confirm reports. Shadow cabinet briefings introduced on all cleared cabinet reports. Pre-cabinet briefings take place. The council also has robust decision making processes in place (see attached flow chart)	Working Example Extended Leadership Team (Report Clearing Meeting) - 14th August 2018 Cabinet Workshop - 14th August 2018 Shadow Cabinet Briefing - 7th September 2018 Cabinet Meeting - 12th September 2018	The timeline was already in existence but the briefing of shadow cabinet has been introduced since the peer review revisit.
5	Reviewing the governance committee with a view to separating the audit and general governance function	A draft paper is currently with governance committee to review. (see attached) The governance committee has already set up a task group to review before formal consultation by the committee.	Task group meeting 6th September 2018	Governance Committee formal consideration on 20th September 2018.

Appendix A

6	Implementing with Chorley the agreed approach to shared services	Council approved the revised shared services structure in March 2018. Draft job descriptions are being co-created with existing staff central to the shared services journey. An action plan is being developed to test future shared services opportunities. External capacity is being sourced to strengthen the existing shared services legal agreement. Chorley have agreed to implement the Council new leadership model and recruitment process for the shared services appointments.	March 2018 approval. Draft job description to the next shared services appointments panel 6th Sept with timescale for approval as follows: - Shared Services Appointments Panel Training: Early October 2018 - Assessment Centre (Day 1 & Day 2): October 2018 - Shared Services Appointment Panel Internal Appointment decisions and next steps: October 2018 - External Recruitment (if required) November 2018	Dates and timings to be agreed at meeting on 6th September with a view for commissions to commence November 2018.
7	Improving internal communication and clarity with staff about the vision and next steps for transformation	<p>Cultural mapping process proposed by the staff feedback was to introduce a "TLC" approach to communications. This represents a requirement that communication is timely, clear in language and consistent in message. There have been ongoing staff briefings with regards to any real time and significant staff communication e.g. shared services.</p> <p>We have in place key messages from the leadership team posted on Connect and through face to face team meetings. The CEO continues to have an open door policy introduced on her appointment in August 2017.</p> <p>A transformation space on Connect has been created by members of the extended lead hip team and regular updates take place.</p> <p>The CEO has a blog.</p> <p>We have invested in ICT software communications solution (Attain) which will link direct to all staff .</p> <p>We have introduced an all staff distribution list.</p> <p>The council is also in the process of setting up a formal JCC with the unions, to contribute to the communications strategy.</p> <p>Transformation - an effective organisation sits transformation at the heart of its delivery model . the Council's approach to its corporate planning , and working up new and efficient ways of working is a responsibility of each and every officer in the council. To implement this , a cultural mapping exercise has taken place . out of this work, the leadership development work , and the creation of blended Blended working, teams are encouraged to develop new ideas, and transformational service delivery options . The staff have developed a concept called "white space" which allows for new service models to be developed on the lean principles of providing effective services. Teams challenge themselves around service delivery .. and options are developed from a ' whole team' approach .</p> <p>the method of transformation , allows change to be embedded within teams, with teams taking ownership of the Change.</p> <p>The communication of this new way of working has been delivered through "Market street" sessions, where all staff have had the opportunity to discuss and debate transformation projects that have taken place, and all of the above communication forum detailed above.</p>	<p>'Cultural Baseline' – an understanding of where the organisation is now and how it could build on existing initiatives and be purposeful in developing its culture and engaging the workforce into the future.</p> <p>The Chief Executive wanted to co-create the design of the intervention.</p> <p>The key outcomes were:</p> <ul style="list-style-type: none"> - an independent observation of where the organisation is now, - observations on areas for focus to move the organisation forward - the 'What next?' <p>It was also agreed we would generate a quantitative 'baseline score' for where the organisation is now and the telling of the Story around where the organisation has been and where it is now.</p> <p>Shared services departments were briefed on 19th & 20th June 2018 and are ongoing.</p> <p>Key messages on Connect are bi-weekly for leadership team.</p> <p>Open door policy is actively used by all layers of organisation.</p> <p>Transformation section on Connect is updated as and when.</p> <p>The CEO blog is released as and when required. Investment in the ICT system Attain is to be rolled out in 18/19.</p>	Our communication model has consciously shifted from a top down, tell and inform model, to a grass - roots, two way communication, involvement and engagement space.
8	Renewing the focus and commitment to the Improvement Reference Group (and agreeing a timeframe when the IRG should be stepped down)	<p>Regular IRG meetings took place in 2017/18 and are planned for 2018/19.</p> <p>At its meeting in March 2018 , the IRG considered the actions set out in the Peer review , and have subsequently met in July, and agreed a work plan for the coming year.</p>	<p>Schedule of meetings (2017 - 2018)</p> <ul style="list-style-type: none"> 15th May 2017 13th June 2017 24th July 2017 24th August 2017 18th September 2017 30th October 2017 5th December 2017 8th January 2018 19th March 2018 10th July 2018 TBC August 2018 TBC September 2018 	The IRG will monitor this action plan and there will be several workshop sessions scheduled to pick up on the following areas: - Leadership - Member & Officer Relations - Member Behaviour



Heather McManus
Chief Executive
South Ribble Borough Council
Civic Centre
West Paddock
Leyland;
PR25 1DH

16 March 2018

Dear Heather,

Re: LGA Corporate Peer Challenge follow up visit to South Ribble Borough Council

As part of the original LGA Corporate Peer Challenge (CPC) in March 2017, South Ribble Borough Council (SRBC) asked the peer team to make a follow up visit approximately 12 months later to help review and assess progress in response to the peer challenge feedback and recommendations.

The peers used their experience and knowledge of local government to reflect on the information presented to them by people they met and material that they had read before and at the time of their visit to SRBC on 31st January to 1st of February 2018.

Process and peer team

Peer challenge is one of the key tools to support sector-led improvement. It is tailored to meet individual councils' needs, and designed to complement and add value to a council's own performance and improvement focus. The peer team provide feedback as critical friends, not as assessors, consultants or inspectors.

The following members of the original peer team participated in the follow up visit:

- Alan Goodrum - LGA Associate (Lead peer)
- Cllr Peter Fleming - Leader, Sevenoaks District Council (Conservative)
- Sharon Taylor - Leader, Stevenage Borough Council (Labour)

Claire Hogan, LGA Principal Adviser, North West, was the Peer Challenge Manager for the follow up visit.

In March 2017, the LGA peer team made a number of recommendations to help the council to address its main challenges. (The recommendations made at that time can be found at Appendix A). This feedback letter reflects on progress made in implementing the recommendations almost one year later.

Appendix B

To inform our work the peer team spent 2 days on site at SRBC, during which time we spoke to: Elected members from across political parties, senior managers and officers from across the council, trade union representatives, strategic partners and members of the Improvement Reference Group.

We would like to thank you for inviting us back to provide further challenge to the council. We hope that our feedback helps to support continuous improvement at SRBC.

Summary of findings and observations

Overall SRBC has made some progress in taking forward a number of the recommendations that the peer review team made in 2017; including the establishment of an Improvement Reference Group, the recruitment of a new Chief Executive and a new organisational structure, albeit that implementation of this is still in the early stages. Crucially, resident satisfaction and trust in the council remains high and South Ribble continues to be a good place to live with good core council services.

There was some evidence that political leadership was improving for example, in developing the vision and corporate plan and improved governance processes. There has been considerable member engagement in developing a new vision and Corporate Plan for the borough and this is well supported across the council. Importantly, the council is now perceived by a number of partners as beginning to be more 'outward focused' which is crucial if ambitions for wider economic growth are to be achieved.

However, despite some progress, a number of areas still require attention. Overall the pace of change remains too slow and further progress is clearly being hampered by the lack of permanent senior capacity. Ongoing political issues are still causing some distraction and are delaying the improvement journey. There is a need to further develop the medium term financial strategy to take account of key strategic risks and the team also felt that the added capacity and benefits of having an Improvement Reference Group (IRG) are not being utilised as effectively as they might.

The feedback (below) provides further detail on the findings from the peer review team and makes a number of suggestions and recommendations for consideration by the council.

Leadership and corporate governance

The political leadership of the council has improved since the initial CPC with steps taken by the administration to take ownership of improvement. Members have developed a clear strategic vision and a new corporate plan which sets out major strategic challenges, a positive picture for the place and clear priorities for the council.

Appendix B

A member survey was conducted (September 2017) the findings from which are currently being addressed. Progress was also evident in a number of areas including both scrutiny and licensing and positive steps have been taken to improve governance arrangements; with the review of the constitution and the development of a new officer member protocol. However it will be important to ensure that the protocol is implemented and that a robust process is in place to monitor its impact. The council must be clear about its approach to transparent public reporting and provide greater clarity on where monitoring reports are taken and how issues raised are addressed.

As the council moves forward with its improvement and transformation, it should consider again the recommendation made in the initial CPC report to review the role of the governance committee. The team felt strongly that the committee still appears to have a dual role operating as a traditional audit committee whilst also addressing wider governance issues. As part of the ongoing constitution review it may be beneficial for the council to consider separating the functions.

The appointment of the new Chief Executive has provided greater stability within the council and staff from across the organisation fed back positively on her fresh approach. However the CEX lacks sufficient resources in the form of permanent senior management capacity and this is hampering the ability to deliver members' vision for the borough. The immediate implementation of the agreed senior management structure is key to addressing this situation and should be a priority for the council.

Understandably, the new CEX initially invested time building relationships with the administration and has more recently begun to engage a wider group of members. This work needs to be built upon by the CEX and senior officers to ensure better working relationships with all elected members across the council.

Some partners recognise that the council is beginning to embrace opportunities for collaborative working. There was evidence of collaboration and leadership across Lancashire with developments in relation to both the City Deal and the joint development framework. Within the borough there was also evidence of greater involvement and leadership from the council through the work of the South Ribble Partnership.

These changes present the beginning of a positive shift in the perceptions to those gleaned in March 2017, when partner agencies described the council as a somewhat un-dynamic and a risk averse partner to work with, with a low level of ambition and limited capacity to drive change through partnerships. It is important to continue to develop this 'outward facing approach' to ensure that the council maximises the opportunities of closer collaborative working both locally and across Lancashire.

Whilst these perceptions (which were often attributable to both the Leader and the new CEX's approach) are a step in the right direction, the view from a number of partners was often with the caveat that the pace is too slow and is hindered by the lack of permanent senior capacity within the council. As above, the implementation of

Appendix B

the senior management team structure would help to address the lack of pace and would help to ensure the perceptions of partners continues to improve.

Improvement journey

The team were pleased to see evidence of the implementation of some good transformational programmes, such as the Health, wellbeing and Leisure campus. It was also good to see that the council has taken up the Peers' earlier recommendation to establish an Improvement Reference Group, with members from different political groups, senior officers and the LGA (although noting that this is not independently chaired). The IRG is intended to bring capacity and focus to the improvement journey.

However, the IRG is not currently being utilised by the council in a way that maximises its impact and the team perceived a lack of 'buy in' by the council. It is recommended therefore that the council renews its focus and commitment to the IRG, recognises it as an important mechanism through which to maintain the emphasis on improvement and develops a clear timeline for when objectives in the improvement plan should be met and the IRG stood down.

When renewing the focus of the IRG the council may wish to consider linking activity to key milestones within the improvement plan. This would help to provide a 'themed' focus each time the group meets and could result a reduction in the number of meetings. There is concern that currently, updates to the IRG tend to be about future plans and process rather than updates on activity and impact. A reduced number but more focused series of meetings would allow for a more forensic look at progress under key themes; ensuring an action focused approach. The work of the IRG could also be communicated more effectively across the Council.

Political issues are still causing a notable distraction (although not to the same degree as in March 2017) and considerable energy and officer capacity continues to be expended addressing these political tensions at a time when senior capacity is particularly scarce.

One area of transformation in which progress has not been as swift at the team had anticipated is the implementation of the shared working arrangements with Chorley Council as a result of delays on decision-making. Initial work on this has previously delivered significant savings and it remains as a key pillar in the MTFs. To ensure progress is made at pace it is recommended that outstanding decisions in relation to this are expedited to enable clear work streams and project plans to be developed and enacted in the immediate short term and to provide clarity about the next steps. It would be helpful too if the councils' two communications teams work closely to ensure clear and consistent messages about the shared arrangements are conveyed to councillors, the workforce and residents alike.

The team felt that there is a need to progress with business transformation and ensure that a greater sense of urgency is portrayed; with regular performance and monitoring updates being taken to cabinet/council (and IRG beforehand).

Organisational capacity and culture

Poor staff morale was a significant issue identified in the initial CPC and there has been some progress in tackling this. Frontline staff reported feeling proud of the borough and have shown continued resilience and commitment to delivering good services.

Considerable time and effort has been placed in developing a new approach to organisational development (OD) which is beginning to have positive outcomes. A number of staff that were spoken to reported feeling more empowered and engaged. The development of a new flexi time system and the use of the 'whitespace' were cited as positive examples. The engagement and visibility of the new CEX to staff was also well received and the council's ambitions for transformation were welcomed, with staff commenting that *"It's like we have had a big spring clean"* and *"It's exciting but daunting"*.

However, despite the emerging benefits of the new inclusive staff focussed approach to transformation, frustration remains amongst the staff about the pace of change, the sense of urgency and about the lack of clear messaging in relation to next steps. It was felt that greater clarity is needed about key transformational messages and that these need to be consistently communicated between senior officers and members at pace. It was also acknowledged by staff that the biggest barrier to progress is the lack of a permanent senior officer cohort. While interim managers are highly respected personally, it was acknowledged that the interim nature of the current appointments creates uncertainty and risk. The need for stability and certainty remains.

This frustration is heightened by the continuing political tensions that are delaying progress. There was acknowledgement amongst staff that this continues to contribute to negative external perceptions of the council.

One issue identified by the team as an ongoing area to address, is the lack of capacity and skills of the right kind and at the right level for ongoing transformation. For instance the team felt that in order to achieve the aims outlined in its transformation plan there remains a need to ensure officers with greater commercial and coherent programme management skills and experience are in post.

Also vital is the need to embed and sustain the positive approach to OD within the transformation programme; as the two should not be mutually exclusive. Also aligned to transformation programme is the need to scope and plan (now) the member induction plan for 2019. This will help to ensure that member development is integral to the wider approach to transformation and that the developing 'One team' approach includes members too. If developed, the council should also consider taking the new member induction plan to the IRG for external challenge and input.

Financial planning and viability

Appendix B

The underlying financial position at SRBC remains sound and there is no 'burning platform' which the council needs to address. Like others within the local government sector, the council has tough financial decisions to make but fortunately does have options from which to choose in terms of ongoing savings, income generation and council tax.

Evidence from the medium term financial strategy highlights good practice for the development of the council's capital programme utilising £9.2m reserves. The council is also better than average on value for money compared to other borough councils nationally in a range of areas, including; spend on benefits administration, culture/sport, environmental services, economic development and planning.

Despite this generally positive position there remains insufficient assurance about the implementation of the MTFS and in particular about the £300k savings linked to the shared services plans identified for 2018/2019. There is concern about the over reliance on reserves to balance the revenue budget and a serious risk to planned savings that emerged as a result of deferred decision making (including the decision not to implement / increase relating to car park charges).

Overall there is a need to develop a coherent approach to corporate, financial planning and strategic risk. In particular, to give greater assurance, robust clear and concise processes are needed to monitor and review the implementation of the MTFS, with greater clarity about where and when progress updates will be reported

Summary of recommendations

SRBC has made progress since the peer team's initial visit in March 2017. However as noted above (and as acknowledged in the council's self-assessment document) further action, at pace, is required to ensure that this progress is built upon with a greater sense of urgency.

To ensure the council achieves its vision that '*South Ribble is and continues to be recognised nationally as the best place in the UK*' the team suggests that the council places particular focus in the short term upon:

- Political leadership, to resolve the ongoing political tensions. For example through robust implementation of the new officer/member protocol.
- Implementing the new senior management structure
- Developing the leadership potential of the new senior team to take forward the place, strategic finance and transformation agendas
- Aligning political and officer processes to ensure decisions are implemented with no last minute changes
- Reviewing the governance committee; with a view to separating the audit and general governance functions.
- Implementing, with Chorley, the agreed approach to shared services
- Improving internal communication and clarity with staff about the vision and next steps for transformation; utilising different channels of communication and not over relying on CEX engagement sessions.

Appendix B

- Renewing the focus of, and commitment to the Improvement Reference Group (and agreeing a timeframe for when the IRG can be stood down). This will help to ensure that this invaluable resource is utilised to best effect and that the focus on improvement within the council is maintained.

Next steps

We appreciate that the council will want to reflect on these findings and suggestions with the senior managerial and political leadership in order to determine how the organisation wishes to move forward.

Your LGA Principal Adviser, Gill Taylor, will be happy to work with you to identify any additional support the LGA can offer to help you respond to the points set out in this letter. Gill can be contacted on 07789 512173 or gill.taylor@local.gov.uk

Claire Hogan – LGA North West Principal Adviser
On behalf of the Peer Challenge Team

Recommendations from the 2017 LGA Corporate Peer Challenge for South Ribble Borough Council

I. The political Administration needs to lead the Council coherently, effectively, visibly and take ownership of the improvement to take the Council forward positively.

II. Agree a clear vision for the Borough which tackles its major strategic challenges and sets out a positive future picture for the place and clear priorities for the Council.

III. Develop robust plans to bridge the financial gap in the Council's medium term financial plan, focused around firm project plans.

IV. All political parties to seek to gain consensus on the Council's strategic issues to improve the political stability of the Council.

V. Senior Members to ensure strong standards of personal behaviour in order to provide stronger leadership of the Council.

VI. Progress the permanent appointment of the Council's Chief Executive and permanent appointment of the statutory officers, and design the organisation around the key priorities.

VII. Senior Members to lead the improvement journey the Council has begun and demonstrate greater ownership of the Improvement Plan.

VIII. Establish an Improvement Reference Group to ensure appropriate pace and external challenge of the improvement agenda.

South Ribble Council – Cabinet Forward Plan

For the Four Month Period: 1 September 2018 - 31 December 2018

This document gives 28 days' notice of 'key' and other major decisions which the Cabinet expect to take during the next four month period. It also gives notice of the decisions that are likely to be taken in private. The document is updated as required and is available to the public on the Council's website at www.southribble.gov.uk.

A 'Key' Decision is defined as any decision in relation to a Cabinet function which is likely:

- (a) To result in the Council incurring expenditure which is, or the making of savings which are significant. The financial threshold above which expenditure/savings become significant is set at £100,000. The financial threshold is applicable to both revenue and capital budgets; or
- (b) To be significant in terms of its effect on the communities living in an area comprising two or more Council wards.

As a matter of local choice, the Forward Plan also includes the details of any significant issues to be initially considered by the Cabinet and submitted to the Full Council for approval.

Under the Access to Information Procedure Rules set out in the Council's Constitution, a 'Key' Decision may not be taken, unless 28 days' notice have been given in this document.

The law and the Council's Constitution provide for urgent key decisions to be made, even though they have not been included in this document in accordance with General Exception and Special Urgency provisions, set out in Access to Information Procedure Rules.

The Cabinet is made up of the Leader, Deputy Leader and five other Cabinet Members with the following portfolios:

Executive Leader	Councillor Mary Green
Deputy Executive Leader and Cabinet Member (Environment and Community Safety)	Councillor Caroline Moon
Cabinet Member (Assets and Transformation)	Councillor Warren Bennett
Cabinet Member (Corporate Support and Community Engagement)	VACANT
Cabinet Member (Public Health, Leisure and Wellbeing)	Councillor Karen Walton
Cabinet Member (Finance)	Councillor Susan Snape
Cabinet Member (Planning, Housing and Economic Growth)	Councillor Cliff Hughes

Whilst the majority of the Cabinet decisions listed in this Forward Plan will be open to the public to attend, there may be some decisions to be considered that contain confidential, commercially or personal information. The Forward Plan is a formal notice under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that some of the decisions listed in the Forward Plan will be held in private because the

report will contain exempt information under Schedule 12A of the Local Government Act 1972, as set out below and that the public interest in withholding the information outweighs the public interest in disclosing it.:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Copies of the Council's Constitution and agenda and minutes for all meetings of the Council may be accessed on the Council's website: www.southribble.gov.uk. If there are any queries, including objections to items being considered in private, please contact the Council on 01772 625309 or email dscambler@southribble.gov.uk.

**Heather McManus,
Chief Executive**

Last updated: 04 September 2018

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Meeting on 12 September 2018							
Leader of the Council							
Lead the development of the Borough Community Strategy	Cabinet	Leader of the Council	Significant effect in 2 or more Council wards.	12 Sep 2018	No	No	Report of the Director of Neighbourhoods and Development
Communicating with residents and businesses	Cabinet	Leader of the Council	Significant effect in 2 or more Council wards.	12 Sep 2018	No	No	Report of the Director of Neighbourhoods and Development
Cabinet Member (Assets and Transformation)							
30 Rhodesway, Houghton	Cabinet	Assets and Transformation		12 Sep 2018	No	No	Report of the Director of Planning and Property

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
South Ribble Home Build	Cabinet	Assets and Transformation	Expenditure / Savings higher than £100,000	12 Sep 2018	Paragraph 3: Information relating to the financial business affairs of any particular person (including the authority holding that information)	No	Report of the Director of Planning and Property
One asset approach to refurbishment and future management of Civic Centre	Cabinet	Assets and Transformation	Expenditure / Savings higher than £100,000	12 Sep 2018	Paragraph 3: Information relating to the financial business affairs of any particular person (including the authority holding that information)	No	Report of the Director of Neighbourhoods and Development
Cabinet Member (Public Health, Leisure and Wellbeing)							

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
New Service Delivery Model of Preventive Health	Cabinet	Public Health, Leisure and Wellbeing	Significant effect in 2 or more Council wards.	12 Sep 2018	No	No	Report of the Director of Neighbourhoods and Development
Leisure Campus Contract	Cabinet	Public Health, Leisure and Wellbeing	Expenditure / Savings higher than £100,000	12 Sep 2018	Paragraph 3: Information relating to the financial business affairs of any particular person (including the authority holding that information)	https://southribble.moderngov.co.uk/documents/s4877/Cabinet%20Report%20210618%20First%20Phase%20of%20Campus%20Project%20post%20Cabinet%20Workshop%20002.pdf	Report of the Director of Planning and Property
Cabinet Member (Strategic Planning, Housing and Economic Growth)							
Housing Act Enforcement Policy	Cabinet	Strategic Planning, Housing and Economic Growth	Significant effect in 2 or more Council wards.	12 Sep 2018	No	No	Report of the Director of Neighbourhoods and Development
Cabinet Member (Finance)							

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Council Tax Support Scheme	Cabinet	Finance	Significant effect in 2 or more Council wards.	12 Sep 2018	No	No	Report of the Deputy Chief Executive (Resources and Transformation)
Corporate Peer Challenge Action plan and response to Statutory Recommendation (under S24 of the Local Audit and Accountability Act 2014)	Cabinet	Finance	Significant effect in 2 or more Council wards.	12 Sep 2018	No	https://southribble.moderngov.co.uk/documents/s5291/South%20Ribble%20Borough%20Council%202017-18%20Audit%20Findings%20Report%20-%20Final%20for%20Governance%20Committee%2026%20July%20.pdf	Report of the Chief Executive
Future Meetings							

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Approval of the Housing Enforcement Policy and Civil Penalties Guidance Document	Cabinet	Strategic Planning, Housing and Economic Growth	Significant effect in 2 or more Council wards.	17 Oct 2018	No	No	Report of the Director of Planning and Property
Station Road, Bamber Bridge - Site Conversion for Affordable Properties	Cabinet	Assets and Transformation		17 Oct 2018	No	No	Report of the Director of Planning and Property
Place Promotion	Cabinet	Strategic Planning, Housing and Economic Growth	Significant effect in 2 or more Council wards.	17 Oct 2018	No	No	Report of the Director of Planning and Property
Corporate Investment Framework	Cabinet	Assets and Transformation	Significant effect in 2 or more Council wards.	17 Oct 2018	No	No	Report of the Director of Planning and Property
Microsoft Licensing	Cabinet	Leader of the Council	Significant effect in 2 or more Council wards.	17 Oct 2018	No	None	Report of the Specialist Consultant

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Land at Bamber Bridge	Cabinet	Assets and Transformation	Expenditure / Savings higher than £100,000	21 Nov 2018	Paragraph 3: Information relating to the financial business affairs of any particular person (including the authority holding that information)	No	Report of the Chief Executive
Performance Monitoring Report - Quarters 1 and 2	Cabinet	Deputy Leader and Environment and Community Safety	Significant effect in 2 or more Council wards.	21 Nov 2018	No	https://southribbleintranet.mode.rngov.co.uk/documents/s3311/06%20-%20Report%20to%20Council%20280218%20re%20Corporate%20Plan%202018-23%20and%20Risk%20Register.pdf	Report of the Chief Executive

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Campus Project - Progress Update and Approval of Procurement Route	Cabinet	Public Health, Leisure and Wellbeing	Significant effect in 2 or more Council wards.	21 Nov 2018	No	https://southribbleintranet.mode.rngov.co.uk/documents/s4877/Cabinet%20Report%20210618%20First%20Phase%20of%20Campus%20Project%20post%20Cabinet%20Workshop%20002.pdf	Report of the Director of Neighbourhoods and Development
Air Quality Action Plan	Cabinet	Public Health, Leisure and Wellbeing	Significant effect in 2 or more Council wards.	21 Nov 2018	No	None	Report of the Director of Neighbourhoods and Development
Renewable Energy Policy	Cabinet	Public Health, Leisure and Wellbeing	Significant effect in 2 or more Council wards.	13 Feb 2019	No	None	Report of the Director of Neighbourhoods and Development

Details of the Decision to be taken	Decision to be taken by	Relevant Portfolio Holder	Reason the decision is key	Earliest Date decision can be taken	Will the public be excluded?	Are there any background papers?	Documents to be considered by Decision taker
Performance Monitoring Quarter 3	Cabinet	Deputy Leader and Environment and Community Safety	Significant effect in 2 or more Council wards.	20 Mar 2019	No	https://southribbleintranet.mode.rngov.co.uk/documents/s3311/06%20-%20Report%20to%20Council%20280218%20re%20Corporate%20Plan%202018-23%20and%20Risk%20Register.pdf	Report of the Chief Executive

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