

# Summons and Agenda 17 October 2023

Chief Executive Reading Borough Council Civic Offices, Bridge Street, Reading, RG1 2LU



Jackie Yates CHIEF EXECUTIVE

Civic Offices, Bridge Street, Reading RG1 2LU 2 0118 937 3787

To: All Members of the Council

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9 October 2023

Your contact is: Michael Popham - Democratic Services Manager

Dear Sir/Madam

You are hereby summoned to attend a meeting of the Reading Borough Council to be held at **Council Chamber, Civic Offices, Reading** on **Tuesday, 17 October 2023 at 6.30 pm,** when it is proposed to transact the business specified in the Agenda enclosed herewith.

Yours faithfully

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CHIEF EXECUTIVE

#### 1. MAYOR'S ANNOUNCEMENTS

To receive Mayor's Announcements.

#### 2. DECLARATIONS OF INTEREST

To receive any declarations of interest.

#### 3. MINUTES

7 - 10

The Mayor to sign the Minutes of the proceedings of the previous Council Meeting.

#### 4. **PETITIONS**

To receive petitions in accordance with Standing Order 8.

#### 5. QUESTIONS FROM MEMBERS OF THE PUBLIC

Questions in accordance with Standing Order 9.

#### 6. QUESTIONS FROM COUNCILLORS

Questions in accordance with Standing Order 10.

#### **Reports and Recommendations from Committees**

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Report by Executive Director of Resources

#### WEBCASTING NOTICE

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COUNCIL MEETING MINUTES – 27 JUNE 2023

**Present:** Councillor Page (Mayor);

Councillors Ayub, Ballsdon, Barnett-Ward, Brock, Challenger, Cresswell, Cross, Davies, Eden, Edwards, Emberson, Ennis, Gavin, Gittings, Goss, Griffith, Hacker, Hornsby-Smith, Hoskin, Juthani, Keane, Keeping, Kitchingham, Lanzoni, Leng, Lovelock, Magon, McCann, McElroy, McEwan, Mitchell, Moore, Mpofu-Coles, O'Connell, Robinson, Rowland, Singh, Tarar, Terry, Thompson, White, Williams, Woodward and Yeo.

**Apologies:** Councillors Asare and G Dennis.

#### 14. MAYOR'S ANNOUNCEMENTS

#### (a) Colette Dennis

The Mayor invited the Leader of the Council to pay tribute to Colette Dennis who had sadly died suddenly and unexpectedly on 9 June 2023. Colette had been first elected as a Norcot Ward Councillor in May 2022 and had been re-elected on 24 May 2023 for a further four years. Councillor Brock expressed his appreciation of the contribution that Colette had made during her time on the Council, particularly in representing her constituents. She would be greatly missed by councillors across the chamber, officers of the Council and by her local community. He expressed his sincere condolences on behalf of the Council to Colette's husband, Councillor Glenn Dennis, and her family and friends. The Council stood for a minute's silence in Colette's memory and as a mark of respect.

#### (b) Council Services Awards

The Mayor was proud to announce that the Council had won two awards. Firstly, the LGC had judged the Council the winner of the category of building inclusive access to Learning, Culture & Leisure in Reading at its 2023 award ceremony. Secondly, the Highways Maintenance Team had been the winner of the Best Council's Services Team at the MJ awards 2023. The Mayor congratulated the Council services for their success and said the trophies would be put on display at the Civic Offices.

#### 15. MINUTES

The Minutes of the meeting held on 28 February 2023 were confirmed as a correct record and signed by the Mayor.

## 16. QUESTIONS FROM COUNCILLORS IN ACCORDANCE WITH STANDING ORDER NO 10

	Questioner	tioner Subject				
1.	Cllr Robinson	Former Land of Reading Golf Club	Cllr Ennis			
2.	Cllr Magon	EV Charging Points at Palmer Park	Cllr Ennis			
3.	Cllr McElroy	Telecoms Company Disruption	Cllr Ennis			

(The full text of the questions and replies was made available on the Reading Borough Council website).

#### 17. EXTENSION OF THE FRANCHISE – OUR HOME OUR VOTE

Pursuant to Notice, a motion was moved by Councillor Moore and seconded by Councillor Terry and CARRIED.

#### Resolved -

The Council notes:

The Elections Act received Royal Assent on the 28th of April 2022.

The Act is a major piece of national legislation with local implications for the residents of Reading, including the use of mandatory photographic voter ID at the polling station and changes to overseas voting and voting and candidacy rights of EU citizens.

In 2019, people born outside the UK made up an estimated <u>14% of the UK's population</u>. They live, work, study, and make use of public services in the UK, and call the UK their home. Many of our foreign-born residents from EU and Commonwealth countries can vote in our local elections. However, approximately over <u>1 million residents</u> across England and Northern Ireland do not have a right to vote. In the Reading Borough Council area, approximately 38,000 people (according to the last census) were not born in the UK and therefore may not have the right to vote.

Scotland and Wales implemented residence-based voting rights where all residents with lawful immigration status have the right to vote in local and devolved national elections.

A poll conducted by Number Cruncher showed that <u>63% of people agree that all</u> residents with lawful status in the UK should have the right to vote in local elections in <u>England and Northern Ireland</u>.

The Council welcomes:

That all our residents, no matter their nationality, call Reading their home and bring significant value to our area.

That the voting and candidacy rights of EU citizens with pre-settled and settled status who entered the UK before 2021 will be maintained.

That <u>the London Assembly passed a motion in support of residence-based voting rights</u> on the 11th of November 2021 and that various organisations in the democracy and immigration sector <u>support</u> the Our Home Our Vote campaign for residence-based voting rights.

The Council expresses concern that:

EU citizens who enter the UK from the 1st of January 2021 and are not covered by bilateral voting rights treaties (currently only active with Poland, Luxembourg, Portugal, and Spain) will not have voting and candidacy rights in local elections when the Elections Act is fully implemented by May 2024. This will create an unequal situation where some EU citizens will have the right to vote where others will not.

The complexity in voting eligibility will cause confusion and will reduce voter turnout in local elections amongst migrant voters, a group already seen as having disproportionately a lower voter registration rate compared to British voters.

Local Authorities will be under-resourced to manage the removal of a significant number of EU citizens from the electoral register and this may result in some being wrongfully removed from the electoral register.

The Council commits to:

A. Ask the Leader of the Council to write to the Minister of State at the Department for Levelling Up, Housing and Communities requesting that the franchise for local elections be extended in England and Northern Ireland to all qualifying foreign

#### **COUNCIL MEETING MINUTES – 27 JUNE 2023**

nationals in line with eligibility criteria in Scotland and Wales. This would ensure a UK-wide and fair approach so that all our residents who are also our council tax payers are enfranchised.

- B. Work collaboratively with other local authorities and voluntary sector organisations in our local authority to develop a strategy of communications about voter eligibility following the Elections Act.
- C. Ensure council officers have a strategy in place to ensure that the implementation of the Elections Act, including the removal of some EU citizens from the register, does not wrongfully remove eligible voters from the register.

#### 18. THAMES WATER SEWERAGE NETWORK

Pursuant to Notice, a motion was moved by Councillor Cross and seconded by Councillor Hornsby-Smith and CARRIED:

#### Resolved –

That this Council notes that:

- There has been national attention on the environmental consequences of the dumping of sewage into rivers and watercourses across the country.
- The discharge of sewage into water courses is a consequence of a sewerage network that is easily overwhelmed, owing to a lack of investment in the network by the privatised water utility companies.
- In Reading and in neighbouring areas, the same underinvestment in infrastructure has resulted in the collapse of sewers most recently on Church Street, Caversham and that the consequent unplanned major disruption is often detrimental to the lives of residents and the vitality of local businesses.

This Council believes that proactive investment in Thames Water's infrastructure is essential to avoid the environmental harm of sewage overflows into water courses and to mitigate the risk of infrastructure failures, and that the cost of such necessary investment should be borne by the utility providers following a public duty principle. This Council further believes that the dividends paid out by Thames Water and other water utility companies evidence that profit motive has been placed before this necessary principle.

Consequently, this Council resolves to invite Thames Water to a meeting of the Strategic Environment, Planning and Transport Committee and, at such meeting, scrutinise Thames Water's investment plans for Reading, encouraging Thames Water to positively and proactively work with this Council to ensure best that the delivery of necessary upgrades is as effective and efficient as possible, for the benefit of both residents and businesses.

#### 19. DIGITAL INFRASTRUCTURE PROVISION ON NEW BUILD DEVELOPMENTS

Pursuant to Notice, a motion was moved by Councillor Keeping and seconded by Councillor Leng and CARRIED:

#### Resolved –

That this Council notes that:

• Some housing developers have exclusivity arrangements with telecommunications providers which restrict the installation of digital infrastructure

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on new built developments, creating a monopoly of provision and curtailing resident choice of internet access providers.

- For developments on unadopted roads, this can have a long-term consequences as the developer can restrict the installation of alternative provision.
- For developments on public highways, such arrangements will have a shorterterm impact – measured in years – but still has an inequitable effect.

This Council believes that access to affordable and reliable internet access is an everincreasing necessity in the modern world, and that this is best ensured by allowing residents a full choice of possible providers. Moreover, this Council believes that access to such connections, and new technologies as they become available, is an economic imperative for our town.

Consequently, this Council resolves to instruct officers to explore the implementation of an 'open access' principle for digital infrastructure providers on all new build developments in Reading as part of the forthcoming update of the Local Plan. Furthermore, this Council resolves to write to the Secretary of State to call for the application of such a principle nationally in the planning policy framework and guidance.

(The meeting closed at 7.33pm).

## Agenda Item 7

## Council



### 17 October 2023

Title	Corporate Parenting			
Purpose of the report	To note the report for information and for decision (recommendations 1 & 3)			
Report status	Public report			
Report author	Hilary Loades – BFfC Head of Service, Corporate Parenting			
Lead Councillor	Cllr Graeme Hoskin			
Corporate priority	Thriving Communities			
Recommendations	<ol> <li>That the revised Terms of Reference for Corporate Parenting Panel are approved</li> <li>That the proposal to include the revised sliding scale of council tax dispensation for Children Looked After and Care Leavers in the Council's MTFS planning is noted</li> <li>That the proposal for Care Experience to become a Protected Characteristic is approved</li> </ol>			

#### 1. Executive Summary

- 1.1. In March 2023 Mark Riddell MBE, the National Implementation Adviser for Care Leavers, undertook a two-day formal visit to Reading and reviewed services for care leavers, delivered by Brighter Futures for Children (BFfC), RBC and the partnership. The review focussed on:
  - 1..1. Corporate Parenting Panel
  - 1..2. Education, employment and training
  - 1..3. Housing
  - 1..4. Health
  - 1..5. Transition to adulthood
  - 1..6. Local offer to care leavers
- 1.2. The formal feedback received following Mark Riddell's visit identified strengths and areas for improvement and a partnership action plan was implemented to ensure that, collectively, BFfC, RBC and the wider partnership are both championing and meeting the needs of children in care and care leavers. The action plan has been endorsed by Corporate Parenting Panel, chaired by Cllr Hoskin, and is supported by senior leaders across BFfC and RBC.

- 1.3. The recommendations outlined in this report are aligned with the outcome of the review of care leavers.
- 1.4. The terms of reference for Corporate Parenting Panel were under review at the time of the care leaver review. These have now been updated in partnership with panel members and children in care and require formal sign off by Council.
- 1.5. The care leaver review recommended that the sliding scale of council tax exemption in place for care leavers up to the age of 21yrs be extended to 25yrs to reflect our corporate parenting duties up to 25yrs. The financial impact of this proposal is being included in the MTFS planning for the 2024/25 budget.
- 1.6. The Independent Review of Children's Social Care in England (May 2022) recognised the often negative outcomes for care experienced young people and adults and recommended that the government should make care experienced a protected characteristic.
- 1.7. Care experienced individuals have had unique experiences of being children in care. For many this also means significant experience of disadvantage and discrimination. In recognising this, BFfC works to ensure that our care leavers have a voice and influence how services are delivered, to remove barriers and ensure that they have equal access to opportunities in an inclusive community.
- 1.8. As a national movement gathers pace, over 50 Councils have now independently recognised that children and young people can face discrimination throughout their lifetime, due to being care experienced, and have made care experience a protected characteristic. By doing this, these councils are recognising the unique experiences of this group and their corporate parenting responsibility for them.

#### 2. Policy Context

- 2.1. Brighter Futures for Children's Corporate Parenting Strategy outlines the local authority's corporate parenting responsibilities to Reading's Children Looked After and Care Leavers.
- 2.2. This strategy is currently being reviewed and updated as part of the company's rolling programme. The revised strategy incorporates proposals made by Mark Riddell, including the need to update our 'local offer' to our care leavers. It will be signed off by Corporate Parenting Panel by the end of the year.

#### 3. The Proposal

#### **Revised Terms of Reference for Corporate Parenting Panel**

- 3.1. The Corporate Parenting Panel is a well-established forum within the Council's constitution. A timely review of the Panel, chaired by the lead member for children's service, Cllr Hoskin, was initiated at the beginning of the year.
- 3.2. The review involved Panel members and children in care. The updated Terms of Reference place a greater emphasis on corporate parenting responsibilities. This is strengthened by a review and expansion of Panel membership to ensure that all services responsible for delivering corporate parenting duties are represented on the board at a senior level.

- 3.3. Most significantly, the membership was expanded to include children in care and care leavers as full members of the Panel. Children and young people have been part of three panels to date. They have also rewritten the Promise (formerly the Pledge) which is our commitment to children in care and care leavers.
- 3.4. A Child Friendly version of the Terms of Reference is being drafted to make available to the Children Looked After and Care Leavers.
- 3.5. Following these updates, the Terms of Reference require formal sign off by Council.

## Sliding scale of council tax dispensation for Children Looked After and Care Leavers

- 3.6. In February 2020 the 2020/21 Budget and Medium-Term Financial Strategy to 2023 stated: 'To mitigate against the cost of Council Tax increases and help some of our most vulnerable residents the Council has budgeted to help all its Care Leavers (on a tapering basis) pay their Council Tax. ...'.
- 3.7. At the same time, in February 2020 the RBC Executive Director of Resources report on setting the Borough's council tax payments records: 'The council has recognised its responsibility as a "corporate parent" with regard to children leaving its care care leavers. Budget proposals, as outlined in the Medium Term Financial strategy (MTFS) and budget report ... include proposals to provide financial support towards meeting the cost of the Council Tax bills for care leavers between the ages of 18 and 21. The proposed support is tapered such that 18-year olds will receive a 100% contribution to their net bill (after applying all other exemptions and discounts), and would reduce to 66% for 19-year olds and 33% for 20-year olds'.

The cost of this budget proposal was forecast at £50k and was met from the Council. A separate budget, also of £50k, was also proposed to provide equivalent support for Reading's care leavers who resided out of borough and were thus not eligible for the Council's own discount. This was to be administered by Brighter Futures for Children on behalf of the Council.

- 3.8. At the current time the council tax taper for care leavers is as follows:
  - 18 year olds 100% taper
  - 19 year olds 66% taper
  - 20 year olds 33% taper
  - 21-24 year olds No taper, the young people are responsible for meeting the full council tax payments for the property in which they reside.
- 3.9. In recognition of the difficulties that many care leavers face whilst transitioning into adulthood and learning to manage their financial affairs independently, and in recognition of the Council's ongoing corporate parenting responsibility to this vulnerable group of young people, it is now proposed that RBC's previous council tax offer to care leavers living within the borough and to Reading care leavers who live outside of the borough, is revised and enhanced.
- 3.10. It is proposed that from 1<sup>st</sup> April 2024 the tapered support changes to:

- 18 20 year olds 100% taper
- 21 22 year olds 66% taper
- 23 24 year olds 33% taper
- 25 year olds and over No taper, the young people are responsible for meeting the full council tax payments for the property in which they reside.
- **3.11.** The proposed new taper has been costed. The current scheme costs approximately £40,800 per annum. The new proposed scheme is estimated to cost approximately £72,000 (assuming a stable cohort of care leavers) to care leavers living within the borough. There are approximately 56 care leavers living outside of Reading who will require council tax support in 2023/24.

#### 3.12. Care experience as a Protected Characteristic

- 3.13. As of the 1<sup>st</sup> October 2023, the Council is responsible for 262 children in care and 182 care leavers aged between 18 and 25 years.
- 3.14. Statutory duties towards children looked after are clearly defined in the Children Act. Statutory duties also extend to care leavers. These are not all young people who have been in care, but those who meet the criteria defined in the Care Leavers' Act 2002.
- 3.15. Care experienced applies to anyone who has been in care for any period of their childhood. They do not need to have formal care leaver status to be care experienced. Care experience is a lifelong characteristic.
- 3.16. Children and young people who have been in care often face inequalities. Government data shows that care leavers have poorer outcomes and are three times more likely to not be in employment, education, or training than other young people. They are disadvantaged through not having family present to provide advice or support to help them in applying for jobs, preparing for interviews and understand the expectations of the workplace. They may not have family to support them to develop life skills, manage their money and attend to their emotional and mental health needs.
- 3.17. A protected characteristic means that it is against the law to discriminate against someone because of this characteristic. All protected characteristics have equal importance. Treating care experience in this way means that the Council can monitor and measure the impact that it is having to support our care experienced young people and adults in their life journey and make appropriate arrangements or adjustments to provide this support.
- 3.18. In adopting this principle, the Council and Brighter Futures for Children can tackle the inequalities that our care experienced young people face and, in doing so, support them to improve outcomes, including accessing work readiness and employability skills; building future careers and gaining experience; and championing access to apprenticeships and support through recruitment processes.
- 3.19. To help the Council understand the numbers of staff who are care experienced, a field could be added to the recruitment and HR system, and job applicants and existing staff could be invited to confirm whether they are themselves care experienced. Some may find it difficult or may prefer not to provide this

information, but going forward it could provide the Council with a picture of the impact of its work to support this group, which would form part of the regular workforce reporting. This practice has been adopted in other Councils.

- 3.20. Reading Borough Council and Brighter Futures for Children do provide a range of opportunities for young people with care experience, including support to enable them to access education, employment, and training to reach their career or educational aspirations and achieve their potential. However, the review of our care leavers confirmed that there is more to be done to fulfil our corporate parenting duties and be truly aspirational for our children in care, care leavers and care experienced young people.
- 3.21. As corporate parents, it is the Council's collective responsibility to support and champion children and young people who have been in our care, to receive the same opportunities that we would want for our own children. This support should include the promotion of good health and education, nurturing talent, and providing stability, thus enabling successful adult lives.
- 3.22. Services across the Council are committing to providing opportunities and support to young people with care experience to improve their outcomes and show a genuine and demonstrable commitment to providing them with the skills and experience to thrive. This will require some time and effort on the part of RBC and Brighter Future for Children's leaders and managers, and they will be supported in this by Brighter Future for Children's Leaving Care team and Children's Participation Officer, and the HR Service through practical advice, support and mentoring.

#### 3.23. **Recommendations**

3.21.1. That the revised Terms of Reference for Corporate Parenting Panel are approved

3.21.2. That the proposal to include the revised sliding scale of council tax dispensation for CLA and Care Leavers in the Council's MTFS planning is noted

3.21.3. That the proposal for Care Experience to become a Protected Characteristic is approved

#### 4. Contribution to Strategic Aims

4.1. Corporate Parenting is the term used to refer to the collective responsibility of the Council and our partner agencies to provide the best possible care and protection for children and young people who are Looked After; that is, children and young people for whom the authority has, or shares, parental responsibility, or for whom the Local Authority provides care and accommodation on behalf of their parents.

The Local Authority also has a duty and responsibility towards Care Leavers aged 16 to 25 years. These are not all young people who have been in care, but those who meet the criteria defined in the Care Leavers' Act 2002.

4.2. Reading Borough Council supports the view set out by the Department for Education regarding Corporate Parenting principles, which states: 'The role that councils play in looking after children is one of the most important things they do. Local authorities have a unique responsibility to the children they look after and their care experienced young people (relevant and former relevant children) ...

and the critical question that local authorities should ask in adopting such an approach is: 'would this be good enough for my child?''

- 4.3. Children and young people in care have the same needs to be loved, cared for, and feel safe as other children. We also recognise that many children looked after will have suffered abuse or neglect prior to coming into care and it is important that this is addressed whilst they are kept safe and their education, health and care needs are met. Children looked after, care leavers and care experienced young people face unique challenges and we are committed to ensuring that our corporate parenting principles are embedded in the wider work of Reading Borough Council, so that we can work collectively to help our children to address these challenges.
- 4.4. It is our role as corporate parents to advocate on behalf of our children looked after, care leavers and our care experienced young people, and to empower them to make their own decisions in preparation for adulthood. We want all our children and young people to achieve their full potential and to obtain the best possible outcomes, the same outcomes that we would want for our own children.
- 4.5. Leaving care, like leaving home, is a critical transition for our young people and supporting them through this transition into adulthood is a major responsibility for us as corporate parents. This is not simply a matter of helping young people acquire a checklist of life and independent living skills although this is important but also helping young people develop resilience, achieve a positive sense of self and have positive options for their futures. We need to recognise that young people mature at different paces and that some young people will take longer to develop life skills and struggle in independence. We need to aim to be there to pick up and back up our young people when we are needed.
- 4.6. The proposals within this report are all in line with the Council's strategic aims.

#### 5. Environmental and Climate Implications

5.1. There are no material climate implications resulting from the recommendation(s) of this report.

#### 6. Community Engagement

- 6.1. Representatives of children looked after and our care leavers have rewritten our Promise to children in care and been involved in our review of our Care Leavers' Offer. This includes our financial offer to Care Leavers (which includes the current council tax deductions).
- 6.2. Members of the Corporate Parenting Panel, including a representative group of children and young people who are looked after and care leavers have been involved in the review of the Panel's Terms of Reference.

#### 7. Equality Implications

- 7.1. The recommendations of this report are intended to promote equality of experience and opportunity for Reading's children looked after, care leavers and those who are care experienced.
- 7.2. Children looked after, care leavers and care experienced persons will also have other protected characteristics recognised under The Equality Act 2010.
- 7.3. It is foreseen that the recommendations in this report would have a positive impact upon children looked after, care leavers and care experienced persons,

through having 'care experienced' considered alongside other protected characteristics set out in The Equality Act 2010.

#### 8. Other Relevant Considerations

8.1. No relevant considerations have been identified that are not detailed elsewhere in this report.

#### 9. Legal Implications

- 9.1. There are no legal implications to the revision of the previous Terms of Reference for our Corporate Parenting Board.
- 9.2. There are no legal implications to RBC adopting the sliding scale of council tax dispensation for Children Looked After and Care Leavers that is proposed. This builds on the current sliding scale that was agreed for 2020-2023.
- 9.3. Section 4 of the Equality Act 2010 sets out 9 characteristics and people with those characteristics are protected from discrimination on the grounds of those characteristics. There is no legal reason why reading Borough Council cannot add care experienced to the list to be considered locally in its Equalities Impact Assessments. However, if in any assessment there is a conflicting impact between care experienced and any of the statutory protected characteristics, then the statutory protected characteristics must take precedence.

#### **10.** Financial Implications

- 10.1. There are no financial implications for the Council in accepting the revised Terms of Reference proposed.
- 10.2. Accepting the sliding scale of council tax dispensation for care leavers that is proposed will have a financial impact for the Council. The calculated increase in costs when compared to the current agreed sliding scale for the current cohort of care leavers is approximately £31,200 per annum.
- 10.3. There are no financial implications for the Council in recognising care experienced as a protected characteristic.

#### 11. Timetable for Implementation

- 11.1. Target date for implementation of updated Terms of Reference October 2023.
- 11.2. Proposed target date for implementation of updated sliding scale of council tax implementation 1<sup>st</sup> April 2024, subject to MTFS planning.
- 11.3. Target date for implementation of care experienced as a protected characteristic from the date of approval, 17<sup>th</sup> October 2023.

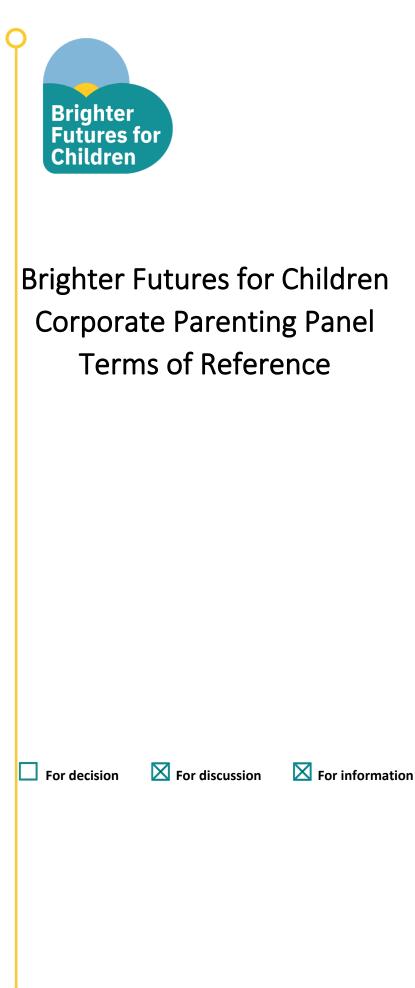
#### 12. Background Papers

12.1. There are none.

#### 13. Appendices

- 1. Corporate Parenting Panel Terms of Reference
- 2. The Promise

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#### SUMMARY

This document provides details of the terms of reference for BFfC's Corporate Parenting Panel

#### **OWNERS**

Hilary Loades – Head of Service – Corporate Parenting

VERSION

1.0

**DATE** September 2023

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Brighter Futures for Children Civic Offices, Bridge Street, Reading RG1 2LU

Company number 11293709

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### The function of Corporate Parenting

'Corporate Parenting' is the term used to refer to the collective responsibility of the Council and our partner agencies to provide the best possible care and protection for children and young people who are 'Looked After'; that is, children and young people for whom the authority has, or shares, parental responsibility, or for whom the Authority provides care and accommodation on behalf of their parents.

The Authority also has a duty and responsibility towards care experienced young people aged 16 to 25 years.

Reading Borough Council supports the view set out by the Department for Education regarding Corporate Parenting principles, which states:

'The role that councils play in looking after children is one of the most important things they do. Local authorities have a unique responsibility to the children they look after and their care experienced young people (relevant and former relevant children) ... and the critical question that local authorities should ask in adopting such an approach is: 'would this be good enough for my child?''

We believe that children and young people in care have the same needs – to be loved, cared for, and feel safe – as other children. We also recognise that many Children Looked After (CLA) have suffered abuse or neglect prior to coming into care and it is important that this is addressed whilst they are kept safe and their education, health and care needs are met. Children looked after and care experienced young people face unique challenges and we are committed to ensuring that our corporate parenting principles are embedded in the wider work of Reading Borough Council, so that we can work collectively to help our children looked after and our care experienced young people to address these challenges.

It is our role as corporate parents to advocate on behalf of our children looked after and our care experienced young people, and to empower them to make their own decisions in preparation for adulthood. We want all our children and young people looked after and care experienced young people to achieve their full potential and to obtain the best possible outcomes, the same outcomes that we would want for our own children.

In Reading Borough the delivery of care to children looked after and care experienced young people, is largely delegated to Children's Services functions within Brighter Futures for Children. The leadership responsibility for corporate parenting rests with the Chief Executive of the Council and as a key element of their statutory duties, the Director of Children's Services, and the Lead Member for Children. However, <u>all</u> elected members and council employees, regardless of the department they are employed within, share corporate parenting responsibility for Reading's children looked after and care experienced young people.

The responsibility for corporate parenting also extends to partner agencies such as Police, Housing, Health, and schools, who, through s.10 of the Children Act 2004, have a duty to co-operate with the Council in meeting the needs of cared for and care experienced children and young people. The Headteacher of the Virtual School also has a statutory responsibility to promote the education of children looked after, and children who were previously looked after.

All sections within a local authority and all elected members have a responsibility and a positive role to play in enriching the lives of children and young people who are looked after by the authority, and their care experienced young people.

As corporate parents for our children looked after and care experienced young people, we share responsibility for ensuring that all children looked after receive a good standard of care and are able to achieve the high-quality outcomes that every parent would want for their own children or children within their family<sup>1</sup>.

The key corporate parenting principles which local authorities should have regard to when exercising their functions in relation to looked after children and young people<sup>2</sup> are captured in our corporate parenting aims. We are committed to ensuring that children looked after by Brighter Futures for Children are able to enjoy childhoods in which they are safe, well cared for and supported to achieve their full potential. In order for them to achieve this we are committed to:

- Acting in the best interests of our children and young people and promoting their physical and mental health and wellbeing.
- Encouraging our children and young people to express their views, wishes and feelings
- Taking children and young people's views wishes and feelings into account.
- Supporting our children and young people to access and make the best use of services provided by Brighter Futures for Children, Reading Borough Council, and our partner agencies.
- Promoting high aspirations for our children and young people and seeking to secure the best outcomes for them.
- Ensuring that our children and young people are kept safe and enabled to experience stability in their home lives, relationships and education or work.
- Preparing our children and young people for adulthood and independent living.

#### The role of the Corporate Parenting Panel

The Corporate Parenting Panel will take a key role in monitoring and evaluating the services provided to Reading's children and young people looked after and care experienced young people, in order to ensure that Brighter Futures for Children is, on behalf of Reading Borough Council, meeting our corporate parenting responsibilities to a high standard.

The Panel will be directed and challenged by the Children in Care Council (Care2listen), Care Ambassadors (care experienced young people), and primary school aged children looked after (Care2havefun), who represent the care experienced population of Reading, to ensure that a positive impact is made, and that service delivery is making the differences that it is designed to achieve.

#### The Panel will:

• Promote a strong corporate parenting ethos and consider whether, and if so how, services need to be delivered differently to meet the needs of our care population as effectively as possible.

<sup>&</sup>lt;sup>1</sup> This collective responsibility is laid out in the Children Act 1989. Government guidance for Councillors, 'If this were my child' (DfES 2003)

<sup>&</sup>lt;sup>2</sup> Outlined in The Children and Social Work Act 2017

- At each Panel meeting the Participation Officer will support members of Care2listen to provide a summary report of the work that the Children in Care Council are undertaking, and share any comments, compliments and complaints made by children and young people in care.
  - Corporate Parenting Panel will receive reports and representation from health and education colleagues who can assist the Panel in understanding the needs and experiences of children and young people in care and care experienced young people and help to promote service improvements and better outcomes for children and young people in care.
  - Receive information from our Independent Reviewing Officer service to provide an insight into their knowledge of life in care for children in Reading, as well as from advocates, foster carers, social workers, volunteers, and other professionals.
  - Consider key service reports that relate to our children and young people who are looked after and our care experienced young people. These will include (but will not be restricted to):
    - BFfC's annual Corporate Parenting Report
    - BFfC Voluntary Adoption Agency's annual report
    - BFfC Independent Fostering Agency's annual report
    - BFfC's Independent Reviewing Officer Service annual report
    - BFfC's annual Participation Report
    - Annual Health report
    - Annual Virtual School report.
  - Ensure that a whole council approach is taken to the delivery and development of services for children and young people in care and care experienced young people.
  - Celebrate the individual and collective successes of children and young people in care and care experienced young people.
  - Monitor the development of, and adherence to, Brighter Futures for Children's Promises to Children and Young People in Care, and Reading's Care Experienced Young People's Charter.

#### The Panel will not:

- Manage work programmes or overseas specific pieces of work acknowledging that operational management needs to be given the freedom to manage.
- Be focused on the delivery of specific services the Panel will concentrate on 'the big picture'.
- Take responsibility for the outputs and outcomes of specific services these are best monitored at the level of the specific organisations responsible for them.
- Be the main vehicle for the voice of looked after children and young people this will be the responsibility of the Children in Care Council (Care2listen). The Panel will however regularly listen to and respect the views of individuals and the wider looked after children's community.

## The role of our Children Looked After and Care Experienced young people who attend the Panel will:

- Represent the voices and share the views of Reading children and young people in care.
- Support and guide Panel members regarding the wishes and feelings of our children and young people in care.

- Share our young people's views on whether, and if so how, services need to be delivered differently to meet the needs of our care population as effectively as possible. This will include (but not be restricted to):
  - Activities and initiatives being developed by the council.
  - The design and delivery of services and strategic initiatives
  - The quality of services
  - Participation
  - The celebration of success.
  - Influence the decisions of Panel

#### **Meetings:**

#### Structure, management, and agenda of meetings

- The Corporate Parenting Panel will meet on a quarterly basis (4x yearly).
- The Panel will be chaired by the Lead Councillor for Children or in their absence by the vice chair.
- Administration to the Panel will be provided by Reading Borough Council.
- The Panel will agree an annual work programme which will align with its key priority areas:
  - Safeguarding
  - Engaging with and listening to our children and young people who are looked after
  - Assessment and planning
  - Placements
  - Education, training, and employment
  - Health and wellbeing
  - Leisure, culture, and life skills
  - Leaving care.
- Any papers for Panel consideration will be sent out to Panel members a minimum of 5 working days before each Panel meeting.

#### Membership of the Corporate Parenting Panel

Membership of the Brighter Futures for Children (Reading Borough Council) Corporate Parenting Panel will include:

- Elected members
- Senior officers from Brighter Futures for Children (see below)
- Senior officers from across the wider council (see below)
- Relevant strategic and operational leads from education and health (see below)
- Representative membership from key stakeholder groups (see below)
- A representative group of the children and young people who are looked after by BFfC and of our care experienced young people

(Please see further details attached in Appendix 1)

#### Quoracy

 While the Panel will welcome and benefit from the attendance of representatives from a range of stakeholder groups, including children and young people who are looked after by BFfC and care experienced young people, the Board is not a decision-making body, so a minimum quorum is not required.

#### Conduct

• The Panel and its members will operate in accordance with the standards of behaviour and principles required of RBC employees, as set out in the council's Code of Conduct; this will apply to both councillors and any persons appointed as a co-opted member of the Panel.

Note: These Terms of Reference will be reviewed after two Panel Meetings – i.e., in December 2023 and annually thereafter

### Appendix 1 – Details of Membership of the Corporate Parenting Panel

#### **Elected Members:**

- The Leader of the Council
- Elected Members / Councillors with the chair of the panel being the Lead Councillor for Children.

#### Senior officers from Brighter Futures for Children:

- Executive Director of Children's Services
- Director of Children's Social Care
- Head of Service, Corporate Parenting
- Head of Service, Together for Families
- Service Manager, Corporate Parenting
- Service Manager, Conferencing, Reviewing and LADO
- Brighter Futures for Children's, Children's Participation Officer
- Brighter Futures for Children's Independent Fostering Agency Registered Manager

#### Senior Officers from across the wider council:

- Chief Executive Officer of RBC
- Head of Service for Housing
- Assistant Director for Adults

#### Strategic and operational leads from education and health

- Headteacher of the Virtual School
- Designated Nurse for Safeguarding Children and Looked After
- Named Nurse Child Protection, Royal Berkshire Foundation Trust

#### Stakeholders:

- An approved foster carer representing the Reading Carers' Link
- Representative membership from:
- Thames Valley Police
- Source (Drug and Alcohol Counselling Service)
- DWP (Department of Work & Pensions)
- Reading Leisure Services

#### Children Looked After and Care Experienced young people:

• A minimum of 2 and a maximum of 4 children and young people who are looked after by BFfC and/or Reading care experienced young people.

# Appendix 2 – Pro-forma for reports to the Corporate Parenting Panel

ç	Date				

9	Title	
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The main things we have found.

The reason we did this report.

What we did to get the information in this report

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) What we have found that is working well

Finding 1	Finding 1											
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Finding 2	Finding 2		2											
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What we have found that we are worried about

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Finding 1
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Finding 2
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What needs to happen to improve things - our recommendations

0		What we want to achieve	Our action to achieve this	Lead	Date	
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Other documents to read.

Contact details of the person who wrote this report.

Name
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Position	sition						
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Telephone		
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9	Email	

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# BFFC's Promise

This is our promise to all Reading children who are looked after

# We will....



Make sure you are safe and well cared for if you need to come into care



Support you with your education, training and employment to make sure you have opportunities to achieve your goals





Make sure you know how to contact your social worker, personal advisor, the manager and/or any other key workers around you

Support you to feel prepared for independence and adulthood



X

Support you to have a sense of belonging, treat you as an individual, and respect your identity

Support you to join activities that help your development and allow you to explore your interests

Make sure your voice is heard and listened to.

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# Council



## 17 October 2023

Title	Renewal of Statement of Licensing Policy
Purpose of the report	To make a decision
Report status	Public report
Report author	Rob Abell, Consumer Protection Group Manager
Lead Councillor	Cllr Karen Rowland, Lead Councillor Environmental Services and Community Safety
Corporate priority	Not applicable, but still requires a decision
Recommendations	1. That Council adopt the Statement of Licensing Policy, as attached to the report at Appendix RS1.

### 1. Executive Summary

1.1. The Council, as the named Licensing Authority for Reading, is required under the provisions of the Licensing Act 2003 to review its licensing policy every five years. The current licensing policy will be in force until 21<sup>st</sup> October 2023. Subject to approval, the attached draft policy will come into force on 22<sup>nd</sup> October 2023.

### 2. Policy Context

- 2.1. The Licensing Act 2003 (the 'Act') requires that the Council review its Licensing policy every five years. Paragraph 5 of the Licensing Act 2003 outlines what steps the Council should take in respect of the consultation process. It must consult all licence holders; organisations that have a statutory role in the Act such as the police and fire service (known as Responsible Authorities) and any organisations it considers as representing licence holders in Reading. When approved, the Council must state the dates for which the policy will be valid for. The Council must also have regard to any Cumulative Impact Assessment it has published.
- 2.2. Under the Act, Reading Borough Council is responsible for the issuing of licences and any subsequent enforcement action that may arise from any licence holder or unlicensed activity.
- 2.3. Reading Borough Council has responsibility for:
  - Licensing premises and clubs for the sale or supply of alcohol; the provision of latenight refreshment (sale of hot food from 2300hrs to 0500hrs) and the provision of regulated entertainment (live music, recorded music etc)
  - Taking enforcement action against licence holders who are in breach of their licence; carrying out enforcement action against persons or premises carrying out unlicensed activity or taking action against licence holders who undermine the promotion of the four licensing objectives.
  - Publishing a licensing policy which sets out the Council's aims, objectives and policies for applicants and licence holders.
  - Publishing a Cumulative Impact Assessment for any area for which there is deemed to be a requirement to have a cumulative impact area.
  - Collecting all statutory licence fees which are set by central government.

- 2.4. The licensing framework must centre around the 4 licensing objectives:
  - To prevent crime and disorder;
  - To protect children from harm;
  - To prevent public nuisance;
  - To maintain public safety.
- 2.5. The licensing framework must also centre around the principle that each application should be judged on its own merit.

### 3. The Proposal

- 3.1. The Licensing policy document attached to this report contains a number of changes as outlined in the 'Summary of Changes to Existing Policy' document also attached to this report as **Appendix RS-2**.
- 3.2. It was originally proposed that a Cumulative Impact Assessment would come into force on the same date as the proposed Licensing Policy, however, this proposal has since been withdrawn in order for the Council to have more time to seek and collate pertinent evidence and statistics in relation to the need for such a policy. The Council will then reassess whether or not it shall propose a Cumulative Impact Policy. A consultation on the Cumulative Impact Policy was launched on 01<sup>st</sup> August 2023, however, a new consultation will begin at a future date if the Council proposes to implement a Cumulative Impact Policy.
- 3.3. Following discussion at the Licensing Committee on 28 September 2023 a minor amendment was made to make it clear that the increase in reports of drink spiking is part of a national picture and not unique to Reading.
- 3.4. Furthermore, from the Licensing Committee the two objections arising from the public consultation were dealt with and the outcomes were:
  - To deal with the items that relate to the Cumulative Impact Policy (CIP) at the Committee that will be hearing that Policy proposal.
  - To retain the section on high percentage alcohol drinks and single cans.

#### 4. Contribution to Strategic Aims

- 4.1. This policy and its implementation contribute to the following strategic aims in the Council's Corporate Plan 2022-25:
  - Healthy Environment
  - Thriving Communities
  - Inclusive Economy
- 4.2. The Licensing Policy is a key document for the regulation of the night-time economy within Reading. It clearly outlines what the Council expects of applicants and licence holders. Licensing regulation is tied in with other policies, strategies and statutory frameworks implemented by the Council across Reading. Chapters 2 and 3 of the licensing policy document show how licensing shares aims and objectives with various planning legislation; environmental health legislation; immigration legislation and policing legislation. It also outlines numerous initiatives and strategies such as a 'Reducing the Strength' initiative to tackle the issues of street drinking and the sale of high strength alcohol proven detrimental to health as well as initiatives linked in with child protection and the Council's 'Berkshire West Drug and Alcohol Needs Assessment' and 'Joint Strategic Needs Assessment' strategies.
- 4.3. The key aims for the licensing policy is to ensure that the four licensing objectives are actively promoted at all times. It is also key that the licensing policy ensures close integration with other strategies; policies and initiatives to ensure that the towns day time and night time economies are welcoming and safe for all.

4.4. The Council must balance the need of businesses to trade successfully and responsibly with the needs of local residents not to be disturbed or affected by irresponsible licence holders and the associated crime and disorder and noise nuisance that may occur from those premises.

## 5. Environmental and Climate Implications

- 5.1. There are no specific environmental or climate implications to this policy.
- 5.2. There are currently 637 licensed premises. It is not envisaged that any premises that fall under this policy will, as a whole, negatively impact any of the following to any significant degree: air quality, biodiversity, wildlife, green space, natural habitats, landscape/visual impact, natural resources, waste/waste management.
- 5.3. Furthermore, no significant increase in emissions of greenhouse gases/ carbon dioxide are expected. It is not possible to predict how the total number of premises, nor the number of customers to such premises will fluctuate over the next 5 years of the proposed policy.
- 5.4. The Climate Impact Assessment is attached at **Appendix RS-3**.

### 6. Community Engagement

- 6.1. A 6 week consultation process in relation to the Licensing policy was undertaken between 01<sup>st</sup> August 2023 and 12<sup>th</sup> September 2023. The Licensing Act outlines the organisations and bodies that must be consulted. Letters were sent to all licence holders as well as to bodies that represent licence holders; organisations that have a statutory role within the Licensing Act such as the police and fire service (called Responsible Bodies) as well as any other body or person that may have an interest in the policy.
- 6.2. The consultation was also available to view on the Council's website along with contact information for any person that wishes to make comment on the proposed policy.
- 6.3. All responses to the consultation, and the Council's comments on such responses, are attached at **Appendix RS-4.** Any recommendations that arise and any actions taken in response to such recommendations, shall be attached to the full report to the full council on 17<sup>th</sup> October 2023.
- 6.4. No members of the public attended to speak on this item at the Licensing Committee on 28 September 2023.

### 7. Equality Implications

7.1. The Equality Act 2010 places a legal obligation on public authorities to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who share a protected characteristic and those who do not. Protected characteristics include age, disability, race, religion and sexual orientation. When making a decision, the licensing authority will have regard to this due to the goal of ensuring that the night time economy is safe and accessible to all.

### 8. Legal Implications

- 8.1. The Council has a statutory requirement to publish a statement of licensing policy. This policy must be reviewed every five years but can be reviewed at any time if there are substantive changes to legislation or local policy. Failure to review and publish a licensing policy will mean the Council is in breach of its statutory obligations which could lead to legal consequences.
- 8.2. A further consequence of not having a licensing policy would mean the Council would be unable to exercise its functions under the Licensing Act 2003 including determining applications and carrying out enforcement activities.

## 9. Financial Implications

- 9.1. The writing of the Licensing Policy and consultation exercise were carried out within the resources of the Licensing Authority.
- 9.2. Failure to review and adopt a licensing policy and cumulative impact assessment would mean that the Council is in breach of its statutory obligations and would lead to legal challenge and the associated costs of that challenge.

### 10. Timetable for Implementation

10.1. The current licensing policy will expire on 22<sup>nd</sup> October 2023. When passed by full council, the proposed policy, including any changes that may be made following the consultation and committee stages, will be implemented from 23<sup>rd</sup> October 2023.

### Appendices:

- 1. Appendix RS-1 Draft Licensing Policy 2023-2028
- 2. Appendix RS-2 Summary of Changes to Existing Policy
- 3. Appendix RS-3 Climate Impact Assessment Licensing Policy
- 4. Appendix RS-4 Responses to Consultation



STATEMENT OF LICENSING POLICY

Licensing Policy effective from: 22nd October 2023 until 21st October 2028

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# Our Vision

To promote Reading as a safe and healthy environment in which responsible operators provide lawful and responsible facilities for the enjoyment of all of the town's residents and visitors.

#### 1. Introduction

1.1 This policy sets out how the Council as the Licensing Authority for Reading aims to promote the four licensing objectives stated in the Licensing Act 2003. The four licensing objectives, as outlined in Section 4 (2) of the Licensing Act 2003, are of equal importance and the Council along with other named Responsible Authorities, stakeholders, residents and licence holders shall work together in order to actively promote them. Those four licensing objectives are:

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public Safety

1.2 The Council must have regard to the four licensing objectives when carrying out its functions under the Licensing Act 2003. The Licensing Authority will also have regard to other Council policies which have been introduced to tackle issues that may undermine crime and disorder or any of the other licensing objectives. The Licensing Authority will have regard to the contents of this policy as well as the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. It may also depart from this policy and the Secretary of State's Guidance if there are exceptional circumstances and it is appropriate to do so to promote the licensing objectives. If the Licensing Authority departs from the Secretary of State's Guidance it will give reasons as required by the Guidance.

1.3 The legislation also supports other key aims and purposes. These are outlined in paragraph 1.5 of the guidance and should be principal aims for all parties involved in licensing for the promotion of the licensing objectives. The licensing authority will have regard to these key aims in its decision making. They are:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance associated and caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area;
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

1.4 The Council has shaped its policies in line with the aims stated previously. The Licensing Authority will also have regard to other policies, strategies and initiatives that have been adopted to promote the licensing objectives. Such policies include a 'Reducing the Strength' initiative to tackle the consumption of super strength beers and ciders (above 6.5% ABV) by persons known to be street drinkers. Street drinking and excessive consumption of super strength products has been shown to undermine the licensing objectives and cause anti-social behaviour - as well as being damaging to health. Other policies, initiatives and strategies which will be taken into account may include the Council's Drug and Alcohol policy as well as policies to do with general health and wellbeing and public health. The Council also places the highest priority when dealing with the potential exploitation of children and vulnerable people, including violence against women and girls - whether that is through their attendance at licensed premises or their employment at those premises. The licensing authority would expect all licence holders and everyone involved in licensing to take cognisance of these policies, strategies and initiatives.

1.5 This licensing policy aims to make Reading's night-time economy an economy for all. A diverse range of responsibly run premises are to be encouraged. The licensing authority wishes to discourage drunkenness and a move away from alcohol led vertical drinking establishments. We would expect responsibly run premises to actively promote the licensing objectives through promoting extra seating at their premises; instigating effective dispersal from their premises at the conclusion of licensable activities and engagement with the licensing authority and other responsible authorities in policies, initiatives and strategies that promote Reading as a safe, healthy, diverse and vibrant night-time economy suitable for all.

1.6 The predominantly urban nature of Reading as a town means that an appropriate balance needs to be struck between the needs of local business and the needs of local residents. This licensing policy seeks to encourage all stakeholders to engage in the licensing process so that the needs of all can be taken into account and issues dealt with in a spirit of partnership and cooperation.

### 2. Integrating Strategies

2.1 The Secretary of State's Guidance to the Licensing Act 2003 states that the licensing authority should outline how it will secure proper integration between its licensing policy with policies and strategies concerned with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other policy or plan introduced for the management of town centres and night-time economies. The Licensing Authority agree that such co-ordination and integration is crucial to achieve the Council's aims for a safe and vibrant night-time economy.

2.2 We have high expectations of our licence applicants. Alcohol consumption is a major factor behind violent crime and disorder with serious consequences to victims, businesses and local communities. We are also painfully aware of the links between poor health and excessive alcohol consumption, and the occasional conflict between the needs of our business community and those of our residents who have a right to live peacefully within their homes and community.

2.3 We therefore welcome applications that are aware of the Reading Borough Council Antisocial Behaviour Policy which has as a key aim "Ensure a partnership approach is taken to tackle Anti-Social Behaviour". This work is guided through Reading's Community Safety Partnership and its response to the annual strategic assessment.

2.4 The Reading Climate Emergency Strategy 2020-25, sets out the action required during this critical period to work towards the objective of a net zero carbon Reading by 2030 so we expect applicants to rigorously promote environmental protection.

2.5 The Council Corporate Plan 2022 to 2025 reported the three-year Community Safety and Serious Violence Strategy had been approved following a needs assessment and public consultation, and involving key agencies such as the police and probation. Seven priorities were identified including reducing community based drug activity, reducing knife violence and tackling violence against women and girls. The Community Safety Partnership has developed a three-year action plan to tackle these priorities. The plan will deliver a number of actions through working in partnership across these key areas. We expect applicants to dovetail with these actions and our broader aspirations.

2.6 Alongside all of this, we recognise our shared legal duties to uphold the licensing objectives and to adhere to key legislation, including the prevention of immigration crime as set out in the Immigration Act (2016) and the Modern Slavery Act (2015), and we are committed to working in partnership to ensure a responsive licensing approach which strikes the right balance, supports the diversity of our borough and ensures that businesses can thrive while residents and visitors can enjoy what's on offer in a safe, inclusive and welcoming environment.

### Licensing and Planning integration

2.7 The planning authority of Reading Borough Council is a responsible authority under the Licensing Act 2003. It can make representations on applications or call for reviews of existing licences based upon any of the four licensing objectives. The prevention of crime and disorder and prevention of public nuisance are shared concerns of the planning and licensing authorities.

2.8 The planning authority have a number of policies that impact on Reading's night-time economy. The Licensing authority recognises that licensing applications should not be a rerun of the planning application process. The planning authority remains the regime that is directed at development of land and the use of premises upon it. The licensing authority remains the regime that is directed at the licensable activities and responsible management of said premises upon that land.

2.9 Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping considerations. In order to secure proper integration across the Council's range of policies, the Licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act.

2.10 Where the planning authority has granted planning consent to a specific time, the Licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.

2.11 Where the planning authority has granted a planning consent that contains conditions that, if not complied with, may undermine the promotion of the licensing objectives (such as a restriction in the opening hours based on potential public nuisance issues), the licensing authority would expect applicants to demonstrate how they will mitigate those issues within any application. Failure to do so could lead to representations being made against an application.

2.12 Whilst acknowledging that planning and licensing are separate regimes and that licensing authorities and not bound by the decisions of planning committees (and vice versa), the licensing authority shall aim for the proper integration between licensing and all other Council policies, strategies, and initiatives in order to actively promote the licensing objectives.

2.13 When licensing applications are determined by officers of the Licensing Authority or by the Licensing Sub Committee, conditions may be imposed upon a licence in order to ensure consistency between the licensing objectives and any measures already determined by the planning authority that could impact the licensing objectives.

2.14 The Council's 'Reading Borough Local Plan' identifies in more detail those issues relating to licensed premises, the 24 hour economy and the general organisation of retailing within the town centre. It can be accessed here -<u>New Local Plan - Reading Borough Council</u>

2.15 The key issues surrounding the determination of planning permission are as follows:

- Impact on residential amenity through noise, odour, disturbance, litter, etc

- Impact on the viability of the town centre
- Potential financial contribution to a safer borough (CCTV)

These are all matters that are also proper concerns of the licensing authority and will be taken into account when determining applications. If appropriate to the promotion of the licensing objectives, conditions may be added to licences so as to ensure proper integration of Council policies and strategies.

### Reducing the Strength Initiative

2.16 The Council recognises the link between high strength alcohol products, anti-social behaviour and poor health outcomes. In 2017, the Licensing Authority in conjunction with partners at Thames Valley Police and the Community Alcohol Partnership launched a voluntary initiative to try and reduce the availability and sale of high strength beers and cider above 6.5% ABV.

2.17 There is a significant issue in the town centre and Oxford Road with persons identified as street drinkers purchasing single cans of high strength beers and ciders from licensed off licences. This has led to issues of anti-social behaviour in local communities. Some off licences in the town centre and Oxford Road areas have voluntarily agreed to stop selling single cans of high strength beers and ciders. Some have agreed to only sell packs of four whilst others have agreed not to sell these products at all. Where premises have stopped selling these products, Thames Valley Police have stated that there has been a reduction in the number of incidents of street drinking.

2.18 We would expect <u>all</u> licence holders and potential applicants to have regard to this initiative and include measures to restrict the sale of high strength products in single quantities or to not sell them at all. Failure to do so could lead to representations being made against applications for licences or applications to review licences that may be undermining the licensing objectives by selling these products in an irresponsible way.

2.19 The Licensing authority, in conjunction with relevant partners, will be expanding this initiative to include all off licences in Reading and would expect all applicants and current licence holders to take cognisance of this fact. Current licence holders are also expected to take steps to prevent any irresponsible retailing of these products.

### Licensing and Public Health

2.20 The Licensing authority recognises the potential impact of alcohol on the public health of the residents of Reading. This can have a massive impact on the National Health Service and medical providers locally. Public Health are a responsible authority under the Licensing Act 2003 and can make representations on licence applications as well as calling for reviews on premises that undermine the licensing objectives.

2.21 The Secretary of State's Guidance states that health bodies can make representations based on any of the four licensing objectives. The licensing authority considers that data around hospital admissions due to alcohol consumption; data that shows a correlation between anti-social behaviour and excessive alcohol consumption in different localities, data that violence related to alcohol or the night-time economy in general; data that links high alcohol consumption to a particular area and data that undermines the

physical, moral and psychological of children and vulnerable persons to all be relevant to the promotion of the licensing objectives. Any or all of this data would be grounds for public health exercising their right to participate in the licensing process.

2.22 The Licensing authority takes the issue of public health extremely seriously and would expect applicants and licence holders to familiarise themselves with any local issues that may be detrimental to the public health of the people of Reading. The licensing authority will take cognisance of the issues raised by public health to do with licensed premises and issues surrounding alcohol and will determine applications in line with ensuring that all of the licensing objectives are actively promoted for the safety of the local communities in which a licensed premises operates. The Council's 'Joint Strategic Needs Assessment' which outlines the health and wellbeing of the local population can be accessed here -<u>https://www.reading.gov.uk/about-reading/joint-strategic-needs-assessment-jsna/</u>

The Council's 'Berkshire West Drug and Alcohol Needs Assessment' also highlights issues around licensed premises, street drinking and health outcomes and this can be accessed here:

https://westberkshire.berkshireobservatory.co.uk/wp-content/uploads/2023/03/Berkshire-West-Drug-and-Alcohol-needs-assessment-2022-v0.4.pdf

#### Alcohol Harm Reduction Strategy

2.23 The Council must have regard to the Government's Alcohol Harm Reduction Strategy when formulating this licensing policy and discharging its functions under the Licensing Act 2003. The strategy outlines measures proposals to cut binge drinking, cut alcohol related violence and cut the number of people drinking to damaging levels.

### Vulnerability & Violence Against Women and Girls

2.24 The Council are committed to ensuring Reading is a safe and welcoming town for everyone, regardless of their gender, ethnicity, sexuality, beliefs or background.

The national focus on reports of drink spiking and the demand for welfare and police services indicate that there is important work to be done in developing Reading's night-time economy to improve actual and perceived safety for visitors, residents and those who work in the town at night.

This policy aims to ensure that vulnerability and women's safety is an important consideration in decision-making in the night-time and late-night economy throughout the town. The licensing authority will keep the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence under review.

Operators are expected to develop a harm-reduction policy for their business, especially at the types of premises where incidents of physical and sexual violence are most frequently reported. This policy shall include sufficient measures to protect and provide support to customers in spiking, coercive control and other vulnerability incidents.

The Council aims to promote best practices, including the Night-time Industry Association (NTIA) standards of good practice for dealing with spiking and having a duty of care for customers as well as integrate with other safety-related initiatives in the town:

• Promoting Reading's Women's night-time safety charter and supporting the delivery of WAVE training across licensed premises

• 'Night Angels' - SIA licensed door supervisors that patrol the town during the evening and night-time economies

• Street Pastors

• The 'First Stop' service offering medical and other support during weekends and peak times like the Christmas & New Year periods

• Safer Street 4 funding which, in part, being spent on improving night-time safety for people working and socialising in the town. Running community safety campaigns, working with bars, pubs and clubs and promoting safe routes home for those enjoying the town at night

• Safer Students Partnership - Bringing together the Council, the University, Students' Union (RUSU) and Reading College to address key safety issues for students (16-25 years old)

• Regular taxi and private hire enforcement to reduce risks to public safety

• Partnership working with Thames Valley Police, Reading's PubWatch, Reading's Business Improvement District, Reading's Economy and Destination Agency amongst others 2.25 The licensing authority delivers free ACT (Action Counters Terrorism) Awareness counter terrorism training and SCaN (See Check and Notify) courses for licensed premises and their staff. We strongly encourage licensed premises to incorporate the freely accessible ACT E-learning as part of wider staff training packages.

The licensing authority also expects that:

• Steps are taken to ensure all people employed at the premises whose job includes being alert to the terrorist threat are aware of:

- the current terrorist threat level
- what that level means in relation to the possibility of an attack.

• Risk assessments for public entertainment venues include consideration of the risk of a terrorist attack and the different types of attack.

• All persons responsible for security are briefed at every event about the current threat level and risk of terrorist attack.

• All public-facing staff must be clear about what to do if the public report suspicious activity or unusual behaviour to them. All suspicious behaviour by customers or members of the public close to the venue must be noted and be reported promptly so that investigations can be made, and action taken, if appropriate.

• Where hostile reconnaissance is suspected it needs to be properly recorded and reported back to the police. If unnecessary reports are made, the remedy should be to train staff better to recognise suspicious behaviour, rather than criticise them for making the report. Suspicious behaviour should only be ignored when an innocent explanation has been verified. Briefings to security staff need to include details of the suspected hostile reconnaissance - this is so staff know what has happened and know what to look out for.

• The venue has robust procedures and relevant training in place and staff are knowledgeable of those procedures to be taken and the necessity of following them in the event of a terrorist incident, such as firearms or weapons attack, including:

- Evacuation/Invacuation/Lockdown
- RUN/HIDE/TELL principles
- How customers will be safeguarded.

• Applying the 4 C's protocol (Confirm, Clear, Communicate, Control) when dealing with suspicious items.

• Staff are knowledgeable of the HOT principle (Hidden, Obvious, Typical) for identifying suspicious packages.

• Staff understand how to identify suspicious behaviour.

• Staff are knowledgeable of the mETHANE principle (Major Incident, Exact Location, Type of Incident, Hazards, Access, Number of Casualties, Emergency Services) for reporting incidents, including suspicious activity.

• First aid kits are fully stocked, staff are aware of where they are kept, and staff are first aid trained.

- Measures to alert staff and visitors of any immediate threat or incident.
- Rehearsal requirements for emergency procedures (no less than six months).
- Provision of PAcT (Public Access Trauma) kits in strategic locations on the premises.

### Other Initiatives

2.26 Reading's night-time economy has achieved Purple Flag and Best Bar None status. These are nationally recognised schemes meaning the town has achieved a level of excellence and we would expect all licence holders and potential applicants to take cognisance of these standards and practices. The Authority and its partners shall seek to work with all stakeholders in the town to maintain these standards. The town also has a very successful and well attended Pubwatch scheme both in the town centre and in the outer areas of Reading. This scheme is supported by Thames Valley Police and Reading Borough Council and is a particularly useful forum for licence holders to share information, best practice and work in a collaborative manner so as to make the night-time economy as vibrant and safe as possible for all. The Authority would expect all prospective applicants and current licence holders to make use of their local Pubwatch scheme and engage fully in any relevant initiatives that stem from it.

### 3. Licensing and integration with other legislation

3.1 Many other pieces of legislation impact directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following when it discharges its responsibilities under the Licensing Act 2003 and in relation to the promotion of the four licensing objectives:

### Crime and Disorder Act 1998

3.2 This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that is reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.

### The Anti-social Behaviour, Crime and Policing Act 2014

3.3 This Act gives a wide range of powers to local authorities and the police to tackle incidents of crime, disorder and nuisance that may be impacting on residents. The Act introduced public spaces protection orders which allows the local authority to designate areas in the borough where anti-social behaviour such as street drinking will be prohibited. The Council has designated areas where street drinking is prohibited and is in the process of introducing a new public space protection order. The Act also gives powers to the local authority and police to close licensed premises where nuisance and anti-social behaviour is taking place or likely to take place. This Act therefore clearly supports and actively promotes the licensing objectives contained within the Licensing Act 2003.

### Immigration Act 2016

3.4 Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 and made Home Office Immigration Enforcement a Responsible Authority concerned with the licensing objective of prevention of crime and disorder. They will exercise their power both in respect of being a consultee on new licence applications and having right of entry to licensed premises with a view to seeing whether an offence under any of the Immigration Acts is being committed on a licensed premises. This will primarily involve the detection and prevention of illegal working on premises that have an alcohol licence or a late night refreshment licence. The offence of employing people at a licensed premises who have no right to work in the UK is also now listed in the Secretary of State's guidance under Section 11.27 which covers criminal activity deemed to be particularly serious and where a licensing authority should consider revoking a premises licence even in the first instance. This Act clearly supports and actively promotes the licensing objective of preventing crime and disorder and the licensing authority will work with colleagues in the Immigration service and Thames Valley Police to enforce this.

# Human Rights Act 1998

3.5 The Council has a duty under the European Convention on Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licence holder to operate their business without undue interference (Article 1 of the First Protocol). This promotes the need for the licensing authority to reach a balance between these two principles when making decisions.

## Equality Act 2010

3.6 The Act places a legal obligation on public authorities to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who share a protected characteristic and those who do not. Protected characteristics include age, disability, race, religion and sexual orientation. When making a decision, the licensing authority will have regard to this due to the goal of ensuring that the night-time economy is safe and accessible to all.

## Business & Planning Act 2020 & Coronavirus Legislation

3.7 Throughout the Coronavirus pandemic, the Government passed and amended legislation with the goal of stimulating the economy. This included measures to temporarily allow premises with an on-licence only to sell alcohol for consumption off the premises (within certain conditions), a temporary increase in the number of Temporary Event Notices that may be given per year and a temporary, faster and cheaper process for obtaining pavement cafés. Information on, and the procedures on how to apply for, these measures shall be available on Council's website for as long as legislation is in force.

3.8 The Government has indicated that it wishes to replace the Highways Act 1980, which governs the pavement café permissions (other than those under the Business & Planning Act 2020), with new legislation that includes fixed fees and allows for pavement café licences with a duration of up to 2 years. If this legislation comes to pass, this policy shall be updated accordingly.

3.9 The Government has indicated that it may make the changes to off-sales and Temporary Event Notices (mentioned in paragraph 3.7) permanent. At the time of writing there is a public consultation on this matter. If any change in legislation comes to pass, this policy shall be updated accordingly.

# Other Legislation that the Licensing Authority will consider

3.10 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:

- Environmental Protection Act 1990 which deals with noise and nuisance
- Regulatory Reform Order 2005 which deals with fire safety
- Highways Act 1980 which deals with pavement café licences
- Reading Borough Council Act 2013 which deals with street trading and touting
- Health and Safety at Work Act 1974 and Food Hygiene regulations
- Planning legislation (see paragraphs 2.2-2.9 of this policy)

## 4. Scope of the Licensing Policy

## **Consultation**

4.1 In drawing up and reviewing this policy, the licensing authority consulted with the bodies designated as Responsible Authorities within the Licensing Act 2003. The Authority also consulted with licence holders, local residents groups and groups representing the trade including licensing solicitors and Pubwatch.

- The chief officer of the police for the Reading local authority area
- The fire authority of the Reading local authority area
- The Public Health authority for the Reading local authority area
- Reading Borough Council Environmental and Nuisance team
- Reading Borough Council Environmental Health/Food Safety team
- Reading Borough Council Trading Standards team
- Reading Borough Council Planning Authority
- Brighter Futures for Children
- Alcohol licensing team at the Home Office
- All premises licence holders who hold a licence with Reading Borough Council
- Local organisations who are representative of local holders of premises licences
- Persons or bodies representative of local residents
- Licensing solicitors representing multi-site operators

4.2 This policy statement will remain in effect for a period of five years from the date it is approved by the Council. During this period it will be reviewed if necessary.

4.3 Cumulative Impact Assessments form part of the Council's Licensing policy when one is in place. They will remain in force for a period of three years from the date it is approved by the Council. At the current time there is no cumulative impact policy (CIP) in place, although this is subject to potentially change as it is being consulted on. If a CIP is approved then it will sit under this policy.

4.4 This policy document is prepared in accordance with Section 5 of the Licensing Act 2003 having regard to the Secretary of State's Guidance issued under Section 182 of the Licensing Act.

4.5 The Licensing Authority shall, as required by Section 4 of the Licensing Act, have regard to this policy in its decision making. The policy may be departed from it the individual circumstances of any case merit this and it is in the interests of promoting the licensing objectives. In such cases, the Licensing Authority shall give full reasons for departing from this policy.

4.6 The Licensing Authority has a duty under the Licensing Act 2003 to carry out its functions so as to promote the four licensing objectives. All four licensing objectives are of equal importance.

4.7 This policy addresses the principles behind the decisions in respect of all applications for:

- Premises Licences
- Club Premises Certificates
- Community Premises
- Personal Licences
- Temporary Event Notices
- Variation of conditions attached to licences
- Review of premises licences and club premises certificates

#### Fundamental Principles

4.8 The Licensing Authority recognises that persons who meet the requirements as set out in the Licensing Act 2003 can apply for a premises licence, club premises certificate and temporary event notice and carry out licensable activities in accordance with that authorisation.

4.9 The Licensing Authority recognises that bodies designated as Responsible Authorities and 'Other persons' under the Act can make representations in relation to any application for the grant/variation or review of a premises licence or call for the review of any premises licence or club premises certificate that has been granted by the authority.

4.10 The Licensing Authority recognises that in relation to a premises licence or club premises certificate that it cannot:

a) Modify conditions attached to a premises licence or club premises certificate unless it has received a relevant representation about the application and then only to the extent that granting such application would undermine the promotion of the licensing objectives

b) Exclude a licensable activity from the scope of a premises licence or club premises certificate unless it has received a relevant representation about the application and then only to the extent that granting such application would undermine the promotion of the licensing objectives

c) Refuse to specify a person on a premises licence as the Designated Premises Supervisor unless it has received a relevant representation about the application and then only to the extent that granting such application would undermine the promotion of the licensing objective of crime and disorder

d) Refuse an application for a grant or variation - unless it has received a relevant representation about the application and then only to the extent that granting such application would undermine the promotion of the licensing objectives. Minor variations will be determined on the basis of their impact on any of the licensing objectives.

e) Refuse an application to transfer a licence unless it has received a relevant representation about the application and then only to the extent that granting such application would undermine the promotion of the licensing objective of prevention of crime and disorder.

f) Attach conditions to a premises licence or club premises certificate unless those conditions are consistent with the operating schedule of an application form, they have been agreed with the applicant during the application process, or they have been placed upon a licence by the licensing sub-committee in order to promote the licensing objectives.

g) Modify the mandatory conditions attached to all licences.

4.11 The Licensing Authority recognises that in relation to Temporary Event Notices and Personal Licences that it cannot:

a) Refuse an application for a personal licence unless the applicant is shown to have a relevant conviction that the local police believe will undermine the crime and disorder licensing objective.

b) Suspend for three months or revoke a personal licence unless that person has a relevant conviction or has been convicted of an immigration penalty.

c) Refuse a temporary event notice unless a relevant representation is received from the police or the body within the council that deals with noise nuisance.

4.12 The Licensing Authority recognises that in relation to representations that it cannot:

a) Reject a representation unless it is deemed frivolous, vexatious or irrelevant to the promotion of the licensing objectives. In considering whether a representation is frivolous, vexatious or irrelevant, the Authority will follow the steps as outlined in the Secretary of State's Guidance at paragraphs 9.4 to 9.10. If a representation is rejected, then reasons shall be given to the person who made that representation.

4.13 The Licensing Authority will carry out all of its functions with a view to promote the four licensing objectives and to ensure, as far as is practicable, that there is integration with all Council policies, strategies and initiatives.

4.14 It is recognised that the licensing function is only one means of securing the delivery of the active promotion of the licensing objectives and should not therefore be seen as a panacea for solving all problems within local communities. The licensing process can only seek to control measures within the control of a licence holder or potential licence holder. The Licensing authority will continue to work in partnership with other bodies within the Council and outside the Council to ensure that the licensing objectives are actively promoted through any relevant strategy, initiative or policy.

#### **Licensable Activities**

- 4.15 This policy relates to all applications for the following licensable activities:
  - The sale of alcohol by retail
  - The supply of alcohol to club members
  - The provision of regulated entertainment:
    - Performance of a play
    - Performance of a film
    - An indoor sporting event
    - Boxing or wrestling
    - Performance of live music
    - Performance of recorded music
    - Performance of dance

- The provision of late night refreshment (the sale of hot food and drink between 2300hrs and 0500hrs)

4.16 There have been numerous bills put through Parliament to deregulate certain licensable activities. This includes the Live Music Act 2012 and various deregulation bills. The Secretary of State's Guidance covers at length examples of regulated entertainment that have been deregulated.

4.17 This policy cannot list all instances of deregulation. However, some key examples are as follows:

a) <u>Live music</u> - no licence is required for a performance of unamplified live music between 0800hrs and 2300hrs on any premises. Further, no licence is required for a performance of amplified live music between 0800hrs and 2300hrs on premises that have a licence to sell alcohol on the premises (subject to other criteria).

b) <u>Recorded music</u> - no licence is required for a performance of recorded music between 0800hrs and 2300hrs on any day on premises that have a licence to sell alcohol on the premises and is performed to an audience of no more than 500 persons.

4.18 Applicants, licence holders or members of the public who are unclear whether an activity is licensable or not should contact that licensing authority for information.

## 5. Licensing Applications

#### Grant and Full Variations

5.1 All licensing applications for the grant or full variation of a premises licence or club premises certificate must be served on the licensing authority. Applications can be served electronically via the gov.uk portal or via hardcopy. All applications must be accompanied by a plan of the premises which shows the licensable area; an immigration document demonstrating that the licence holder has the right to live and work in the UK and the correct fee. Failure to provide the correct documentation or fee will result in the application being returned to the applicant as invalid.

5.2 Any applicant that proposes to serve an application in hardcopy must ensure that the application is served on all of the Responsible Authorities stated in the Licensing Act 2003. Contact details for the below are attached as an appendix to this policy:

- a) The Licensing Authority for which the premises is located
- b) The chief officer of the police for the area
- c) The chief fire officer of the police for the area
- d) Brighter Futures for Children
- e) Reading Borough Council Environmental Health
- f) Reading Borough Council Environmental Protection and Nuisance
- g) Reading Borough Council Trading Standards
- h) Reading Borough Council Planning authority
- i) Reading Borough Council Public Health
- j) The Alcohol team at Home Office Immigration Enforcement

k) A Licensing authority other than Reading Borough Council if the premises is part situated in that borough as well.

5.3 In addition, where applications for the grant or full variation of a premises licence are for a boat, a copy of the application must be served on the Navigation authority; the Environment Agency; The canal and river trust and the Secretary of State.

5.4 It is the responsibility of the applicant to ensure that any application for the grant or full variation of a licence advertise the application in accordance with the relevant Licensing regulations. A blue notice should be placed on, at or near the premises to advertise the application for 28 days starting with the day after the application is served. A newspaper advert doing the same must be placed in a newspaper circulating in the Borough of Reading within 10 working days. Failure to do either of these things or to put inaccurate information in them will invalidate an application.

5.5 The Licensing Authority will advertise any valid applications on the Council's website for the same period of 28 days starting with the day after the application was received.

5.6 During the 28 day consultation period, the authority will scrutinise the application along with all of the other Responsible Authorities to judge whether it undermines the promotion of the licensing objectives. The application will be made available to any person who requests to see it. As per Section 18 (6) of the Licensing Act 2003, it will consider the likely effect of granting any licence on the promotion of the licensing objectives. The authority will expect all applicants to have taken cognisance of the Secretary of State's Guidance; local strategies and initiatives; this policy and any other known local issues before submitting their application.

5.7 Whilst many applications will be resolved without the need for a committee hearing, any matters or representations that are not resolved will trigger a hearing before the properly constituted Licensing Applications Committee for determination.

## Minor Variation Applications

5.8 In August 2009, the Government introduced a simplified process to make minor variations to licences. These kind of variations will be ones that are considered to have no adverse impact on the promotion of the four licensing objectives. These applications will be considered by duly authorised officers of the Licensing Authority.

- 5.9 Minor Variations cannot be used to:
  - a) extend the period for which the licence or certificate has effect;
  - b) specify within a premises licence, a new DPS;
  - c) add the sale or supply of alcohol as a licensable activity;
  - d) authorise an extension alcohol hours;
  - e) vary substantially the layout; activities or conditions of a licence;
  - f) authorise an individual to supply alcohol at a community premises
- 5.10 Minor Variations can be used to:
  - a) make minor changes to the structure or layout of a premises;
  - b) make small adjustments to the licensing hours;
  - c) move the hours for the sale by retail of alcohol between 0700hrs and 2300hrs without increasing the hours;
  - d) remove out of date, irrelevant or unenforceable conditions;
  - e) add or remove licensable activities (alcohol cannot be added via Minor Variation);
  - f) Add conditions that may have been agreed with a responsible authority.

5.11 Under the Minor Variation application process, the applicant must send the application to the Licensing Authority only. The applicant must also display a white notice

on, at or near the premises which advertises the proposed changes for a period of ten working days beginning with the day after the application was received by the authority. There is no requirement to advertise this application in the newspaper.

5.12 The Licensing Authority - upon receipt of a valid application - will determine the application in relation to its impact on the four licensing objectives and consult any Responsible Authority it wishes. The authority may reject the application if it believes the licensing objectives will be undermined by granting it. The authority can reject the application even if it receives no representations against it. If the authority fails to make a determination within five working days after the ten working day consultation period, then the application will be deemed refused and the fee shall be returned to the applicant.

## Review of a premises licence or club premises certificate

5.13 Any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named Responsible authorities - including the Licensing Authority in its role as a Responsible Authority. Thames Valley Police may also submit a Summary Review if there is a premises associated with serious crime and disorder. When the Licensing Authority instigates a review it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

5.14 A premises licence review can also be instigated by a person defined in the Act as 'any other person'. One example of this is local residents.

5.15 The Act provides strict guidelines, timescales and procedures for review applications and hearings and the Authority will deal with every review application in accordance with these rules.

5.16 Further details on review applications can be found in this policy under the heading 'Enforcement'.

#### Designated Premises Supervisors

5.17 This person must hold a personal licence and would generally be in day to day control of the premises.

5.18 No alcohol may be sold or supplied from a licensed premises unless it is sold by a personal licence holder or a personal licence has authorised others to sell alcohol in their absence.

5.19 In 2009, the Government empowered the Licensing Authority - upon the application of a management committee of a community premises - not to apply the normal mandatory conditions in relation to the sale of alcohol. Instead the authority can impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

5.20 Any application for a change of the Designated Premises Supervisor must be made to the Licensing Authority either electronically via gov.uk or in hardcopy. Any hardcopy applications must also be served on Thames Valley Police. An application form completed by the premises licence holder; a consent form signed by the prospective DPS; the premises licence and a fee of £23 must be submitted.

5.21 Where an objection is received by the Authority from Thames Valley Police in respect of the proposed DPS, the authority is required to hold a hearing before the Licensing Applications Committee within the timescales set out in the Act and accompanying regulations.

## Transfer of Premises Licence

5.22 Where a licence holder wishes to transfer their premises licence to another person or body, then an application shall be made to the Licensing Authority to do so. An application form completed by the proposed new owner; a consent form giving permission for the transfer from the previous owner; the premises licence and a fee of £23 must be submitted - either electronically or in hardcopy. All hardcopy applications must also be served on Thames Valley Police.

5.23 If the authority receives a representation in relation to any proposed transfer, then it must hold a hearing in the required timescales.

5.24 A licence will lapse if the licence holder meets any of the criteria as outlined in Section 27 of the Licensing Act 2003. This means that any licence holder who dies; becomes incapacitated; becomes insolvent or has their company dissolved will see their licence lapse. This would mean that no licensable activity can take place unless a transfer is received within 28 days. A licence will also lapse if the holder of the licence no longer has the right to work in the UK. Should this happen, then a new licence will have to be applied for from someone who does have the right to work in the UK.

5.25 A club premises certificate will cease to exist if it does not meet the criteria laid out in the Licensing Act 2003. A club premises certificate cannot be transferred.

## Personal Licence Applications

5.26 Under the Act, the Licensing Authority will automatically grant applications for personal licences so long as they meet the application criteria outlined in the Act. If an applicant has been convicted of a relevant offence or has been subject to an immigration penalty that may undermine the prevention of crime and disorder licensing objective, Thames Valley Police or Home Office Immigration may make representations against the grant of the application.

5.27 Where relevant representations are received, the Licensing Authority will hold a hearing in accordance with the regulations and timescales outlined in the Act. The Licensing Applications Committee will then make a determination on the application taking into account the relevant representations received.

5.28 When a Personal Licence holder moves address, they must notify the authority that issued their licence. Failure to do so is an offence under the Licensing Act 2003.

5.29 When a Personal Licence holder is convicted of a relevant offence or has paid an immigration penalty, they must notify the authority who issued their personal licence so that their licence can be endorsed to that effect. Failure to do so is an offence under the Licensing Act 2003.

5.30 Where a Personal Licence holder is convicted of a relevant offence or has paid an immigration penalty then the licensing authority may look to suspend the personal licence for a period of up to six months or revoke it. This is as per Section 132A of the Licensing Act 2003. If the Licensing Authority decided to take this action then it will allow the licence

holder to make representations which will be considered at a properly constituted hearing in front of the licensing applications committee.

# Temporary Event Notices

5.31 An event organiser who wishes to arrange a one off event or extend the hours for licensable activities at a premises, may notify the Authority of the proposed event. The application (or notice) needs to be submitted to the Licensing Authority with the fee of £21. The application must be submitted electronically via the gov.uk portal or via hardcopy. If submitted via hardcopy then it must also be sent to Thames Valley Police and the Council's Environmental Protection and Nuisance team.

5.32 A temporary event notice must be submitted to the authority at least ten clear working days before any event. This does not include the date the application is submitted; weekends, bank holidays or the first date of the event itself. Failure to adhere to these timescales may invalidate the application.

5.33 An applicant who also holds a Personal Licence may apply to hold 50 events per year. An applicant who does not hold a Personal licence may only apply for 5 events.

5.34 Each Temporary Event may last for up to 168 hours and an individual premises may hold up to 15 events totalling 21 days. There must be a gap of 24 hours between the end of one temporary event and the start of another one.

5.35 If the police or the Environmental Protection and Nuisance team make a representation in regard to a temporary event notice then the Licensing Authority will arrange a hearing before the Licensing Application Committee in the required timescales.

5.36 Applicants are encouraged to submit Temporary Event notices as far in advance as possible to allow issues to be worked out and for any required hearing to be held in good time before any proposed event.

5.37 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it. The Act defines an associate as being:

- the spouse or civil partner of that person.
- a child, parent, grandchild, grandparent, brother, or sister of that person; or
- an agent or employee of that person.
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

5.38 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

# Late Temporary Event Notices

5.39 Late notices can be given no later than five working days before an event but no earlier than nine working days before an event. If there is an objection to the proposed event from either Thames Valley Police or the Council's Environmental Protection and Nuisance team then the authority will issue a counter notice. This means that the event will not be permitted to go ahead.

5.40 The number of late notices that can be given in any one calendar year is limited to ten for personal licence holders and two for non-personal licence holders. Late notices count

toward the total for the number of events per year held at a single premises and for the number of events per year applied for by the applicant.

# Applications and the Immigration Act 2016

5.41 Under changes made to the Licensing Act 2003 by the Immigration Act 2016, the Licensing Authority is required to undertake checks to ensure that applicants have the right to work in the UK. This is to assist in the prevention of illegal working in licensed premises.

5.42 These new provisions apply to applications for a grant of a premises licence; the transfer of a premises licence and for the grant of a personal licence. As part of the process for any individual applying for any of the above licences, the applicant must provide a relevant right to work document, or right to work share code using the Home Office's website: <u>https://www.gov.uk/view-prove-immigration-status</u>. If a right to work document or share code is not provided then the application will be deemed invalid and returned to the applicant. The Licensing Authority will not and cannot issue a licence to someone who does not have the right to work in the UK.

5.43 Applicants are required to submit a copy of a relevant and valid right to work document. A list of acceptable right to work documents can be found on the Council's website here - <a href="https://www.reading.gov.uk/business/licences/alcohol-and-entertainment-licences/premises-licence/">https://www.reading.gov.uk/business/licences/alcohol-and-entertainment-licences/premises-licence/</a> Applicants are advised to check the latest information about acceptable immigration documents on the gov.uk website.

5.44 As a Licensing Authority, we have to be satisfied that applicants have a right to work in the UK. As part of that process, we may refer your right to work document to the Home Office's Status Verification Evidence and Checking Unit (SVEC). The Home Office are also a named 'Responsible Authority' under the Licensing Act 2003 and will be sent copies of all applications for them to conduct their own checks.

5.45 When an applicant has limited leave to remain and work in the UK, any licence issued to that person will lapse at the expiry of that leave. A licence will also lapse if the Home Office revokes or curtails someone's leave in the UK. In these instances, applicants are advised to produce evidence of any extension to their entitlement to work to the Licensing Authority. If no evidence of this is produced, then the licence will lapse and all licensable activities permitted by that licence must cease. If an applicant then gets further leave to work in the UK, they will then have to apply for a new licence.

5.46 The Home Office - as a named Responsible Authority under the Licensing Act 2003 - can make representations in relation to applications predominantly in relation to the licensing objective of the prevention of crime and disorder.

5.47 Immigration offences such as the employment of illegal workers are now listed as one of the most serious criminal offences in the guidance to the Licensing Act 2003. The payment of Immigration penalties are also now a relevant offence under the Licensing Act 2003.

5.48 The Licensing Authority consider the prevention of crime and disorder licensing objective in relation to the prevention of illegal working in licensed premises to be of particular seriousness and will expect applicants to address these issues within any application submitted to us.

#### Committee Hearings

5.49 Applications that attract representations (except Minor Variations) will be determined by the Licensing Applications Committee or Sub Committee. The relevant committee meeting will be discussion led and the committee members will listen to the points raised by the applicant and any objector. All parties will be notified of the decision of the committee. All hearings will be held in accordance with the relevant regulations and timescales outlined in the Act.

# <u>Appeals</u>

5.50 If an applicant is aggrieved by a decision of the Licensing Authority, an appeal may be lodged with the Magistrates Court for the area. The Authority must in all cases be the respondent to such an appeal.

## Large Indoor & Outdoor Events & Reading's Safety Advisory Group

5.51 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district. However, the success of such events by way of contribution to the Reading's culture and tourism depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.

5.52 In recognition of the additional factors for hosting large indoor and outdoor events, the council has established a multi-agency safety advisory group to assist organisers in coordinating such events. This includes council departments who have an interest in, or legislative role relevant to, such events, together with representatives of the emergency services.

5.53 Organisers of outdoor events, irrespective of the capacity, are encouraged to make early contact with the council's safety advisory group. Members of the group are notified about proposals to hold such events and where necessary a meeting will be organised to open lines of communication with organisers and provide advice as necessary, which may include matters such as the need for on-site medical facilities, firefighting teams, road closures etc.

5.54 The Health and Safety Executive provide specialist guidance on event safety through their website at <a href="http://www.hse.gov.uk">www.hse.gov.uk</a>

5.55 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

## General Approach

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.2 The operating schedule within an application should contain an assessment from the proposed licence holder of what they believe are appropriate and proportionate measures to enable them to carry out their proposed licensable activities. This assessment should be arrived at by taking cognisance of this policy and the Secretary of State's guidance which outlines the matters that an applicant should take into account such as issues in the locality and why their proposed measures are suitable for their proposed operation.

6.3 If an application receives no representations from Responsible Authorities or any other persons then the licensing authority must grant that licence. The licence would therefore be granted with conditions that are contained within the operating schedule. However, applicants should be aware that the licensing authority is not permitted to simply replicate the wording of an operating schedule into conditions. Conditions will be worded as per the Council's Pool of Conditions and will reflect the intention of the applicant.

6.4 The licensing authority does not have the power to impose conditions on a premises licence or club premises certificate unless it is receipt of a relevant representation and considers that conditions are appropriate and proportionate to promote the four licensing objectives.

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

6.6 The licensing authority will avoid attaching conditions which duplicate other legislation. However, some crossover may occur if the licensing authority believes that additional measures to control licensable activity are required to promote the four licensing objectives.

#### Mandatory Conditions

6.7 There are conditions that are imposed on all premises licences and club premises certificates. These are mandatory conditions and will apply to all licences and certificates that authorise the sale or supply of alcohol. These conditions will apply even if they are not contained on the physical copy of any licence.

6.8 The mandatory conditions are laid out in the Secretary of State's guidance. Licence holders must ensure, for example, that irresponsible drink promotions do not take place on the premises. Licence holders must also ensure that any drink measurement is compliant and that all sales meet the minimum permitted pricing. Licences that permit alcohol to be sold and consumed on the premises must also provide free potable water to customers. The licensing authority considers irresponsible drinks promotions and alcohol being sold below

the permitted minimum price as extremely serious offences that only promote excessive and irresponsible alcohol consumption and which then go on to cause alcohol related crime; antisocial behaviour and poor health outcomes. Any premises found engaging in such activity is likely to face appropriate enforcement action for undermining the promotion of the licensing objectives.

6.9 The mandatory conditions stipulate that no sale of alcohol may be made under a premises licence at any time when there is no Designated Premises Supervisor or when the proposed Designated Premises Supervisor does not have a valid Personal licence. Every supply of alcohol made under the premises licence must be made or authorised by a person who holds a personal licence. Any premises found to be in breach of this is likely to face appropriate enforcement action for conducting unlicensed activity and undermining the promotion of the licensing objectives.

6.10 The mandatory conditions also stipulate that the holder of any premises licence or club premises certificate must ensure that a suitable age verification policy is adopted at the premises in respect to the sale or supply of alcohol. All sales must then be carried out in relation to that policy and only then when suitable photographic identification is produced. Any premises found operating without a valid policy is likely to face appropriate enforcement action for conducting unlicensed activity and undermining the promotion of the licensing objectives.

# Off Licences and Conditions - General Approach

6.11 Shops selling alcohol for consumption off the premises can be the focus of anti-social behaviour, crime and disorder and public nuisance. In the town centre and Oxford Road area, for example, there are significant issues with street drinking and the associated anti-social behaviour this causes.

6.12 Any applications for off licences shall be considered in the light of all relevant matters that may undermine the licensing objectives such as street drinking in that locality as well as the availability of high strength beers, lagers and ciders and the detrimental effect those products have on health outcomes. This approach will apply to the whole Borough of Reading and the authority will seriously consider any representation made to it by Thames Valley Police, Public Health or other responsible authorities which indicate that the availability or sale of high strength beers, lagers and cider are likely to be detrimental to the promotion of the four licensing objectives.

6.13 When considering applications for off licences, the authority would expect applicants to acknowledge the above issues within their operating schedule.

6.14 The authority, whilst taking all applications on their own merits, will not generally grant applications for the 24 hour sale of alcohol for consumption off the premises. The authority will expect proactive measures to be included within the operating schedule that prohibits or restricts the sale of high strength beers, lagers and ciders above 6.5% in order to assist with preventing street drinking, preventing anti-social behaviour and to actively promote the licensing objectives.

6.15 Applications for off licences would also be expected to contain evidence of appropriate staff training, the utilisation of a Challenge 25 age verification policy and the use of CCTV to cover the entire proposed licensable area. This is not an exhaustive list and conditions should be appropriate and proportionate to the style of operation and taking into account the issues in the locality.

6.16 All licence holders will be expected to actively participate in initiatives set up in Reading which aim to tackle the issues of alcohol related anti-social behaviour and the proliferation of high strength beers, lagers and ciders above 6.5%. Initiatives such as 'Reducing the Strength' are proven to reduce alcohol related anti-social behaviour in the Borough.

6.17 The sale of alcohol to underage people is an offence under the Licensing Act and can severely undermine the prevention of crime and disorder and the protection of children from harm licensing objectives. The excessive consumption of alcohol by young people is also likely to impact negatively on health outcomes. Applicants for off licences will be expected to include robust measures to ensure that alcohol is sold responsibly and that any staff are trained to a high level to achieve this. Evidence of best practice in terms of recording refusals of age restricted products will be expected within all applications.

6.18 Where a shop, including businesses such as online only warehouse premises, wishes to provide a delivery service for their products - including alcohol - the authority will expect measures to be included within the operating schedule of how those deliveries will operate. For example, to ensure that deliveries are being made to full postal addresses and not fields; that deliveries which contain alcohol are subject to the premises age verification policy with refusals logged accordingly and that delivery bikes are not causing a public nuisance to local residents.

# Late Night Refreshment (takeaways) and Conditions - General Approach

6.19 Late night food outlets are a major contributor to crime and disorder and anti-social behaviour within Reading. Applicants who wish to provide hot food or drink after 2300hrs and up to 0500hrs, will need to demonstrate that their proposed operation will not exacerbate issues of crime and disorder in that locality.

6.20 Applicants for late night refreshment are expected to take cognisance of the Secretary of State's Guidance and to include appropriate and proportionate measures within their operating schedule to assist in actively promoting the licensing objectives.

6.21 The licensing authority will expect all applicants who wish to provide late night refreshment to include measures for adequate staff training; measures to ensure that no public nuisance occurs from the premises as well as additional measures to assist in crime prevention such as CCTV and door supervisors.

6.22 Public nuisance can often occur from takeaways being sited in residential areas. This could be in relation to the use of delivery vehicles and the congregating of customers outside the premises. Applicants are expected to make an assessment of their proposed locality and implement measures to avoid disturbing local residents such as the use of electric bikes and the implementation of a dispersal policy.

6.23 Where it is practical, the authority will also look to ensure that all packaging used for the provision of hot food and drink shall be made of recyclable materials or be biodegradable. This will include all fixed premises and static vans.

# Restaurants and Cafes - General Approach to conditions

6.24 The licensing authority would expect all bona fide restaurants to take cognisance of the Secretary of State's Guidance and this policy and include measures that actively promote the four licensing objectives.

6.25 As well as the measures outlined above in relation to a Challenge 25 age verification policy, CCTV and staff training, the authority will expect all bona fide restaurants to include

a condition within their operating schedule to the effect that the sale of alcohol will be ancillary to a sit down food order and that the premises will operate solely as a restaurant with waiters and waitresses providing table service. It is the authority's view that restaurants should not be a place where upright vertical drinking takes place.

6.26 Where a restaurant wishes to provide a delivery service for their products - including alcohol - the authority will expect measures to be included within the operating schedule of how those deliveries will operate. For example, to ensure that deliveries are being made to full postal addresses and not fields; that deliveries which contain alcohol are subject to the premises age verification policy with refusals logged accordingly and that delivery bikes are not causing a public nuisance to local residents.

# <u>Alcohol led bars and clubs with regulated entertainment - General Approach to</u> <u>conditions</u>

6.27 The licensing authority is of the opinion that premises that are alcohol led; provide limited seating for customers; provide little food and provide entertainment facilities have the strongest potential to undermine the promotion of the licensing objectives. The licensing authority believes that venues that encourage up right vertical drinking and the sale of alcohol - often at cheap prices - leads to a negative impact on the town and only serves to promote drunkenness and crime and disorder. Any applicant who wishes to operate such a venue will have to demonstrate that its proposed use does not undermine the promotion of the licensing objectives and the authority would expect any operating schedule to contain stringent policies and procedures to achieve this. Measures such as CCTV, employment of door supervisors and the use of a club scan device will be expected as a minimum requirement. Door staff will also be expected to wear high visibility jackets and armbands so that they can be easily identified and an applicant's failure to propose this will likely result in a representation being submitted by the Licensing department acting as a responsible authority. Other initiatives such as utilising, where appropriate, body worn video to help promote the prevention of crime and disorder licensing objective is strongly encouraged. The use of breathalysers is also to be encouraged in venues that are alcohol led and should - where appropriate - be advertised as a condition of entry to a licensed premises - particularly given the current prevalence for pre-loading.

# Hotels - General Approach to conditions

6.28 Hotels - where alcohol is predominantly sold to hotel guests - are expected to include measures within the operating schedule in relation to a robust age verification policy; robust staff training procedures and the use of modern, full coverage CCTV. Applicants are expected to take cognisance of this policy and the relevant sections of the Guidance.

6.29 The licensing authority believes that Child Sexual Exploitation (CSE) is an issue of serious national importance. This clearly fits under the remit of preventing crime and disorder and protecting children from harm as well as other Council and nationwide policies. It is expected that applicants and existing licence holders have robust measures in place to prevent child sexual exploitation taking place at their premises. The authority may, if it believes the issue has not been adequately addressed in the operating schedule or believes that children are being placed in harms way at a licensed premises, may make representations so as to impose conditions on a licence to address those issues. The authority would expect all licence holders to have robust procedures in place to prevent any potential child exploitation taking place and will take the utmost serious consideration of any representations received by Thames Valley Police or the Council's Safeguarding team that outline that any child or vulnerable person is being placed at risk in any licensed premises.

# Film Exhibitions

6.30 The authority will not permit the showing of films which are likely to lead to disorder or incite violence towards any section of the public on the grounds of colour, race, ethnic origin, disability, religious beliefs or sexual orientation.

6.31 The authority expects that all films will be shown in accordance with the classification assigned to it by the British Board of Film Classification and that premises showing films have sufficient procedures in place to prevent underage persons from viewing it.

6.32 Requests for certification by the licensing authority should be made at least 28 days in advance of the proposed screening date and submitted to the Licensing department along with the appropriate fee. Requests should include:

- A physical copy of the film or link to a viewable copy online
- Details of any existing classification issued by an existing classification body, whether within or outside the UK
- A synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film
- Any recommendation(s) that may have been made by the filmmaker for the intended audience for exhibition of the film
- Proposed age certification by the applicant.

6.33 In accordance with the guidance issued under Section 182 of the Licensing Act 2003, the licensing authority shall concern itself primarily with the protection of children from harm when classifying films.

6.34 The licensing authority considers the classification system used by the BBFC to be nationally understood and accepted. Therefore, it will use this system as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). However, it should be noted that the licensing authority is not obliged to follow these guidelines.

#### Fire Safety and Capacity Limits

6.35 The authority is committed to ensuring public safety in licensed premises by working in close partnership with Royal Berkshire Fire and Rescue Service subject to the provisions of the Regulatory Reform (Fire Safety) Order 2005.

6.36 Applicants and licence holders are expected to produce a comprehensive fire risk assessment before their premises is used for licensable activities. This document should be revised and maintained in accordance with the provisions of the Regulatory Reform Order 2005. It is a legal requirement that all licensed premises have a written fire risk assessment.

6.37 The Licensing authority will not generally seek to impose a safe capacity figure as a condition on a premises licence or club premises certificate unless it is appropriate for the promotion of the licensing objectives. Licence holders should ensure that all measures that impact on the public safety licensing objective are adhered to.

## 7. Licensing Hours

## General Approach

7.1 The Licensing Act 2003 gives the licensing authority the power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of this policy. The licensing authority will make appropriate decisions on licensing hours for the locality of each premises. All applications will be considered on its individual merits.

7.2 When an application receives representations, the authority may consider reducing the opening hours and times for licensable activities if it considers it appropriate for the promotion of the licensing objectives.

7.3 As part of the operating schedule submitted with any application, the applicant is expected to take cognisance of the guidance, this policy and any other available data pertaining to their prospective locality and the potential impact their operation may have on that area.

7.4 Where it is deemed appropriate and proportionate to do so, the authority may seek to reduce the hours for licensable activities in order to promote an orderly and gradual dispersal from a certain area or certain premises.

7.5 All applicants and licence holders are expected to achieve and to adhere to any relevant planning permissions - including hours of operation. Applicants are expected to achieve planning permission before applying for any licence. Where the planning authority have set a terminal hour on a premises planning permission, the licensing authority will generally only grant a licence to that hour. This is to ensure consistency and integration between licensing and planning as detailed in section 2 of this policy.

#### Licensed Premises in Residential Areas

7.6 When dealing with applications and issuing licences, the authority is likely to impose stricter conditions on premises operating in residential areas if it considers it appropriate and proportionate to do so. This will apply to all premises types.

7.7 Generally, any licensed premises looking to open past 11pm (2300hrs) in a residential area will need to demonstrate clearly in their operating schedule that public nuisance will not result from later operation. As part of the operating schedule, applicants should read the Secretary of State's Guidance, this policy and any other relevant document and ensure that robust measures are included in any application.

7.8 Premises that wish to provide regulated entertainment may be subject to additional conditions to ensure that residents are not disturbed. This may include the use of sound limiters; keeping doors and windows closed and restricting the hours when music is played.

7.9 Premises with outdoor areas such as beer gardens and smoking areas may also be subject to further restrictions in regard to their operation and use.

7.10 Where any outside area is used for drinking and/or smoking - including the public highway outside of a licensed premises - and complaints of public nuisance or noise are received the authority will consider controls to limit the disturbance.

7.11 Premises that are planning to put on events that involve regulated entertainment may be required to provide the authority with a detailed event management plan of that event which may include a detailed noise risk assessment.

7.12 The licensing authority will seek the input of the Council's Environmental Protection and Nuisance team when looking at measures that may be appropriate for the prevention of public nuisance. This will include taking cognisance of any representations that are submitted as part of the application process or any enforcement action they have taken under their own legislation - such as noise abatement notices.

#### Hours of Sales in Off Licences

7.13 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during their normal trading hours. However, in the case of individual shops that are suspected or known to be a focus of crime and disorder, anti-social behaviour or public nuisance, then subject to relevant representations being received, a limit on licensing hours and opening hours may be appropriate.

#### Drinking up/Winding down time/Dispersal

7.14 Premises that provide licensable activity that may undermine the promotion of the four licensing objectives; cause disturbance to residents or in any way exacerbate issues of anti-social behaviour and crime and disorder, are expected to adopt, implement and maintain a robust dispersal policy. Licensed premises in residential areas or within the Council's Cumulative Impact Areas (if there are any in force - see 4.3) are also expected to outline measures such as a suitable wind down time where licensable activities will come to a gradual conclusion before closing time to allow for a gradual and orderly dispersal policy and wind down times so as to ensure that customers actively leave the premises and area within permitted hours and with the minimum of disturbance to local residents.

7.15 In the case of nightclubs, dance venues and similar premises, it is expected that licence holders and designated premises supervisors instigate and operate a wind down time starting at least thirty minutes before closing time. During this time, the pace, volume and type of music played should be slowed down and reduced to background levels. The sale of alcohol should also cease and staff should be available to assist in the gradual dispersal of patrons from the premises and the immediate area. It is expected that door supervisors should also assist with the gradual dispersal of patrons from the premises and the area and direct people to public transport if appropriate.

#### Late Night Refreshment

7.16 There are concerns about noise, nuisance, crime and disorder and anti-social behaviour in respect of premises open late and providing hot food and drink. Operators and potential applicants of late night refreshment venues wishing to open past 11pm will need to demonstrate that there are suitable policies and procedures in place to mitigate any undermining of the licensing objectives from their operation. If suitable practices and policies are not put in place and it is the belief of the Authority that crime and disorder and/or a public nuisance is likely to occur due to the late operation of late night refreshment premises, then the Authority will look at reducing the hours and or (subject to relevant representations being received) removing late night refreshment from an application in its entirety.

7.17 The Authority - whilst taking each application on its own merits - is unlikely to grant excessive hours to any premises if it believes it will undermine the promotion of the licensing objectives in the locality where it proposes to operate. Applicant's should ensure that their application takes cognisance of the information available - including crime data - and ensure that the operating scheduled is tailored accordingly. Premises within the Council's Cumulative Impact Areas will also need to ensure that they rebut the presumption of refusal against applications in that area if there is such an area (or more) in place.

## 8. Children in Licensed Premises

8.1 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Secretary of State's Guidance to the Licensing Act 2003 also makes clear that the authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

8.2 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

8.3 The Authority will expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises. The Authority will also expect any licence holder who wishes to hold events for children to provide it and Thames Valley Police with a detailed risk assessment of that event including how the event will be managed, staffing levels for the event and how any child will be prevented from being exposed to any harm.

8.4 The authority will give considerable weight to representations about child protection matters particularly from Brighter Futures for Children who act as the Responsible Authority under the Act for matters relating to child protection. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcoholrelated illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

8.5 The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises.

8.6 The Authority will expect all licence holders or premises that wish to allow children on to their premises to ensure that access is restricted where appropriate. This would include, ensuring that all children are accompanied and that they do not have access to or sight of alcohol. Examples of when access could be restricted or denied to the premises altogether could be:

- where adult entertainment is provided;

- where there have been convictions of members of staff or the current management for serving alcohol to minors or there is strong anecdotal evidence of alcohol being sold to minors;
- where there is a known association at the premises for drug taking or drug dealing;
- where there is a strong element of gambling on the premises particularly large stake games involving significant sums of money
- where the supply of alcohol for consumption on the premises is the exclusive or primary use of the services provided at the premises.

8.7 The 2003 Act requires that any premises showing films must ensure that children are not able to view age restricted films (as classified by the British Board of Film Classification). The authority will expect any licence holder or applicant who intends to show films to outline suitable robust measures on how they will protect children from exposure to this potential harm. The authority may impose suitable conditions if it believes it is required for the promotion of the four licensing objectives.

8.8 Where a large number of children are likely to be present on any licensed premises, for example a children's pantomime, disco/rave or similar event, the authority expects all children to be supervised by an appropriate number of adults and to ensure that the venues put measures in place to prevent any child being exposed to harm.

8.9 Venue operators may also apply their own admissions policy to their premises. If a venue has carried out a risk assessment that deems it appropriate to exclude children or young persons from their premises then that is a matter for them. The authority will expect all venue operators to risk assess their venues accordingly against the nature of the licensable activities they intend to carry out. This could include, for example, allowing accompanied children into a premises up until a certain time and then excluding them for the rest of the time the premises is open.

8.10 The Authority strongly recommends that events where persons under the age of 18 years and persons over 18 years do not take place unless there are sufficient and robust control measures in place. Experience has shown that mixed age events are extremely difficult to control and manage and they have led to persons under the age of 18 being exposed to alcohol and entertainment late into the night. It is the authority's view that mixed age events should not take place within the late night economy - particularly at venues that are alcohol and entertainment led and which are operating late at night. It is the authority's view that these mixed aged events can have an adverse impact on a young persons well being as well exposing them to unacceptable levels of harms associated with the night-time economy.

8.11 The responsible authority for protecting children from harm in the Reading Borough Council local area is Brighter Futures for Children. Whilst the Brighter Futures for Children is a named Responsible Authority under the Licensing Act 2003, the authority is of the view that all responsible authorities can provide input and representations in relation to child protection issues. The authority will therefore give serious consideration to any representation from other responsible authorities such as Public Health and Trading Standards if they pertain to child protection issues.

## Child Sexual Exploitation

8.12 There is an increasing connection between the use of licensed premises and the sexual exploitation of children and vulnerable people. There have been high profile cases nationwide of such abuse. This has included the use of licensed premises to exploit, groom

and assault children and vulnerable people as well as exposing them to drugs and alcohol. The authority places the highest priority on the protection of children and vulnerable people from this kind of harm and expects all licence holders and potential licence holders to take cognisance of all national guidance in relation to preventing this kind of activity taking place at their premises.

8.13 The authority undertakes test purchasing operations with Thames Valley Police in order to ascertain whether premises have sufficiently robust policies and procedures in place to deter CSE from taking place at their premises. Premises that fail these test purchase operations should expect the authority to take further action in regard to any failure so as to ensure that children and vulnerable persons do not suffer any further harm. The Authority would expect any responsible licence holder to constantly review their policies and practices in relation to actively promoting the licensing objective of protection of children from harm.

8.14 Where it is brought to the authority's attention that any licensed premises is continually exposing children and vulnerable people to harm, the authority - in consultation with other responsible authorities - will look to take immediate remedial action to prevent further harm utilising any or all of the powers at its disposal.

#### Children and Alcohol

8.15 The Licensing Act 2003 contains a number of offences in relation to the sale of alcohol and children as detailed below:

Section	Offence	Prosecuting Authority
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

8.16 The Licensing Authority expects all applicants for grants or variations of their premises licence or club premises certificate to outline robust measures to protect children from harm. This can include appropriate staff training as well as a Challenge 25 age verification policy for the sale of alcohol and any other measure which is deemed appropriate for the style of premises.

8.17 The Authority carries out joint test purchasing operations with other responsible authorities such as Thames Valley Police and Trading Standards as well as the Community Alcohol Partnership officer. Test purchasing operations will also be carried out to ensure that licensed premises are adhering to their age verification policy as per the mandatory conditions attached to all licences that sell alcohol.

8.18 Where a licensed premises is found to have sold alcohol to a child under the age of 18 years of age then the authority will look to take immediate remedial action against that premises and that licence holder. Similarly, if a premises is found to be selling alcohol in breach of its licence conditions or the mandatory conditions, those are offences which the authority deems to be particularly serious and will look to take action to prevent a reoccurrence.

## 9. Enforcement

## **General Principles**

9.1 It is the responsibility under the Act for all responsible authorities; licence holders and prospective licence holders to actively promote the four licensing objectives. The Council along with partner agencies, has a wider responsibility to protect the public as a whole and prevent crime, harm or nuisance from taking place.

9.2 The Authority will carry out its licensing functions with a view to actively promoting the licensing objectives and maintaining public safety. This applies to the dual role the licensing authority has both as the administrator of the process and as a responsible authority.

9.3 The Licensing Authority has previously and will continue to work with other responsible authorities and partner agencies in order to ensure that the licensing objectives are promoted and that a consistent and joined up approach is taken to enforcement across Reading.

9.4 Reading Borough Council and Thames Valley Police work in partnership when carrying out work that involves licensed premises and any matter that undermines the licensing objectives. The Authority and Thames Valley Police also work in partnership with colleagues in the Home Office Immigration Enforcement team and Trading Standards on a variety of issues including the prevention and detection of illegal working in licensed premises and issues surrounding super strength alcoholic products and responsible alcohol retailing.

9.5 The Licensing Authority, Trading Standards and Thames Valley Police have established a regular partnership group to discuss and identify issues arising from licensed premises and to decide what, if any, enforcement action should be taken against any such premises. The partnership group is often attended by other colleagues so as to provide the widest possible, joined up approach to tackling issues in relation to licensed premises. It is the authority's view that issues are best tackled, whenever practicable, through this joined up approach as it provides consistency and a best practice approach to dealing with licensing issues.

#### Inspections

9.6 The Authority will carry out inspections at all premises where a premises licence is in force. Additionally, an inspection may also be carried out where an application for a grant, variation or review is received by the Authority to ascertain the likely effect of granting any application on the promotion of the licensing objectives. Inspections may also be carried out if the Authority or one of our partner agencies/responsible authorities are made aware of complaints or other incidents that undermine the promotion of the licensing objectives.

9.7 Inspections will be carried out solely by the Licensing Authority or in conjunction with other partners such as Thames Valley Police, Home Office Immigration Enforcement and Trading Standards.

#### Test Purchasing

9.8 It is the Authority's view that the sale of alcohol or other age restricted products to children is completely unacceptable. The Authority will work with colleagues in Thames Valley Police, Trading Standards and the Community Alcohol Partnership to regularly carry out test purchases on licensed premises. The sale of alcohol to children is an offence under

the Act. Any premises or licence holder that is found to be selling alcohol to children is likely to have enforcement taken against them.

9.9 A further offence of persistently selling alcohol to children has also been inserted into the Licensing Act 2003. This is defined as alcohol being sold to a child on two occasions within a period of three consecutive months. Any premises that is found to be persistently selling alcohol to children will, as per the Secretary of State's Guidance at paragraph 11.30, have that premises licence reviewed with a view to having it revoked.

9.10 As well as test purchasing exercises being undertaken to establish whether alcohol is being sold to children, test purchasing exercises will also be carried out to ascertain whether a premises is adhering to its age verification policy. Most licences will have a condition stating what the premises' age verification policy should be. Further, the mandatory conditions on all premises licences that authorise the sale of alcohol clearly state that each premises must implement an age verification policy and that all sales must be carried out in accordance with that policy. Therefore, if a premises operates a Challenge 25 policy and only accepts certain photographic ID, then they will be tested to see that this is being done. It is the Authority's view that a Challenge 25 age verification policy should be adopted as best practice with only nationally accredited photo ID being acceptable as proof of age. Any premises found to be selling alcohol not in accordance with their own adopted age verification policy will be committing an offence which could lead to enforcement action being taken to prevent a reoccurrence.

9.11 Further offences in relation to children and alcohol are listed at paragraph 8.15 of this policy and licence holders are expected to be aware of these and to undertake due diligence to prevent these serious crimes occurring. All premises that sell alcohol are expected to have robust systems in place to ensure alcohol is not sold to children.

#### Enforcement Approach

9.12 Where offences are found to have been carried out on licensed premises, the Authority has a number of enforcement options available to it. The Authority will work with partner agencies to determine which enforcement option is appropriate for the promotion of the licensing objectives. The seriousness of the offences found will be taken into consideration as well as any previous issues of non compliance or criminality that have taken place at the licensed premises.

9.13 The enforcement options available to the Authority are wide-ranging. The Authority may consider, for example, that a letter detailing the issues found during an inspection followed by a period of time to rectify them is sufficient to promote the licensing objectives. Similarly, the Authority may consider that the breaches are sufficiently serious to warrant an immediate performance meeting with a licence holder so that a discussion can take place about the adequacy of the processes in place at the premises. This could, for example, lead to recommendations being put to the licence holder to implement much more robust conditions and processes to avoid a repeat of the breaches found. The authority may also decide to prosecute relevant persons for offences being carried out on licensed premises. Licence holders should note that the authority can take one or more of these options available to it at the same time for the same offences should it be deemed appropriate to do so.

9.14 Licence holders should be aware that some criminal activity on licensed premises is considered to be of such seriousness to warrant a licence being reviewed straight away. There is certain criminal activity stated within the Secretary of State's Guidance that should be taken particularly seriously and where revocation of a licence, even in the first instance, should be seriously considered. This can include the sale or storage of smuggled alcohol or

cigarettes on a licensed premises; the employment of an illegal worker at a licensed premises and the use of a licensed premises to sell or distribute drugs and weapons. Clearly if a premises is found to be committing such serious offences, then the premises and licence holder is severely undermining the licensing objectives. It is likely, under such circumstances, that a licence review will be initiated by the Authority or colleagues within Thames Valley Police, Home Office Immigration Enforcement or the relevant responsible authority with a view to having the licence revoked.

9.15 Licensed premises that have a history of non compliance over a period of months and years and/or incidents of serious crime taking place at that premises, will likely find that the Authority will initiate a review with a view to asking for the licence to be considered for revocation.

9.16 When considering what enforcement action to take, the Authority will always consider what is the most appropriate and proportionate step to promote the licensing objectives. The Authority is not required to wait for offences to occur before deciding it needs to take appropriate action. Case law - notably East Lindsey District Council v Abu Hanif - states that the promotion of the licensing objectives requires a prospective consideration of what is warranted in the public interest having regard to the twin considerations of prevention and deterrence. Similarly, the Secretary of State's Guidance to the Licensing Act makes clear that there is no requirement for the Authority to wait for the outcome of any criminal proceedings before it initiates any enforcement action. This is the approach that the Authority will take when considering what, if any, action should be taken when condition breaches and other criminal activity is found at licensed premises.

9.17 Thames Valley Police may also initiate a Summary Review when they believe a premises is associated with serious crime, serious disorder or both. The Summary review process is outlined in Section 53A to 53D of the Licensing Act 2003 and is reserved for the most serious crime and disorder issues. When a Summary Review is submitted by Thames Valley Police, the Authority will deal with the application as set out in the Act. Similarly, Immigration Enforcement may also close a licensed premises under a compliance order which will then trigger an expedited review once the Authority is notified by the Magistrates Court. This will be dealt with in accordance with the processes and timescales detailed in the Act.

9.18 Any responsible authority or person defined as 'any other person' within the Act can initiate a review of any premises licence or club premises certificate. When another responsible authority or other person initiates a review, the Authority will deal with it as the Licensing Authority and may also wish to make representation in support of the review within its role as a responsible authority if it has relevant information.

9.19 Licensed premises that are found to be compliant and which do little to undermine the promotion of the licensing objectives will be deemed as a much lower risk than premises that breach conditions, carry on serious criminal activity and generate complaints.

9.20 The Authority shall endeavour to work with licence holders and applicants where it is believed that steps can be taken to rectify issues identified at licensed premises. However it cannot merely continue that approach if it has previously failed or the licence holder is unresponsive. It is the responsibility of all licence holders and responsible authorities to ensure that licensed premises are not undermining the promotion of the licensing objectives and that licensable activity is carried out lawfully. The Authority will work with partners to determine what action is appropriate for each premises where issues are discovered. Each premises and the action required for each will be assessed on its own individual merits.

9.21 The Council, in determining a review application can take the following steps in order to promote the licensing objectives:

- modify the conditions on the licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months
- revoke the premises licence

9.22 If a summary review has been submitted by Thames Valley Police then the Authority can, within 48 hours of an application, take immediate steps if it deems it appropriate for the promotion of the licensing objectives. These are called 'interim steps' and can include modifying conditions; removing alcohol as a licensable activity; removing the designated premises supervisor or suspending the licence. The interim steps - unless successfully appealed by the licence holder within 48 hours - shall remain in place at least up until the final review hearing. The final review hearing will then see the Authority make two determinations - what action to take in relation to the premises licence and whether it is appropriate for the interim steps to remain in place.

# 'Shadow licences'

9.23 A shadow licence is generally the term given to a licence applied for at a premises that already has a premises licence. Typically the applicant is a landlord of a premises where a tenant is conducting licensable activity under a separate licence. There is case law to suggest that this is permissible however the Authority is concerned that this undermines the sanctions available to it in response to a review application under the Act. This would be the case if enforcement action - including a review - was taken in respect of one of the licences yet the premises continued to operate under the authority of a second licence. The Authority recognises that landlords have powers over their tenants outside of the licensing regime and would expect responsible landlords to exert that control in order to promote the licensing objectives. Where the landlord is also a premises licence holder, the Authority considers that the landlord has further responsibilities in respect of the operation of the premises to promote the licensing objectives. If appropriate, the Authority will seek to review both licences if it is considered the best way to actively promote the licensing objectives.

9.24 Any application for a 'shadow licence' and any enforcement action that may need to be taken will be dealt with in accordance with this policy and the measures already set out. This would include, for example, a prospective applicant for a 'shadow licence' in the Council's Cumulative Impact Area being able to rebut the presumption of refusal against such licences being granted in that area.

# Personal Licences

9.25 Any personal licence holder who is convicted of a relevant offence or has had to pay an immigration penalty are required to notify the Authority of this. Where it is discovered that a personal licence holder has been convicted of a relevant offence or has had to pay an immigration penalty, the Authority will look to take action under Section 132A of the Licensing Act. This can lead to a personal licence being suspended for a period of up to six months or revoked in its entirety. Any licence holder who commits these offences would likely have undermined the licensing objectives and an assessment will need to be made as to whether they should be permitted to carry on holding a personal licence and whether they should be in a position where they could authorise the sale of alcohol from a premises.

#### Temporary Event Notices

9.26 Any person who applies for a temporary event notice will be subject to the same assessment of their activity that is applied to premises licence holders. Enforcement officers can enter any premises where a temporary event notice is about to or is being carried on to ensure that it is being carried out lawfully.

9.27 The Licensing Authority cannot in itself object to the holding of a temporary event notice. Thames Valley Police and the Environmental Health team can object to a temporary event notice if it believes that holding such event would undermine the licensing objectives. Given that the Authority works in partnership with Thames Valley Police and Environmental Health, it may, if requested, provide both with any information that it has in relation to enforcement matters including inspections carried out and/or complaints received. However, it will be down to Thames Valley Police and Environmental Protection to make a representation if they reach the conclusion that holding the event will undermine the licensing objectives.

9.28 Any person who applies for a temporary event notice who is found not complying with the notice, will be subject to enforcement activity for carrying out licensable activities not in accordance with the authorisation they have applied for.

#### Early Morning Restriction Orders (EMROs)

9.29 EMROs can be introduced by the Licensing Authority for any part of the Borough where it is considered that restricting the sale of alcohol between Midnight and 0600hrs is appropriate to promote the four licensing objectives in the Licensing Act 2003. It can apply either every day or for certain days, and for an unlimited or time-limited period.

9.30 Prior to introducing an EMRO, the Authority must consult directly with Responsible Authorities and licensed premises, and more widely with residents and other parties likely to be affected. Any representations must be made within a 28- day period and be considered by the Licensing Committee; the EMRO itself must be endorsed by the full Council. Once introduced, the EMRO will make it an offence to sell alcohol during the times specified in the order, whether under a premises licence, club premises certificate or TEN (subject to certain exceptions).

9.31 Any consultation in relation to a possible EMRO or decision to implement an EMRO will be undertaken separate to this policy document.

#### Late Night Levy (LNL)

9.32 Late night levies allow Licensing Authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off trade), throughout the Licensing Authority's area, which are authorised to sell or supply alcohol in the time period set by the Licensing Authority. This can be any time between Midnight and 0600 Hours. A consultation process is required before introducing a LNL. The consultation process will include the Police, licence holders and others. Unlike EMROs a LNL will not apply to TENs.

9.33 Any consultation in relation to a possible LNL or decision to implement a LNL will be undertaken separate to this policy document.

## 10. Administration, Exercise and Delegation of Functions

10.1 The powers of the Licensing Authority under the Licensing Act 2003 may be carried out by the Licensing Committee; by a Sub Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10-15 members and the committee may establish one or more sub-committees consisting of two or three members.

10.2 As many of these functions will be largely administrative with no areas of contention, then officers who are duly authorised will carry out these functions.

10.3 A Licensing Sub-Committee shall hear all applications where relevant representations have been received and applications for the review of a premises licence that may have been submitted by Responsible Authorities or any other persons.

10.4 Officers will deal with all other licence applications where either no representations have been received or where representations have been received but have been resolved to the satisfaction of all parties so that a hearing is not required. Officers will also deal with and determine minor variation applications as well as considering whether a person with a Personal Licence - who has been convicted of a relevant offence or has been ordered to pay an immigration penalty - should be referred to the licensing sub-committee with a view to suspending or revoking their licence.

10.5 The Licensing Authority has two roles within the Licensing Act 2003. The second of these is the role as a responsible authority. This means that the authority can make representations and apply for licences to be reviewed if it is of the belief that a premises or licence holder is likely to or already is undermining the licensing objectives. When exercising its role as a Responsible Authority there will be a clear separation of work between the officer acting as the Licensing Authority and the officer acting as the Responsible Authority.

10.6 When considering whether to exercise its role as a Responsible Authority, officers shall ensure that cognisance is taken of the Authority's Licensing policy; the Secretary of State's Guidance; information it has obtained during enforcement visits or joint working with other Responsible Authorities or any other relevant information available to it.

10.7 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by officers. All representations must relate to one or more of the four licensing objectives. They will be determined objectively; not based on any political judgements and will take cognisance of the Secretary of State's Guidance which states that in borderline cases the benefit of the doubt should be given to the person making the representation.

10.8 Where an officer of the Authority determines that a representation is frivolous or vexatious, then the person who made that representation will be given a written reason as to why that is the case.

10.9 Only in exceptional circumstances will the Authority remove personal details from representations and then only on the grounds of the potential for fear or intimidation being inflicted on the person making that representation. The Authority will also adhere to its obligations under the Data Protection Act and may redact personal contact details such as phone numbers, email addresses and house numbers.

10.10 The Authority shall expect applicants to address how they will promote the licensing objectives within their application and to have taken cognisance of this policy document, the Secretary of State's Guidance and any publicly available data about the locality they wish to trade.

# Delegation of functions

Matters to be dealt with	Sub Committee	Officers
Application for Personal Licence	If Police or Home Office Objection received	If no objection is made
Application for Personal Licence with unspent convictions	All Cases	
Application for Premises Licence/ Club Premises Certificate	If a relevant representation is made	If no relevant representations are made
Application for a Provisional Statement	If a relevant representation is received	If no relevant representations are made
Application to vary a Premises Licence/Club Premises Certificate	If a relevant representation is received	If no relevant representations are made
Application to vary a Designated Premises Supervisor	If a police objection received	All other cases
Request to be removed as a Designated Premises Supervisor		All cases
Application for transfer of Premises Licence	If Police or Home Office Objection received	All other cases
Application for Interim Authority Notice	If a police objection received	All other cases
Application to review Premises Licence/ Club Premises Certificate	All Cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All Cases	
Determination of an objection to a temporary event notice	All Cases	
Determination of application to vary a Premises Licence at community premises to include alternative licence condition	If a police objection received	All other cases
Decision whether to consult other responsible authorities on Minor Variation application		All cases
Determination of Minor Variation		All cases

#### 11. Responsible Authorities Contact Details

11.1 The Responsible Authorities duly named within the Licensing Act 2003 are outlined below. Applicants are advised to contact any of the relevant Responsible Authorities to seek guidance on their application before submitting it.

11.2 Applications submitted electronically will be sent to the Responsible Authorities below by the Licensing Authority. If an application is submitted in hardcopy - including applications for the review of a premises licence submitted by someone regarded as 'any other person' then they must be distributed to all of the Responsible Authorities below by the applicant.

#### **Contact Details**

1. **The Licensing Team**, Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - <u>licensing@reading.gov.uk</u>

Telephone - 01189 373762

2. Thames Valley Police, Licensing Team, Oxford Road, Kidlington, Oxon, OX5

2NX Email - <u>licensing@thamesvalley.pnn.police.uk</u>

Telephone - 101

3. Royal Berkshire Fire and Rescue Service, Newsham Court, Pincents Kiln, Calcot, Reading, RG31 7SD

Email - westhubfiresafety@rbfrs.co.uk

4. Environmental Protection and Nuisance Team, Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - environment.protectionteam@reading.gov.uk

5. Environmental Health Food Safety Team, Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - <u>Consumer.Protection@reading.gov.uk</u>

6. **Trading Standards Team**, Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - <u>Consumer.Protection@reading.gov.uk</u>

7. Planning Team, Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - plgadmin@reading.gov.uk

8. **Public Health, Reading Borough Council**, Civic Offices, Bridge Street, Reading, RG1 2LU

Email - wellbeing.service@reading.gov.uk

- 9. Brighter Futures for Children, Civic Offices, Bridge Street, Reading, RG1 2LU Email - LADO@brighterfuturesforchildren.org
- 10. Home Office Immigration Enforcement (Alcohol Licensing Team), Home Office, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY Email - alcohol@homeoffice.gsi.gov.uk
- 11. **(Boat Applications only) Environment Agency**, Kings Meadow House, Kings Meadow Road, Reading, RG1 8DQ

Email - waterwaysthames@environment-agency.gov.uk

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# Changes Made to Existing Statement of Licensing Policy:

- 1. Added line re. Violence Against Women and Girls (section 1.4).
- 2. Paragraphs 2.2 to 2.6 are new to place some context for how this policy sits harmoniously alongside other current Council policies.
- 3. Added line 'if not complied with' (section 2.11).
- 4. Reworded 2.17 to state that TVP has stated that wherever super strength beers and ciders cease to be available, street drinking levels reduce.
- 5. Inserted a new paragraph under the heading 'Vulnerability & Violence against women and girls' (section 2.24).
- 6. Inserted a new paragraph under the heading 'Protect Duty / Martyn's Law' (section 2.25)
- 7. Inserted a new paragraph under the heading 'Licensing and integration with other legislation' in relation to Business & Planning Act 2020 & Coronavirus legislation (sections 3.7-3.9).
- 8. Reading Borough Council's Safeguarding Board changed to 'Brighter Futures for Children' (section 4.1).
- 9. Section 4.3 has been changed to reflect that we do not currently have a cumulative impact policy in place, but that this is currently being looked into, and will come under the Licensing Policy if one is brought in.
- 10. Added information on associates re. Temporary Event Notice (sections 5.37 & 5.38).
- 11. Added a section in relation to large indoor and outdoor events & Reading's Safety Advisory Group (sections 5.51 to 5.55).
- 12. Removed previous section 6.17 which stated 'The Council has introduced a controlled drinking zone across Reading which allows the police to seize alcohol and receptacles. Applicants and current licence holders will be expected to take cognisance of this and put measures in place that avoid alcohol being purchased and then consumed on the street.' There is no longer a controlled drinking zone (PSPO).
- 13. Added information about online only premises such as warehouse operations (section 6.18).
- 14. Amended section 6.27 to state the Licensing Authority expects all door supervisors in alcohol led bars and clubs with regulated entertainment to wear high-visibility jackets and armbands.
- 15. Added additional information in relation to film exhibitions (sections 6.31 to 6.34).
- 16. Part of section 7.14 and 7.17 have been amended to reflect the current position with the CIP.
- 17. Reading Borough Council's Safeguarding Board changed to 'Brighter Futures for Children' (section 8.4).
- 18. Reading Borough Council's Safeguarding Board changed to 'Brighter Futures for Children' (section 8.11).
- 19. Added information on Early Morning Restriction Orders and Late Night Levies (sections 9.29 to 9.33).
- 20. The 2 paragraphs under the heading 'Cumulative Impact' have been removed.

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# **READING BOROUGH COUNCIL CLIMATE IMPACT ASSESSMENT TOOL**

# What You Need to Do:

The spreadsheet on the next tab has been designed to help you consider the climate change implications of a new project, proposal or recommendation. All Committee Reports, Project Business Cases and budget bid proposals require a climate impact assessment.

When rating the climate change impacts of your project/ proposal, there are two key issues to consider:

**1. Impact on carbon emissions -** will the project/ proposal:

* Reduce the overall amount of energy being used/waste being produced/transport emissions?		No
* Increase the overall amount of energy being used/waste being produced/transport emissions?		No
* Have no effect on the amount of energy being used/waste being produced/transport emissions?		Yes

2. Impact on resilience to the effects of climate change - will the project/ proposal:

* Increase the ability of Reading, residents and/or RBC to withstand the effects of climate change?	] [	No
* <b>Reduce</b> the ability of Reading, residents and/or RBC to withstand the effects of climate change?	] [	No
* Have no effect on the ability of Reading, residents and/or RBC to withstand the effects of climate change?		Yes

The tool requires you to consider these issues with reference to **8 different criteria** e.g.: Energy Use; Waste Generation; Exposure to Heat Waves; Flooding, etc. *Not all of these criteria will necessarily be relevant to your project/ proposal.* Where a specific criteria is not relevant to your project/ proposal, assign a 'Nil' rating.

Where you identify either a positive or a negative impact, you are required to assess whether this impact will be **High, Medium or Low**. There is some guidance on the next tab to help you distinguish between High, Medium and Low impacts.

# **Results:**

Once you have applied a rating to each of the 8 assessment criteria, **you decide the overall rating your project/proposal should have**. If your project has negative as well as positive impacts, you decide what the overall rating should be by weighing the positive and negative impacts, but you must explain how the overall rating given to your project/proposal has been derived.

It is also compulsory to highlight any negative environmental impacts your project may have, which may have been 'masked' by the overall rating. You may do this in the commentary box below your rating.

# <u>Tips:</u>

Concentrate on the most significant issues - there is the potential to consider the appraisal in a very detailed way. This should be avoided at this stage.
 Where you have identified a negative impact, think about how you are going to manage or mitigate this impact and explain this in your report.

If you require assistance in completing the Climate Impact Assessment tab, please contact the Head of Climate Strategy (peter.moore@reading.gov.uk x4275) or the Sustainability Team Manager (ben.burfoot@reading.gov.uk x2232)

Once you have completed the Climate Impact Assessment tab, please email the completed spreadsheet to climateassessment@reading.gov.uk.

	Projec	t / Proposal Name or Reference:	Date:
	S	tatement of Licensing Policy	05-Sep-23
1. IN	IPACT ON CARBON EM	ISSIONS	
	/ WILL THIS JECT/PROPOSAL AFFECT:	<b>CONSIDERATIONS</b> See guidance below on determining whether negative or positive impacts are High, Medium or Low	IMPACT? <i>Use drop down list</i>
1	ENERGY USE	<ul> <li>* More energy will be consumed or emissions generated (by RBC or others) = Negative Impact</li> <li>* No extra energy use is involved or any additional energy use will be met from renewable sources = Nil Impact</li> <li>* Energy use will be reduced or renewable energy sources will replace existing fossil fuel energy = Positive Impact</li> </ul>	Nil
2	WASTE GENERATION	<ul> <li>* More waste will be generated (by RBC or others) = Negative Impact</li> <li>* No waste will be generated = Nil Impact</li> <li>* Less waste will be generated OR amount of waste that is reused/ recycled will be increased = Positive Impact</li> </ul>	Nil
3	USE OF TRANSPORT	<ul> <li>* RBC or others will need to travel more OR transport goods/people more often/further = Negative Impact</li> <li>* No extra transport will be necessary = Nil Impact</li> <li>* The need to travel, the use of transport and/or of fossil fuel-based transport will be reduced = Positive Impact</li> </ul>	Nil
2. IN	IPACT ON RESILIENCE	TO THE EFFECTS OF CLIMATE CHANGE	
PRO THE	/ WILL THIS JECT/PROPOSAL AFFECT ABILITY OF READING TO ISTAND:	<b>CONSIDERATIONS</b> See guidance below on determining whether negative or positive impacts are High, Medium or Low	IMPACT? Use drop down list
4	HEATWAVES	<ul> <li>* Increased exposure of vulnerable people and/or infrastructure to heat stress = Negative Impact</li> <li>* No increase in exposure to heat stress = Nil Impact</li> <li>* Reduced exposure of vulnerable people and/or infrastructure to heat stress = Positive Impact</li> </ul>	Nil
5	DROUGHT	<ul> <li>* Water use will increase and/or no provision made for water management = Negative Impact</li> <li>* Levels of water use will not be changed = Nil Impact</li> <li>* Provision made for water management, water resources will be protected = Positive Impact</li> </ul>	Nil
6	FLOODING	<ul> <li>* Levels of surface water run-off will increase, no management of flood risk = Negative Impact</li> <li>* Levels of surface water run-off &amp; flood risk are not affected = Nil Impact</li> <li>* Sustainable drainage measures incorporated, positive steps to reduce &amp; manage flood risk = Positive Impact</li> </ul>	Nil

Your Name:

# **APPENDIX RS-3**

Robert Smalley

GUIDANCE IF NEGATIVE/NIL RATING HAS BEEN AWARDED	SUMMARISE HOW YOU PLAN TO MANAGE AND REDUCE ANY NEGATIVE IMPACTS
<b>Consider:</b> ▣ Energy efficiency measures ▣ Renewable energy ▣ Reducing demand for energy	It is not envisaged that, as a result of this policy, more energy will be consumed or emissions generated than there currently is. There are no statutory grounds under the Licensing Act 2003 to consider climate or environmental impacts.
<b>Consider</b> : ▣ Re-usable/recycled goods ▣ Recycling facilities ▣ Reducing/reusing resources	N/A
Consider:	Approximately 1/3 of premises are located in the town centre. Many people attend the town centre by public transport. It is not envisaged that this policy will lead to any change in the methods that members of the public use to access the town centre or any part of Reading.

GUIDANCE IF NEGATIVE/NIL RATING HAS BEEN AWARDED	SUMMARISE HOW YOU PLAN TO MANAGE AND REDUCE ANY NEGATIVE IMPACTS
Greater need for cooling, ventilation, shading and hydration methods	N/A
Greater need for water management and perhaps reserve supplies	N/A
Consider flood defence mechanisms or alternative arrangements (business continuity)	N/A

7	HIGH WINDS / STORMS	<ul> <li>* Exposure to higher wind speeds is increased or is not managed = Negative Impact</li> <li>* No change to existing level of exposure to higher wind speeds = Nil Impact</li> <li>* Exposure to higher wind speeds is being actively managed &amp; reduced = Positive Impact</li> </ul>	Nil
8		<ul> <li>* Exposure to supply chain disruption for key goods and services is increased = Negative Impact</li> <li>* No change in exposure to supply chain disruption for key goods and services = Nil Impact</li> <li>* Exposure to supply chain disruption for key goods and services is reduced = Positive Impact</li> </ul>	Nil

# Weighing up the negative and positive impacts of your project, what is the overall rating you are assigning to your project?:

# Guidance on Assessing the Degree of Negative and Positive Impacts:

Low Impact (L)	* No publicity
	* Relevant risks to the Council or community are Low or none
	* No impact on service or corporate performance
	* No impact on capital assets; or relates to minor capital assets (minor works)
Medium Impact (M)	* Local publicity (good or bad)
	* Relevant risks to the Council or community are Medium
	* Affects delivery of corporate commitments
	* Affects service performance (e.g.: energy use; waste generation, transport use) by more than c.10%
	* Relates to medium-sized capital assets (individual buildings or small projects)
High Impact (H)	* National publicity (good or bad)
	* Relevant risks to the Council or community are Significant or High
	* Affects delivery of regulatory commitments
	* Affects corporate performance (e.g.: energy; waste; transport use) by more than c.10%
	* Relates to major capital assets (larger buildings and infrastructure projects)

Note: Not all of the considerations/ criteria listed below will necessarily be relevant to your project

	N/A
Greater need for stabilisation measures, robust structures resilient to high winds	
	N/A
Source key goods and services locally as it reduces exposure to supply chain disruption and boosts the local economy	

This overall rating is what you need to include in your report/ budget proposal, together with your explanation given below.

Net Nil

In the box below please summarise any relevant policy context, explain how the overall rating has been derived, highlight significant impacts (positive and negative) and explain actions being taken to mitigate negatives and increase positives. This text can be replicated in the 'Environment and Climate Impacts' section of your Committee Report, though please note you may need to supplement this climate impact There are no specific environmental or climate implications to this policy. There are currently 637 licensed premises. It is not envisaged that any premises that fall under this policy will, as a whole, negatively impact any of the following to any significant degree: air quality, biodiversity, wildlife, green space, natural habitats, landscape/visual impact, natural resources, waste/waste management. Furthermore, no significant increase in emissions of greenhouse gases/ carbon dioxide are expected. It is not possible to predict how the total number of premises, nor the number of customers to such premises will fluctuate over the next 5 years of the proposed policy.

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### Appendix RS-4 Consultation Responses – 2 consultation responses received

### Response 1

# Reading Borough Council

Consultation on:

- 1) Statement of Licensing Policy (SoP)
- Cumulative Impact Policy (CIP)

## Respondent:

Bill Donne, Licensing Consultant and Paralegal, Silver Fox Licensing Consultants

Date: 12th September 2023

### EXECUTIVE SUMMARY

That the policy relating to the prohibition of the sale of beers, ciders and alcopops over 6.5% abv and the requirement that licensed premises cannot sell single cans or bottles of should be excluded from the SoP.

The re-adoption of a CIP should be rejected.

### SITUATION

The Council are required under the Licensing Act 2003 to review and publish their SoP at least every five years. The Council they should consult all stakeholders prior to confirming the SoP.

The CIP, when in place, has to be reviewed at least every three years

## BACKGROUND

The CIP indicates that the Licensing Authority's approach to applications received for the Grant of a new Premises Licence or, a variation to an existing licence will be the presumption of rebuttal in respect of certain styles of operations in the licensed hospitality and retail sectors. The style of operation that will attract representations from the police and the licensing department in particular, will be for either for proposed vertical drinking and that wish to open late, past midnight, through to 03:00 hours or later. In other Authority areas new off licence premises are not allowed.

Officers from the Responsible Authority can and will object to the application simply because the policy is in place, irrespective of the merits of the application. And yet S.182 of the Licensing Act 2003 makes it quite clear that each application should be based on its own merits.

A CIP can apply to particular types of application, premises or hours. In fact, the Licensing Act 2003 made no reference to CIPs. They were an invention of national guidance published under section 182 of the Act. They were then put on a statutory footing by the Policing and Crime Act 2017.

A CIP should only be used as a method of last resort where the Authority feels that the area is out of control because of the cumulative detrimental effect of having too many licensed premises operating until late hours. The CIP is a clear statement that the night time economy is out of control and the police simply cannot cope.

The concept of CIP was promoted by Westminster City Council, which had experienced a large increase in licenced premises since the 1990s, with the total number increasing to nearly 3000, and the number of pubs and bars increasing to nearly 1500.

The response from central Government was to include the concept of CIPs in the national guidance to limit further proliferation of licensed premises. Since then, the number of cumulative impact areas has itself proliferated. The most recent available data shows that no fewer than 86 local authorities have adopted CIPs, with a total of 189 cumulative impact areas in place. Most CIPs relate to town and city centres where pubs, late night bars and nightclubs are located.

The CIP establishes the concept of the presumption of rebuttal to applications submitted for certain types of licensed premises operations. The challenge for an operator wishing to invest in a new business is to demonstrate that their particular operation will not have an adverse impact on the four licensing objectives. This is problematic, as the applicant cannot prove this as they have not yet opened. This position means that the matter will revert to a hearing before the Licensing Sub-Committee.

However, post covid, many Local Authorities have taken the decision not to renew their CIP for their area. Generally, a CIP will be proposed by the Police and a barrage of crime statistics will be presented to the Local Authority to justify their case. Thames Valley Police have presented statistical data to Reading Borough Council (RBC) to suggest that the only way forward to prevent the town centre to deteriorate into anarchy. It should be noted the previous CIP for Reading lapsed two years ago despite the statement published on the Council's own website.

# ASSESSMENT

The re-introduction of a CIP will be damaging to Reading's night time economy. It is a blunt instrument that prevents inward investment at a time when the economy is suffering. Nationally, between the years 2000 and 2022 the number of night clubs have closed by early 1700 venues. Reading has fared slightly better.

The adoption of a CIP is a lazy approach to licensing. The police have provided the Licensing Authority with statistical data relating to crimes committed across two wards Abbey and Battle. The statistics are open to interpretation, for example the statement that 27% of sexual offences relate to the NTE, with violence at over 6,000 addresses where offences occurred. He report fails to confirm as to whether the incidents occur in the NTE, ie during the evening, or actually related to licensed premises. The statistics are simply unclear and do not, as presented in this report, correlate directly to licensed premises.

The Council, as the Licensing Authority should adopt a holistic approach to the evening and night time economy in Reading. Councillors should delve deeper in to the way the town centre is managed and policed.

Most Councillors will be aware that the police have suffered a shortage of police officers in the Reading LPA for a number of years. The old style policing in the town with a 'meet and greet' policy with police officers deployed early in the evening was abandoned.

There has been inconsistent management of the policing in the town with, it seems, a different inspector appointed every twelve months. This is not to say I am critical of the inspectors. The longer term appointments have managed to familiarise themselves with the logistics of how the Reading ENTE works and have built a good rapport with venue management, This takes time.

This is now being resolved by a successful recruitment drive and more officers on the streets going forward.

But this has not always been the case, where police officers have been seconded to other geographic areas for national events leaving the streets of Reading neglected.

Are Councillors aware that Reading town centre has a comprehensive CCTV system? Are they also aware that for the past four years there has only been two full time CCTV operators employed by TVP to cover seven days a week? This situation has arisen because RBC and TVP could not agree recruitment, budgets and manpower deployment for four years despite interventions by other organisations. At best, allowing for holidays and sickness the CCTV coverage was less than 40% of the time. Five years ago the CTTV was manned 24/7. The CCTV operators were the eyes and ears and were instrumental in recognising issues in the town before the situation escalated.

Weight should be given the organisations working in the ENTE to make Reading Safer; Purple Flag accredited, an award winning Pubwatch, a successful BID, Street Pastors, First Stop First Aid and Best Bar None accrediation scheme.

# RECOMMENDATION

CIPs prevent inward investment, entrepreneurship and employment for young and old people.

They provide artificial protection to incumbent licence holders over new entrants to the market. They reduce incentives to innovate. They inflate the value of licences and therefore of properties. They involve applicants in excessive costs in trying to prove that they are an exception to the CIP policy.

As such, they ought to be a measure of last resort. Other steps for dealing with cumulative impact ought to have failed before CIPs are considered.

#### The Council's Comment on Response 1

Single cans, single bottles and high strength beers, ciders and alcopops are favoured by street drinkers.

Bearing in mind two of the Licensing Objectives from the Licensing Act are:

- The prevention of crime and disorder
- The prevention of public nuisance

It is therefore justifiable to consider the impact from licensed premises and their contribution to risks flowing from supporting street drinking.

One of our key aims in decision making is - Protecting the public and local residents from crime, antisocial behaviour and noise nuisance associated and caused by irresponsible licensed premises. Street drinking and excessive consumption of super strength products has been shown to undermine the licensing objectives and cause anti-social behaviour – as well as being damaging to health. Other policies, initiatives and strategies which will be taken into account may include the Council's Drug and Alcohol policy as well as policies to do with general health and wellbeing and public health.

The consultation response herein does not give a compelling argument as to why these products should remain available for street drinkers to exploit.

The rest of this consultation response relates to the policy decision around a CIP which is being considered separately, so these comments will be considered when that policy goes through committee stages.

### Response 2

FW: Consultation – Reading Borough Council's statement of licensing policy and cumulative impact policy				
Licensing	S Reply	Keply All	$\rightarrow$ Forward	
To O Masson, Clyde; O Abell, Rob; C Licensingenforcement			Tue 12/09/202	3 08:25
To whom it may concern				
The accumulation of Off Licenses and licensed food premises in the Oxford Road area has attracted people with nothing better do or an unsatisfactory hom and lawlessness. Such behaviour affects our community, not only at night, but also during the day. Policing of our community is paramount to prevent ASB, safety. The increased response and presence by Police may also need to be accompanied by NHS intervention. Discarded cans, bottles and food containers residents and passer by for the area for and lead to further inconsiderate behaviour.	crime and disor	der and to prote	ect community	
Regards Teresa Colliass				

Oxford Road Safer Neighbourhood Forum

"The accumulation of Off Licenses and licensed food premises in the Oxford Road area has attracted people with nothing better do or an unsatisfactory home life resulting in increased crime, misdemeanour and lawlessness. Such behaviour affects our community, not only at night, but also during the day. Policing of our community is paramount to prevent ASB, crime and disorder and to protect community safety. The increased response and presence by Police may also need to be accompanied by NHS intervention. Discarded cans, bottles and food containers blight our community and reduce the respect of residents and passer by for the area for and lead to further inconsiderate behaviour."

## The Council's Comment on Response 2

Because the response mentions "accumulation of Off Licences..." this would fit within the work on the Cumulative Impact Assessment which is all about the effects of licensed premises accumulating in an area. It is therefore recommended that this representation is included as part of that report. The other comments within this representation relate back to the Licensing objectives to prevent public nuisance, crime and disorder and are therefore to be noted by the Committee.

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# Agenda Item 9

# Council

# 17 October 2023



Title	Review of the Constitution	
Purpose of the report	To make a decision	
Report status	Public report	
Report author	Michael Graham, Monitoring Officer	
Lead Councillor	Cllr Jason Brock, Leader of the Council	
Corporate priority	Our Foundations	
	<ol> <li>That the progress to simplify decision making since October 2022 be noted.</li> </ol>	
	2. That progress towards revised Financial Regulations be noted.	
	3. That, in respect of the Contract Procedure Rules (as set out in Appendix 1):	
	(a) the revised CPRs be adopted;	
	<ul> <li>(b) the further development and implementation of a Procurement Manual for staff, containing the procedural and practical details and guidance to support the processes outlined within the updated CPRs be supported;</li> </ul>	
Recommendations	<ul> <li>(c) the Assistant Director of Procurement and Contracts, in consultation with the Chief Executive and Executive Director of Resources, be authorised to make appropriate amendments to ensure that the proposed Contract Procedure Rules aligned with terminology included within the new Procurement Bill when it was introduced in autumn 2024.</li> </ul>	
	4. That Article 12 of the Constitution be revised in accordance with the recommendations of this report (as set out in Appendix 2).	
	5. That references to the School Admission Forum and the Cultural Partnership Board be removed from Article 10 (Consultative Committees and Forums).	
	6. That the revised wording for Sealing of Documents be adopted as set out in paragraph 3.39.	
	<ol> <li>That the existing power of the Monitoring Officer to make changes to Committees etc during the municipal year be added, to Part 3 (Officer Delegations) of the Constitution.</li> </ol>	

# 1. Executive Summary

- 1.1. The Council last reviewed its Constitution in October 2022. This revision contained a new way of working, simplifying the Key Decision criteria and directing other decision making not captured by the Key Decision criteria to be within the remit of officers.
- 1.2. When this review was considered, it was envisaged that a review would take place after 12 months to assess whether the objectives of the Review had been successful and to consider further revisions if necessary.

1.3. It was also noted that the Financial Regulations and the Contract Procedure Rules would require further revision. The Financial Regulations because, they had not been reviewed for some time and it was not possible to review them for October 2022. The Contract Procedure Rules would also need further refinement because of the introduction of new procurement legislation, and also because there was expected to be further roll-out of the hub and spoke model of procurement which may impact the Contract Procedure Rules.

# 2. Policy Context

2.1. The Council wishes to ensure that its Constitution is kept up to date and reflects best practice as regards decision making, transparency and the involvement of citizens in decision making.

# 3. The Proposal

3.1. There are a number of areas of the Constitution which need to be considered at this point.

# Outcomes of the last review

- 3.2. The Constitution Review culminated in a new streamlined Constitution being adopted by Council on 18 October 2022 (Minute 21 refers).
- 3.3. The purpose of this review is to evaluate the new Constitution and make adjustments where necessary, as well as address some of the outstanding work from last year.
- 3.4. Prior to the 2022 review, the Constitution of the Council had not been substantively reviewed for some years. In addition to the Constitution, the Council maintained an extensive "Delegations Register" with detailed delegations to officers often based on specific statutory powers. It was a difficult document to update and maintain the accuracy of the Delegations Register which ran to some 220+ pages. It was also difficult for officers to know what powers were delegated to them.
- 3.5. As part of the 2022 review the scope of officer delegation was significantly broadened and a new definition of a 'Key Decision' was agreed. Basically, the new Key Decision definition described those decisions that members wished to reserve to themselves in Committee and by default officers were allowed to determine other matters.
- 3.6. In addition, and around the same time, LGA Peer Review noted and endorsed the Council's intention to review the Constitution as part of a simplification and streamlining of governance arrangements. The Peer Review did not recommend any fundamental change to the governance of the Council and also highlighted the positive engagement between the leadership of the Administration and senior officers.
- 3.7. In making decisions which are not Key Decisions, officers do not have to use their delegated powers. They can ask the Committee that delegated the power to them to make the decision. Therefore, when exercising a delegation, officers must take into account its sensitivity and political importance when determining the appropriate decision-making arrangements. The provisions therefore allow for sensitive matters to be determined by Committee even if they fall outside of the strict definition of Key Decision.
- 3.8. Following the introduction of the new Constitution and scheme of delegations, officers were invited to training sessions run by the Legal Services Manager and Democratic Services Manager on the implications and application of the new system.
- 3.9. The training provided an opportunity for officers to ask questions about the main features of the new decision-making arrangements.
- 3.10. A procedure was also introduced to prompt officers to consult with Lead Councillors on forthcoming officer decisions so that Lead Councillors would have the opportunity to advise on those matters which ought to be directed to Committee even if they are outside the Key Decision criteria.

- 3.11. Following the introduction of these features, a revised Officer Decision Notice (ODN) procedure was implemented for recording delegated decisions. The ODNs are published online see the Library section of the Committees area on the Council's website.
- 3.12. ODNs are used to (i) record those delegations exercised based on a specific authorisation of a Committee or (ii) which materially affect the financial position of the Council. (The level of materiality is £100,000 which means that Officer decisions above £100k but below the £500k per annum Key Decision criteria will be published online as Officer decisions and decisions over £500k per annum will be published online if an express authorisation was provided to an officer to implement them.)
- 3.13. To embed the new procedures and provide an ongoing resource for officers to find all the information they need, a dedicated area has been set up on SharePoint. Training for officers on how to work the new procedures has also been provided and is on-going.
- 3.14. Further training and development of assistance for officers will continue for the foreseeable future. In addition, the next phase of the Constitutional Review will seek to cascade the decision-making system into the work of departments to ensure that where Assistant Directors have delegated their powers to other officers, appropriate documentation exists to record this, and that those officers are trained in the ODN procedures if they are required to publish their decisions online.
- 3.15. At this stage the changes made in 2022 look to be working satisfactorily, and there have been no issues during the last year where decisions appear to have been made incorrectly or without the appropriate level of member or senior officer scrutiny. It is not proposed to make any changes to the Key Decision Criteria or alter the nature of the scheme of delegation to officers. The Key Decision criteria will be kept under review by the Monitoring Officer. Continued training and support for officers will continue to be provided to embed the systems which have been put in place as a consequence of last year's review.

# **Financial Regulations**

3.16. There has been progress on the revision of the Financial Regulations, but they are not currently ready for this committee cycle. The Finance team have prioritised the catch-up with outstanding audits and the implementation of the new financial system. It is anticipated that the Financial Regulations will be presented to a forthcoming Policy Committee and then to Council in January 2024.

# Contract Procedure Rules

- 3.17. A revision of the Contract Procedure Rules (CPRs) prepared by the Assistant Director of Procurement has been considered at Audit and Governance Committee on 27 September 2023 (Minute 18 refers). A link to the full report to Audit & Governance Committee can be found <u>here</u>.
- 3.18. The Audit and Governance Committee endorsed the revised CPRs and resolved to recommend their adoption by Council. The revisions to the CPRs aim to ensure the Council modernised the way it procures goods, services, and works, and that correct due diligence is in place to ensure that value for money is achieved. A copy of the proposed CPRs is attached to the report at Appendix 1.
- 3.19. The CPRs are mandatory for all service areas and procurement staff and form a fundamental part of the Council's Constitution. The main adjustments are highlighted in the Audit & Governance Committee report and aim to:
  - simplify and improve consistency of terminology;
  - set out the legislative and Public Policy obligations;
  - prepare for the implementation of the Procurement Bill;
  - define officers' practical obligations in establishing a contract, the procedural steps for undertaking a procurement and the required content of contracts;

- explain that a written contract is required for all goods, materials, equipment, and vehicles or for the execution of works or services; and
- clearly define the exceptions to the requirements for competition.
- 3.20. A web-based supplementary Procurement Manual for staff containing procedural and practical help with the processes will be produced to support use of the CPRs and would be further embedded by an Awareness Programme. The Manual will sit outside of the Constitution and would therefore be easier to amend in response to changes in procurement practice.
- 3.21. The report is also seeking a delegation to allow the Assistant Director of Procurement and Contracts in consultation with the Chief Executive and Executive Director of Resources to make appropriate amendments to ensure that the CPRs align with the terminology included within the new Procurement Bill when it is introduced in autumn 2024.

## Audit and Governance Committee Terms of Reference

- 3.22. On 10 July 2023, Policy Committee considered a report from the Chief Internal Auditor on proposed revised Terms of Reference for the Audit and Governance Committee (Minute 14 refers). These recommendations arose from CIPFA (The Chartered Institute of Public Finance and Accountancy) practical guidance for Local Authorities on Audit Committees, which included resources for Audit Committee members, a supplement for those responsible for guiding the committee, and a self-assessment of good practice. The guidance was issued partly in response to the Redmond Review.
- 3.23. The proposed Terms of Reference would remove the decision-making powers of the Committee in relation to the approval of the annual financial statements, which would therefore revert to Council.
- 3.24. There is also a recommendation to Council that the Audit & Governance Committee report annually in a public report on how it has complied with the CIPFA position statement, and discharged its responsibilities, including an assessment of its performance.
- 3.25. The Audit & Governance Committee also received the report on 27 September 2023 (Minute 17 refers) and concurred with Policy Committee to recommend the changes outlined above to Council for adoption. A full report on the proposals can be found elsewhere on this agenda.

## **Revised Article 12 of the Constitution**

- 3.26. Article 12 was last revised in 2021 to take into account the restructure which created the Deputy Chief Executive post and designated that role as Deputy Head of Paid Service.
- 3.27. The expectation at the time of making those amendments was that Personnel Committee would continue to exercise all appointments for Chief Officer posts, with the appointment of the Chief Executive being reserved to Council. The Chief Officer posts in the current Article 12 are listed as follows:

#### (b) Chief Officers

The Council will confirm the appointment of the Chief Executive (Head of Paid Service) and the Personnel (Appointments) Committee will make appointments to the following posts (or such other similar posts as it may decide from time to time), who will be designated chief officers:

- Deputy Chief Executive
- Executive Director of Resources
- Executive Director of Adult Care and Health Services
- Executive Director of Children's Services
- Executive Director of Economic Growth & Neighbourhood Services
- 3.28. The revised Article 12 will reflect a change in the Directorate structure, which brings together Adult Social Care & Public Health and Housing & Communities into the same

Directorate. Consequentially, the Executive Director of Adult Care and Health Services' title will be updated to 'Executive Director of Community and Adult Social Care' to indicate the new responsibilities of the Directorate.

- 3.29. All other appointments of senior posts (essentially Assistant Directors, Deputy Directors etc) will be delegated to the Chief Executive as Head of Paid Service but with the continued involvement of the appropriate lead councillors in a consultative capacity. This arrangement saves calling an appointments committee for AD etc appointments but still allows councillors to express opinions on the appointment of those senior roles.
- 3.30. However, the wording in Article 12 is ambiguous to achieve this intended outcome. It currently says as follows:
  - 12.1.1 The authority may appoint and employ staff under Section 112 of the Local Government Act 1972. Staff are employed by the authority. Appointment of staff below deputy chief officer level must be the responsibility of the Head of Paid Service or his/her nominee.
- 3.31. The word "deputy" in the second line needs to be removed.
- 3.32. A further issue arises in that there is no Deputy Chief Executive post since the previous incumbent was promoted to Chief Executive in September 2022. A further slight revision needs to be made to allow for a Deputy Head of Paid Service to be designated. It is proposed to change the wording as follows:
- 3.33. Currently:

The Council has designated the following Deputy posts as shown:

- Deputy Chief Executive Deputy Head of Paid Service
- Financial Planning and Strategy Manager Deputy Chief Finance Officer and Deputy Section 151 Officer
- 3.34. It is proposed:
  - Deputy Chief Executive or Executive Director for Resources (as appropriate) Deputy Head of Paid Service
- 3.35. Members may wish to note that the appointment of a Deputy Monitoring Officer is a personal duty of the Monitoring Officer and not a Council appointment. The Legal Services Manager (Shaidah Ramzan) was appointed as Deputy Monitoring Officer in January 2023.

## **Specific Officer Delegations**

3.36. Some minor adjustments are required to Part 3 to deal with circumstances which have arisen during the year.

## Sealing

- 3.37. A number of requisitions have been raised by the Land Registry about documents sealed by the Council, principally about the people delegated to seal on behalf of the Council. These are not serious matters, they are merely inconvenient as they require the lawyers to address and explain the sealing provisions to the Land Registry. To try and simplify this process a change to the delegation is proposed. This should make no practical difference, as all the sealing of documents takes places in Legal Services under the supervision of the Assistant Director of Legal and Democratic Services. We also wish to seal electronically with the Docusign tool.
- 3.38. Current wording is as follows:

## 27. Sealing of Documents

(1) The Common Seal of the Council must be kept in the custody of the Assistant Director of Legal and Democratic Services.

(2) Any documents which need to be sealed before a decision of the Council or a Committee or Sub-Committee can be put into effect, must be sealed with the Common Seal of the Council.

(3) The Seal shall be attested by either the Head of Paid Service, Assistant Director of Legal and Democratic Services, or any other officer of the Council nominated by the Head of Paid Service

(4) The Assistant Director of Legal and Democratic Services must enter the details of each document that has been sealed into a Seal Register. He/she must also record the date on which this was done.

### 3.39. Proposed wording is as follows:

## 27. Sealing of Documents

(1) The Common Seal of the Council must be kept in the custody of the Assistant Director of Legal and Democratic Services.

(2) Any documents which need to be sealed before a decision of the Council or a Committee or Sub-Committee can be put into effect, must be sealed with the Common Seal of the Council, and may be sealed electronically.

(3) The Seal shall be attested by a single officer; either the Head of Paid Service, Assistant Director of Legal and Democratic Services, or any other officer of the Council nominated delegated by the Head of Paid Service Assistant Director of Legal and Democratic Services to seal on his/her behalf.

(4) The Assistant Director of Legal and Democratic Services must enter the details of each document that has been sealed into a Seal Register. He/she must also record the date on which this was done.

### **Casual Appointments to Committees**

- 3.40. This is one of the powers previously given to the Monitoring Officer (Council, 16 May 2007) and recorded in the Delegations Register. It is still valid, but it would be best to be recorded in the specific officer delegations in Part 3 of the Constitution for the sake of completeness.
- 3.41. The current power is:

To make changes to a political group's appointments to non-Cabinet Committees, Panels and Working Parties, during and for the remainder of the Municipal Year in question, on the recommendation of the Group Leader and specifically to fill a casual vacancy which has arisen or to address situations of long-term absence, and subject to: (1) the political balance of the Committee etc or the authority's basket of appointments not being affected;

(2) the Monitoring Officer reporting the change to the next meeting of full Council

3.42. The updated wording should be:

To make changes to a political group's appointments to non-Cabinet Committees, Panels and Working Parties, during and for the remainder of the Municipal Year in question, on the recommendation of the Group Leader and specifically to fill a casual vacancy which has arisen or to address situations of long-term absence, and subject to:

(1) the political balance of the Committee etc or the authority's basket of appointments not being affected;

(2) the Monitoring Officer reporting the change to the next meeting of full Council

## School Admission Forum

3.43. There is no longer a statutory requirement to have a School Admission Forum. The admission arrangements are reviewed by the Adult Social Care, Children's Services and Education (ACE) Committee each year. It is considered that ACE Committee

provides sufficient scrutiny of the admission schemes and therefore it is recommended that the Forum should be discontinued.

## Cultural Partnership Board

3.44. The Cultural Partnership Board hasn't met in a number of years and its remit is covered adequately by the Arts & Heritage Forum. It is therefore proposed that the Partnership Board should be removed from the list of meetings established and included in the Constitution. The views of participants in the cultural sector have been sought and they are supportive of the proposal to discontinue the Board.

## 4. Contribution to Strategic Aims

- 4.1. The Council's new Corporate Plan has established three themes for the years 2022/25. These themes are:
  - Healthy Environment
  - Thriving Communities
  - Inclusive Economy
- 4.2. These themes are underpinned by "Our Foundations" explaining the ways we work at the Council:
  - People first
  - Digital transformation
  - Building self-reliance
  - Getting the best value
  - Collaborating with others
- 4.3. Full details of the Council's Corporate Plan and the projects which will deliver these priorities are published on the <u>Council's website</u>. These priorities and the Corporate Plan demonstrate how the Council meets its legal obligation to be efficient, effective and economical.
- 4.4. Good governance is essential to the sound running of the Council and delivery of quality services to residents, businesses and visitors. The Constitution is a key part of the Council's governance and the Council wishes to ensure that it remains up to date and relevant to the work of the organisation.

# 5. Environmental and Climate Implications

- 5.1. The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).
- 5.2. There is nothing in this report which is relevant for Climate Change.

# 6. Community Engagement

6.1. No consultation, community engagement or information is required, or has been carried out voluntarily to help report authors consider the views of external people in preparing the report.

# 7. Equality Implications

- 7.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2. An Equality Impact Assessment (EIA) is not relevant to the decision. The recommended decisions will not have a differential impact on people with protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation.

# 8. Other Relevant Considerations

8.1. There are no other relevant considerations.

# 9. Legal Implications

9.1. The Council is required to maintain and publish a Constitution, in accordance with Section 9P of the Local Government Act 2000, setting out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

# 10. Financial Implications

10.1. There are no financial implications arising form this report.

# 11. Timetable for Implementation

11.1. Changes to the Constitution will take effect immediately. The public version of the Constitution will be updated on the website as soon as possible.

# 12. Background Papers

12.1. There are none.

# Appendices

- 1. Revised Contract Procedure Rules
- 2. Amended Article 12 of the Constitution

# CONTRACT PROCEDURE RULES

# INDEX

# 1. Introduction

- 2. CPR Outputs
- 3. Principles
- 4. Scope of these Contract Procedure Rules
- 5. Compliance

# **ESTABLISHING A CONTRACT - PROCUREMENT OBLIGATIONS**

- 6. Requirement for a nominated Client Officer and Contract Manager
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- 8. Estimated Value of Contracts
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- 10. Frameworks and Dynamic Purchasing Systems (DPS)
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# PROCEDURAL STEPS FOR A PROCUREMENT

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- 15. Tender Assessment and Tender Evaluation
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- 22. Form and Execution of Contracts
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- 26. Security of Contract Delivery
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- 28. Variations or Extension
- 29. Registration of Contracts
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# 31. GLOSSARY

# CONTRACT PROCEDURE RULES

## 1. Introduction

- (1.1) These Contract Procedure Rules provide the basic rules for anyone making a contract for supply to the Council. They apply equally to contracts for the supply of goods, services, or works (or any type of consideration) to the Council, and to concessions contracts involving the Council. In making such contracts, the overriding obligation on everyone working on behalf of the Council is to obtain the best value for money for the Council.
- (1.2) These Contract Procedure Rules explain the minimum standards and base procedures that the Council expects to be applied by all staff responsible for buying goods, services or works (or any type of consideration), or making concessions contracts, on behalf of the Council. The detailed procedures that must be followed are set out more fully in the Council's Procurement Manual and associated Contract Management Guidance available on the Council Intranet.
- (1.3) These Contract Procedure Rules govern the *contractual aspects* of buying goods, services or works (or any type of consideration) or making concessions contracts, on behalf of the Council, and outline the contractual delegations (authority to engage a third party) for Officers. They apply in conjunction with Financial Procedure Rules, which govern the *financial aspects* (authority to commit budgetary funds) of buying.

# 2. **CPR Outputs**

(2.1) The main intended *outputs* from these Contract Procedure Rules are:

(i) To help Officers to deliver best value for money at all times;

(ii) To manage corporate risk when dealing with third parties;

(iii) To clearly set out the accountability for procurement decisions

# 3. **Principles**

- (3.1) The Executive, Deputy and Assistant Directors [ED, DD & AD] have delegated authority to invite bids, and to "accept" tenders (i.e. approve the "award" of contracts resulting from tenders) for Council contracts under these Contract Procedure Rules, and to exercise any other functions ascribed to the ADs or Client Officers in these Contract Procedure Rules. This includes, where applicable, authorising (where permissible) the extension or variation of contracts as an officer with delegated authority.
- (3.2) EDs, DDs and ADs shall ensure that the procurement and commissioning of goods, services and works by their Officers adheres to:

- (i) UK and/or English Law;
- (ii) The UK National Procurement Policy Statement (NPPS);
- (iii) The Council's Constitution including these Contract Procedure Rules, Financial Regulations and Financial Procedure Rules;
- (iv) The Council's Procurement Manual and Contract Management Guidance;
- Any conditions imposed by a Funding Body for spending funds or awarding contracts made available by that Body for a specific project or activity;
- (vi) The Council's formal Decision-Making process.
- (3.3) For the avoidance of doubt, the relevant "UK and/or English Law" includes The Public Contracts Regulations (Utilities, Contract Regulations and Concessions Contract Regulations) that are currently enacted, The Public Services (Social Value) Act 2012, and The Modern Slavery Act 2015
- (3.4) The alignment of these Rules with applicable UK Law will be reviewed on an annual basis. If these Rules (or the Procurement Manual) conflict in any way at any time with the UK Law, the Law shall always take precedence, including the period during which these Rules are being updated.
- (3.5) Where the value of a procurement is below the thresholds specified by the Regulations the procurement must still be conducted in accordance with the Regulation principles of openness, transparency & non-discrimination.
- (3.6) Each Executive Director, Deputy Director and Assistant Director shall:
  - (i) be accountable for all procurements undertaken by their service;
  - (ii) ensure that best value for money is evidenced and achieved in all procurements for their service area;
  - (iii) ensure that all procurements for their service area are conducted in an open, transparent, and non-discriminatory manner;
  - (iv) ensure that all procurements for their service area observe the National Procurement Policy Statement (NPPS) where that exists;
  - (v) ensure that during the earliest stages of planning any procurement for their service area, & where relevant, TUPE is considered;
  - (vi) assess the ability to join up spending/contracts across other service areas to secure efficiencies and value for money;
  - (vii) ensure that all contracts awarded by their service area are managed to deliver optimum performance and best value for money;
  - (viii) operate a Scheme of Sub-delegation for their service area;
  - in conjunction with the AD for Procurement & Contracts, ensure that training on these Contract Procedure Rules and the Procurement Manual is provided to Budget Managers & Client Officers;

(3.7) All procurement activity must comply with the principles of best value for money as set out in the Procurement Manual, and the relevant guiding themes of the Corporate Plan applicable at the time.

# 4. Scope of these Contract Procedure Rules

- (4.1) These Contract Procedure Rules do not apply to:
  - (i) contracts of employment;
  - (ii) contracts that relate solely to the purchase or acquisition of land;
  - (iii) contracts awarded by schools that are outside the control of the Council (such as academies and foundation schools);
  - (iv) the engagement of external solicitors/barristers for potential legal proceedings and urgent advice;
  - (v) the allocation or disbursement of grant funding to third parties;
  - (vi) contracts or agreements where the Council is the party providing the goods or services to, or undertaking works for, another body.

# 5. Compliance

- (5.1) Once the need for goods, services or works is determined, it is necessary to decide on a process by which they shall be acquired. These Contract Procedure Rules shall govern any such process, including quotations, tenders, and all aspects of frameworks and Dynamic Purchasing Systems.
- (5.2) Every contract subsequently made by or for the Council for the carrying out of works, or for the supply of goods, materials or services to the Council must comply with these Contract Procedure Rules.
- (5.3) Where the procurement of goods, services or works is taking place, or where any form of consideration is involved, for activity that is subject to Funding from an external Funding Body, any conditions imposed by the Funding Body shall take precedence over these Contract Procedure Rules (but never over the Regulations). Where the Funding conditions require greater rigour than these Contract Procedure Rules, and in the context of ensuring that the funding is secured, the Funding conditions shall be fully observed; where the Funding conditions are of less rigour that these Contract Procedure Rules, these Rules shall be fully observed.
- (5.4) Where tenders, quotes or bids have been invited by any consortium, collaboration or agency arrangement of which the Council is a member, and where the Contract Procedure Rules adopted by the lead agency ("the contracting authority") differ from these Contract Procedure Rules, these Contract Procedure Rules shall take precedence, in particular where the Council is the contracting authority in such instances.

- (5.5) Any consultant appointed by the Council shall at all times comply with these Contract Procedure Rules where their roles requires an involvement in any contract for supply. The contract with any consultant must provide that all records maintained by the consultant in relation to a contract must be made available to the Council on request and handed over to the Council on completion of the assignment.
- (5.6) Where the Council wishes to appoint a consultant or "contractor" to undertake any procurement or contract related (as defined by these CPRs) activities, the RBC Procurement Hub must be consulted prior to the appointment of any such consultant or "contractor"
- (5.7) The Procurement Manual must be followed, and the associated Contract Management Guidance must be observed, as part of these rules.

# ESTABLISHING A CONTRACT - PROCUREMENT OBLIGATIONS

# 6. Requirement for a nominated Client Officer and Contract Manager

- (6.1) From the outset, contract files should clearly record the identity of the officer undertaking the procurement (Client Officer) and the officer responsible for managing the subsequent contract (Contract Manager).
- (6.2) All contracts must be fully documented in a central contract file with a complete audit trail recording all communications and actions taken. This file must adhere to the records management <u>policy</u> of the Council and should be held by the Contract Manager.
- (6.3) Where a contract for the supply of goods, services or works, or any type of consideration, is to be made in respect of activity that is subject to external Funding, the Client Officer must ensure that the Funding conditions are observed throughout the process, and that an audit trail is maintained for examination by the Funding Body (or its representatives).

# 7. Authorisation to initiate a procurement

- (1) The Client Officer leading the procurement is responsible for ensuring and recording on the contract file that the relevant authority (Council, Committee or delegated Officer as appropriate) to proceed has been obtained and that there is sufficient budgetary provision in place for the procurement before proceeding.
- (2) Contracts with an estimated value of £500,000 per annum or over must be discussed with the relevant ED before proceeding. Agreement must be reached on the sourcing approach (tender, quotation, framework, etc.),

specification, evaluation criteria and scoring, in accordance with the procurement governance framework instigated by the AD of Procurement and Contracts, and the approval of the ED shall be secured on file.

# 8. Estimated Value of Contracts

- (8.1) An estimated value must be prepared and documented for every contract before starting the procurement process to confirm there is adequate budget provision, and to determine (in accordance with the Regulations) the appropriate form of tender, quotation or call off process to follow.
- (8.2) For contracts which continue over an indetermined number of years, the estimated value of the contract shall be taken to be the annual value multiplied the length of contract in years (inclusive of VAT), as this will allow the Client Officer to assess whether UK Regulations may apply. Where the contract term is indeterminate or indefinite the value will be forty-eight times the monthly cost. The value of all extensions permitted must be included when calculating that contract value.
- (8.3) For concession contracts (contracts for which the Council does not pay the provider for the services/works/goods, but the contractor receives consideration in other ways e.g., directly from the end user), the contract value will be based upon the anticipated income that the contractor is likely to receive from any source pursuant to such contract.
- (8.4) Contract values should be calculated in accordance with the Regulations to determine whether the full provisions of the Regulations need to be applied or not; in all cases, the provisions of the UK National Procurement Policy Statement shall be observed.

# 9. Division of Contracts

(9.1) Large scale works or contracts shall not be broken down into smaller units for the purpose of creating lower value contracts, except where there are sound National or Local Policy, operational or management reasons for doing so. Any such action must be authorised by the AD for Procurement & Contracts in writing, with the reasons recorded on the contract file.

# 10. Frameworks and Dynamic Purchasing Systems (DPS)

- (10.1) Where the Council determines to establish a framework or DPS, it shall do so in accordance with the requirements of the Regulations.
- (10.2) Where the Council determines that a framework or DPS provides the best value for money option for securing the solution and meets all Regulatory and Policy obligations, it shall use it in accordance with the Regulations.

(10.3) Where a framework or DPS established by another organisation contains procedures that do not comply with the Regulations, the Regulations must be followed. It is the Council's responsibility under the Regulations to satisfy itself of its obligations under the Regulations, and to ensure that the Regulations are followed at all times.

# 11. The Requirements for Competition

Total Value of proposed contract ( <i>incl</i> . VAT)	Options for establishing a contract
Goods or Services	
Up to £5,000	Request at least one written quotation Undertake a compliant call off from a framework Use an appropriate DPS
£5,001 to £125,000	Invite at least 3 quotations (or tenders) Undertake a compliant call off from a framework Use an appropriate DPS
£125,001 to Regulation Threshold	Formal Tender process Undertake a compliant call off from a framework Use an appropriate DPS
Works	·
Up to £25,000	Request at least one written quotation Undertake a compliant call off from a framework Use an appropriate DPS
£25,001 to £2.5m	Invite at least 3 Tenders Undertake a compliant call off from a framework Use an appropriate DPS
£2,500,001 to Regulation Threshold	Formal Tender process Undertake a compliant call off from a framework Use an appropriate DPS
Goods, Services and Work	(5
Regulation Threshold and Above	Undertake a Regulation-compliant tender Undertake a compliant call off from a framework Use an appropriate DPS

# Table 1 - Contract Thresholds

- (11.1) The Council is obligated to demonstrate the principles of openness, transparency and non-discrimination when spending its money on goods, services, or works or when any form of consideration is involved.
- (11.2) The manner of doing this is determined by the total estimated value of the proposed contract over its duration (including all extension options, and to include VAT), and the methods are summarised in **Table 1** above.
- (11.3) The duration of a proposed contract shall be determined based on the likely means of securing best value for money based on industry practice, market sounding, and budget availability. The decision of whether to include an extension option (and the duration of any such option) shall be based upon the same considerations, as shall the decision of whether to invoke any such option (as the need for a further contract is considered).
- (11.4) Where the estimated value is of or above the relevant thresholds for goods, services or works, the tender procedure may be conducted in accordance with any of the applicable procedures as defined and set out in the Regulations.
- (11.5) For procurements for **concessions contracts** that exceed the Regulation thresholds, the procedure to instigate the contract shall be conducted in accordance with the principles of the Regulations, and in accordance with a procedure of the Council's choosing.
- (11.6) All procurements for care, social health education and other specific services listed in the Regulations that align to the relevant thresholds, may be conducted in accordance with "The Light Touch Regime", which aims to encourage innovation and flexibility via a more relaxed approach.

# 12. Exceptions to the Requirements for Competition

- (12.1) It is the Council's policy to adhere at all times to the requirement for open and fair competition to achieve, and evidence, best value for money.
- (12.2) The Council may waive the requirement for competition only in certain instances (and not at all where doing so is prohibited by the Regulations).
- (12.3) All applications for an exception to the requirements for competition shall be made in accordance with the Exception to Competition Application process outlined in the Procurement Manual.

- (12.4) All applications for exceptions, to include the reasons, shall be signed by the relevant AD, and submitted for consideration in accordance with the exceptions procedure as set out in the Procurement Manual.
- (12.5) Exception requests that contravene UK or English Law will be rejected.
- (12.6) Any exceptions to the requirements of competition shall only be granted in exceptional circumstances, where permitted by the Regulations, and generally for only such time as may be required to instigate a fully compliant solution; the relevant part(s) of the Regulations must also be expressly referenced, and all such applications recorded and logged.
- (12.7) Possible justifiable reasons for waving the requirement for competition (and pending the undertaking of a compliant solution) include:
- (i) Genuine emergencies Critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from a hitherto unforeseen 'catastrophic' event or incident such as fire, bombing, flooding, major landslide, etc.
- (ii) Urgent situations not of the council's own making. The urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation, urgently imposed statutory changes, etc.). Urgency arising through issues of the Council's own making (whatever the cause and regardless of whether it involved previous delays or resource shortages) shall not in itself justify exemption.
- (iii) To avoid enforcement action against the Council for non-compliance with a relevant statutory provision;
- (iv) Reasons of compatibility If compatibility with existing goods, equipment or ICT software or systems is essential and where they cannot be sourced from another supplier (e.g. spare parts for existing equipment) or where additional units are being purchased to match existing equipment and there is an overwhelming case for matching the existing items on the grounds of functionality.
- (v) The purchase of proprietary or patented goods, works or services. Similarly, for any highly specialised/niche services where, for all practical purposes, no realistic alternative source of supply exists.
- (vi) Works orders placed with utility companies, e.g. for re-routing cables or pipework. The term utilities does not include telecommunications.
- (vii) Where the Council wishes to obtain goods, services or works from another public sector body (including another local authority or NHS Trust).

- (viii) Where the Council wishes to undertake a compliant direct award from a framework that was established by means of competition and in accordance with the Regulations, and where the terms of the framework compliantly permit such an approach
- (12.8) Where the procurement of goods, services and works is taking place in respect of activity that is subject to Funding from an external Funding Body, confirmation of the acceptability of the proposed approach shall be sought from the Funding Body, in advance of any activity, where it is proposed that the activity may not be subject to competition; in such cases, any conditions imposed by the Funding Body shall override any of the potential reasons in Rule 12.7 herein (but never the Regulations).

# PROCEDURAL STEPS FOR A PROCUREMENT

## 13. Specification, Selection/Assessment Criteria & Evaluation/Award Criteria

- (13.1) A specification, selection/assessment ("looking back") criteria, and award/evaluation ("looking forward") criteria (both to include weightings) must be prepared in advance of bids being sought, and included in any Contract Notice, Request For Quotation (RFQ), Invitation to Tender (ITT) or framework call off. The Director of Finance shall approve all financial scoring methodologies used.
- (13.2) The award/evaluation criteria must be based on determining the tender that provides the most advantageous solution, and must adhere to the Regulations. Where a framework advises a procedure that does not adhere to the Regulations, the Regulations must be adhered to (in the event that the Council still chooses to use the framework or DPS).

# 14. Late Submissions

- (14.1) Subject to 14(2) below, any tender or bid received after the specified time shall be promptly rejected and the bidder notified.
- (14.2) Any tender or bid that is received late may nevertheless be considered upon request if the AD for Procurement & Contracts and the Monitoring Officer are satisfied that:
  - (i) There is clear evidence of attempted submission by the tenderer in time for the due date and time and this has not been successful owing to circumstances beyond the control of the tenderer, and
  - (ii) No other tenders have been opened, and
  - (iii) No unfair advantage is likely to have been achieved.

# 15. Tender Assessment and Tender Evaluation

- (15.1) Tenders shall be *assessed*, in accordance with the Regulations and the selection/assessment ("looking back") criteria stated in the SQ or ITT, and as per the Procurement Manual.
- (15.2) The Client Officer shall ensure that Council has determined that the successful bidder is sufficiently capable and financially sound to undertake the contract, and that the contractor or supplier has all appropriate and relevant Policies (incl. Health & Safety) and Insurances in place.
- (15.3) Tenders shall be *evaluated*, in accordance with the Regulations and the award/evaluation ("looking forward") criteria in the Contract Notice and ITT, and as per the Procurement Manual, to identify the successful bid.

# 16. Errors and clarifications of tenders

(16.1) Where examination of tenders reveals possible errors or ambiguities that would affect the tender score in an otherwise successful tender, the tenderer should be asked to explain the aspect for clarity. This explanation must not, however, be permitted to change any fundamental aspect of the submission.

# 17. Evaluation Report

(17.1) At the conclusion of the award/evaluation process, the Client Officer will compile and agree with the evaluation panel an Evaluation Report to support the recommendation to award a contract to the successful tenderer and to comply with the Regulations. The Report will provide a summary of the tender process and will include full reasons for the decision to recommend the contract award. **NB** The Report will be fully disclosable under FOIA Legislation.

# 18. Tender Acceptance

- (18.1) The decision to authorise acceptance of a tender or bid shall be made in accordance with the information contained in the Evaluation report.
- (18.2) Acceptance of quotes, tenders or call offs with a value up to £100,000 per annum may be authorised by the relevant ED, DD or AD.
- (18.3) Acceptance of tenders or call offs with a value of £100,001 up to £500,000 per annum (revenue), or £100,001 up to £2.5m (capital), must be authorised by the signing of a formal decision report by the relevant AD, in consultation with their ED.

- (18.4) Acceptance of tenders or call offs with a value of £500,001 per annum (revenue) or £2.5m per annum (capital) or greater, or other contracts that qualify as key decisions, must be authorised by:
  - (i) A formal decision of Council or Committee, or
  - (ii) An Executive Director with an authority delegated specifically by a formal decision of Council or Committee.
- (18.5) Where the Council is undertaking a tender in order to establish a framework or DPS, the tender shall be accepted in accordance with CPR 18 (1)- (4), based on the total estimated value of the framework as calculated in accordance with CPR 8, and as stated in the Contract Notice.
- (18.6) Where the Client Officer wishes to add a new supplier to a DPS, this shall be subject to the protocol outlined in the Procurement Manual.

# 19. Standstill Period

(19.1) At the conclusion of the relevant competitive evaluation for above Regulation threshold procurements, a standstill period shall be applied where required by the Regulations, and conducted in accordance with the procedures set out in the Regulations.

# 20. Award Notices and Contracts Register

- (20.1) Where an above threshold requirement has been tendered under the Regulations, a Contract Award Notice shall be published, after the contract is awarded, and within the regulated number of days thereafter.
- (20.2) Every contract made by the Council, above or below the Regulations thresholds, shall be entered onto the Council's Contracts Register.

# 21. Management of Contracts

- (21.1) Every Council contract shall be managed in accordance with any risk segmentation criteria that may have been applied, or as set out in the Procurement Manual and associated Contract Management Guidance.
- (21.2) Budget Managers, Commissioning Officers and those managing contracts shall observe the protocols set out in the Contract Management Guidance associated with the Procurement Manual.
- (21.3) Contract Managers shall ensure, and be able to evidence, that best value for money is being delivered in a timely manner by the contracted supplier, and that all applicable contractual expectations are being met.

# CONTENT OF CONTRACTS

## 22. Form and Execution of Contracts

- (22.1) A written contract is required for all goods, services, or works, regardless of whether a formal tender or a quotation was or should have been obtained. The written contract may take the form of a Purchase Order.
- (22.2) Every contract for the supply of goods, works, or services of £100,001 up to £500,000 per annum must be in writing, in a form approved by the AD of Legal and Democratic Services.
- (22.3) Every contract for the supply of goods, works or services of £500,001 per annum (or greater) in value shall be in writing and shall be sealed with the common seal of the Council or provided the AD for Legal & Democratic Services is satisfied that the Council's interests are properly protected, signed by an officer authorised to use the Council's Common Seal.
- (22.4) All procurements, regardless of value, must use the Council's appropriate un-amended model contract available on the Intranet. Legal Services shall, in conjunction with the Procurement Team, keep current and formally review all model contract templates on a regular basis, and maintain version control.
- (22.5) Contracts up to £500,000 per annum may be signed by the ED, DD or AD
- (22.6) No Councillor of the Council, Officer of the Council, or consultant, shall enter, orally or in writing, into any contract on behalf of the Council unless they have explicit authorisation to do so.
- (22.7) A Letter of Intent may not be issued without the prior written approval of the Monitoring Officer or their nominee and after consultation with the Director of Finance or their nominee, and not at all if the Regulations have not been followed in identifying the proposed contractor(s).
- (22.8) In situations of extreme urgency (as defined in CPR 12 (7)), an oral instruction may be given to a Supplier to provide goods, works or services provided that CPR 22.6 is adhered to, and that written confirmation of the instructions (via PO or contract template) is sent to the Supplier within ten days, and copied to the AD for Procurement & Contracts.

# 23. Retention of Tenders and Quotations

(23.1) All tenders and quotations (accepted and unaccepted) not forming part of a contract signed or sealed in accordance with these Contract Procedure Rules shall be retained by the Client Officer for a period of 12 months after the relevant contract commencement date.

- (23.2) All tenders and quotations that are part of a contract signed or sealed in accordance with these Contract Procedure Rules shall be retained for a period of 12 years after the following have happened or been considered.
  - (i) All payments under the Contract have been made.
  - (ii) The AD is satisfied that all of the requirements under the terms of the Contract have been successfully carried out whether by the Council or the Contractor and that no claims are likely to arise by or against the Council.
  - (iii) They are not likely to be required for inspection as part of the Annual Audit by the Council's external auditors, or a Funding Body.

# 24. Insurance

- (24.1) The Client Officer must consider the Council's need for appropriate indemnities backed by insurance, relevant to the goods, services or works being procured, and aligned to the standards of that respective industry.
- (24.2) For a contract for works or services, the contract must require the contractor to carry public liability insurance and employer's liability insurance, to an industry appropriate value, and as agreed with the Council's Insurance Manager.
- (24.3) In the case of a contract for professional services, the contract must also require the contractor to carry professional indemnity insurance to an industry appropriate value, and as agreed with the Insurance Manager.

# 25. Assignment or Novation of Contracts

(25.1) Assignment or novation of contracts shall only be permitted with the prior consent of the Monitoring Officer, who must be satisfied that an effective vetting procedure of assignees or subcontractors has been implemented.

# 26. Security of Contract Delivery

- (26.1) Every contract for works shall provide for liquidated damages as standard, to be paid by the contractor in case the terms of the contract are not performed, unless otherwise agreed by the Director of Finance.
- (26.2) The Client Officer shall consider, based on the specific requirement and standard industry practices, whether a Parent Company Guarantee or Performance Bond shall be a requirement of the contract.

# 27. Corruption, Bankruptcy & Cancellation

(27.1) Every contract must state that the Council may cancel the contract and recover any resulting losses if the contractor, their employees, or anyone acting on their behalf, with or without their knowledge, does anything improper to influence, or commits an offence under Bribery Act 2010.

# 28. Variations or Extension

- (28.1) Any contract may be varied or extended where permitted by the Regulations, and (only) where provision for an extension has been provided in the original Notice, ITT and subsequent contract. Variations must be in accordance with the existing contract terms & within permitted variation limits as stated by the Regulations.
- (28.2) Contracts below the Regulation threshold may be extended only where provision for an extension has been provided in the original Notice and subsequent contract, and only varied in accordance with the existing contract terms and aligned to the variation limits in the Regulations.
- (28.3) Approval of any contract variation or extension shall be based on the total contract value *including* the proposed variation or extension, and in accordance with the Tender Acceptance levels set out in CPR 18.
- (28.4) Where a variation would mean that the value of a contract would exceed the Regulation Threshold, or where there would be a material change to the contract, the contract must be treated as a new Procurement under these Contract Procedure Rules (and no variation enacted).

# 29. Registration of Contracts

(29.1) The Council will keep a Register of all contracts of £5,000 and over placed by the Council, and publish this externally. The Register must state the name of the contractor, the name of the Council's Contract Manager, the work to be done or goods to be supplied, the duration and value of the contract. Any Client Officer letting a contract must ensure details are supplied to the AD for Procurement & Contracts for entry in the Register.

# 30. Termination of Contract

- (30.1) Early termination of any contract by agreement or in accordance with the termination provisions set out in the contract (every contract made must include such provision) is subject to the following authorisation:
  - (i) Contracts classed as Key Decisions (by Committee, Council, or Officer)
     in accordance with the Key Decision Rules.

(ii) Contracts up to £500,000 per annum - by the relevant ED, DD or AD.

# 31. Glossary

Assessment	The term used to describe the scoring of initial part of a bid
	submission (usually termed the Supplier Questionnaire)
Assessment Criteria	The means by which the Assessment of the initial part of a
	bid submission is undertaken. The means of assessment (or
	"selection") must be determined in advance of the
	publication of any Contract Notice, appropriately weighted,
	and clearly set out in the bid documentation
Award Criteria	The means by which the Evaluation of the specification
	element of a bid submission is undertaken. The evaluation
	(or "award") criteria must be determined in advance of the
	publication of any Contract Notice, appropriately weighted,
Post value for monov	and clearly set out in the bid documentation
Best value for money	The optimum combination of whole life cost and benefits to meet the council's requirements, and includes
	consideration of social responsibility, equality, economic
	factors, and sustainability
Budget Manager	An officer with budgetary responsibility for the spend
budget Manager	relating to a Procurement
Client Officer	A person appointed in accordance to lead and co-
	coordinate procurement procedure for a particular contract
	and completing the Procurement Plan
Consideration	The main element of a contract, consideration describes
	why each party is joining the agreement; consideration from
	each side is what makes a contract legally binding.
Contract	Each agreement between the Council and a Contractor or a
	Supplier, which creates an obligation to perform a
	particular duty in return for consideration (i.e. "payment")
Contractor	The supplier, provider or business contracted by the Council
	to furnish goods, deliver a service or undertake works
Commissioning Officer	An officer with responsibility for commissioning a service
Committee	The Committee with delegated responsibility for the
	function or service covered by the contract, or the Policy
Contract Hanagemen	Committee on behalf of the responsible Committee
Contract Managemen Plan	tA document agreed with the supplier for the proper management of the contract to ensure the benefits
r (a) 1	anticipated by the contract are realised for the Council
Contracto Doristor	
Contracts Register	The central repository of key contract information as
	required under the Transparency Act, containing details of contracts entered into with a value of £5,000 or more
DPS	Dynamic Purchasing System. Similar to a framework, but has
	the facility to add suppliers during the DPS term.

EU Regulations	The Regulations that governed the Council's procurement
	activity prior to the UK leaving the European Union [ the Public
	Contracts Regulations 2015, Concessions Contracts
	Regulations 2016 & Utilities Contracts Regulations 2016]
EU Threshold	A financial threshold for goods, services or works above
	which the EU Regulations applied when in force
Evaluation	The term used to describe the scoring of the part of a bid
	submission that relates directly to the requirement (usually
	termed the Statement of Need or Specification)
Evaluation Criteria	The means by which the Evaluation of the specification
	element of a bid submission is undertaken. The evaluation
	(or "award") criteria must be determined in advance of the
	publication of any Contract Notice, appropriately weighted,
	and clearly set out in the bid documentation
Financial Regulations	The Financial Regulations set out in the Council's
	constitution as updated from time to time, which provide
	financial controls around commitments including contracts
Framework Agreement	An agreement which allows the council to call-off from a
	supplier a range or pre-defined goods or services. Each call-
	off constitutes a standalone contract made on the terms and
	conditions of the Framework Agreement
NPPS	The UK Government's National Procurement Policy
	Statement, which sets out the UK Government's policy
	priorities that the Council should have regard to in its
	procurement activity (where it is relevant to the subject matter
	of the contract and where it is proportionate to do so)
NPPS Policy Priorities	The UK Government's 3 Policy Priorities for the Council to
	have regard to through its procurement activity:
	<ul> <li>Creating new businesses, new jobs and new skills;</li> </ul>
	<ul> <li>Improving supplier diversity, innovation and resilience;</li> </ul>
	Tackling climate change and reducing waste;
Policy Statement	The UK Government's NPPS (National Procurement Policy
	Statement), which sets out the UK National priorities that the
	Council should have regard to in its procurement activity
	(where it is relevant to the subject matter of the contract and
Dragorant	where it is proportionate to do so)
Procurement	The term given to the whole "buying" process, from the
	identification of a need, the selection of a supplier, the
Procurement Plan	award of a contract, and the management of that contract.
Flocul ement Flan	The planning document that is completed before a high
	value procurement is started that documents such as the
	business case, option appraisal, risk assessment, TUPE, Social Value and Equality, Diversity & Inclusion
	considerations that are relevant to the procurement
	כטוואטבימנוטווא נוומג מוב ובנבימווג נט נווב אוטכטו פווופווג

Oustation	An invitation to hid to supply goods, convises or works to the
Quotation	An invitation to bid to supply goods, services or works to the
	Council against a statement of requirements and general
	contractual obligations. A quotation is less regulated than a
	tender, is often on a fixed cost basis, and is generally used
	for more straightforward requirements.
Regulations	The relevant UK Regulations for public sector procurement,
	the Local Government Transparency Code 2014, and the
	Public Services (Social Value) Act 2012 and any amendments
	replacements of or re-enactments thereof
Regulation Threshold	A financial threshold for goods, services or works above
	which the relevant Procurement Regulations apply;
Scheme of Sul	The means by which Directors and Assistant Directors may
Delegation	choose, where permitted, to delegate powers granted to
_	them by the Constitution, to officers within their Areas.
Selection Criteria	The means by which the Assessment of the initial part of a
	bid submission is undertaken. The means of assessment (or
	"selection") must be determined in advance of the
	publication of any Contract Notice, appropriately weighted,
	and clearly set out in the bid documentation
Supplier	Any person or body of persons providing, or seeking to
	provide, goods, services, or works to the Council.
Tender	
render	A formal invitation to bid to supply goods, services or works
	to the Council, in accordance with a specification of
	requirements and specified contractual obligations. A
	tender is more regulated than a quotation, and is used
	where a more detailed solution breakdown is required.
UK Regulations	The relevant Contract Regulations made in the UK, and the
	Local Government Transparency Code 2014 and any
	amendment to replacement of or re-enactment thereof
UK Thresholds	A financial threshold for goods, services or works above
	which the UK Procurement Regulations apply; where UK
	Threshold is used in these Rules, unless specifically stated
	it shall be the threshold for goods, works and services
Value	The total contract value, inclusive of VAT & all permissible
	extensions (whether taken up or not), for the purpose of
	determining the correct procedure to be followed

# Article 12 – Officers

### 12.1 Management Structure

- 12.1.1 The authority may appoint and employ staff under Section 112 of the Local Government Act 1972. Staff are employed by the authority. Appointment of staff below deputy chief officer level must be the responsibility of the Head of Paid Service or his/her nominee.
- 12.1.2 Councils must include a standing order on the appointment of chief officers, the people who can or must be involved in the appointment of officers and disciplinary action against the Head of Paid Service, Chief Financial Officer and Monitoring Officer.

#### (a) General.

The authority may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

#### (b) Chief Officers

The Council will confirm the appointment of the Chief Executive (Head of Paid Service) and the Personnel (Appointments) Committee will make appointments to the following posts (or such other similar posts as it may decide from time to time), who will be designated chief officers:

- Deputy Chief Executive
- Director of Community & Adult Social Care Services Adult Care and Health Services
- Director of Children's Services
- Director of Economic Growth & Neighbourhood Services

#### (c) Head of Paid Service, Monitoring Officer and Chief Finance Officer and Deputies

The Council has designated the following posts as shown:

- Chief Executive Head of Paid Service
- Director of Finance Chief Finance Officer and Section 151 Officer
- Assistant Director of Legal and Democratic Services Monitoring Officer

The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 prescribe that the dismissal of the Head of Paid Service, Monitoring Officer and the Chief Finance Officer must be confirmed by Council.

The Council has designated the following Deputy posts as shown:

- Deputy Chief Executive or Executive Director for Resources (as appropriate) Deputy Head of Paid Service
- Financial Planning and Strategy Manager Deputy Chief Finance Officer and Deputy Section 151 Officer

Such posts will have the functions described in Article 12.2–12.4 below.

#### (d) Structure

The senior management of the Council is set out at Part 7 of this Constitution.

#### (e) **Delegations**

A considerable number of decisions are made by designated officers under approved delegated powers and a register of these is published on the Council's website and is available for inspection by Councillors and citizens on request. An officer may not take a key decision under the exercise of a delegated function, and all key decisions must be taken by full Council or a Committee. This process is described in Article 13. In certain circumstances where there is no existing officer delegation, Directors and Statutory Officers may take decisions which are not key decisions in consultation with the relevant Lead Councillor, and subject to these decisions being recorded by using the Decision Book process. This process is described in Standing Order 42 (See the Rules of Procedure – Part 4 below)

# 12.2 Functions of the Head of Paid Service

#### (a) **Discharge of functions by the Council**

The Head of Paid Service will report to full Council or the Policy Committee on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

#### (b) **Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### **12.3** Functions of the Monitoring Officer

#### (a) **Maintaining the Constitution**.

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by Members, staff and the public; and will advise on the application of the Constitution.

#### (b) Ensuring lawfulness and fairness of decision-making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to a Committee if s/he considers that any proposal, decision or omission by that body would give rise to unlawfulness, or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### (c) **Promoting and maintaining high standards of conduct by Members**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through promoting the local Member Code of Conduct; providing advice and support to Members of the authority and to the Standards Committee on the Code; and operating the authority's procedure for dealing with complaints about Members The Local Member Code of Conduct is in Part 5 of the Constitution. The terms of reference of the Standards Committee, and the procedure for dealing with complaints about Members, are in Article 9.

#### (d) **Proper officer for access to information**

The Monitoring Officer will ensure that the decisions of the Council and its Committees, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as required by the Access to Information Rules in part 4 of the Constitution.

#### (e) Advising whether decisions are within the policy framework.

The Monitoring Officer will advise whether decisions of full Council and Committees are not contrary to the policy framework of the authority, under the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution.

#### (f) Contributing to corporate management

The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

#### (g) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

#### (h) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

# 12.4 Functions of the Chief Finance Officer

#### (a) Ensuring lawfulness and financial prudence of decision-making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Council or Policy Committee, and the Council's external auditor, if s/he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

#### (b) Administration of financial affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

#### (c) Advising whether decisions are within the budget framework.

The Chief Finance Officer will advise whether decisions of Council and its Committees are not contrary to, or not in accordance with the budget framework of the authority, under the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution.

#### (d) Contributing to corporate management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### (e) **Providing advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

#### (f) Give financial information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

# 12.5 Duty to provide sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council will provide Head of Paid Service, the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

# 12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

### 12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

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# Agenda Item 10

# Council



# 17 October 2023

Title	CIPFA Practical Guidance for Local Authorities on Audit Committees				
Purpose of the report	To make a decision				
Report status	Public report				
<b>Report author</b> (name & job title)	Paul Harrington, Chief Auditor				
Lead Councillor (name & title)	Cllr Liz Terry, Lead Councillor for Corporate Services and Resources				
Corporate priority	Our Foundations				
	<ol> <li>That Council approves the revised Audit &amp; Governance Committee's terms of reference (appendix 1) and the removal of its decision-making powers in relation to the approval of the annual financial statements, returning the latter to full Council, as recommended by Policy Committee.</li> </ol>				
Recommendations	2. That Council endorses the recommendations of the Redmond Review and Policy Committee that the external audit annual report should be submitted to full council by the external auditor.				
	3. That Council approves, on Policy Committee's recommendation, that the Audit & Governance Committee reports annually to Council on how it has complied with the CIPFA position statement, discharged its responsibilities, and includes an assessment of its performance. The report should be available to the public.				

# 1. EXECUTIVE SUMMARY

- 1.1 At its meeting on 10th July 2023, Policy Committee received a paper on the CIPFA (The Chartered Institute of Public Finance and Accountancy) practical guidance for Local Authorities on Audit Committees and agreed to make the following recommendations to Council:
  - That Council approve the revised Audit & Governance (A&G) Committee's terms of reference (appendix 1) and the removal of its (A&G's) decision-making powers in relation to the approval of the annual financial statements, returning the latter to full Council;
  - That the external audit annual report should be submitted to full council by the external auditor; and
  - that the Audit & Governance Committee reports annually on how it has complied with the CIPFA position statement, discharged its responsibilities, and includes an assessment of its performance. The report should be available to the public.
- 1.2 CIPFA (The Chartered Institute of Public Finance and Accountancy) recently issued practical guidance for Local Authorities on Audit Committees, which included resources for Audit Committee members, a supplement for those responsible for guiding the committee, and a self-assessment of good practice. The guidance was partly in response to the Redmond Review<sup>1</sup>, it updated previous CIPFA guidance from 2018 and complimented the CIPFA Position Statement on Audit Committees. It also incorporated recent legislative changes and professional developments following the Redmond Review. Whilst it is guidance, it is noted that "CIPFA expects that all local government bodies should make their best efforts to adopt the principles, aiming for effective audit committee arrangements."
- 1.3 Audit committees are a key component of an authority's governance framework. Their purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. The committee's role in ensuring that there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance that those arrangements are effective.
- 1.4 In a local authority, the full council is the body charged with governance. The audit committee may be delegated some governance responsibilities but will be accountable to full council.
- 1.5 The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure that there are adequate arrangements in place for both internal challenge and public accountability.
- 1.6 Using the CIPFA self-assessment tool, a self-assessment was conducted by Internal Audit in January 2023 against the CIPFA guidance and concluded that current arrangements 'partially comply' with the guidance, with 'moderate' improvement required. The purpose of this report is to provide a summary of the key points from the guidance and provide members with the outcome of the self-assessment carried out by Internal Audit, along with recommended actions for consideration.
- 1.7 Although the detail of the guidance is provided in section 2 of the report, some of the more noteworthy changes are summarised as follows:
  - CIPFA recommends that the audit committee is an advisory committee and does not have delegated powers, such as the approval of the financial statements. The role of

<sup>&</sup>lt;sup>1</sup> Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting, Sir Tony Redmond, September 2020

the audit committee is to review the financial statements prior to approval. The statements are the responsibility of all those charged with governance.

- CIPFA also recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise.
- CIPFA has endorsed the recommendations of the Redmond Review that the external audit annual report should be submitted to full council by the external auditor.
- A committee size of no more than eight members should be established. CIPFA also recommends that the use of substitutes on the committee is avoided.
- The audit committee should have oversight of counter-fraud arrangements to be able to judge whether the authority's arrangements are fit for purpose.
- The committee may wish to review the effectiveness of whistleblowing arrangements.
- Tasks such as budget monitoring should not be undertaken by the committee.
- As an advisory committee to those charged with governance, the Committee should be regularly held to account by full council.
- The committee report annually on how it has complied with the CIPFA position statement, discharged its responsibilities, and include an assessment of its performance. The report should be available to the public.
- CIPFA has produced a model terms of reference for Audit Committees to adopt.
- The committee should operate in a non-political manner, with objective, open discussion on governance, risk and control issues.

# 2. SUMMARY OF CIPFA GUIDANCE

The revised and updated CIPFA Audit Committees: Practical Guidance For Local Authorities And Police (2022 edition) takes into account recent legislative changes and professional developments and supports the 2022 CIPFA Position Statement. It includes additional guidance and resources to support audit committee members, and those working with and supporting the committee's development.

The guidance is summarised under the following headings: Purpose of the Audit Committee, Independence and Effectiveness, Core Functions of the Audit Committee, Audit Committee Membership, Engagement & Outputs and Impact.

# 2.1 Purpose of the Audit Committee

- Be a key part of the Local Authority's governance framework.
- Provide an independent, high-level focus on governance, risk and control arrangements and their adequacy.
- May be delegated some governance responsibilities, but ultimately accountable to Full Council.
- Have oversight of internal audit, external audit, financial and governance reports to help ensure appropriate internal challenge and public accountability is in place.

### 2.2 Independence and effectiveness

The Audit Committee should:

- be directly accountable to the authority's governing body
- be independent of both the executive and the scrutiny function
- have no other functions, and explicitly no decision-making role
- have rights of access to, and constructive engagement with, other committees/functions
- have rights to request reports and seek assurances from relevant officers
- be of an appropriate size (CIPFA recommends no more than eight members) to operate as a group of experienced, trained committee members.
- include co-opted independent members in accordance with the appropriate legislation. Where there is no legislative direction to include co-opted independent members, CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise.
- remain an advisory committee and not have delegated powers. It is noted that, currently, some authorities have delegated decisions such as the approval of financial statements to the audit committee. This takes the audit committee beyond its advisory role.

CIPFA recommends the inclusion of two co-opted independent members (rather than one as proposed by the Redmond review) for the following reasons:

- to supplement the elected members' knowledge and experience in specific areas such as auditing or financial reporting
- to provide continuity outside the political cycle, particularly where the committee membership changes annually/due to elections
- two co-opted members (as opposed to one) allows the recruitment of individuals with different but complementary knowledge and experience, thereby increasing the committee's resilience and continuity, and demonstrates a commitment to supporting and investing in the committee.

It is also noted that at the time of the Redmond Review (2020), from a representative sample of 27 Local Authority Audit Committees (not including FRAs or PCCs), 44% had independent members on them.

# 2.3 Core functions of the Audit Committee

Maintenance of governance, risk and control arrangements

- Support a comprehensive understanding of governance both across the organisation and among all those charged with governance, fulfilling the principles of good governance and supporting the authority's ethical framework.
- Consider the effectiveness of the authority's risk management arrangements, including understanding the organisation's risk profile, and seek assurances that active arrangements are in place on risk-related issues, for both the body and its collaborative partnership and trading arrangements. It should also understand the roles of other committees to avoid duplication and confusion with its own role. Where the Audit Committee undertakes more in-depth risk reviews (as not carried out by other

committees), it should be mindful of when it is acting as a risk committee rather than just an audit committee.

- Monitor the effectiveness of the internal control system, including arrangements for financial management, ensuring value for money, supporting standards and ethics and managing the authority's exposure to fraud and corruption risks.
- The audit committee's agenda should include counter fraud and corruption, and not be limited to an update to the committee on a significant case of fraud or corruption. It should also enable members to judge whether the authority's arrangements are fit for purpose.
- As part of the audit committee's oversight of the governance framework and assurances underpinning the Annual Governance Statement (AGS), the committee may wish to review the effectiveness of the whistleblowing arrangements.
- Support the effective implementation of agreed actions in improvement programmes arising from external inspections, peer reviews and other interventions.

### Financial and governance reporting

- Be satisfied that the authority's accountability statements, including the AGS, properly reflect the risk environment, and any actions required to improve it, and demonstrate how governance supports the achievement of the authority's objectives.
- It is good practice for accounts and the AGS to be reviewed by the Audit Committee prior to the external audit commencing and in the latter case also before being signed by the Leading Member and the authority's Chief Executive.
- Support the maintenance of effective arrangements for financial reporting and review the statutory statements of account and any reports that accompany them.
- Care should be taken to not overlap with financial scrutiny. Tasks such as budget monitoring should not be undertaken by the committee.
- Where the Audit Committee has been nominated to undertake the scrutiny role for Treasury Management, it needs to carry this out in accordance with the Treasury Management Code but ensure not to include any executive and decision-making roles.

### Establishing appropriate and effective arrangements for audit and assurance

- Consider the arrangements in place to secure adequate assurance across the body's full range of operations and collaborations with other entities.
- In relation to the authority's internal audit functions:
  - oversee its independence, objectivity, performance and conformance to professional standards
  - support effective internal audit arrangements
  - promote the effective use of internal audit within the assurance framework.
- Consider the opinion, reports and recommendations of external audit and inspection agencies and their implications for governance, risk management and control, and monitor management action in response to the issues raised by external audit.
- Contribute to the operation of efficient and effective external audit arrangements, supporting the independence of auditors and promoting audit quality.

- Support effective relationships between all providers of assurance, audits and inspections, and the organisation, encouraging openness to challenge, review and accountability.
- CIPFA has endorsed the recommendations of the Redmond Review that the external audit annual report should be submitted to full council by the external auditor, although accompanied by a report from the Audit Committee setting out the proposed response to the report.

### 2.4 Audit committee membership

Audit Committee members should be:

- Knowledgeable, trained to fulfill their role, objective, and have an inquiring and independent approach.
- Promoting good governance principles and identifying improvements that can help achieve the organisation's objectives.
- Willing to operate in an apolitical manner.
- Unbiased and treat auditors, the executive and management fairly.
- Constructively challenging the executive and senior managers when required.
- Having expertise and interest in the committee's work; although committee members' attitudes and willingness to have appropriate training are equally important.

Additionally, the committee should have a strong, independently minded chair, displaying a depth of knowledge, skills, and interest and able to:

- promote apolitical open discussion
- manage meetings effectively, encouraging a culture of continuous improvement and learning from all participants
- maintain the committee's focus on matters of greatest priority.

Where the committee is strictly advisory and not subject to other requirements, full council can vote to waive the political balance requirement and specify other criteria to decide who should serve on the committee. The length of tenure will be influenced by the need to maintain political balance (if relevant), in addition to other factors. In principle, establishing continuity on the committee helps to make the best use of knowledge and experience, although some rotation is helpful to bring a new perspective. CIPFA suggests that two full terms on the committee is a reasonable maximum.

CIPFA detail that unless there is specific guidance or legislation in place relating to selecting the committee chair, authorities can determine their own approach. In some cases, it may be that it is specified that the position is occupied by an opposition member to try and emphasise independence and the apolitical nature of the committee. This may not be appropriate for all authorities – for example when there are few opposition members.

# 2.5 Engagement and outputs

To discharge its responsibilities effectively and enable it to address all its responsibilities detailed in its terms of reference, the committee should:

- meet regularly (at least four times a year), and have a clear policy on items to be considered in private and those to be considered in public
- be able to meet privately and separately with the external auditor and with the head of internal audit
- include, as regular attendees, the chief finance officer(s), the chief executive, the head of internal audit and the appointed external auditor; other attendees may include the monitoring officer and the head of resources (where such a post exists). These officers should also be able to access the committee members, or the chair, as required
- have the right to call on any other officers or agencies of the authority as required
- support transparency, reporting regularly on its work to those charged with governance
- report annually on how the committee has complied with the CIPFA position statement, discharged its responsibilities, and include an assessment of its performance. The report should be available to the public and the conclusions support the AGS.

### 2.6 Impact

- The Audit Committee's influence depends on both effectively performing its role and engaging with the leadership team and those charged with governance.
- The committee should consider its impact and identify areas for improvement.

# 3. SELF-ASSESSMENT OF GOOD PRACTICE FOR AUDIT COMMITTEES

- 3.1 Using the CIPFA self-assessment tool, a self-assessment was conducted by Internal Audit in January 2023 against the CIPFA guidance (Appendix 2). The overall conclusion from this is that there is partial compliance with the CIPFA guidance with moderate improvement required.
- 3.3 One of the outcomes from the initial self-assessment review conducted was to propose that the A&G Committee's terms of reference be updated to those suggested by CIPFA for local authorities (see Appendix 1 for the suggested revised terms of reference).
- 3.4 Whilst it is noted that, generally, the current committee terms of reference address the core areas identified in CIPFA's Position Statement, they would benefit from some updating to reflect increased emphasis in some areas and also the inclusion of some additional areas.
- 3.5 Areas for possible increased emphasis include organisational risk profile, value for money and an oversight role on fraud and anti-corruption and a broadened reference to internal controls beyond consideration annually as part of the Annual Governance Statement (AGS) and financial management beyond focusing on the financial statements.
- 3.6 Possible areas for specific inclusion in the terms of reference include review of governance and assurance arrangements for significant partnerships/collaborations, considering the assurance framework and whether it adequately addresses the Council's risks and priorities, detailing that both the Chief Auditor and External Audit have unrestricted access to the committee chair and an opportunity to meet privately with the committee and also a number of areas relating to internal audit, including approval of their charter, confirming their independence, inquiring about scope limitations on their work, reviewing and approving any safeguards to limit impairments for any additional roles taken on by the Chief Auditor and receiving their external quality assessment report.

3.7 It should be noted that whilst various areas are either not detailed or not specifically detailed within the current terms of reference, this does not necessarily mean that they are not already undertaken by the committee (for example A&G Committee annually reviews and approves the internal audit charter and internal and external audit has the opportunity to meet privately with the committee and its chair).

# 4. Contribution to Strategic Aims

- 4.1 An effective audit committee enables the Council to meet its statutory responsibilities in relation to governance and internal control arrangements, financial management, financial reporting and internal audit, which are fundamental to the delivery of the Council's strategic aims, vision and Corporate Plan priorities.
- 4.2 The Council's new Corporate Plan has established three themes for the years 2022/25. These themes are:
  - Healthy Environment
  - Thriving Communities
  - Inclusive Economy
- 4.3 These themes are underpinned by "Our Foundations" explaining the ways we work at the Council:
  - People first
  - Digital transformation
  - Building self-reliance
  - Getting the best value
  - Collaborating with others
- 4.4 Full details of the Council's Corporate Plan and the projects which will deliver these priorities are published on the <u>Council's website</u>. These priorities and the Corporate Plan demonstrate how the Council meets its legal obligation to be efficient, effective and economical.

### 5. Environmental and Climate Implications

- 5.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).
- 5.2 There are no environmental or climate implications arising from the report.

### 6. Community Engagement

6.1 N/A

# 7. Equality Implications

7.1 No equalities impact implications have been identified as arising from this report.

### 8. Other Relevant Considerations

8.1 None

# 9. Legal Implications

9.1 The CIPFA Position Statement on Audit Committees in Local Authorities 2022 is guidance; however, it is noted that "CIPFA expects that all local government bodies should make their best efforts to adopt the principles, aiming for effective audit committee arrangements."

# 10 Financial Implications

10.1 Some likely indirectly as a result of the self-assessment - for example, training. In addition, remuneration might be necessary for appointed independent members.

# 11 Timetable for Implementation

11.1 Subject to Council approval, the revised terms of reference for the Audit and Governance Committee, together with the recommendations that the external audit annual report should be submitted to full council by the external auditor and that the Audit & Governance Committee reports annually on how it has complied with the CIPFA position statement, discharged its responsibilities, and includes an assessment of its performance, will be implemented with immediate effect. The latter two reports will be timetabled in the relevant Council meetings in line with the external audit and Annual Governance Statement timetables respectively.

# 12 Background Papers

12.1 Audit Committees: Practical Guidance For Local Authorities And Police (2022 edition) <u>https://www.cipfa.org/policy-and-guidance/publications/a/audit-committees-practical-guidance-for-local-authorities-and-police-2022-edition</u>

# Appendices

The following documents are appended:

- Appendix 1 proposed revised Audit & Governance Committee's terms of reference
- Appendix 2 Self-assessment of good practice against the CIPFA Practical Guidance for Local Authorities on Audit Committees

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### **APPENDIX 1**

# TERMS OF REFERENCE

### Statement of purpose

The Audit and Governance Committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance that those arrangements are effective.

The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.

### Governance, risk and control

- To review RBC's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- To monitor the effective development and operation of risk management in the council.
- To monitor progress in addressing risk-related issues reported to the committee.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code.
- To consider RBC's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- To monitor the counter-fraud strategy, actions and resources.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

### Financial and governance reporting

### Governance reporting

- To review the AGS prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.
- To consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of RBC's objectives.

# Financial reporting

- To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### Arrangements for audit and assurance

To consider RBC's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

### External audit

- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To consider additional commissions of work from external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- To provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee.

# Internal audit

- To approve the internal audit charter.
- To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance, and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- To consider any impairments to the independence or objectivity of the head of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.

- To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work
  - regular reports on the results of the QAIP
  - reports on instances where the internal audit function does not conform to the PSIAS and LGAN, considering whether the non-conformance is significant enough that it must be included in the AGS.
- To consider the head of internal audit's annual report, including:
  - the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement (these will indicate the reliability of the conclusions of internal audit)
  - the opinion on the overall adequacy and effectiveness of RBC's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS).
- To consider summaries of specific internal audit reports as requested.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to RBC or there are concerns about progress with the implementation of agreed actions.
- To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the accounts and audit regulations.
- To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

# Accountability arrangements

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee, including a conclusion on the compliance with the CIPFA Position Statement.

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# APPENDIX 2 Self-assessment of good practice

This appendix provides a high-level review that incorporates the key principles set out in CIPFA's Position Statement and this publication. Where an audit committee has a high degree of performance against the good practice principles, it is an indicator that the committee is soundly based and has in place a knowledgeable membership. These are the essential factors in developing an effective audit committee.

A regular self-assessment should be used to support the planning of the audit committee work programme and training plans. It will also inform the annual report.

	Good practice questions	actice questions Does not Partially complies and extent of comply improvement needed*			Fully complies	
		Major improvement	Significant improvement	Moderate improvement	Minor improvement	No further improvement
	Weighting of answers	0	1	2	3	5
Αι	udit committee purpose and governance					
1	Does the authority have a dedicated audit committee that is not combined with other functions (eg standards, ethics, scrutiny)?					
2	Does the audit committee report directly to the governing body (PCC and chief constable/full council/full fire authority, etc)?					
3	Has the committee maintained its advisory role by not taking on any decision-making powers?					
4	Do the terms of reference clearly set out the purpose of the committee in accordance with CIPFA's 2022 Position Statement?					
5	Do all those charged with governance and in leadership roles have a good understanding of the role and purpose of the committee?					
6	Does the audit committee escalate issues and concerns promptly to those in governance and leadership roles?					
7	Does the governing body hold the audit committee to account for its performance at least annually?					

<sup>\*</sup> 

Where the committee does not fully comply with an element, three options are available to allow distinctions between aspects that require significant improvement are aspects that requires a spectral significant improvement are aspects that requires a spectral significant improvement are aspects that requires a spectral significant improvement are aspected aspects that requires a spectral significant improvement are aspected aspects that requires a spectral significant improvement are aspected aspected aspects that requires a spectral significant improvement are aspected aspected aspects that requires a spectral significant improvement are aspected aspected aspected aspected aspects that requires a spectral significant improvement are aspected aspecte

#### AUDIT COMMITTEES \ PRACTICAL GUIDANCE FOR LOCAL AUTHORITIES AND POLICE

	Good practice questions	Does not comply	Partially co improveme	mplies and e nt needed	extent of	Fully complies
		Major improvement	Significant improvement	Moderate improvement	Minor improvement	No further improvement
	Weighting of answers	0	1	2	3	5
8	Does the committee publish an annual report in accordance with the 2022 guidance, including:					
	• compliance with the CIPFA Position Statement 2022					
	<ul> <li>results of the annual evaluation, development work undertaken and planned improvements</li> </ul>					
	<ul> <li>how it has fulfilled its terms of reference and the key issues escalated in the year?</li> </ul>					
Fui	nctions of the committee					
9	Do the committee's terms of reference explicitly address all the core areas identified in CIPFA's Position Statement as follows?			+		
	Governance arrangements					
	Risk management arrangements		$\bigtriangledown$			
	Internal control arrangements, including: <ul> <li>financial management</li> <li>value for money</li> <li>ethics and standards</li> <li>counter fraud and corruption</li> </ul> Annual governance statement Financial reporting					
	Assurance framework					
	Internal audit					
	External audit					
10	Over the last year, has adequate consideration been given to all core areas?					
11	Over the last year, has the committee only considered agenda items that align with its core functions or selected wider functions, as set out in the 2022 guidance?					
	Has the committee met privately with the external auditors and head of internal audit in the last year?					

Good practice questions	Does not comply	Partially co improvemen	Fully complies		
	Major improvement	Significant improvement	Moderate improvement	Minor improvement	No further improvement
Weighting of answers	0	1	2	3	5
Membership and support					
13 Has the committee been established in accordance with the 2022 guidance as follows?					
Separation from executive					
• A size that is not unwieldy and avoids use of substitutes					
<ul> <li>Inclusion of lay/co-opted independent members in accordance with legislation or CIPFA's recommendation</li> </ul>			9,		
14 Have all committee members been appointed or selected to ensure a committee membership that is knowledgeable and skilled?		+			
<b>15</b> Has an evaluation of knowledge, skills and the training needs of the chair and committee members been carried out within the last two years?	2				
<b>16</b> Have regular training and support arrangements been put in place covering the areas set out in the 2022 guidance?					
<b>17</b> Across the committee membership, is there a satisfactory level of knowledge, as set out in the 2022 guidance?					
18 Is adequate secretariat and administrative support provided to the committee?					
19 Does the committee have good working relations with key people and organisations, including external audit, internal audit and the CFO?					
Effectiveness of the committee					
<b>20</b> Has the committee obtained positive feedback on its performance from those interacting with the committee or relying on its work?					
21 Are meetings well chaired, ensuring key agenda items are addressed with a focus on improvement?					
22 Are meetings effective with a good level of discussion and engagement from all the members?					
23 Has the committee maintained a non-political approach to discussions throughout?					

#### AUDIT COMMITTEES \ PRACTICAL GUIDANCE FOR LOCAL AUTHORITIES AND POLICE

	Good practice questions	Does not comply				Fully complies
		Major improvement	Significant improvement	Moderate improvement	Minor improvement	No further improvement
	Weighting of answers	0	1	2	3	5
24	Does the committee engage with a wide range of leaders and managers, including discussion of audit findings, risks and action plans with the responsible officers?					
25	Does the committee make recommendations for the improvement of governance, risk and control arrangements?					
26	Do audit committee recommendations have traction with those in leadership roles?					
27	Has the committee evaluated whether and how it is adding value to the organisation?					
28	Does the committee have an action plan to improve any areas of weakness?					
29	Has this assessment been undertaken collaboratively with the audit committee members?		$\overline{)}$			
	Subtotal score	~				
	Total score					
	Maximum possible score					200**

Our overall assessment of the CIPFA Guidance for Audit Committees is partial compliance with moderate improvement needed. Evidence to support our subjective conclusion for each of the questions is detailed over the next few pages as a description and can be cross referenced to the questions above.

#### Audit committee purpose and governance

Audit Committees are key in an authority's governance framework, providing an independent and high-level focus on the adequacy of governance, risk and control arrangements and giving greater confidence to those charged with governance i.e., full Council that the arrangements are effective.

# Does the authority have a dedicated audit committee that is not combined with other functions (e.g., standards, ethics, scrutiny)?

<sup>1</sup> There is a dedicated Audit and Governance Committee, with the scrutiny and overview roles carried out by Standing Committees, as detailed in their terms of reference. There is a separate Standards Committee.

#### Does the audit committee report directly to the governing body?

2 The Committee does not have a formal reporting line and does not report (regularly) to either Council or Policy Committee.

#### Has the committee maintained its advisory role by not taking on any decision-making powers?

The Audit and Governance Committee does have some decision-making powers. As detailed within its current terms of reference, it has delegated responsibility from Council to approve the annual statement of accounts. However, CIPFA's guidance indicates that the Audit Committee should remain an advisory committee and does not recommend that it be delegated decision-making powers such as the approval of the financial statements, which ultimately are the responsibility of all those charged with governance i.e., full Council.

# Do the terms of reference clearly set out the purpose of the committee in accordance with CIPFA's 2022 Position Statement?

4 Generally, the current terms of reference for the Audit and Governance Committee set out the purpose of the Committee in accordance with CIPFA's Position Statement, although there is not a specific section on the purpose of the committee contained within the existing terms of reference.

# Do all those charged with governance and in a leadership role have a good understanding of the role and purpose of the committee?

5 Senior Officers (CMT) and Lead Members understand the role and purpose of the Audit and Governance Committee. Members' induction training includes a section on the Council's constitution and committee structure. Training provided by Internal Audit to A&G Committee members in 2022 included a section on the role of the Audit Committee.

# Does the audit committee escalate issues and concerns promptly to those in governance and leadership roles?

Where a nil assurance internal audit report was received by the Committee as part of the Chief Auditor's quarterly update report, both the Executive Director of Social Care and the Deputy Director of Commissioning and Transformation attended the meeting to answer members' questions and provide details of progress on implementing recommendations. The Committee also verbalised their ability to call managers and Executive Directors to meetings to explain any non-implementation or delays in the implementation of audit recommendations, although this option had not been taken up within the last year.

# Does the governing body hold the audit committee to account for its performance at least annually?

As noted previously, there is no formalised reporting line between the Committee and full Council.

Does the committee publish an annual report in accordance with the 2022 guidance including:

#### a) compliance with the CIPFA Position Statement 2022

b) results of anannual evaluation, development work undertaken and planned improvements c) how it has fulfilled its terms of reference and the key issues escalated in the year

8

9

There is no formal, annual report published by the Committee at present to include details of compliance with the CIPFA Position Statement, results of an annual evaluation (not currently undertaken), development work undertaken and planned improvements or how it has fulfilled its terms of reference and key issues escalated during the year.

#### Functions of the committee

The audit committee's core functions are to provide oversight of a range of governance and accountability arrangements, responses to recommendations of assurance providers and help ensure robust arrangements are maintained.

Do the committee's terms of reference explicitly address all the core areas identified in CIPFA's Position Statement, as follows:

- a. governance arrangements
- **b.** risk management arrangements
- c. internal control arrangements
- d. Annual Governance Statement (AGS)
- e. financial reporting
- f. assurance framework
- g. internal audit
- h. external audit

Generally, the A&G Committee's terms of reference (TORs) address the core areas identified in CIPFA's Position Statement. However, they would benefit from some updating, to include increased emphasis in some areas and inclusion of some additional areas. Possible areas for increased emphasis include organisational risk profile, value for money and an oversight role on fraud and anticorruption, broadening the reference to internal controls beyond annually considering them as part of the AGS, financial management beyond focusing on the financial statements and linked to CIPFAs financial management code, specifically detailing review of the governance and assurance arrangements for significant. partnerships/collaborations and considering the assurance framework and assessing whether it adequately addressed Council's risks and priorities

#### Over the last year, has adequate consideration been given to all core areas?

A significant amount of committee time has been spent on finance, financial management, the financial statements, financial performance, treasury management and associated areas in the last three years. It might be beneficial to give consideration as to whether it is appropriate for some areas contained within the CIPFA Position Statement and associated TORs to have either more or less focus going forward. Some suggestions for areas of increased focus include:

- 10 Corporate governance including governance and assurance arrangements for significant partnerships or collaborations and ethics
  - arrangements to secure value for money
  - review the assessment of fraud risks (as part of risk management) and monitor the counter-fraud strategy, actions and resources including whistleblowing
  - consideration of the council's assurance framework and whether there were arrangements in place to secure adequate assurance across the Council's operations, that it adequately addressed the Council's risks and priorities as well as the effectiveness of relationships between external audit, internal audit and other inspection agencies or relevant bodies.

# Over the last year, has the committee only considered agenda items that align with its core functions or selected wider functions, as set out in the 2022 guidance?

Generally, the A&G Committee has only considered items that aligned with its core and wider functions for example treasury management. However, it was noted that it regularly receives financial performance and monitoring reports that have already been received and considered by Policy Committee and also receives the annual financial statements for approval (as currently detailed in its terms of reference as a delegated power granted by Council). As detailed in Q3 above, CIPFA's guidance indicates that the Audit Committee should remain an advisory committee and does not recommend that it be delegated decision-making powers such as the approval of the financial statements, which ultimately is the responsibility of all those charged with governance i.e., full Council.

Has the committee met privately with the external auditors and the Head of Internal Auditor in the last year?

12

The Chief Auditor usually meets privately with the committee chair on a quarterly basis. External Audit also has the option of private meetings as and when required.

#### Membership and support

Committee members need to be of high calibre to provide the required level of expertise and understanding and have an appropriate level of influence within the authority. Selection should include consideration of aptitude in addition to relevant knowledge, skills and experience.

Has the committee been established in accordance with the 2022 guidance as follows:

- a. separation from the executive
- b. a size that is not unwieldy and avoids the use of substitutes
- c. Inclusion of lay/co-opted independent members in accordance with legislation or CIPFAs recommendation

Reading Borough Council operates a Committee system rather than an executive form of governance. Since adopting the Committee system, the Council has continued to appoint a Leader, Deputy Leader and eight other Lead Councillors. The retention of Lead Councillors means there has been a departure from the 'traditional' committee system to what Reading Borough Council describes as a hybrid model

of governance. These ten Lead Councillors do not have any executive powers which can be exercised individually or collectively. However, they are all members of the Policy Committee, which is the main decision-making body of the Council. In accordance with the proportionality rules required by the committee system, there are also five councillors on the Policy Committee who are not members of the controlling political group. There is not a directly elected executive Mayor for Reading.

The CIPFA guidance details that authorities should try to ensure that their audit committee is no more than eight members. The A&G Committee currently has eight members so falls within this, although it was noted that this is without independent members. A substitute was used at one meeting in 2020.

There are currently no lay/co-opted independent members on the committee, although it is noted that the Constitution does allow for people to be appointed as co-opted onto committees as long as they do not have any voting rights on the committee.

# Have all committee members been appointed or selected to ensure a committee membership that is knowledgeable and skilled?

14

No assessment is made on this area without input from Committee members, so an average rating of moderate improvement was assumed.

Has an evaluation of knowledge, skills and the training needs of the chair and committee members been carried out within the last 2 years?

15

No evidence was found of an evaluation of knowledge, skills and training needs of the A&G Chair and committee members being carried out within the last two years.

# Have regular training and support arrangements been put in place covering the areas set out in the 2022 guidance?

Although A&G Members have been offered a range of training sessions focusing on specific areas within the last year, this has not been held on a regular basis. Audit Committee members should have regular, ongoing training and support to enable them to fulfil their role on the Committee. Training should cover all key areas as identified in the CIPFA guidance, including good governance and ethical framework, partnerships and collaborations, the Annual Governance Statement, targeted support for members where required, updates on new developments/changes at the authority, in addition to updates /refreshers on areas such as risk management, internal controls, financial management, counter fraud and corruption, assurance framework and treasury management.

# Across the committee membership, is there a satisfactory level of knowledge, as set out in the $_{7}$ 2022 guidance?

17

No assessment is made on this area without input from Committee members.

#### Is adequate secretariat and administrative support provided to the committee?

Secretarial and administrative support is provided to the Committee by the Committee Services Team. There are standing agenda items to be considered and a bring-forward list detailing reports due to be received at forthcoming meetings; senior Officers and the A&G Committee chair and members are asked for their input on the agenda.

18

The committee ordinarily meets four times per financial year; the only recent exception to this was in 2020/21 when the April 2020 meeting was cancelled due to the onset of the coronavirus pandemic.

Where agenda enclosures or items are restricted, it is stated why they are restricted. There is a provision at the start of the committee meeting for questions from the public, restricted to one agenda item per person. Meetings are also recorded and available on the Council's website after the meeting.

# Does the committee have good working relations with key people and organisations, including external audit, internal audit and the CFO?

Representatives from external audit and internal audit (Chief Auditor) attend every meeting, together with a senior Finance and a senior Information Governance representative (usually the Director of Finance and Assistant Director of Legal and Democratic Services) and a CIPFA representative in relation to the Finance Transformation Programme. Other Officers (for example the Executive Director of Social Care and Health, the Health and Safety Lead and the Revenues and Benefits Manager) have attended on an ad hoc basis as appropriate.

#### Effectiveness of the committee

The Audit Committee is an advisory committee that should have sufficient standing within the authority so that its recommendations and opinions carry weight and have influence with the leadership team i.e., CMT, and those charged with governance i.e., full council, and effectively perform its role.

# Has the committee obtained positive feedback on its performance from those interacting with the committee or relying on its work?

20

No assessment is made on this area without input from Committee members, so an average rating of moderate improvement was assumed.

#### Are meetings well chaired, ensuring key items are addressed with a focus on improvement?

It should be noted that only a limited assessment has been able to be made in relation to this as the committee chair changed after the 2022 elections, so at the time of our assessment the current incumbent had only been in post for two meetings. However, a review of recordings of the two meetings to date identified that the meetings have been well chaired. There has been clarification about public speaking in meetings and it was also highlighted that the meeting was non-political. The chair kept the public question on track, highlighted the roles and responsibilities of the committee, opened each agenda item to questions and queries, and often had questions or queries of his own.

#### Are meetings effective with a good level of discussion and engagement from all the members?

Review of recordings of the last four committee meetings identified that generally there had been discussion/questions/queries on items; however, questions predominately emanate from the chair.

Has the committee maintained a non-political approach to discussions throughout?

<sup>23</sup> No evidence was observed from the meeting recordings reviewed that a political approach to discussions has been taken.

# Does the committee engage with a wide range of leaders and managers, including discussion of audit findings, risks and action plans with the responsible officers?

The Chief Auditor, representatives from external audit, finance, information governance, CIPFA and the Director of Resources/Deputy Chief Executive are involved regularly in meetings to discuss audit findings, risks and actions. There has been less recent, direct engagement with service managers, Assistant Directors and Executive Directors in relation to audit findings, although the Executive Director of Social Care & Health and the Deputy Director of Commissioning and Transformation had attended a committee meeting to discuss the findings from payments to care providers and voluntary sector payments audits and the interim Assistant Director of Finance had attended a meeting to address findings from finance-focused audits.

Does the committee make recommendations for the improvement of governance, risk and control arrangements?

It was noted that whilst this is within the committee's remit, it does not currently exercise this function.

#### Do audit committee recommendations have traction with those in leadership roles?

It was identified that where the committee requests that a director attends a meeting to answer questions and queries on a specific area, this takes place. An example of this was when the Executive Director of Social Care & Health and the Deputy Director of Commissioning and Transformation attended a committee meeting to discuss the findings from payments to care providers and voluntary sector payments audits after a no assurance opinion had been given by internal audit. There appears to be a good relationship between the committee and officers, with a variety of key officers attending meetings on a regular basis

	Has the committee evaluated whether and how it is adding value to the organisation?					
27	The committee has not evaluated its performance at present including whether it added value to the organisation.					
	Does the committee have an action plan to improve any areas of weakness?					
28	As no evaluation of committee performance has been conducted to identify possible areas for improvement, no action plan is currently in place.					
	Has this assessment been undertaken collaboratively with audit committee members?					
29	At this stage, the assessment has been undertaken by internal audit, although it is proposed that audit committee members are involved and take ownership of the assessment, review and action plan going forward.					