

## EXECUTIVE

<b>Date:</b> Wednesday 23rd August, 2023
<b>Time:</b> 12.30 pm
<b>Venue:</b> Mandela Room

## AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Executive - 19 July 2023 3 - 8

### EXECUTIVE MEMBER FOR FINANCE AND GOVERNANCE

4. Corporate Performance Update: Quarter One 2023/24 9 - 20
5. Revenue and Capital Budget - Forecast Outturn Position as at Quarter One 2023/24 21 - 74
6. Medium Term Financial Plan (MTFP) Refresh 2024/25 to 2026/27 75 - 112

### OVERVIEW AND SCRUTINY BOARD

7. Final Report of the Culture and Communities Scrutiny Panel - Off Road Bikes 113 - 220

### EXECUTIVE MEMBER FOR REGENERATION

8. Hemlington North - Disposal 221 - 230
9. Nunthorpe Grange Farm - Disposal Part - A 231 - 240
10. Any other urgent items which in the opinion of the Chair, may be considered.
11. Exclusion of Press and Public

To consider passing a Resolution Pursuant to Section 100A (4) Part 1 of the Local Government Act 1972 excluding the press and public from the meeting during consideration of the

following items on the grounds that if present there would be disclosure to them of exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12. **Exempt - Nunthorpe Grange Farm - Disposal Part - B**

241 - 252

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Tuesday 15 August 2023

MEMBERSHIP

Mayor C Cooke (Chair) Councillors P Gavigan, T Furness, P Storey, J Thompson, Z Uddin and N Walker

**Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Chris Lunn / Scott Bonner, 01642 729742 / 01642 729708, [chris\\_lunn@middlesbrough.gov.uk](mailto:chris_lunn@middlesbrough.gov.uk) / [scott\\_bonner@middlesbrough.gov.uk](mailto:scott_bonner@middlesbrough.gov.uk)**

**EXECUTIVE**

A meeting of the Executive was held on Wednesday 19 July 2023.

**PRESENT:** C Cooke - Elected Mayor (Chair), Councillors P Gavigan, P Storey, J Thompson, Z Uddin and N Walker

**ALSO IN ATTENDANCE:** M Brown, E Craigie (Local Democracy Service) A Johnstone and J Weston

**OFFICERS:** M Adams, S Bonner, G Field, C Heaphy, R Horniman, A Humble, A Perriman and E Scollay

**APOLOGIES FOR ABSENCE:** Councillors T Furness and M Storey

23/1 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

23/2 **MINUTES - EXECUTIVE - 20 JUNE 2023**

The minutes of the Executive meeting held on 20 June 2023 were submitted and approved as a correct record.

23/3 **BREASTFEEDING BOROUGH DECLARATION**

The Mayor and Executive Member for Adult Social Care and Public Health submitted a report for Executive's consideration.

The report presented an overview of the importance of Breast Feeding (along with current data) and the benefits to both mother and child and the wider community. The report set out how the adoption of the Breast-Feeding Boroughs Declaration across Middlesbrough and Redcar & Cleveland would increase local breastfeeding rates and reduce health inequalities.

The report gave an overview of what it meant for South Tees to become a Breast-Feeding area and the benefits for Middlesbrough and Redcar and Cleveland. The report also set out the ten commitments that would be delivered through the existing and well-established Infant Feeding Steering Group across South Tees. These would hopefully increase breastfeeding rates, reduce bottle (formula) fed culture and normalise breastfeeding across the civic, community and service levels to support the best start in life for children across South Tees.

It was recommended Executive approve the adoption of the Breast-Feeding Boroughs Declaration as a Local Authority and agree to promote themselves as a Breast-Feeding Borough. It would do this by implementing the ten declarations to increase breast feeding rates across South Tees, whilst also preventing the worsening of health inequalities.

Across South Tees it was recognised the difference that early experiences and responsive parenting could make to an infant and young person's health, well-being, and future life chances. Those who breastfed were likely to have better maternal health and wellbeing and bond better with their baby. As breastfed children got older, they also had better attachment with their parents and built better relationships with others.

Many thought the benefits of breastfeeding were purely nutritional; not realising that breastfeeding also protected the health of mothers and their children. Reductions in the risk of infants developing illnesses and protection against childhood diseases later in life were well researched. Evidence also suggested that breastfed babies benefited from improved brain development.

**OPTIONS**

**Do Nothing:** This would have resulted in possible decreases of breast feeding rates across South Tees and worsening of health inequalities.

**ORDERED That Executive:**

1. Approve the adoption of the Breast-Feeding Boroughs Declaration as a Local Authority.
2. Agree to promote themselves as a Breast-Feeding Borough by implementing the ten declarations listed at appendix C in the report.

**REASONS**

The programme supported the strategic direction of the Children's Trust in Middlesbrough and the Children and Young People's Partnership in Redcar and Cleveland.

The budget aligned to this programme was £10,000 from within existing budgets for Middlesbrough and R&C Public Health. This would support the development of the Breast-Feeding Boroughs branding; professional images of local people; the continuation of the Breast-Feeding Welcome Scheme licence (venues registering as breast feeding friendly) and permanent signage and UNICEF Baby Friendly Accreditation.

The benefits to breast feeding for the health of the mother and child showed resounding evidence that breast feeding saved lives, improved health, and cut costs in every country worldwide (UNICEF). Breast feeding protected children from a range of illnesses which included infection, diabetes, asthma, heart disease, obesity as well as Sudden Infant Death Syndrome (cot death). The benefits to maternal health included protecting mothers from breast and ovarian cancers and heart disease.

Breast feeding contributed to significant savings to the NHS. A NICE costing report estimated that Baby Friendly accreditation would start to save a facility money after three years, owing to a reduction in the incidence of certain childhood illnesses. Moderate increases in breast feeding translated into cost savings for the NHS of many millions of pounds, and tens of thousands of fewer hospital admissions and GP consultations (UNICEF Baby Friendly report).

Breast Feeding Boroughs would support to normalise breast feeding and increase the rates of breast feeding at initiation and 6-8 weeks. A similar campaign which was successfully delivered in Blackburn with Darwen, resulted in the continuation of breast feeding for months after birth.

23/4

**HEALTHY WEIGHT DECLARATION**

The Mayor and Executive Member for Adult Social Care submitted a report for Executive's consideration.

The purpose of the report was to seek approval from Executive to progress with Middlesbrough Council's adoption of the Healthy Weight Declaration, ensuring it was aligned to the Council's 'Health and Wellbeing' recovery plan and the wider Public Health South Tees Strategy, which a particular focus to reduce obesity levels and thereby improve both the health of local communities and those working for the council.

The report also outlined the aim of the HWD to increase the number of people living in Middlesbrough who are a healthy weight and to improve nutrition and hydration outcomes across the town.

The report provided a summary of the current obesity rates in Middlesbrough for children and adults either overweight, living with obesity or living with severe obesity. It demonstrated the HWD 16 commitments that provided strategic vision and aspiration for the council. It also offered a rationale and platform to connect council teams, bringing them together to raise awareness about the importance of healthy weight and to deliver interventions.

Being overweight or living with obesity increased the risk of serious health problems, including disability, disease and death, and had substantial long-term economic, wellbeing and social costs. Diet and obesity-related ill-health had a huge financial impact on the NHS with

estimates that it cost the UK around £6 billion each year, before we consider the economic and societal impacts due to reduced productivity and obesity-related illness that made people unable to work.

In Middlesbrough, an estimated 71% of adults (18+) were overweight or living with obesity, with 28% mothers living with obesity in early pregnancy.

#### **OPTIONS**

**No other options were put forward as part of the report.**

#### **ORDERED That Executive:**

- 1. Agree to signing the Healthy Weight Declaration as a tool to gain leadership support and promote the Local Authority's commitment to addressing obesity.**
- 2. Identifies an elected member champion who will help to progress the HWD through the democratic process.**
- 3. Identifies opportunities for leaders to promote the HWD as part of a wider system.**

#### **REASONS**

**It was important that Executive had oversight of the Local Authority's commitment to achieving the HWD. The HWD would be integral to achieving this by enabling all Directorates across the council to consider the impact they could have to promote and encourage healthy weight.**

23/5

#### **RISK AND OPPORTUNITY MANAGEMENT POLICY**

The Executive Member for Finance and Governance submitted a report for Executive's consideration.

The report set out the Risk and Opportunity Policy 2023-2026. The policy formed part of the corporate governance policy framework underpinning the Council's Strategic Plan and set out how the Council would ensure that risks were effectively managed, and opportunities exploited to deliver strategic priorities for the town.

The Risk and Opportunity Management policy sets out the Council's approach to risk and opportunity management to ensure there was an effective, consistent and joined up approach to risk across the Council that would:

- ensure that proactive risk and opportunity management was embedded within the culture of the Council, and was integral to business planning and performance management;
- ensure that the risk and opportunity management cycle and associated processes were implemented consistently and proportionately across the Council; and
- communicate the Council's approach to risk and opportunity management to all employees and stakeholders.

#### **OPTIONS**

**No other options were submitted as part of the report.**

**ORDERED That Executive approve the Risk and Opportunity Management Policy 2023-2026 which was appended to the report at Appendix One.**

#### **REASONS**

**The policy was being updated to ensure the content remains relevant and complied with latest legislation and best practice.**

**Decisions relating to Agenda Items one to seven will come into force after five working days following the day the decision(s) was published unless the decision becomes subject to the call in procedures.**

23/6 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

23/7 **SPECIAL URGENT ITEM: GOVERNANCE IMPROVEMENT: NEXT STEPS - RESOURCING THE FINANCIAL RECOVERY AND RESILIENCE AND CULTURAL TRANSFORMATION PROGRAMMES**

The Mayor and Executive Member for Adult Social Care submitted a Special Urgent report for Executive's consideration.

The purpose of the report was for Executive to consider and approve proposals to draw down from the Corporate Contingency Budget in order to fund additional resources to deliver elements of activities identified as part of the next phase of the Corporate Governance Improvement journey, as identified in the Corporate Governance Improvement: Next Steps report approved at full Council on 5 July 2023.

The Council faced significant financial challenges during 2023/24 and over the medium-term, as reflected by the conclusion in the recent CIPFA review reported in February 2023 and in the External Auditor's Annual Report for 2020/21, considered by the Corporate Affairs and Audit Committee, on 29 June 2023.

Phase three of the Council's Corporate Governance Improvement Plan was reported to Council for information on 5 July 2023. The diagram below sets out its structure. The report sought funding to support action in relation to two of the programmes of work that will be delivered by the overall improvement plan. As the Plan continued to be scoped and developed collaboratively with the Advisory Panel that was outlined in the 5 July 2023 Council meeting, there may be further reports brought forward on resourcing to this body. Reports on progress against the plan, scoping etc would be taken to Corporate Affairs and Audit Committee and full Council.

#### **OPTIONS**

**Other options relating to the use of existing finance staff and the recruitment of suitably experienced permanent staff to undertake the work required were considered. However, the lack of existing capacity and the requirement to deliver improvements at pace, as outlined in this report, meant those options were not suitable.**

**ORDERED that Executive:**

- 1. Note the requirement of additional resources across corporate support services to support delivery of the financial recovery and resilience programme of work within the Corporate Governance Improvement Plan**
- 2. Note the requirement for initial funding to commence elements of work within the Cultural Transformation programme of work within the Corporate Governance Improvement Plan**
- 3. Approve the total additional expenditure of up to £491,800 associated with these additional resources, along with the necessary procurement activity to be funded from the available Corporate Contingency Budget.**

#### **REASONS**

The Corporate Governance Improvement Plan ensured an inclusive approach to addressing the issues identified in the CIPFA diagnostic work and EY's Value for Money judgement and that the Council's commitments were appropriately resourced to support successful delivery of the essential activity with the corporate governance improvement plan. Failure to effectively tackle the fundamental issues identified by the Council's External Auditors, CIPFA and the Council could result in government intervention.

As the report associated with Agenda Item eight was deemed Special Urgent, decisions arising will come into force immediately and are not subject to call in procedures.



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<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Executive Member for Finance and Governance Chief Executive
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<b>Submitted to:</b>	Executive
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<b>Date:</b>	23 August 2023
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<b>Title:</b>	Corporate Performance Review: Quarter One 2023/2024
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<b>Report for:</b>	Decision
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<b>Status:</b>	Public
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<b>Strategic priority:</b>	All
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<b>Key decision:</b>	No
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<b>Why:</b>	Not applicable
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<b>Urgent:</b>	No
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<b>Why:</b>	Not applicable
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<b>Executive summary</b>
<p>This report advises the Executive of corporate performance at the end of Quarter One 2023/2024, providing the necessary information to enable the Executive to discharge its performance management responsibilities and where appropriate, seeks approval of any changes (where these lie within the authority of the Executive).</p> <p>This report also asks that the Executive:</p> <ul style="list-style-type: none"> <li>• notes progress of delivery of the Strategic Plan 2022-24 at Quarter One 2023/24, detailed in Appendix 1,</li> <li>• approves the proposed changes to the Strategic Plan workplan initiatives, detailed in Appendix 2.</li> </ul>

## **Purpose**

1. This report advises the Executive of corporate performance at the end of Quarter One 2023/2024 and where appropriate seeks approval of any changes, where these lie within the authority of the Executive.

## **Background and relevant information**

2. The Council's Scheme of Delegation gives the Executive collective responsibility for corporate strategic performance, together with associated action.
3. This report provides the necessary information to enable the Executive to discharge its performance management responsibilities, setting out progress against Executive action, the Strategic Plan and other key associated items, together with actions to be taken to address any issues identified.
4. The projected financial outturn at the end of Quarter One 2023/2024 is presented separately to this meeting of the Executive, and so not repeated here. Where performance has had a significant impact on finances this is highlighted within the body of the report.
5. As part of continuous improvement in performance and risk management, the Council's Leadership Management Team (LMT) has implemented monthly reviews of corporate performance utilising a Directorate Performance dashboard, drawing data from a range of performance systems.
6. The output from these sessions is reflected through quarterly updates to the Executive and Overview and Scrutiny Board and covering in addition, progress in delivering actions agreed by the Executive, key Directorate performance issues and other performance-related matters.

## **Overall progress at the end of Quarter One 2023/2024**

7. The Council's performance overall at the end of Quarter One saw an upturn, with progress towards expected performance standards, as set out in the Council's risk appetite, achieved in two of four active performance disciplines in 2023/24.

## **Progress in delivering Executive actions**

8. Actions agreed by the Executive to deliver approved decisions are tracked by LMT, monthly. If following to the Executive's approval, any action is found to be no longer feasible or appropriate, or cannot be delivered within the approved timescales, this report will be used to advise the Executive of this and seek approval of alternative actions or amended timescales.
9. At the Quarter One 2023/24, 32 of 47 live actions (68%) were reported as on target to be delivered by the agreed timescales; much improved from the Quarter Four 2022/23 Year-End reported position of 44%, though remaining below the 90% expected standard of achievement of actions.

10. There are no proposed requests for amendments to Executive actions for approval at Quarter One 2023/24. It is assumed therefore, that all Executive actions will be achieved within their approved timescales.

### **Progress in delivering the Strategic Plan 2022-24**

11. At the 23 February 2022 meeting, Council was advised that an annual refresh for the Strategic Plan 2021-24 would not be brought forward and that as such the Strategic Plan would remain in place for 2022/23, to ensure that the Council has sufficient time to consider implications of national and potential forthcoming local changes on its strategic direction.
12. At a meeting of the Executive on 5 April 2022, the refreshed Strategic Plan workplan for the 2022-24 period and Directorate Priorities for 2022/23 was approved, which combined provide a cohesive approach to the delivery of key priority activities across Council services.
13. Progress continues to be monitored via detailed milestone plans, adhering to the corporate programme and project management framework, where applicable. Progress will continue to be reported to all senior managers and Members as part of the quarterly corporate performance results reports presented to Executive and Overview and Scrutiny Board.

### **Outcomes**

14. There continues to be a diluted relationship between delivery of the Strategic Plan workplan and the agreed outcomes and measures, originally expected as a result of successful delivery, as a result of the refreshed Strategic Plan workplan in 2022.
15. This is reflected in the performance overall at Quarter One 2023/24 against Strategic Plan outcomes, reported as 25% against the 90% performance standard.
16. This will be addressed in the development of the new Council Plan, ensuring demonstrable impact and effective reporting against outcomes measure, work for which is underway, with an initial draft expected in October 2023.

### **Workplan**

17. At Quarter One 2023/24, performance against the Strategic Plan workplan was as set out below, below the target corporate standard of 90%, with 81% (51 of 63) of initiatives on-track, with RAG-rated progress detailed at Appendix 1.

Status	Q4 2022/23 position	Q3 2022/23 position	Q2 2022/23 position	Q1 2022/23 position	Expected standard	Standard achieved	Trend
COMPLETED	44%	17%	1.6%	0%	90%	No	↓
GREEN	37%	65%	96.8%	100%			
AMBER	0%	2%	0%	0%	N/A	N/A	N/A
RED	8%	16%	1.6%	0%	N/A	N/A	↓
WITHDRAWN	11%	N/A	N/A	N/A	N/A	N/A	N/A

18. There are five workplan initiatives off-track at Quarter One 2023/24, three of which have requested extensions to due dates, detailed in Appendix 2 and which require Executive approval, in order to avoid future slippage and to ensure delivery.
19. As reported at Quarter Four 2022/23, a number of Strategic Plan workplan initiatives were withdrawn from the active workplan following 2023/24 budget setting process. For the purposes of transparency however, they continue to be reported in Appendix One, reflecting their closure / withdrawal from the reporting portfolio.
20. It is assumed that outside of these revisions, all Strategic Plan workplan initiatives will be achieved as per approved timescales.

### ***Strategic Risk Register***

21. The Council has now completed its refreshed approach to the management of strategic risk. The 12 key risks that the organisation has set out, are detailed below:

<b>Risk</b>	<b>Score</b>
Failure to meet a balanced budget	High
Volatility in the demand and cost of children's social care	High
Unlawful decision by the Council	High
Serious accident or death occurs as a result of failure to comply with health and safety legislation	High
Unable to recruit and retain key staff	High
Failure to ensure a sound approach to cyber security	Medium
Corporate Governance arrangements are not fit for purpose	High
Failure to deliver ambitions for town centre regeneration	High
Failure of the Council and its partners to work effectively together to deliver change	High
Failure to deliver quality practice within children's safeguarding services	High

22. As of Quarter Two reporting period, this section of the report will set out movement in strategic risk scoring, alongside and any areas of concern or issues for Executive discussion and / or decision.

### **Directorate Priorities**

23. Each year previously, Directorates set and are accountable for a set of Directorate-specific actions for delivery across that operational year, ensuring ongoing compliance with legal duties and best practice alongside well-managed business change.
24. In the Quarter Four Year End 2022/23 corporate performance report, the final position on Directorate Priorities was reported to Executive and as such, that performance discipline will no longer be reported upon for the duration of 2023/24.
25. Alternatively, the development of the new Council Plan will see the introduction of individual Service Plans, which will replace Directorate Priorities and which will be supported by robust workforce and financial plans.

### **Progress in delivering Programmes and Projects**

26. The Council maintains a portfolio of programmes and projects in support of achievement of the Council's strategic and directorate priorities. At Quarter One 2023/24, 94% (16 out of 17) of the programmes / projects were on-track to deliver against project time, cost, scope and benefits, remaining above the expected combined standard of 90%.

Status	Q1 2023/24 position	Expected standard	Standard achieved	Trend
GREEN	82%	90%	Yes	↓
AMBER	12%			
RED	6%	N/A	N/A	↓

### Progress in other corporate performance matters

27. In addition to the above performance and risk issues, LMT reviews a range of other performance measures on a monthly basis, including compliance with agreed actions from internal audits, responsiveness to statutory information requests, information security incidents and complaints.

28. At the end of Quarter One 2023/24, the key points of note in matters of compliance, were:

- All Subject Access Requests were responded to within required legal timescales.
- Complaints resolved within timescales increased slightly to 87%.
- 82% of Freedom of Information Requests (FOI) and Environment Information Requests (EIR) were responded to within statutory timescales, a slight decrease from the 88% reported at Year-End 2022/23.

### What decision(s) are being recommended?

29. That the Executive:

- notes progress of delivery of the Strategic Plan 2022-24 at Quarter One 2023/24, detailed in Appendix 1,
- approves the proposed changes to the Strategic Plan workplan initiatives, detailed in Appendix 2.

### Rationale for the recommended decision(s)

30. To enable the effective management of performance and risk in line with the Council's Local Code of Corporate Governance.

### Other potential decision(s) and why these have not been recommended

31. Not applicable.

### Impact(s) of the recommended decision(s)

#### *Legal*

32. The proposed recommendations are consistent with and will promote the achievement of the Council's legal duty to achieve Best Value.

#### *Strategic priorities and risks*

33. The proposed recommendations are key to and consistent with supporting deliver of the Council's strategic priorities and risks, as set out in the Strategic Plan.

## ***Human Rights, Equality and Data Protection***

34. As reported to Council in February 2021, no negative differential impact on diverse groups and communities is anticipated from the direction of travel set out in the Strategic Plan 2021-24.

## ***Financial***

35. Any financial implications relating to issues set out in this report, are summarised in the Revenue and Capital Budget – Quarter One 2023/24 report, also considered by the Executive at its meeting of 23 August 2023.

## **Actions to be taken to implement the recommended decision(s)**

Action	Responsible Officer	Deadline
Approved Quarter One 2023/24 amendments to Strategic Plan to be implemented, via Pentana	Joanne Chapman	31/08/2023

## **Appendices**

1	Strategic Plan Workplan: progress at Quarter One 2023/24
2	Strategic Plan Workplan: proposed amendments at Quarter One 2023/24

## **Background papers**

Body	Report title	Date
Council	Strategic Plan 2021-24	24/02/21
Executive	Strategic Plan 2021-24: approach to delivery	11/05/21
Executive	Strategic Plan 2020-23 – Progress at Year End 2020/21	15/06/21
Executive	Corporate Performance Update: Quarter One 2021/22	07/09/21
Executive	Corporate Performance Update: Quarter Two 2021/22	07/12/21
Executive	Corporate Performance Update: Quarter Three 2021/22	14/02/22
Executive	Refreshing the Strategic Plan workplan for the 2022-24 period	05/04/22
Executive	Corporate Performance Results: Year End 2021/22	14/06/22
Executive	Corporate Performance Results: Quarter One 2022/23	06/09/22
Executive	Financial Recovery Plan 2022/23	18/10/22
Executive	Corporate Performance Results: Quarter Two 2022/23	08/11/22
Executive	Corporate Performance Results: Quarter Three 2022/23	14/02/23
Executive	Corporate Performance Results: Quarter Four Year End 2022/23	20/06/23

**Contact:** Gemma Cooper, Head of Strategy, Business and Customer  
**Email:** [gemma\\_cooper@middlesbrough.gov.uk](mailto:gemma_cooper@middlesbrough.gov.uk)

## Appendix 1: Strategic Plan Workplan; progress at Quarter One 2023/24

<b>We will show Middlesbrough's children that they matter and work to make our town safe and welcoming and to improve outcomes for all children and young people.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Expand the current model for youth provision in areas that suffer high levels of deprivation		W
Make steps towards every child playing a musical instrument by extending to one other school or year group		G
Evidence that Middlesbrough Council listens to children's voices		C
Create and deliver a strategy to increase digital inclusion for children, young people and adults across Middlesbrough		C
Consolidate and build on recent Children's Services progress to improve Ofsted rating		C
Explore potential for the establishment of an Eton Sixth Form in Middlesbrough		G

<b>We will work to address the causes of vulnerability and inequalities in Middlesbrough and safeguard and support the vulnerable.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Deliver and extend the 50 Futures programme		G
Further develop the Dementia Friendly Middlesbrough programme		C
Achieve 'Age Friendly Communities' status		C
Implement and extend locality working		C

<b>We will tackle crime and anti-social behaviour head on, working with our partners to ensure local people feel safer.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Support the police and hold them to account for each neighbourhood		C
Establish and support Neighbourhood Watch schemes across the whole town		C
Increase CCTV across the whole town		C
More environmental action and punishment for fly tipping		C
Encourage more residents to report crime and ASB		G
Reward and champion individuals for being good neighbours		C
Increased enforcement against problem properties / streets / gardens in disrepair		C

<b>We will ensure our town acts to tackle climate change, promoting sustainable lifestyles.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Develop an Urban Farm		W
Develop local wildlife / nature reserve in North Ormesby and one other site		G
Demonstrate increased recycling rates		G
Establish six community growing areas		R
Double the size of our urban meadows / wildflower planting sites		C
15 new EV charging points across town		C
Big community tree planting days		C
Middlesbrough hosts inaugural climate conference		W

<b>We will ensure the recovery of local communities, businesses and the Council's operations from COVID-19, taking opportunities to build back better.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Delivery of the Council's COVID19 Recovery Plan to enable individuals, families, communities and business across Middlesbrough achieve a proper level of functioning, post-Pandemic		C
Ensure effective Council response to immediate issues of COVID19 impacting upon individuals, families, communities and business		C

<b>We will work closely with local communities to protect our green spaces and make sure that our roads, streets, and open spaces are well-designed, clean and safe.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Improve identified play parks and spaces in line with our Towns Fund Recommendation		G
Establish the requirement for potential CPO of derelict buildings and problem sites		C
Improve our Highways		C
12 new back alleys are reclaimed, improved and showcased		C
Neighbourhood and town wide front garden competitions		R
Vastly improve Thorntree and Pallister Parks in line with Towns Fund Recommendation		G
Creation of Tree Maintenance Squad and ongoing maintenance work programme		W
Creation of a subsidised Pest Control service		W



<b>We will transform our town centre, improving accessibility, revitalising unused assets, developing iconic new spaces and building more town centre homes.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Complete town-wide lighting scheme		W
Consider potential for BOHO digital expansion		G
St Hilda's housing starts around Old Town Hall		G
Protect and celebrate heritage through marketing and comms strategies and complete planned works on Captain Cook pub and Old Town Hall		G
Open three entertainment facilities within Captain Cook Square (cinema, Lane 7, eSports)		G
Commence construction on the south side of the dock		G
Action plan agreed and commenced for House of Fraser building		G
Action plan agreed and commenced for Centre North East		G
Action plan agreed and commenced for The Crown Pub building		G
Action plan agreed and commenced for Gurney House		G

<b>We will invest in our existing cultural assets, create new spaces and events, and improve access to culture.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Increased ticket sales and attendance of events through effective marketing		C
Complete improvements to Teesaurus Park		C
Create three new annual events in 2022 as per existing approvals		C
Aim for all children to get an experience of live theatre		R
Increase attendance at existing Council events like Orange Pip		C
Increase visitor numbers to museums and attractions		C
Increase tickets sales at town hall performances		G

<b>We will ensure that we place communities at the heart of what we do, continue to deliver value for money and enhance the reputation of Middlesbrough.</b>	<b>Q4 2022/23 position</b>	<b>Q1 2023/24 position</b>
Encourage public to help drive decision making		R
Introduce a marketing campaign and associated support to significantly grow Middlesbrough Lottery		C

We will ensure that we place communities at the heart of what we do, continue to deliver value for money and enhance the reputation of Middlesbrough.	Q4 2022/23 position	Q1 2023/24 position
Work with the voluntary sector to create and promote volunteering opportunities and an increase in volunteers	G	C
Introduce Neighbourhood Action Weeks, driven by volunteers	C	C
Market a small local grant programme	R	W
Market a strong buy-local campaign	R	G
Commence work on the new Southlands Centre	G	G
Commence work on Nunthorpe community centre	G	G
Promote Middlesbrough on the national stage	C	C
Increase sponsorship income from businesses for various council activities	R	R
Improve user experience of the council website, increasing online transactions	G	C

Key:	
C	Complete
G	On-track
A	Some slippage
R	Unachievable
W	Withdrawn from portfolio

## Appendix 2: Strategic Plan Workplan; proposed amendments at Quarter One 2023/24

Initiative	Owner	Agreed Due Date	Reason for (R) / Impact (I) of delay	Proposed Due Date
QOS 01: Encourage public to help drive decision making	LGS	30/06/2023	(R) Strategic delay and capacity to deliver (I) Minimal	31/12/2023
CCH 02; Develop local wildlife / nature reserve in North Ormesby and one other site	REG	30/09/23	(R) Dependent on completion of the Local Plan (I) Delay to implementation	31/12/2023
QOS 10: Increase sponsorship income from businesses for various council activities	CHIEF EXEC	31/03/2023	(R) Enabling adverts on website via third party increases MBC cyber security risk Vs £17.5k potential saving (I) Loss of potential income generation of £17k over 2 years	Request to close

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<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Executive Member for Finance and Governance Interim Director of Finance (S151 Officer)
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<b>Submitted to:</b>	Executive
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<b>Date:</b>	23 August 2023
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<b>Title:</b>	Revenue and Capital Budget – Forecast Outturn position at Quarter One 2023/24
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<b>Report for:</b>	Decision
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<b>Status:</b>	Public
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<b>Strategic priority:</b>	All
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<b>Key decision:</b>	Yes
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<b>Why:</b>	Decision(s) will incur expenditure or savings above £150,000 and have a significant impact in two or more wards
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<b>Urgent:</b>	No
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<b>Why:</b>	Not Applicable
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<b>Executive summary</b>
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This report advises the Executive of the Council's financial position as at Quarter One 2023/24.

The report enables the Executive to discharge its financial management responsibilities by setting out the:

- General Fund Revenue Budget forecast outturn at Quarter One;
- Capital Programme forecast outturn at Quarter One;
- statement of the Council's borrowing and prudential indicators, and its reserves and provisions; and
- actions that the Council has taken and plans to address the issues identified.

In respect of the General Fund Revenue Budget, the Executive is requested to:

- Note the forecast 2023/24 net revenue budget outturn as at Quarter One of £137.917m against an approved budget of £126.354m, a forecast overspend of £11.563m (9.2%).
- Note that the Council's usable revenue reserves position is critically low at £14.8m comprising the General Fund Reserve of £12.041m and the Council's unrestricted usable earmarked reserves of £2.788m at 31 March 2023.
- Note that if the current forecast overspend of £11.563m is actually incurred, it will exhaust the Council's unrestricted usable earmarked reserves and also significantly draw upon the Council's General Fund Reserve as shown in Table 2. Therefore urgent management action is required to reduce expenditure and the forecast outturn within budget.
- Note that if it appears to the Director of Finance S151 Officer that total expenditure cannot be managed within the approved budget of £126.354m by 31 March 2024, there is a statutory requirement for the Director of Finance to issue a s114 Notice to the Council under the provisions of the Local Government Finance Act 1988. In practice, prior to this occurring, the Director of Finance would seek Exceptional Financial Support from DLUHC in order to meet unmanageable financial pressures in the short term whilst the Council's financial position is recovered.
- Note the implications of an application for Exceptional Financial Support and the issuing of a s114 notice (paragraphs 17 to 22) upon the Council.
- Note the management actions that have already been implemented from the start of the 2023/24 financial year in order to exercise enhanced budget management and control (paragraph 10), and the further actions outlined in paragraph 28 which have been implemented by the Director of Finance and the Leadership and Management Team (LMT) in response to the emerging overspend position that was identified during June in relation to accounting period 2 (month end 31 May).
- Note that rigorous spending restrictions have been implemented with effect from 1 July 2023 and will remain in effect until further notice.
- Note that Chief Officers within LMT are working in consultation with their relevant Executive Member to develop and deliver robust Financial Recovery Plans (paragraph 28) in order to contain expenditure within the Council approved budget.
- Note and support the actions taken by the Director of Finance and the Wider LMT including the initial Financial Recovery Plans totalling £2.557m that have been identified and quantified to date (as shown in Table 1 and Appendix 2).
- Note that further work is continuing with a view to fully mitigate the forecast overspend and that further reports will be submitted to the Executive for noting and approval of management actions as appropriate.

- **Approve** the proposed revenue budget virements over £150,000 as detailed in Appendix 4.

In respect of the Capital Programme and Treasury Management , the Executive is requested to:

- Note the 2023/24 Capital Programme forecast outturn of £63.004m at Quarter One against a revised capital Programme Budget of £80.474m, an underspend of £17.470m (22%).
- **Approve** the revised Capital Programme to 2025/26 summarised at table 8 and detailed at Appendix 6, including £183.570m for financial years 2023/24 to 2025/26. Note that £19.839m of funds that were assumed to be spent in 2023/24 have now been slipped to 2024/25 and later years (Appendix 5).
- Note that a full review of the Capital Programme will be undertaken and reported at Quarter Two with a view to ensuring realistic profiling of expenditure and alignment of funding. This will incorporate a challenge to reduce and reprioritise the utilisation of Council resources to mitigate or reduce any revenue budget impact within the context of controlling the Council's revenue financial position.
- Note the Treasury Management forecast outturn position with respect to the Council's prudential indicators as set out in paragraphs 64 to 72.

In respect of the Dedicated Schools Grant (DSG), the Executive is requested to:

- Note the current forecast in-year deficit of £1.780m for 2023/24 relating to the High Needs Block.
- Note the forecast total cumulative deficit of £8.344m at 31 March 2024, including £8.801m relating to the High Needs Block, as set out in Table 5 and paragraphs 45 to 51.
- Note that under existing government regulations this deficit cannot be funded from the General Fund, and the Council is required to deliver a recovery plan to the Department for Education (DfE).
- Note that the Council is part of the DfE Delivering Better Value (DBV) scheme which aims to support financial recovery of the DSG position.

## **Purpose**

1. This report:
  - Advises the Executive of the Council's financial position as at Quarter One 2023/24,
  - Advises of the management actions taken and underway in order to establish a firmer grip upon the Council's financial position.
  - Seeks endorsement from the Executive of the management actions that are planned in the form of Financial Recovery Plans in order to control expenditure within the General Fund Revenue Budget approved by Council in February 2023.
  - Seeks approval of the Executive in relation to the revisions to the Capital Programme.

## **Background and relevant information**

2. The Council's Scheme of Delegation gives the Executive collective responsibility for corporate strategic performance and financial management / monitoring, together with associated actions. Standing Orders and Financial Procedures require the Executive's approval for major virements between revenue budgets, and in-year changes to the Council's Capital Programme.
3. This report enables the Executive to discharge its financial management responsibilities by setting out the:
  - Forecast outturn on the General Fund Revenue Budget and Capital Programme at Quarter One of 2023/24;
  - statement of the Council's borrowing and prudential indicators, and its reserves and provisions; and
  - actions that the management has taken and plans to address the issues identified.
4. Financial Procedure Rule 10.5 requires the Executive's approval of the proposed revenue budget virements set out in Appendix 4.
5. A revised Capital Programme for the period 2023/24 to 2025/26 is attached at Appendix 6 for the Executive's consideration and approval.

## **Revenue Budget**

### ***Context***

6. Section 25 of the Local Government Act 2003 requires the Chief Finance officer to report on the robustness of the budget estimates and the adequacy of the financial reserves to Council in agreeing its annual budget and precept for the forthcoming financial year. The Chief Finance Officer is as defined in S151 of the Local Government Act 1972 and is fulfilled by the Director of Finance.
7. The former interim Finance Director (S151 Officer) presented her report to the Executive on 14 February 2023 and to Council on 27 February 2023. Within this report she stated that:



*‘reserves are adequate insofar as the minimum level of general balance is set at £12m, based on risk assessment; there are currently no plans for its use being the fund of last resort. However, there is little resilience in earmarked reserves, and these are at a critical level. The lack of substantial earmarked reserves means the overall reserves position, whilst adequate, is fragile and may require a reliance on cost control or the delivery of additional savings in the event of any unplanned costs....’*

*‘..... The Council is advised to have an unrelenting focus on the delivery of saving plans and demand mitigation during the year. The delivery of children’s financial improvement plan will be overseen by the Children’s Finance Focus Group. Some level of contingency (£1.3m) and limited reserves (social care transformation – currently estimated to be £1.7m at the end of 2022/23) are held to mitigate these risks. In the event of significant unexpected cost pressures emerging during the year, further savings will be required from across the Council, and early consideration is advisable to forward plan future savings so they can be brought forward as necessary.’*

*‘.....The CFO does not consider Middlesbrough Council to be at risk of a s114 Notice (Local Government Act 1988) in setting the budget for 2023/24 as set out in the report to Executive on 14 February 2023. This view is based on the latest available information and in the event of a change in the risk profile or financial circumstances, the position cannot be assured over the medium term and will be kept under review in the coming months. Council is asked to note the requirement for early consideration of budget proposals for 2024/25 and for these to be available for acceleration if required....’*

8. The Executive and Council were asked to note:

- The requirement for an unrelenting focus on delivery of 2023/24 savings and demand mitigation to maintain a balanced budget, and that further work may be needed to accelerate future budget proposals.
- The CFO advice to adopt a medium-term strategy to seek to maximise resources and replenish reserves.
- The requirement for a future programme of work to embed an organisational culture of good governance and financial management and within this a particular focus on strengthening financial practice in children’s services.

A review by CIPFA was commissioned in January 2023 to provide an independent assessment of the financial standing of the Council. The report of the former interim Finance Director (S151 Officer) incorporated the CIPFA review and recommendations arising from it.

9. The approved 2023/24 General Fund Revenue Budget for the Council is £126.354m as set out in the Revenue Budget, Council Tax, Medium Term Financial Plan (MTFP) and Capital Strategy 2023/24 Report presented to Council on 27 February 2023.

## ***Budgetary Management and Control measures implemented in Quarter One 2023/24***

10. Enhanced budget management and control measures, supported by the Executive, were introduced by the current interim Director of Finance during Quarter One as follows:

- An increase in frequency of management revenue budget monitoring and forecasting from quarterly to monthly.
- Monthly budget challenge and review sessions chaired by the Director of Finance to be held for each Directorate, working collaboratively with Directors, their Management Teams and Finance Business Partners to ensure focus on budgetary control and proactive management actions to remain within approved budget.
- Monthly review and challenge of financial and operational performance at Leadership Management Team (LMT) chaired by the interim Chief Executive.
- Director Accountability Agreements signed by LMT to demonstrate commitment to managing within the approved budget and focus upon areas of identified risk.
- Quarterly budget challenge and review sessions for each Directorate chaired by the Executive Member for Finance & Governance and attended by Executive Members for relevant Directorates.
- Requirement for Directorate adverse variances to be addressed through the development of Financial Recovery Plans by Directors in consultation with their relevant Executive Member, and delivery to be monitored through the budget challenge framework.
- Savings tracker to be utilised to report progress on delivery of savings and enable targeting of management actions.
- Measures to improve the quality and timeliness of budgetary reports over the course of the year initiated.

## ***Revenue Budget Forecast Year-End Outturn as at Quarter One 2023/24***

11. The budget management and control activity undertaken over Quarter One has identified a number of financial pressures that are forecast to result in an overspend of £11.563m (9.2%) by 31 March 2024 unless significant and urgent management actions are taken to control spending within the approved net revenue budget of £126.354m.
12. The analysis of the forecast financial position by Directorate is set out in Table 1 below. A summary of the key issues and variances is included in paragraph 27, with details of Directorate variances detailed in Appendix 1. Table 1 includes any potential non-delivery of required budget savings as detailed in paragraphs 24 to 26.

**Table 1 – Summary of Revenue Budget Forecast Outturn 2023/24 as at Quarter One**

All Directorates	Original Net Budget Full Year	Current Net Budget Full Year	Forecast Outturn	Forecast Variance	Financial Recovery Plan	Forecast Outturn Variance	Forecast Outturn Variance as a % of Current Net Budget Full Year
	£m	£m	£m	£m	£m	£m	%
				Adv /(Fav)	Adv /(Fav)	Adv /(Fav)	
Adult Social Care	49.808	49.808	52.781	2.973	(0.082)	2.891	5.8
Public Health	(3.280)	(3.280)	(3.280)	0.000	0.000	0.000	0.0
Children's Care	54.649	54.649	58.298	3.649	(0.715)	2.934	5.4
Education & Partnerships	5.494	5.494	7.013	1.519	(0.128)	1.391	25.3
Regeneration	(1.987)	(1.987)	(1.995)	(0.008)	(0.192)	(0.200)	(10.1)
Environment & Communities	20.228	20.228	21.367	1.139	(1.201)	(0.062)	(0.3)
Legal & Governance	10.245	10.245	10.619	0.374	(0.129)	0.245	2.4
Finance	4.429	4.429	5.096	0.667	(0.110)	0.557	12.6
<b>Total Directorates</b>	<b>139.586</b>	<b>139.586</b>	<b>149.898</b>	<b>10.312</b>	<b>(2.557)</b>	<b>7.755</b>	<b>5.6</b>
Central Budgets	(13.232)	(13.232)	(11.981)	1.251	0.000	1.251	9.5
<b>Total Budget</b>	<b>126.354</b>	<b>126.354</b>	<b>137.917</b>	<b>11.563</b>	<b>(2.557)</b>	<b>9.006</b>	<b>7.1</b>

9.2%

13. In light of the early indications provided by the Period 2 (May 2023) monthly budget monitoring and the current forecast position at Quarter One, LMT in consultation with their relevant Executive Member, have been working to develop Financial Recovery Plans for each Directorate that is forecasting an overspend at year end. There is significant importance on taking early and robust management actions whilst there is still sufficient time in the year for those actions to realise a meaningful financial impact and to avoid the statutory requirement for the S151 Officer to issue a s114 Notice in the event that expenditure cannot be contained within available resources.
14. Table 1 shows that £2.557m of Financial Recovery Plan savings have been identified and quantified to date, with details being provided for each Directorate in Appendix 2. These will require further Director assurance to confirm deliverability together with the identification of further mitigations of expenditure to deliver the financial outturn within the approved budget by the year end.

### **Reserves**

15. It is critical that expenditure is contained within the approved revenue budget of £126.354m to stabilise the Council's financial position and provide a basis from which to rebuild reserves from the current critically low level.
16. Table 2 shows that the Council's General Fund Reserve at 31 March 2023 was £12.041m and the Council's unrestricted usable earmarked reserves were at a critical level of £2.788m at 31 March 2023. It also shows the impact of the current forecast overspend of £11.563m on the Council's usable revenue reserves (General Fund Reserve and unrestricted usable earmarked reserves). Appendix 3 provides further details of the reserves and provisions and the current forecast position at 31 March 2024.

**Table 2 – Summary of reserves and the impact of the forecast overspend upon the level of reserves**

	Closing Balance 31/03/23 / Opening Balance 01/04/23	Forecast DSG Overspend	Potential use for current forecast overspend	Forecast Balance at year-end based on current forecast overspend
	£m	£m	£m	£m
<b>GENERAL FUND RESERVE*</b>	12.041	0.000	(8.775)	3.266
<b>USABLE EARMARKED RESERVES</b>				
<i>Restricted Use</i>	1.171	0.000	0.000	<b>1.171</b>
<i>Unrestricted Use</i>	2.788	0.000	(2.788)	<b>0.000</b>
	<b>3.959</b>	<b>0.000</b>	<b>(2.788)</b>	<b>1.171</b>
<b>UNUSABLE EARMARKED RESERVES</b>	3.974	(1.780)	0.000	<b>2.194</b>
<b>SCHOOL BALANCES</b>	3.640	0.000	0.000	<b>3.640</b>
<b>PROVISIONS</b>	5.194	0.000	0.000	<b>5.194</b>
	<b>28.808</b>	<b>(1.780)</b>	<b>(11.563)</b>	<b>15.465</b>
<i>*Forecast closing balance on General Fund equivalent to 2.6% of net revenue budget if £11.563m forecast overspend occurs</i>				

*\*Reserves are defined in Appendix 1 Reserves Policy 2023/24 of the Medium Term Financial Plan (MTFP) Refresh 2024/25 report to this Executive*

It should be noted that the closing balance on reserves have been amended from that reported in the Revenue and Capital Budget Year End Outturn 2022/23 Report to Executive on 20 June 2023 due to adjustments required as part of the preparation of the Council's statutory accounts for 2022/23.

17. As illustrated in Table 2, given the scale of the forecast overspend at the end of Quarter One, the Council is at significant risk of exhausting its usable revenue reserves within the current 2023/24 financial year. In this scenario the Director of Finance as S151 Officer is required by statute to issue a s114 report to Council.
18. Any depletion of the level of usable revenue reserves from the balances on 31 March 2023 to fund operational expenditure within 2023/24 will undermine the Council's financial recovery and resilience.
19. Section 114(3) of the Local Government Finance Act 1988 (the 1988 Act) requires that the chief finance officer of a relevant authority shall make a report under this section if it appears to them that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. In accordance with Section 114(3)(A), the chief finance officer shall consult with the chief executive and the monitoring officer prior to making the report. Under section 115 of the 1988 Act the Council will be required to consider the report within a period of 21 days and agree actions that will be taken in response to the report. The S151 Officer is maintaining ongoing dialogue with the Chief Executive and Monitoring Officer in relation to the Council's financial position and agreement of actions being taken.
20. It should be noted that since the financial failure of Northamptonshire CC which was the first authority be the subject of a s114 notice in over 20 years, the Department for

Levelling Up Housing and Communities (DLUHC) now provide an option for local authorities in financial difficulty that is considered to be unmanageable to apply for Exceptional Financial Support. In practice, this presents an intermediate step to avoid a s114 scenario and will be considered further if required. This action would inevitably result in an escalation of intervention by DLUHC in the Council's management and administration. Further, the consequences of issuing a s114 notice are very serious and significant and would result in the cessation of all but the minimum level of expenditure to meet the statutory minimum level of service and Council liabilities and the need to develop and deliver a Council-wide financial recovery plan.

21. It is therefore in the best interests of the Council for all Officers and Elected Members to work closely and collaboratively together immediately and at pace in order to control over expenditure within the approved budget in order to avoid the need for Exceptional Financial Support from DLUHC and prevent a s114 scenario. A number of all Elected Member briefings are planned to be held to facilitate this.
22. Further, it is essential that transformational plans are developed to enable the delivery of the Council Plan priorities that are affordable and financially sustainable over the medium term. The replenishment of revenue reserves over the period of the MTFP will be essential in order to rebuild and strengthen the Council's financial resilience. The update on the financial challenge presented by the 2024/25 budget and MTFP to 2026/27 is the subject of a separate report on this Executive agenda.

#### *Contingency*

23. A contingency budget of £1.3m per annum is included in the 2023/24 base budget approved by Council on 27 February 2023 to provide for future uncertainty mainly regarding the economic climate, inflation and potential additional demand / spending pressures. Executive on 18 July 2023 approved the use of £0.492m of this budget for work streams within the Corporate Governance Improvement Plan as follows:
  - the requirement of additional resources across corporate support services to support delivery of the Financial Recovery and Resilience programme
  - initial funding to commence elements of work within the Cultural Transformation programme

Further use of the contingency will be controlled under the delegated powers of the Director of Finance and included in future budget monitoring reports.

#### ***Budget savings delivery***

24. The approved revenue budget includes savings totalling £9.383m in 2023/24 and a further £2.987m in 2024/25. The savings tracker included in Table 3 summarises performance in 2023/24 and the impact upon delivery for 2024/25, categorising the current expected achievability of the savings. Table 4 shows performance for each Directorate against the 2023/24 savings. Savings delivery plans are monitored via the Savings Programme Board.
25. The forecast overspend shown in Table 1 includes £2.577m (28%) of savings categorised as 'Red' and 'Amber' within the savings tracker. Those categorised as 'Green' £2.374m (25%) and considered to be on track are being further tested and

challenged to gain further assurance. £4.432m (47%) have been delivered and classed as 'Blue'.

26. Directors have been tasked with developing mitigation plans for those savings which are categorised as "Red" and also to ensure full achievement of savings categorised as "Amber" and "Green". Any changes in delivery or alternative savings proposals will require approval by Executive and will be reported in future budget monitoring reports.

**Table 3 – Savings Programme Assurance Summary**

		2023/24	2024/25	Overall
RAG	RAG Description	£m	£m	£m
<b>Blue</b>	Saving Realised (delivered)	4.432	0	4.432
<b>Green</b>	Saving forecast to be realised as originally planned, or to be realised through alternative actions.	2.374	1.164	3.538
<b>Amber</b>	Medium risk to savings delivery, with mitigating actions being considered/worked on.	0.933	0.527	1.460
<b>Red</b>	High risk to savings delivery with limited scope of mitigation.	1.644	1.296	2.940
	<b>Total Savings</b>	<b>9.383</b>	<b>2.987</b>	<b>12.370</b>

**Table 4 – Savings Programme Assurance for 2023/24 by Directorate**

Directorate	23/24 RED (£m)	23/24 AMBER (£m)	23/24 GREEN (£m)	23/24 BLUE (£m)	TOTAL (£m)
Regeneration	0.100	0.000	0.200	0.296	<b>0.596</b>
Environment and Community Services	0.799	0.000	0.462	0.782	<b>2.043</b>
Legal and Governance	0.100	0.020	0.000	0.121	<b>0.241</b>
Adult Social Care	0.000	0.000	0.416	0.086	<b>0.502</b>
Public Health	0.000	0.000	0.000	0.296	<b>0.296</b>
Education and Partnerships	0.000	0.000	0.000	0.313	<b>0.313</b>
Children's Care	0.000	0.000	0.056	0.698	<b>0.754</b>
Central	0.000	0.000	0.000	0.543	<b>0.543</b>
Finance	0.000	0.000	0.000	0.130	<b>0.130</b>
Fees and Charges	0.000	0.111	1.000	0.000	<b>1.111</b>
Children's Services Financial Improvement Plan	0.645	0.802	0.240	1.167	<b>2.854</b>
<b>TOTAL</b>	<b>1.644</b>	<b>0.933</b>	<b>2.374</b>	<b>4.432</b>	<b>9.383</b>
<b>Overall Percentages</b>	<b>18%</b>	<b>10%</b>	<b>25%</b>	<b>47%</b>	

## ***Key Issues and Variances***

27. This section summarises the key issues and variances within Revenue position. More detail is included for each Directorate in Appendix 1. There is a significant forecast overspend before Financial Recovery Plans of £11.563m, with £10.312m of the forecast overspend relating to Service Directorate budgets and £1.251m relating to Corporate Central Budgets.

- The Council continues to operate in a challenging financial and economic environment with inflation as measured by Consumer Price Inflation (CPI) currently running at 7.9%. Inflation is forecast to remain stubbornly high above the Bank of England 2% target throughout 2023/24 and potentially into 2024/25. There is also uncertainty around the pay award for Local Government Services employees.
- **Adult Social Care** – the forecast overspend is mainly due to an overspend of £3.051m relating to unbudgeted expected increased costs due to increased demographic demand pressures and higher care fees to providers to offset their rising costs and capacity constraints due to labour shortages. The service is also experiencing challenges in recruitment and retention of staff of which pay is a driving factor.
- **Children’s Social Care** expenditure levels remain the single biggest area of financial risk for the Council and could rise further without more robust control being exercised. The approved 2023/24 base budget of £54.649m recognised the ongoing financial pressures in the service and represents an increase of approximately £17m from that originally set for 2022/23.

The Service has an approved Finance Improvement Plan requiring the delivery of savings totalling £2.9m in 2023/24 and a further £1.8m in 2024/25. Children’s Social Care is currently forecasting an overspend of £3.649m against the approved budget of £54.649m. There is a forecast overspend of £3.814m relating to increased numbers of children in external residential placements and extremely high costs for some placements where there is a lack of availability in the market for suitable placements. This is a national issue affecting many local authorities across the country. Also, there are £1.447m of savings from the Children’s Services Financial Improvement Plan currently rated “Red” and “Amber” (as shown in Table 4). These forecast overspends are partly offset by forecast underspends on other budgets within the Directorate.

- **Education and Partnerships** is forecasting an overspend of £1.519m, of which £1.417m relates to an overspend on the Integrated Transport Unit (ITU) budget due to an increased number of children eligible for home to school transport, including children with Special Education Needs (SEN), in order to access education provision. Also there has been an increase in the costs per child of transportation. It should be noted that the budget was increased by £0.684m at 2023/24 budget setting, and this overspend is in addition to the increased budget for 2023/24.
- **Environment & Communities** is forecasting an overspend of £1.139m, with £0.664m of this forecast overspend relating to increased contractual costs per tonne which have risen above the budgeted inflationary increases and increased demand for Waste Disposal. It should also be noted that there will be further

increased costs from 2025/26 due to the extension of the current contract for a further year until the new Waste Recycling Site is complete, which is currently expected in 2026/27.

- **Homelessness** - There is a forecast overspend of £0.329m within Adult Social Care relating to the increased use of hotels and bed and breakfast accommodation to provide temporary accommodation due to an insufficient level of more suitable available temporary accommodation, which has been partly offset by utilising uncommitted homeless grant. Also within the Finance budget there is a forecast overspend of £0.277m due to the fact that the level of the Local Housing Allowance is limited and therefore the Housing Benefit Subsidy received by the Council does not cover the inflated costs of temporary accommodation currently being used to house homelessness households. This is an emerging national issue affecting many local authorities across the country. A cross cutting review across all service areas involved in providing homelessness support is underway to understand current activities and future needs and to identify more cost effective solutions to meeting the needs of homeless households.
- **Finance** – currently holds the budget for the corporate costs of external audit fees applicable to the whole Council. There is a forecast overspend of £0.2m relating to higher than budgeted external audit fees arising from the additional work undertaken by the External Auditor in relation to the audit of the statutory accounts and in addressing governance issues associated with the Council’s Best Value and governance failures. It is proposed that the budget for external audit fees is more appropriately held and managed in Central Budgets alongside other corporate costs and a proposed virement to effect this transfer is included in Appendix 4.
- **Central budgets** include an overspend of £1.451m relating to the forecast excess of the expected national pay award over budget provision made for this. The pay award is not yet agreed, and this remains subject to ongoing national pay negotiations. It is proposed that this pressure is allocated to be managed by individual Directorates on the basis of the number and grading of staff employed and will be met by the vacancy control process outlined in paragraph 28.

### ***Intervention Action to recover the current forecast financial position***

28. The Director of Finance has taken the following actions in which the Leadership Management Team are fully supportive and engaged in delivering:

- Implementation of spending restrictions with effect from 1 July 2023 until further notice, including restrictions on filling permanent vacancies, the use of interim and agency staff, the purchase of goods, works and services, and Chief Officers within LMT restricting the number of officers able to authorise expenditure within their Directorates.
- Chief Officers within LMT are required to develop and deliver robust Financial Recovery Plans, in consultation with their relevant Executive Member, to contain expenditure within their approved directorate budgets. These plans will be reported to the Executive for noting or approval as appropriate over coming weeks and months.



- The development of transformational initiatives for future service delivery from a lower cost base are to be progressed over the summer as part of the 2024/25 budget setting process.

29. Preliminary discussions with DLUHC officials have taken place to advise of the emerging financial challenge and the possibility of the need for the Council to request Exceptional Financial Support before the end of the current financial year in order to avoid the exhaustion of usable revenue reserves or if it should not be possible to set a balanced budget for 2024/25.

30. The External Auditor has been briefed in relation to the emerging financial position and the management actions being taken to stabilise the Council's financial position.

### ***Potential Risks***

31. As detailed in paragraphs 15 to 22 and Table 2 the current forecast overspend if not mitigated, will impact adversely on the already critically low level of usable reserves and undermine the Council's financial resilience. This will potentially lead to the Director of Finance needing to seek Exceptional Financial Support from DLUHC and potentially be required to issue a s114 report to the Council.

32. Due to the significant value of the forecast overspend, there is a risk that financial pressures will roll into 2024/25. However, the current assumption is that overspends will be controlled within the year on a recurrent basis. However, the extent to which financial pressures are not contained or are mitigated on a non-recurrent basis, then this will result in revision of the assumptions in the development of the 2024/25 budget and MTFP, increasing the budget gap and need for further savings to be identified. The MTFP update report is contained elsewhere on this Executive agenda.

33. All budget savings categorised as 'Red' and 'Amber' continue to be reviewed as part of the budget process to determine whether they are delayed or undeliverable. Where possible, ways of enabling and accelerating their delivery will be implemented. If they are deemed to be undeliverable, alternative options will need to be developed by the relevant Chief Officer for consideration and approval by the Executive.

34. All budget savings currently categorised as 'Green' are forecast to be delivered by the year-end and are being tested to gain further assurance of delivery. It is expected that services will continue to work towards delivering these savings on time.

35. Economic conditions remain challenging, with the Cost of Living crisis having an impact across the economy including on residents, businesses and the Council directly. Continuing levels of high inflation is a significant part of that and there is uncertainty about when and how quickly this will reduce. For the Council in addition to the obvious higher costs caused by this, there are also risks around income collection.

36. Due diligence is being undertaken to ensure that the Council is compliant with accounting standards and grant funding conditions across a number of service areas to provide assurance of the General Fund budget position. The resolution of any identified non-compliance may increase financial pressure upon the General Fund position.

## ***Key Future Years Issues***

37. The Council's financial challenges will undoubtedly continue into 2024/25 and over the term of the MTFP. It will be essential for the Council to take difficult decisions relating to service priorities and to develop transformational plans to deliver its priority outcomes that are affordable and financially sustainable whilst replenishing its revenue reserves to increase financial resilience. The MTFP update report addressing this challenge is contained elsewhere on this Executive agenda.

### **Collection Fund - Council Tax and Business Rates income**

38. Income received from Council Tax and Business Rates (NNDR) is a major source of income for the Council. It is accounted for within the Collection Fund and operates under the Government regulations. Due to the prescribed mechanisms for operating the Collection Fund, the financial impact of any 2023/24 income collection variances do not immediately affect the General Fund position. By illustration, the impact of the estimated surplus or deficit on the Collection Fund for 2023/24 is fed into the development of the 2024/25 budget and MTFP.
39. The 2023/24 MTFP presented to Council in February 2023 included the estimated effect of Council Tax and Business Rates income. In the context of the current economic climate and the Cost of Living Crisis, there is an ongoing risk to the levels of collection of these taxes which may result adversely upon collection rates. The forecast in-year collection rate for 2023/24 is 91% for Council Tax and 96.8% for Business Rates, however the above factors may affect these forecasts. This position will be kept under review and the MTFP will be updated as appropriate.
40. There is currently a growing uptake by residents of the Council Tax Reduction Scheme due to the cost of living crisis as a consequence of the current adverse economic climate. At the end of 2022/23 there were 18,130 claimants, however it is estimated at Quarter One 2023/24 there are 18,272 claimants. It is likely that this will increase further in future years resulting in increased costs to the General Fund over time. This will be closely monitored and the MTFP will be updated as appropriate.
41. The budgeted Council Tax base includes assumptions on housing growth. If there is a variance in growth in housing numbers compared to the levels budgeted, this will impact upon Council Tax income due.
42. The Government provided support for businesses through increased business rates reliefs and grants in 2020/21, 2021/22 and for the start of 2022/23. Following the reduction in the level of this support, there is a risk that Business Rates income collection reduces in the future if businesses fail or are unable to pay the resultant increased amounts due. This area is to be reviewed in detail to inform future budget forecasting and the development of the 2024/25 budget and MTFP.
43. The level of outstanding Council Tax and Business Rates debt is expected to rise, and the Council will need to review the collectability of this debt and the adequacy of the bad debt provision over the period of the MTFP.
44. The position relating to Council Tax and Business Rates income for future years and the effects on the Collection Fund will be closely monitored, and updates will be provided in future budget monitoring reports and MTFP updates.

## **Dedicated Schools Grant (DSG)**

45. The Council received £182.451m (before deductions and recoupment) of Dedicated Schools Grant (DSG) for 2023/24. The funding comprises of a number of blocks - Schools Block, Central School Services Block, High Needs Block, and Early Years Block. A large proportion of the Schools Block is passported directly to academies (known as recoupment). Currently after deductions and recoupment the Council will receive DSG of £63.502m in 2023/24. The forecast expenditure is £65.282m, an overspend of £1.780m within 2023/24.

**Table 5 - Dedicated Schools Grant (DSG) after recoupment and deductions**

	<b>2023/24 Income</b>	<b>2023/24 Expenditure</b>	<b>2023/24 FORECAST IN YEAR MOVEMENT</b>	<b>BALANCE AS AT 31/03/2023</b>	<b>FORECAST BALANCE AS AT 31/03/2024</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Early years	12.121	12.121	0.000	(0.254)	(0.254)
Schools Block	20.330	20.330	0.000	(0.182)	(0.182)
High Needs	30.008	31.788	1.780	7.021	8.801
Central school services block	1.043	1.043	0.000	(0.021)	(0.021)
<b>TOTAL</b>	<b>63.502</b>	<b>65.282</b>	<b>1.780</b>	<b>6.564</b>	<b>8.344</b>

46. There was a £6.564m total cumulative deficit on the DSG grant at the end of 2022/23, which included £7.021m attributed to the High Needs Block. The DSG deficit is predicted to increase during 2023/24 and it is currently forecast that there will be a total DSG deficit of £8.344m at 31 March 2024, including £8.801m relating to the High Needs Block.

47. The Dedicated Schools Grant (DSG) is subject to a statutory override by central Government which instructs Councils to account for the DSG negative balance in a separate reserve and not to fund it by using its General Fund resources. This was planned to end on 31 March 2023, however Government has extended the arrangement to at least 31 March 2026. This was considered to be a major risk to the Council as it could have meant that the Council would have had to fund this deficit (current balance is £8.344m) from the General Fund which represented significant financial risk. Whilst this remains a risk in the medium term, payment from the General Fund does not currently form part of the planning within the MTFP. The position that Government takes will be closely followed and updates will be provided as appropriate.

48. The DSG conditions of grant require that any local authority with an overall deficit on its DSG account at the end of financial year 2021/22, or who's DSG surplus has substantially reduced, present a plan to the DfE for managing its DSG spend in 2022/23 and future years and commit to reducing the deficit. There is also a requirement to provide information as and when requested by the DfE about pressures and potential savings on its high needs budget.

49. The Council complete regular DSG management recovery plans to outline forecasts over the next 5 years. The Council is also working with the DfE and has received a

Stage 1 grant of £45,000 and a Stage 2 grant bid for £1m has recently been submitted for the “Delivering Better Value” (DBV) programme that is supporting work to bring this deficit down in future years using best practice and benchmarking across the country. DBV is a long-term programme and 55 other local authorities as well as Middlesbrough Council are participating in the DBV programme. It should be noted that Middlesbrough Council is not involved in the “Safety Valve” programme, which is support for those local authorities with the greatest DSG deficits.

50. DfE also expect that schools be regularly updated via the Schools Management Forum about the authority’s DSG account and plans for handling it, including high needs pressures and potential savings.
51. The increasing pressure in DSG and in particular the High Needs Block is due to the fact that alongside social care, the Service is predicting an increase in more complex placements with a forecast increase in Education, Health, and Care plans (EHCPs) in the future. In Middlesbrough, the number of EHCPs have increased from 1,659 in 2022 to a predicted level of 2,115 in 2023, a 28% increase, and this is predicted to increase further in the future. This is a national issue affecting a large number of local authorities. The Government have partly recognised this by an increase in funding allocated in the finance settlements for 2022/23 and 2023/24 for both Schools and High Needs Blocks.

#### **Capital Programme Forecast Year-End Outturn 2023/24 as at Quarter One**

52. The Council approved a capital programme for 2023/24 of £71.211m (the original 2023/24 capital budget). This was then amended in the Revenue and Capital Budget – Year End Outturn Position 2022/23 report of 20 June 2023, and Executive approved a revised capital budget for 2023/24 of £80.474m.
53. Following a further review and the inclusion of increases to existing schemes, new additional schemes, removal of schemes, and reductions to existing schemes (shown in Table 7 and paragraphs 57 to 60) it is currently forecast at Quarter One that the Council will spend £63.004m at year-end. This is 78% of the Executive approved revised budget of £80.474m.
54. The analysis by Directorate is summarised in Table 6 below.

**Table 6 – Summary of Capital Programme Financial Performance 2023/24 as at Quarter One**

Directorate	2023/24 Original Capital Programme Budget (as per February budget report)	2023/24 Capital Programme Budget (as per 22/23 outturn)	2023/24 Capital Programme Forecast Outturn at Q1	2023/24 Capital Programme Forecast Outturn Variance at Q1	2023/24 Capital Programme Spend As At End July 2023
	£m	£m	£m	£m	£m
Regeneration	32.215	39.340	23.374	(15.966)	4.285
Environment and Community Services	25.495	25.965	22.447	(3.518)	4.278
Public Health	0.000	0.031	0.165	0.134	0.007
Education & Partnerships	6.760	7.852	6.938	(0.914)	-
Children's Care	2.085	2.141	2.107	(0.034)	0.012
Adult Social Care	1.707	1.447	3.682	2.235	0.605
Legal and Governance Services	2.402	3.120	3.713	0.593	1.758
Finance	0.547	0.578	0.578	-	0.063
<b>Total</b>	<b>71.211</b>	<b>80.474</b>	<b>63.004</b>	<b>(17.470)</b>	<b>11.008</b>

55. Table 7 shows a breakdown of the reasons for the forecast underspend of £17.470m in the capital programme for 2023/24 as at Quarter One. Further details of movements are included in the following paragraphs. These reflect the best profiled financial forecast for the relevant projects and are all subject to agreement as part of this report.

**Table 7 - Summary Breakdown of movement in capital expenditure 2023/24**

	<b><u>23/24</u></b> <b><u>£m</u></b>
Executive approved budget 20 June 23 (as per 2022/23 year end outturn report)	<b>80.474</b>
Slippage	(19.839)
Additions to existing schemes	2.285
New schemes	0.134
Reductions to existing schemes	(0.050)
<b>Capital budget forecast outturn at Q1 (revised budget for 2023/24)</b>	<b>63.004</b>

56. Capital slippage is a way of reprofiling capital budgets between financial years to match forecast timing of expenditure, whilst staying within the approved project budget. Details of capital slippage forecast for 2023/24 are shown in Appendix 5.

57. The following addition over £150,000 to a scheme within the current Capital Programme has been added to the revised Capital Programme, set out at Appendix 6 for consideration and approval.

- Adult Social Care – £2.268m Disabled Facilities Grant due to the annual award of grant

58. There are no new schemes over £150,000 that have been added to the Capital Programme

59. There are no schemes over £150,000 that have been removed from the Capital Programme

60. There are no schemes within the Capital Programme that have been reduced by more than £150,000.

61. Capital Programme spend to the end of July 2023 is low at £11.008m compared to the forecast outturn for 2023/24 of £63.004m (17%), as such there is a risk that spend will be lower than forecast. Whilst this will have a beneficial impact on revenue through higher investment balances and reduce the need to borrow it indicates that delivery is behind schedule and late delivery may pose risks for next financial year.

62. A comprehensive review of the Capital Programme and its funding sources will be undertaken and reported for Quarter Two including the potential for reduction and reprioritisation of schemes financed by Council resources where this will improve the General Fund revenue position of the Council.

63. The revised Capital Programme covering the period 2023/24 to 2025/26 is summarised in Table 8 below and detailed in Appendix 6 for consideration and approval by Executive.

**Table 8 - Summary of Capital Programme 2023/24 to 2025/26**

Directorate	2022/23 Actual £m	2023/24 Forecast £m	2024/25 Forecast £m	2025/26 Forecast £m	TOTAL £m
Regeneration	36.371	23.374	55.136	3.509	118.390
Environment and Community Services	11.006	22.447	20.219	15.073	68.745
Public Health	0.219	0.165	0.007	0.000	0.391
Education & Partnerships	4.050	6.938	11.251	0.746	22.985
Children's Care	1.100	2.107	2.500	0.000	5.707
Adult Social Care	2.884	3.682	0.710	0.660	7.936
Legal and Governance Services	3.223	3.713	1.592	2.185	10.713
Finance	0.109	0.578	6.478	0.500	7.665
<b>Total EXPENDITURE</b>	<b>58.962</b>	<b>63.004</b>	<b>97.893</b>	<b>22.673</b>	<b>242.532</b>
<b>Funded by</b>					
Borrowing	24.597	22.976	39.381	9.609	96.563
Finance Leases	0.000	0.000	4.500	0.000	4.500
Capital Receipts	0.755	6.279	1.939	5.347	14.320
Grants	30.653	32.034	46.784	7.617	117.088
Contributions	2.957	1.557	5.284	0.100	9.898
Revenue Resources	0.000	0.158	0.005	0.000	0.163
<b>Total FUNDING</b>	<b>58.962</b>	<b>63.004</b>	<b>97.893</b>	<b>22.673</b>	<b>242.532</b>

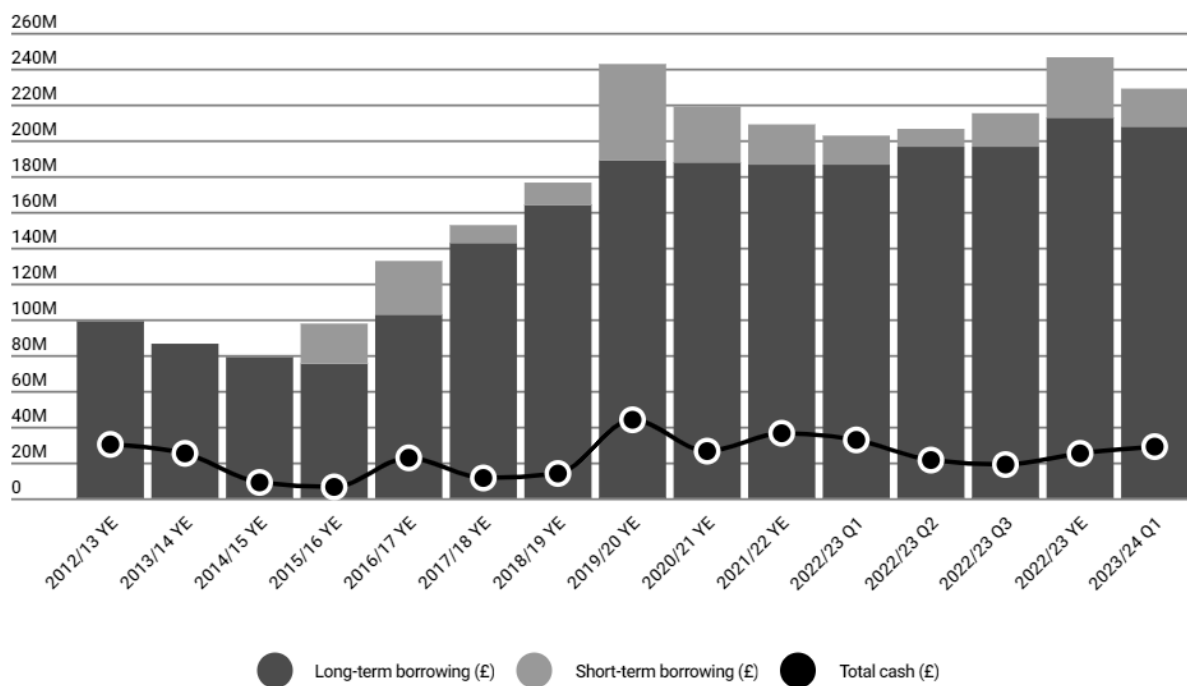
## **Treasury Management - Borrowing & Prudential Indicators**

64. The Council's investment and borrowing activity is managed in accordance with the Treasury Management Strategy (TMS) which is a key element of the MTFP alongside the annual revenue budget and capital programme which are approved by Council annually in before the start of the financial year.
65. Treasury Management activity is governed by the Prudential Indicators which are set within the TMS. The Council uses external expert Treasury Management Advisers to inform the development of its strategy and operational in year decisions. The budgeted and the actual position as at Quarter One 2023/24 are summarised in table 9.
66. Investment and borrowing decisions are taken to manage the short, medium and long term cash needs of the Council and are driven primarily by:
- the extent to which the Council finances its capital expenditure by borrowing which is measured by the Capital Financing Requirement (CFR)
  - The timing differences between operational income and expenditure flows
  - The level of cash backed reserves held by the Council; and informed by short to long term interest rate forecasts.

**Table 9 – Prudential Indicators – Quarter One 2023/24**

	<b><u>Original Approved Budget (Feb. 23)</u></b>	<b><u>Q1 position</u></b>	<b><u>Variance</u></b>	<b><u>Variance as a % of budget</u></b>
	<b><u>(£m)</u></b>	<b><u>(£m)</u></b>	<b><u>(£m)</u></b>	<b><u>%</u></b>
Capital Expenditure	71.211	63.004	(8.207)	(11.5)
<b><u>Financing</u></b>				
External Sources	37.269	33.591	(3.678)	(9.9)
Capital Receipts	9.532	6.279	(3.253)	(34.1)
Revenue Resources	0.000	0.158	0.158	100.0
Debt	24.410	22.976	(1.434)	(5.9)
	<b>71.211</b>	<b>63.004</b>	<b>(8.207)</b>	
Capital Financing Requirement	297.562	296.128	(1.434)	(0.5)
External Debt	263.359	229.053	(34.306)	(13.0)
Investments	15.000	24.950	9.950	66.3
Revenue costs of Capital Financing	9.204	9.004	(0.200)	(2.2)
Revenue Budget	126.354	126.354	n/a	n/a
Cost as a % of revenue budget	7.3%	7.1%		

67. The Council's forecast Capital Expenditure outturn at Quarter One is £63.001m compared to an original approved budget of £71.211m, an underspend of £8.207m (11.5%). This results in a slightly lower level of debt funding and CFR than was anticipated at budget setting.
68. During the first quarter, external borrowing reduced from £245.899m at 31 March 2023, to £229.053m at 30 June 2023. This decrease of £16.846m reflects the repayment of short term borrowing of £11.811m, and repayment of principal amounts on existing annuity loans held by the Council of £5.025m.
69. Cash balances are at the same level (around £25m) at the end of Quarter One as they were on 1 April 2023. This does though hide a significant amount of daily volatility with amounts varying between £15m - £35m, depending on the timing of actual payment runs and income received. No new external borrowing has been needed. The stability of cash balances over the period represents an offset between income being received in advance for use later in the financial year, as against short and longer term debt repayments being required.
70. The ratio of short-term to long-term borrowing has decreased during the quarter given the additional amount of short term borrowing that has been repaid. Long term Public Works Loan Board (PWLB) rates continue to remain high at present due to the increasing bank rate position. The Council's total under borrowed position (external debt compared to the capital-financing requirement – or underlying need to borrow) is £67.075m at 30 June 2023, or 22.5%. The overall strategy for borrowing in the current inflationary climate is complex and is regularly discussed with the Council's appointed external treasury management advisers. The over-riding objective continues to be to demonstrate value for money from any borrowing decisions taken. The majority of external borrowing will be taken later this financial year.





71. The affordability and sustainability of the Investment Strategy and its total level of external borrowing and capital financing costs is self-regulated by the Council through a set of prudential indicators. These thresholds are approved by Council as part of the annual budget process in February each year. CIPFA and Government view this approach as best practice in ensuring resources are allocated prudently to capital schemes.

72. The amount of external debt at £229.053m and the total underlying need to borrow of £296.128m are both well below the Council's authorised debt limit of £328.000m for the year. This is the threshold above which any borrowing would be illegal. The cost of capital financing to the Council is slightly lower by £0.200m than set at budget of £9.204m due to increased income on cash balances and this will be factored into the budget monitoring forecast. The total annual cost of capital financing being £9.004m (7.1% of the approved revenue budget).

### **What decision(s) are being recommended?**

In respect of the General Fund Revenue Budget, the Executive is requested to:

- Note the forecast 2023/24 net revenue budget outturn as at Quarter One of £137.917m against an approved budget of £126.354m, a forecast overspend of £11.563m (9.2%).
- Note that the Council's usable revenue reserves position is critically low at £14.8m comprising the General Fund Reserve of £12.041m and the Council's unrestricted usable earmarked reserves of £2.788m at 31 March 2023.
- Note that if the current forecast overspend of £11.563m is actually incurred, it will exhaust the Council's unrestricted usable earmarked reserves and also significantly draw upon the Council's General Fund Reserve as shown in Table 2. Therefore urgent management action is required to reduce expenditure and the forecast outturn within budget.
- Note that if it appears to the Director of Finance S151 Officer that total expenditure cannot be managed within the approved budget of £126.354m by 31 March 2024, there is a statutory requirement for the Director of Finance to issue a s114 Notice to the Council under the provisions of the Local Government Finance Act 1988. In practice, prior to this occurring, the Director of Finance would seek Exceptional Financial Support from DLUHC in order to meet unmanageable financial pressures in the short term whilst the Council's financial position is recovered.
- Note the implications of an application for Exceptional Financial Support and the issuing of a s114 notice (paragraphs 17 to 22) upon the Council.
- Note the management actions that have already been implemented from the start of the 2023/24 financial year in order to exercise enhanced budget management and control (paragraph 10), and the further actions outlined in paragraph 28 which have been implemented by the Director of Finance and the Leadership and Management Team (LMT) in response to the emerging overspend position that was identified during June in relation to accounting period 2 (month end 31 May).

- Note that rigorous spending restrictions have been implemented with effect from 1 July 2023 and will remain in effect until further notice.
- Note that Chief Officers within LMT are working in consultation with their relevant Executive Member to develop and deliver robust Financial Recovery Plans (paragraph 28) in order to contain expenditure within the Council approved budget.
- Note and support the actions taken by the Director of Finance and the Wider LMT including the initial Financial Recovery Plans totalling £2.557m that have been identified and quantified to date (as shown in Table 1 and Appendix 2).
- Note that further work is continuing with a view to fully mitigate the forecast overspend and that further reports will be submitted to the Executive for noting and approval of management actions as appropriate.
- **Approve** the proposed revenue budget virements over £150,000 as detailed in Appendix 4.

In respect of the Capital Programme and Treasury Management , the Executive is requested to:

- Note the 2023/24 Capital Programme forecast outturn of £63.004m at Quarter One against a revised capital Programme Budget of £80.474m, an underspend of £17.470m (22%).
- **Approve** the revised Capital Programme to 2025/26 summarised at table 8 and detailed at Appendix 6, including £183.570m for financial years 2023/24 to 2025/26. Note that £19.839m of funds that were assumed to be spent in 2023/24 have now been slipped to 2024/25 and later years (Appendix 5).
- Note that a full review of the Capital Programme will be undertaken and reported at Quarter Two with a view to ensuring realistic profiling of expenditure and alignment of funding. This will incorporate a challenge to reduce and reprioritise the utilisation of Council resources to mitigate or reduce any revenue budget impact within the context of controlling the Council's revenue financial position.
- Note the Treasury Management forecast outturn position with respect to the Council's prudential indicators as set out in paragraphs 64 to 72.

In respect of the Dedicated Schools Grant (DSG), the Executive is requested to:

- Note the current forecast in-year deficit of £1.780m for 2023/24 relating to the High Needs Block.
- Note the forecast total cumulative deficit of £8.344m at 31 March 2024, including £8.801m relating to the High Needs Block, as set out in Table 5 and paragraphs 45 to 51.

- Note that under existing government regulations this deficit cannot be funded from the General Fund, and the Council is required to deliver a recovery plan to the Department for Education (DfE).
- Note that the Council is part of the DfE Delivering Better Value (DBV) scheme which aims to support financial recovery of the DSG position.

### **Rationale for the recommended decision(s)**

73. To enable the effective management of finances, in line with the Council's Local Code of Corporate Governance, the Scheme of Delegation and agreed corporate financial regulations.

### **Other potential decision(s) and why these have not been recommended**

74. Not applicable.

### **Impact(s) of the recommended decision(s)**

#### ***Legal***

75. The proposed recommendations are consistent with and will promote the achievement of the Council's general legal duty to achieve Best Value in accordance with Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007).

#### ***Strategic priorities and risks***

76. The revenue and capital budgets form part of the Council's Policy Framework. All proposed variations set out in this report are in line with authority delegated to the Executive.

77. Any impact on the Council's Strategic Plan will be reported as part of the Corporate Performance Update: Quarter One 2023/24 report to this Executive.

78. In line with the Council's Risk Management Policy, the corporate Strategic Risk Register will be reported to this Executive as part of the Corporate Performance Update: Quarter One 2023/24 report.

#### ***Human Rights, Equality and Data Protection***

79. The overall impact assessment within the budget report to Council on 27 February 2023 found that the impact of the budget savings proposals on the protected characteristics of race could not be fully mitigated. It also identified an adverse impact on community cohesion, in line with the individual impact assessments. The complete overall impact assessment included in Appendix 4 of that report however found that there was a justified adverse impact from these proposals in order to ensure the Council is able to maintain a balanced budget and continue to meet its statutory obligations.

## Financial

80. This report sets out the financial implications associated with the financial performance of the Council in managing its revenue and capital resources for the financial year 2023/24 and the financial implications are incorporated throughout.

### Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Corporate revenue budget spending controls set out in the main body of the report will continue to be applied to Directorates as stated.	Director of Finance / Directors	31/3/24
Current Financial Recovery Plans to be finalised and implemented, and further Financial Recovery Plans to be identified by Directors for 2023/24, in consultation with relevant Executive Members.	Directors	31/8/23 and ongoing
Revenue budget virements detailed in Appendix 4 to be actioned, subject to approval	Head of Financial Planning & Support	31/8/23
Adoption of the revised Capital Programme included at Appendix 6, subject to approval.	Head of Financial Planning & Support	31/8/23

### Appendices

1	Detailed Directorate Revenue Budget Forecast Outturn 2023/24 as at Quarter One
2	Directorate Financial Recovery Plans
3	Detail of forecast reserves and provisions at year end as at Quarter One 2023/24
4	Proposed revenue budget virements above £150,000 at Quarter One 2023/24
5	Capital Programme Quarter One 2023/24– details of capital slippage
6	Proposed revised Capital Programme to 2025/26

### Background papers

Body	Report title	Date
Executive	Children's Service Financial Improvement Plan	14/2/23
Council	Budget 2023/24 - S25 Report of the Chief Finance Officer	27/2/23
Council	Revenue Budget, Council Tax, Medium Term Financial Plan and Capital Strategy 2023/24	27/2/23
Executive	MTFP Update	23/8/23

**Contact:** Andrew Humble, Head of Financial Planning & Support  
(deputy S151 Officer)

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**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Adult Social Care Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv/(Fav)</b>		<b>Adv/(Fav)</b>	<b>Adv/(Fav)</b>	
Public Protection	0.652	0.652	0.568	(0.084)		(0.084)	(12.9)	1
Service Strategy	(13.121)	(14.995)	(14.169)	0.826		0.826	5.5	1
Prevention, Access & Provider Services	7.571	7.803	7.385	(0.418)		(0.418)	(5.4)	1,2
Specialist and Lifelong Learning	5.651	6.036	5.634	(0.402)		(0.402)	(6.7)	1
Purchased Care	49.055	50.312	53.363	3.051	(0.082)	2.969	5.9	3,4
<b>Total Directorate</b>	<b>49.808</b>	<b>49.808</b>	<b>52.781</b>	<b>2.973</b>	<b>(0.082)</b>	<b>2.891</b>	<b>5.8</b>	

**KEY ISSUES**

<b>Ref No.</b>	<b>Major variances and movements</b>	<b>Forecast Variance (£m)</b>	<b>Reason</b>
1	Staffing budget (across department)	(0.302)	Overall underspend on pay budgets across department due to vacancies, staff not at top of scale etc.
2	Homelessness Temporary accommodation	0.329	Increased use of hotels (at double cost) to provide temporary accommodation due to contracting issues, some mitigation utilising uncommitted homelessness grant (£0.098).
3	Purchased Care growth	0.922	Mainly residential care net growth in demand (£0.993m); Net increase of 20 placements since budget was set (142 new, 122 left/died)
4	Purchased Care growth	2.129	On-going full year effect of purchased care unbudgeted growth in demand between 2021-2023
	Other variances +/- £150,000	(0.105)	
		<b>2.973</b>	

**Key risks (not included in forecast):**

Additional purchased care growth during Quarters Two to Four has not been factored into the forecast outturn, mitigated by demand management measures identified in the Financial Recovery plan.

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Public Health Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv /(Fav)</b>		<b>Adv /(Fav)</b>	<b>Adv /(Fav)</b>	
Sexual Health	1.041	1.041	1.041	0.000		0.000	0.0	
Obesity	0.136	0.136	0.135	(0.001)		(0.001)	(0.7)	
Smoking & Tobacco	0.239	0.239	0.219	(0.020)		(0.020)	(8.4)	
Early Intervention	3.462	3.462	3.462	0.000		0.000	0.0	
Dental Public Health	0.015	0.015	0.015	0.000		0.000	0.0	
Health Improvement Services	0.147	0.147	0.154	0.007		0.007	4.8	
Mental Health	0.185	0.185	0.185	0.000		0.000	0.0	
Substance Misuse	2.818	2.818	2.672	(0.146)		(0.146)	(5.2)	1
Health Protection Outbreak control	0.006	0.006	0.006	0.000		0.000	0.0	
Misc. Public Health	(11.364)	(11.364)	(11.687)	(0.323)		(0.323)	(2.8)	2
Headstart	0.035	0.035	0.035	0.000		0.000	0.0	
Transfer surplus to PH reserve	0.000	0.000	0.483	0.483		0.483		3
<b>Total Directorate</b>	<b>(3.280)</b>	<b>(3.280)</b>	<b>(3.280)</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.0</b>	

**KEY ISSUES**

<u>Ref No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Cost of Prescription drugs and Dispensing service	(0.200)	Reduction in the cost of prescription drugs and the dispensing service
2	Staffing budget (across department)	(0.358)	Pay underspends across department
3	Public Health Reserve	0.483	In accordance with the Public Health grant conditions, any underspend to be transferred into the Public Health reserve at the year end
	Other variances +/- £150,000	0.075	
		<b>0.000</b>	

**Key risks (not included in forecast):**

None identified



**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Children's Care Summary</b>								
	Original Net Budget Full Year	Current Net Budget Full Year	Forecast Outturn	Forecast Variance	Financial Recovery Plan	Forecast Outturn Variance	Forecast Outturn Variance as a % of Current Net Budget Full Year	Issues Ref. No.
	£m	£m	£m	£m	£m	£m	%	
				Adv /(Fav)		Adv /(Fav)	Adv /(Fav)	
Assessments & Safeguarding Care Planning (SCP)	9.618	9.567	8.613	(0.954)	0.000	(0.954)	(10.0)	1
Children Looked after (CLA), Corporate Parenting (CP) and Children with Disabilities (CwD)	3.792	3.792	3.518	(0.274)	(0.030)	(0.304)	(8.0)	1
Fostering, Adoption and Connected Carers	16.824	16.824	17.010	0.185	(0.050)	0.135	0.8	2
External Residential	10.309	10.309	14.124	3.814	(0.410)	3.404	33.0	3
Internal Residential	3.793	3.793	4.691	0.899	(0.150)	0.749	19.7	4
Other Services	6.287	6.338	5.937	(0.401)	(0.075)	(0.476)	(7.5)	1
Management, Business Development & Admin	4.026	4.026	4.405	0.379	0.000	0.379	9.4	5
<b>Total Directorate</b>	<b>54.649</b>	<b>54.649</b>	<b>58.298</b>	<b>3.649</b>	<b>(0.715)</b>	<b>2.934</b>	<b>5.4</b>	

**KEY ISSUES**

<u>Ref. No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Vacant Posts	(1.629)	Posts held vacant across service - Assessments & Safeguarding due to reductions in Assessments and Children in Need numbers (£0.954m) / Corporate Parenting (£0.274m) & Other Services - resource teams (£0.401m)
2	Fostering & Adoption	0.185	Increases in external fostering placements rather than internal
3	External Residential	3.814	Increase in External Residential numbers and extremely high costs for some placements due to market sufficiency and reduction in Education contributions
4	Internal Residential	0.899	Forecast overspend mainly due to £0.7m savings target set in budget and agency staff required
5	Management	0.379	Agency staff in Management in Children's Care
		<u>3.649</u>	

**Key risks (not included in forecast):**

Further demand and cost increases.

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Education &amp; Partnerships Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv /(Fav)</b>		<b>Adv /(Fav)</b>	<b>Adv /(Fav)</b>	
Management Budgets	0.482	0.482	0.482	0.000		0.000	0.0	
Central & Schools DSG Funded Budget	(0.858)	(0.858)	(0.858)	0.000		0.000	0.0	
Achievement	0.098	0.098	0.098	0.000		0.000	0.0	
Special Education Needs (SEN) & Vulnerable Learners	0.896	0.896	0.960	0.064		0.064	7.2	1
Access to Education	0.112	0.112	0.109	(0.002)		(0.002)	(1.9)	
Integrated Transport Unit (ITU)	3.707	3.707	5.124	1.417	(0.128)	1.289	34.8	2
Partnerships	1.057	1.057	1.097	0.040		0.040	3.8	
<b>Total Directorate</b>	<b>5.494</b>	<b>5.494</b>	<b>7.013</b>	<b>1.519</b>	<b>(0.128)</b>	<b>1.391</b>	<b>25.3</b>	

**KEY ISSUES**

<u>Ref. No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Special Education Needs (SEN)	0.064	Education Psychology agency and demand requirements
2	Integrated Transport Unit	1.417	Contract costs increasing post COVID along with continued increased demand levels continues to impact on service area ability to remain within budget to deliver on statutory responsibilities.
	Other variances +/- £150,000	0.038	
		<u>1.519</u>	

**Key risks (not included in forecast):**

Further demand and cost increases in Integrated Transport Unit (ITU).

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Regeneration Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv / (Fav)</b>		<b>Adv / (Fav)</b>	<b>Adv / (Fav)</b>	
Economic Development	(0.007)	(0.007)	(0.058)	(0.051)	(0.100)	(0.151)	(2,157.1)	
Housing Regeneration	(1.102)	(1.102)	(1.102)	0.000		0.000	0.0	
Valuation & Estates	(4.848)	(4.848)	(5.166)	(0.318)		(0.318)	(6.6)	
Director of Regeneration	0.597	0.597	0.573	(0.024)		(0.024)	(4.0)	
Cultural Services	1.117	1.117	1.168	0.051		0.051	4.6	
Planning Services	0.275	0.275	0.395	0.120		0.120	43.6	
Highways & Transport	2.535	2.535	2.622	0.087	(0.092)	(0.005)	(0.2)	1
Community Learning	(0.554)	(0.554)	(0.427)	0.127		0.127	22.9	2
<b>Total Directorate</b>	<b>(1.987)</b>	<b>(1.987)</b>	<b>(1.995)</b>	<b>(0.008)</b>	<b>(0.192)</b>	<b>(0.200)</b>	<b>(10.1)</b>	

**KEY ISSUES**

<u>Ref No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Car parking income	0.087	Parking income budgets are forecast to underachieve by £0.092m. Any shortfall will be provided by the car parking reserve at year end.
2	Community Learning Service - Insufficient grant availability	0.127	The Community Learning service does not get supported by the MTFP so has to self fund inflation and pay awards. This is now unachievable as the grant that they receive has not increased in value.
	Other variances +/- £150,000	(0.222)	
		<u><b>(0.008)</b></u>	

**Key risks (not included in forecast):**

The Directorate has significant income budgets which are for rent of the shopping precincts, Centre Square buildings, Teesside Advanced Manufacturing Park and other commercial venues. Should tenancy business failure occur this will have a negative impact on income projections.

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Environment &amp; Community Services Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv / (Fav)</b>		<b>Adv / (Fav)</b>	<b>Adv / (Fav)</b>	
Strategic Asset Management	5.271	5.081	5.081	0.000		0.000	0.0	
Property & Commercial	(0.926)	(0.936)	(0.728)	0.208	(0.188)	0.020	2.1	1
Environment Services	13.226	13.426	13.974	0.548	(0.330)	0.218	1.6	2
EPCS General	0.251	0.251	0.201	(0.050)		(0.050)	(19.9)	3
Supporting Communities	2.406	2.406	2.839	0.433	(0.683)	(0.250)	(10.4)	4
<b>Total Directorate</b>	<b>20.228</b>	<b>20.228</b>	<b>21.367</b>	<b>1.139</b>	<b>(1.201)</b>	<b>(0.062)</b>	<b>(0.3)</b>	

**KEY ISSUES**

<u>Ref No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Bereavement Services	0.145	Increased costs associated with burials, and income below budget due to other local authority crematoriums in area
2	Waste Disposal	0.664	Increase in price per tonnage and demand
3	General	(0.258)	Additional grant received towards Highways Carriageway works
4	Warden Service	0.433	Pressure on Warden Service due to unachieved MTFP saving
	Other variances +/- £150,000	0.155	
		<b>1.139</b>	

**Key risks (not included in forecast):**

Further inflationary increases in food, fuel and energy.

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Legal &amp; Governance Services Summary</b>								
	<b>Original Net Budget Full Year</b>	<b>Current Net Budget Full Year</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>	<b>Financial Recovery Plan</b>	<b>Forecast Outturn Variance</b>	<b>Forecast Outturn Variance as a % of Current Net Budget Full Year</b>	<b>Issues Ref. No.</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>%</b>	
				<b>Adv /(Fav)</b>		<b>Adv /(Fav)</b>	<b>Adv /(Fav)</b>	
Legal Services	2.012	2.012	2.186	0.174		0.174	8.7	1
Democratic Services	2.013	2.013	2.089	0.076		0.076	3.8	
Human Resources	1.560	1.560	1.550	(0.010)		(0.010)	(0.6)	
Governance, Policy & Information	2.184	2.184	2.305	0.121	(0.129)	(0.008)	(0.4)	2
ICT	2.473	2.473	2.473	0.000		0.000	0.0	
Director of LGS	0.004	0.004	0.016	0.012		0.012	344.4	
<b>Total Directorate</b>	<b>10.245</b>	<b>10.245</b>	<b>10.619</b>	<b>0.374</b>	<b>(0.129)</b>	<b>0.245</b>	<b>2.4</b>	

**KEY ISSUES**

<u>Ref No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Legal Services	0.160	High cost children's court cases resulting in use of Kings Counsel
2	Governance, Policy & Information	0.166	Increased inflation costs from Xerox for printing and cost of Hybrid mail
	Other variances +/- £150,000	0.048	
		<b>0.374</b>	

**Key risks (not included in forecast):**

Increase in the number of complex Legal Childcare court cases.

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

<b>Finance Summary</b>								
	Original Net Budget Full Year	Current Net Budget Full Year	Forecast Outturn	Forecast Variance	Financial Recovery Plan	Forecast Outturn Variance	Forecast Outturn Variance as a % of Current Net Budget Full Year	Issues Ref. No.
	£m	£m	£m	£m	£m	£m	%	
				Adv /(Fav)		Adv /(Fav)	Adv /(Fav)	
Chief Executive	0.234	0.234	0.234	0.000		0.000	0.0	
Director of Finance	0.127	0.127	0.127	0.000		0.000	0.0	
Financial Planning & Support	0.686	0.686	0.686	0.000		0.000	0.0	
Recharges to Grants & External Bodies	(1.831)	(1.831)	(1.831)	0.000		0.000	0.0	
Finance & Investment (excluding external audit fees)	2.213	2.213	2.213	0.000		0.000	0.0	
External Audit Fees	0.182	0.182	0.382	0.200		0.200	109.9	1
Pensions Governance & Investments	0.534	0.534	0.534	0.000		0.000	0.0	
Resident & Business Support - Operational / Non-Housing Benefits Subsidy	0.100	0.100	0.388	0.288	(0.110)	0.178	178.0	2
Resident & Business Support - Housing Benefits Subsidy	0.850	0.850	1.127	0.277		0.277	32.6	3
Strategic Commissioning & Procurement	1.335	1.335	1.237	(0.098)		(0.098)	(7.3)	
<b>Total Directorate</b>	<b>4.430</b>	<b>4.429</b>	<b>5.096</b>	<b>0.667</b>	<b>(0.110)</b>	<b>0.557</b>	<b>12.6</b>	

**KEY ISSUES**

<u>Ref. No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
-----------------	--------------------------------------	-------------------------------	---------------

- |   |                                                                          |       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|---|--------------------------------------------------------------------------|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | External Audit Fees                                                      | 0.200 | Higher than budgeted external audit fees arising from the additional work undertaken by the External Auditor in relation to the audit of the statutory accounts and in addressing governance issues associated with the Council's Best Value and governance failures. Also due to national issues in increased work required for audits and limited capacity in the audit market.                                                                                                                                                                                                                        |
| 2 | Resident & Business Support - Operational / Non-Housing Benefits Subsidy | 0.288 | Pressure due to income shortfalls against budget, including court costs, where as a result of improved collection, less cases taken to court and therefore less court costs income generated. Also pressures on staffing costs due to reduction in level of New Burdens Funding provided by the government, which was previously funding additional staffing resource.                                                                                                                                                                                                                                   |
| 3 | Resident & Business Support - Housing Benefits Subsidy                   | 0.277 | Pressure due to the increase in homelessness cases and the cost of temporary accommodation, due to insufficient level of suitable available temporary accommodation, and Housing Benefit Subsidy not covering full costs. (A number of local authorities are experiencing a shortfall in subsidy brought about by homelessness and temporary accommodation). A cross cutting review across all service areas involved in providing this service is underway to understand current activities and future needs and to identify more cost effective solutions to meeting the needs of homeless households. |

Other variances +/- £150,000

0.667

**Key risks (not included in forecast):**

Further increases in homelessness costs and external audit fees

**DETAILED DIRECTORATE REVENUE BUDGET FORECAST OUTTURN 2023/24 AS AT QUARTER ONE**

Central Budgets Summary								
	Original Net Budget Full Year	Current Net Budget Full Year	Forecast Outturn	Forecast Variance	Financial Recovery Plan	Forecast Outturn Variance	Forecast Outturn Variance as a % of Current Net Budget Full Year	Issues Ref. No.
	£m	£m	£m	£m	£m	£m	%	
				Adv/(Fav)		Adv/(Fav)	Adv/(Fav)	
General Fund	(0.261)	(0.261)	(0.261)	0.000		0.000	0.0	
Capital Financing	9.276	9.276	9.076	(0.200)		(0.200)	(2.2)	1
Added Years Pensions	1.216	1.216	1.216	0.000		0.000	0.0	
Change Fund	0.730	0.730	0.730	0.000		0.000	0.0	
Pay & Prices Contingencies	5.217	5.217	6.668	1.451		1.451	27.8	2
Centrally Held Grants	(27.796)	(27.796)	(27.796)	0.000		0.000	0.0	
Senior Management Review	0.086	0.086	0.086	0.000		0.000	0.0	
Flexible Use of Capital Receipts	(3.000)	(3.000)	(3.000)	0.000		0.000	0.0	3
Contingency for Future Uncertainty	1.300	1.300	1.300	0.000		0.000	0.0	
<b>Total Directorate</b>	<b>(13.232)</b>	<b>(13.232)</b>	<b>(11.981)</b>	<b>1.251</b>	<b>0.000</b>	<b>1.251</b>	<b>9.5</b>	

**KEY ISSUES**

<u>Ref. No.</u>	<u>Major variances and movements</u>	<u>Forecast Variance (£m)</u>	<u>Reason</u>
1	Capital Financing	(0.200)	Net increase in investment income due to more favourable interest rates than anticipated
2	Pay & Prices Contingencies	1.451	Projected overspend relates to the forecast excess of expected national pay award over budget provision made for this. The pay award is not yet agreed and this remains subject to national pay negotiations. It is proposed that this pressure is passed to Directorates and will be met through the vacancy control process.
3	Flexible Use of Capital Receipts	0	This is based on the Strategy included within the budget report for 23/24 to Council in February 2023. Capital receipts are being closely monitored as part of the Capital Programme along with the transformational expenditure. A review is currently taking place of this and updates will be provided in future budget monitoring reports and any changes to the planned Strategy will be subject to approval by Council and will be reported to DHLUC.
		<b>1.251</b>	

**Key risks (not included in forecast):**

2023/24 Pay Award not yet agreed - therefore overspend could be higher

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**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Adult Social Care</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Purchased Care	Increase in Residential care placements	0.000	Demand Management measure - Implement new residential care admissions panel (to provide greater challenge around admission to residential care). Estimated cost mitigation between £0.132m and £0.166m but none yet assumed
Purchased Care	Reduce spending on Domiciliary Care	(0.036)	Undertake review of "double-handed" domiciliary care cases (to replace two workers with one worker with equipment where appropriate). Estimated cost reduction between £0.036m and £0.091m - lowest assumed for now
Purchased Care	Reduce spending on Domiciliary Care	0.000	Demand Management measure - Expansion of reablement provision to reduce demand on domiciliary care. Estimated cost mitigation between £0.079m to £0.158m but none yet assumed
Purchased Care	Increase income receivable toward expensive care packages (reduce net expenditure)	(0.046)	Consider development of a Continuing Health Care (CHC) Lead post to improve CHC decision-making across the directorate (additional cost of post is £0.050m-£0.060m) would need to make savings in excess of this to generate budget recovery. Estimated cost reduction £0.046m
<b>Total Directorate</b>		<b>(0.082)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Children's Care</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Children Looked After, Corporate Parenting and Children with Disabilities	Contribution to overall Children's Care overspend	(0.030)	To investigate reducing the number of teams down to two, and respective Team Managers required
Fostering, Adoption and Connected Carers	Recruitment of Internal carers will reduce future use of Independent Fostering Agencies	(0.050)	Increasing internal fostering capacity
External Residential	High number of placements (65 paid placements) well above average of 46.5 average number budget set upon	(0.410)	Review of all Young people placed in external & internal residential to plan around any opportunities to support to improve placements for young people and potentially also bring forecast overspend down
Internal Residential services	Savings target of £0.7m to Internal Residential as part of Children's Services Financial Improvement Plan	(0.150)	Project team to continue to look at sourcing properties to deliver Internal Residential Services to young people currently placed in External provision
Other Services	Forecast savings against vacant posts across resource teams	(0.075)	
Management, Business Development & Admin	Agency staff filling majority of senior roles (Heads of Service)	0.000	Adverts to go out ASAP, with updated terms and conditions.
<b>Total Directorate</b>		<b>(0.715)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Education &amp; Partnerships</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Integrated Transport Unit	Overspend forecast, predominantly from taxi costs (minibuses). Challenge to get less reliant on pressured taxi market	(0.128)	Review all routes, decrease unused seats, encourage parents to use own transport, route planning, and efficiencies. Non statutory challenges. Investigate schools purchasing transport where appropriate.
<b>Total Directorate</b>		<b>(0.128)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Regeneration</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Economic Development	Unachieved savings target in respect of charging officer time to grant.	(0.100)	At budget setting it was assumed that £0.100m of officer time would be charged to a mix of United Kingdom Shared Prosperity Fund (UKSPF) and Indigenous Growth Fund (IGF) grants. This was reported to Executive in October 2022. The IGF element of the assumed funding has not materialised, resulting in the need for a second report to Executive in September, which will include the £0.100m as funded but via a different mixture of grant funding. If the report is approved the £0.100m stated pressure can be reversed.
Highways & Transport	Whilst income is increasing within car parking budgets, they are not yet at the level that to which the budgets have been set	(0.092)	A car parking reserve has been set up specifically for the funding of any shortfalls within these budgets. It is intended that the reserve is used accordingly and any shortfall remaining on the car parking budget will be transferred to the reserve at year end
<b>Total Directorate</b>		<b>(0.192)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Environment &amp; Community Services</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Property & Commercial	Pressure in Bereavement Services due to other nearby local authorities having crematoriums and income received is lower than budget	(0.128)	Increase in fees to be proposed as part of Fees and Charges Increases report to Executive in October.
Property & Commercial	Pressure on Bus Station Departure Charges	(0.060)	Review to be undertaken and any increase in fees to be proposed as part of Fees and Charges Increases report to Executive in October.
Environment Services	Pressure on Street Lighting due to unachieved budget saving of £0.074m	(0.074)	A report is being taken to Executive in September regarding additional funding that has been identified but this is only for 2023/24.
Environment Services	Pressure on Area Care due to unachieved budget saving of £0.142m	(0.142)	A report is being taken to Executive in September regarding additional funding that has been identified but this is only for 2023/24
Environment Services	Area Care	(0.051)	Review provision of charging for junk jobs services. Saving subject to the results of the review.
Environment Services	Waste Collection	(0.033)	Review of charges for replacement bins. Saving subject to the results of the review.
Environment Services	Waste Collection	(0.030)	Review schedule of green waste collection service. Saving subject to the results of the review.
Supporting Communities	Pressure on Wardens Service due to unachieved budget saving of £0.433m	(0.433)	A report is being taken to Executive in September regarding additional funding that has been identified but this is only for 2023/24
Supporting Communities	Anti-social behaviour	(0.250)	The Council could possibly receive additional grant towards reducing anti-social behaviour.
<b>Total Directorate</b>		<b>(1.201)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Legal and Governance</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Legal Services	Pressure relating to use of Counsel to undertake required work	TBC	Due to varying issues, the service is having to outsource additional work to Counsel which is causing a pressure to the budget. The service is currently looking at different delivery models which will reduce the reliance on Counsel and subsequently reduce the cost of the provision of the service.
Statutory & Governance	Pressure in Mail and Print	(0.129)	Overspend in mail and print requires a long term solution. Short term solution is to utilise an un-ringfenced Brexit grant whilst longer term approach options are developed. Medium term is to review contract penalty clauses on mail element of contract to understand potential cost implications of bringing mail service back in house temporarily versus potential budget pressure. Longer term, would be to review market options to re-tender contract, wrapping up to a wider transformational project around digitalisation of customer journey/correspondence/contact. Options will be brought forward for discussion at August budget challenge session.
<b>Total Directorate</b>		<b>(0.129)</b>	

**DIRECTORATE FINANCIAL RECOVERY PLANS**

<b>Finance</b>			
<b>Area</b>	<b>Budget issue</b>	<b>Financial Recovery Plan £m</b>	<b>Description of Proposed Financial Recovery Plan</b>
Resident & Business Support - Operational / Non-Housing Benefits Subsidy	Shortfall on overpayment income due to diminishing caseload	(0.110)	Invest to save project with increased staffing to improve collection (staff in place by 30/9/23). Saving shown is net saving after staff costs.
<b>Total Directorate</b>		<b>(0.110)</b>	

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### Appendix 3: Detail of forecast reserves and provisions as at Quarter One 2023/24

	<u>Closing Balance 31/03/23 / Opening Balance 01/04/23</u>	<u>Use in Year</u>	<u>Additional Contributions</u>	<u>Transfers between Reserves</u>	<u>Transfers from / (to) General Fund</u>	<u>Forecast Balance at year-end</u>
	<u>£m</u>	<u>£m</u>	<u>£m</u>	<u>£m</u>	<u>£m</u>	<u>£m</u>
<b>GENERAL FUND RESERVE</b>	<b>12.041</b>					<b>12.041</b>
<b>USABLE EARMARKED RESERVES</b>						
<i><b>Restricted Use</b></i>						
Public Health	0.129					0.129
Insurance Fund	0.028					0.028
Better Care Fund	0.896					0.896
Marton Library S106	0.025					0.025
Housing Rental Sinking Fund	0.093					0.093
	1.171	0.000	0.000	0.000	0.000	1.171
<i><b>Unrestricted Use</b></i>						
Financial Resilience Reserve	1.797					1.797
Change Fund	0.000	(0.730)	0.730			0.000
Car Parking Reserve	0.742					0.742
Elections Costs	0.249					0.249
	2.788	(0.730)	0.730	0.000	0.000	2.788
	<b>3.959</b>	<b>(0.730)</b>	<b>0.730</b>	<b>0.000</b>	<b>0.000</b>	<b>3.959</b>
<b>UNUSABLE EARMARKED RESERVES</b>						
Revenue Grants Unapplied (Technical Reserve)	10.539					10.539
Dedicated Schools Grant Adjustment Account	(6.565)	(1.780)				(8.345)
	<b>3.974</b>	<b>(1.780)</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>2.194</b>
<b>SCHOOL BALANCES</b>	<b>3.640</b>					<b>3.640</b>
<b>PROVISIONS</b>						
Business Rates Appeals	4.203					4.203
Insurance	0.824					0.824
Other	0.167					0.167
	<b>5.194</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>5.194</b>
	<b>28.808</b>	<b>(2.510)</b>	<b>0.730</b>	<b>0.000</b>	<b>0.000</b>	<b>27.028</b>

**\*NOTE**

- **The above balances shown do not include accounting for the current forecast projected overspend of £11.563m.**  
- The year-end balances for 2022/23 may be subject to further change due to further technical adjustments which may be required as part of the closure of the Council's accounts. These will be mainly relating to the closure of the Collection Fund accounts, DSG, school balances, and Insurance Fund. There may also be potential changes required as part of the external audit of the Council's accounts for 2022/23. The final year-end balances for 2022/23 will be reported in the Council's Statement of Accounts for 2022/23, and will be updated as required as part of the quarterly budget monitoring reports throughout the financial year.

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**Appendix 4 : Proposed revenue budget virements above £150,000 at Quarter One 2023/24  
(under Financial Procedure Rule 10.5)**

<i>Proposed Virement Request</i>	<b>Regeneration</b>	<b>Environment &amp; Community Services</b>	<b>Public Health</b>	<b>Education &amp; Partnerships</b>	<b>Children's Care</b>	<b>Adult Social Care</b>	<b>Legal &amp; Governance Services</b>	<b>Chief Executive</b>	<b>Finance</b>	<b>Central Budgets</b>
	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>
<b><i>Permanent</i></b>										
Transfer of External Audit budget from Finance to Central Budgets									(182)	182
Transfer of Chief Executive's budget from Finance to separate Chief Executive Directorate								234	(234)	
Transfer of Property Services budgets from Environment & Community Services to Regeneration	5,502	(5,502)								
Transfer of Highways Services budgets from Regeneration to Environment & Community Services	(2,535)	2,535								
<b><i>Temporary</i></b>										
Transfers from Central Contingency budget to Directorates for Governance Improvement - as per report to Executive 19/07/23							78		414	(492)
<b>Total Virement</b>	<b>2,967</b>	<b>(2,967)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>78</b>	<b>234</b>	<b>(2)</b>	<b>(310)</b>
									<b>Total:</b>	<b>0</b>

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## Appendix 5 : Capital Programme Quarter One 2023/24 – Details of capital slippage

Capital slippage is a way of reprofiling capital budgets between financial years to match forecast timing of expenditure, whilst staying within the approved project budget.

Project	Scheme	2023/24 £m	2024/25 £m	2025/26 £m	Funding Source	Slippage Explanation
Regeneration	Unallocated Grant Following Completion Of Boho X Project	(5.600)	5.600	-	Grant	Funds need allocating to other schemes
Regeneration	Brownfield Housing Fund	(4.000)	4.000	-	Grant	No individual projects identified to expend funds
Regeneration	Towns Fund	(1.665)	1.665	-	Grant / Section 106	Awaiting match funding grant bid (Old Town Hall) / alignment to revised delivery plan (Nunthorpe Community Hub)
Regeneration	Towns Fund - East Middlesbrough Community Hub	(2.081)	2.081	-	Council borrowing / Grant	Tenders received are over budget causing delays due to need to value engineer
Regeneration	Levelling Up Fund - South Middlesbrough Accessibility	(1.324)	0.515	0.809	Grant	Alignment to revised delivery plan
Regeneration	Local Transport Plan	(0.568)	0.568	-	Grant	Delays in the implementation of various schemes
Regeneration	Cultural Development Fund - Enhancements to Central Library	(0.229)	0.229	-	Grant	Delays encountered in finalisation of partnership agreements with funding provider
Regeneration	Cultural Development Fund - Enhancements to Partner Organisations	(1.052)	1.052	-	Grant	Delays encountered in finalisation of partnership agreements with funding provider
Regeneration	Acquisition Of Town Centre Properties	(0.207)	0.207	-	Council borrowing	Funds not considered to be utilised within the current financial year
Regeneration	Leisure Trust Investment - Equipment	0.800	(0.800)	-	Council borrowing	Funds brought forward at the request of the leisure provider for gym improvements
	<b>Regeneration Total</b>	<b>(15.926)</b>	<b>15.117</b>	<b>0.809</b>		
Environment and Community Services	Purchase of Vehicles	(1.200)	1.200	-	Council borrowing	Extended period of time between ordering and delivery of vehicles
Environment and Community Services	Newport Bridge	(1.000)	1.000	-	Council borrowing	Bridge painting delayed due to unforeseen structural repairs required beforehand
Environment and Community Services	Resolution House	(0.502)	0.502	-	Council borrowing	Delays due to revised specifications of works needed following further surveys
Environment and Community Services	Cleveland Centre	(0.889)	0.889	-	Council borrowing	
Environment and Community Services	Property Asset Investment Strategy	0.231	(0.231)	-	Council borrowing	Changing in timing of planned works on a number of schemes
	<b>Environment and Community Services Total</b>	<b>(3.360)</b>	<b>3.360</b>	<b>0.000</b>		
Education and Partnerships	Block Budget (Grant) School Condition Allocation	(0.735)	0.735	-	Grant	Funds not required in-year as programme has been agreed and fully costed
Education and Partnerships	Block Budget (Grant) High Needs Provision Capital Allocation (HNPCA)	(0.395)	0.395	-	Grant	Funds not required in-year as programme has been agreed and fully costed
Education and Partnerships	Block Budget (Grant) Basic Needs	0.294	(0.294)	-	Grant	Grant brought forward to fund agreed in-year programme
	<b>Education and Partnerships Total</b>	<b>(0.836)</b>	<b>0.836</b>	<b>0.000</b>		
Legal and Governance Services	ICT - Essential Refresh & Licensing	0.593	(0.593)	-	Council borrowing	Resource brought forward in order to complete Sharepoint project.
	<b>Legal and Governance Services Total</b>	<b>0.593</b>	<b>(0.593)</b>	<b>0.000</b>		
	<b>Other Small Scale Slippage Across All Directorates</b>	<b>(0.310)</b>	<b>0.310</b>	<b>0.000</b>	Council borrowing / Grant	Various
	<b>TOTAL</b>	<b>(19.839)</b>	<b>19.030</b>	<b>0.809</b>		

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## Appendix 6 - Proposed Capital Programme to 2025/26

	Actual	Forecast Expenditure			TOTAL	Council Funding	External Funding
	2022/23	2023/24	2024/25	2025/26			
<b>Regeneration</b>	£m	£m	£m	£m	£m	£m	£m
Town Centre Related Projects	0.736	1.240	-	-	1.976	1.558	0.418
Middlehaven Related Projects	-	0.007	0.500	-	0.507	0.500	0.007
Housing Growth	0.042	0.250	3.200	-	3.492	2.792	0.700
BOHO X	10.610	2.399	-	-	13.009	2.062	10.947
Unallocated Grant Following Completion Of Boho X Project	-	-	5.600	-	5.600	-	5.600
BOHO 8	0.002	-	-	-	0.002	-	0.002
Brownfield Housing Fund	0.236	0.144	6.000	-	6.380	-	6.380
Towns Fund	2.275	0.627	12.832	-	15.734	0.100	15.634
Towns Fund - East Middlesbrough Community Hub	0.019	0.500	3.169	-	3.688	2.600	1.088
Future High Streets Fund	5.621	7.603	-	-	13.224	-	13.224
Acquisition of Town Centre Properties (Including Future Lease Arrangements)	-	-	1.207	-	1.207	1.207	-
Acquisition Of The Crown	0.785	0.102	-	-	0.887	0.887	-
New Civic Centre Campus	5.358	0.410	-	-	5.768	5.768	-
Middlesbrough Development Company	6.480	4.851	-	-	11.331	6.165	5.166
Teesside Advanced Manufacturing Park	0.010	0.005	-	-	0.015	0.015	-
Teesside Advanced Manufacturing Park - Phase 2	-	-	8.820	-	8.820	8.820	-
Local Authority Delivery 2 Green Homes Grant	0.798	-	-	-	0.798	-	0.798
Capitalisation Of Major Schemes Salaries	0.530	0.530	0.530	0.530	2.120	2.120	-
Capitalisation Of Planning Services Surveys	0.020	0.040	0.080	0.040	0.180	0.180	-
Affordable Housing Via Section 106	-	-	1.495	-	1.495	0.302	1.193
Highways Infrastructure Development Section 106	-	-	2.942	-	2.942	0.142	2.800
Linthorpe Road Cycleway	1.425	0.424	-	-	1.849	0.000	1.849
Replacement Of Ticket Machines	0.026	0.163	-	-	0.189	0.189	-
Zetland Solar Panels	0.100	-	-	-	0.100	0.070	0.030
Lingfield Education Units	0.038	0.009	-	-	0.047	0.047	-
Levelling Up Fund - South Middlesbrough Accessibility	-	0.280	3.723	0.809	4.812	-	4.812
Gresham Projects	0.010	-	-	-	0.010	0.008	0.002
Empty Homes 2015 To 2018	0.128	-	-	-	0.128	-	0.128
Local Transport Plan	0.805	1.193	2.133	2.130	6.261	0.003	6.258
Theatre Bar Refurbishment	0.004	0.040	-	-	0.044	0.044	-
Leisure Trust Investment - Equipment	0.002	0.804	-	-	0.806	0.806	-
Stewart Park Section 106	0.006	0.039	-	-	0.045	-	0.045
Investment In Parks	0.035	0.016	-	-	0.051	0.051	-
Teessaurus Park	0.043	0.013	-	-	0.056	0.056	-
Archives Relocation	0.126	0.002	-	-	0.128	0.040	0.088
Cultural Development Fund - Enhancements to Central Library & Partner Organisations	0.101	1.352	2.905	-	4.358	-	4.358
Museum Estate And Development Fund	-	0.331	-	-	0.331	0.020	0.311
<b>Total Regeneration</b>	<b>36.371</b>	<b>23.374</b>	<b>55.136</b>	<b>3.509</b>	<b>118.390</b>	<b>36.552</b>	<b>81.838</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Environment and Community Services</b>					
Purchase Of New Vehicles	0.734	3.066	3.450	2.260	9.510
Capitalisation Of Wheeled Bin Replacement	0.100	0.100	0.100	0.100	0.400
Capitalisation Of Street Furniture / Dog Fouling & Litter Bins	0.055	0.055	0.055	0.055	0.220
Capitalisation Of Highways Maintenance	0.575	0.575	0.575	0.575	2.300
Property Services Building Investment	0.340	0.340	0.340	0.340	1.360
Waste Disposal Plant Investment	0.139	-	-	-	0.139
Local Transport Plan - Highways Maintenance	2.433	2.426	2.338	4.678	11.875
Street Lighting-Maintenance	0.465	0.468	0.468	0.468	1.869
Urban Traffic Management Control 1	0.163	0.074	-	-	0.237
Flood Prevention	0.023	-	-	-	0.023
Members Small Schemes	0.063	0.158	0.060	0.060	0.341
Property Asset Investment Strategy	1.661	0.681	0.350	1.200	3.892
East Middlesbrough Community Hub	0.199	-	-	-	0.199
Section 106 Ormesby Beck	-	0.015	-	-	0.015
Section 106 Cypress Road	-	0.020	-	-	0.020
Hostile Vehicle Mitigation	0.100	0.031	-	-	0.131
Bridges & Structures (Non Local Transport Plan)	0.707	3.698	2.420	2.240	9.065
Henry Street	0.001	0.039	-	-	0.040
CCTV	0.168	0.201	-	-	0.369
Captain Cook Public House	0.255	-	-	-	0.255
Town Hall Roof	0.044	0.056	2.900	-	3.000
Municipal Buildings Refurbishment	-	1.500	-	-	1.500
Resolution House	0.085	-	0.502	-	0.587
Central Library WC	-	-	0.087	-	0.087
Cleveland Centre	0.310	0.771	0.889	-	1.970
Cargo Fleet Nature Reserve	0.047	0.047	-	-	0.094
Towns Fund Initiatives	0.399	0.308	0.071	-	0.778
Traffic Signals - Tees Valley Combined Authority	0.301	0.073	-	-	0.374
Hemlington MUGA	0.030	-	-	-	0.030
Changing Places Toilet - Albert Park	0.083	0.007	-	-	0.090
Highways Infrastructure	1.374	3.126	3.000	-	7.500
Libraries Improvement Fund	0.023	0.097	-	-	0.120
Urban Traffic Management Control 2	0.129	2.388	-	-	2.517
Traffic Signals Non Tees Valley Combined Authority	-	1.150	1.150	0.980	3.280
Newport Bridge	-	0.513	1.000	1.617	3.130
Street Lighting Column Replacement	-	0.464	0.464	0.500	1.428
<b>Total Environment and Community Services</b>	<b>11.006</b>	<b>22.447</b>	<b>20.219</b>	<b>15.073</b>	<b>68.745</b>

Council Funding	External Funding
£m	£m
9.510	-
0.400	-
0.220	-
2.300	-
1.360	-
0.139	-
-	11.875
1.869	-
-	0.237
-	0.023
0.341	-
3.892	-
-	0.199
-	0.015
-	0.020
0.131	-
9.065	-
-	0.040
0.369	-
-	0.255
3.000	-
1.500	-
0.587	-
0.087	-
1.970	-
-	0.094
-	0.778
-	0.374
0.030	-
0.010	0.080
7.500	-
-	0.120
-	2.517
3.280	-
3.130	-
1.428	-
<b>52.118</b>	<b>16.627</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Public Health</b>					
Relocation Of The Safe Haven To Middlesbrough Bus station	0.219	0.031	-	-	0.250
New Project - Live Well East – Internal Alterations & Improvements	-	0.134	0.007	-	0.141
<b>Total Public Health</b>	<b>0.219</b>	<b>0.165</b>	<b>0.007</b>	<b>-</b>	<b>0.391</b>

Council Funding	External Funding
£m	£m
0.105	0.145
-	0.141
<b>0.105</b>	<b>0.286</b>



	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Education and Partnerships</b>					
Block Budget (Grant) Devolved Formula Capital - Various Schools	-	0.188	-	-	0.188
Block Budget (Grant) Devolved Formula Capital (Energy Efficiency) - Various Schools	-	0.151	-	-	0.151
Block Budget (Grant) Section 106 Avant Low Gill	-	0.035	-	-	0.035
Block Budget (Grant) School Condition Allocation	-	0.002	0.735	-	0.737
Block Budget (Grant) Basic Needs	-	-	3.791	-	3.791
Block Budget (Grant) High Needs Provision Capital Allocation (HNPCA)	-	0.150	0.395	-	0.545
Schemes in Maintained Primary Schools	1.047	0.944	0.060	-	2.051
Schemes in Primary Academies	-	0.654	-	-	0.654
Schemes in Secondary Academies	2.414	1.115	0.378	-	3.907
Schemes in Special Schools	0.480	2.339	5.400	-	8.219
Capitalisation of Salary Costs	0.109	0.111	-	-	0.220
Contribution to New School at Middlehaven	-	0.500	0.400	0.746	1.646
Block Budget (Grant) EFA Early Years 2 Year olds Entitlement (Trajectory Project)	-	0.007	-	-	0.007
Special Education Needs Projects	-	0.649	0.050	-	0.699
Family Hubs	-	0.093	0.042	-	0.135
<b>Total Education and Partnerships</b>	<b>4.050</b>	<b>6.938</b>	<b>11.251</b>	<b>0.746</b>	<b>22.985</b>

Council Funding	External Funding
£m	£m
-	0.188
-	0.151
-	0.035
-	0.737
-	3.791
-	0.545
0.603	1.448
-	0.654
-	3.907
0.113	8.106
-	0.220
0.646	1.000
-	0.007
-	0.699
-	0.135
<b>1.362</b>	<b>21.623</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Children's Care</b>					
Rosecroft Renovations	0.008	0.008	-	-	0.016
34 Marton Avenue, Fir Tree - Garage Conversion	0.009	0.019	-	-	0.028
Contact Centre - Bus Station Unit 1	0.234	0.017	-	-	0.251
Bathroom Refurbishment	0.005	0.002	-	-	0.007
Holly Lodge Sensory Room	0.089	0.011	-	-	0.100
Transformational Expenditure Funded Through Flexible Use of Capital Receipts	0.755	-	-	-	0.755
Caravan Purchase	-	0.050	-	-	0.050
Children's Services Financial Improvement Plan	-	2.000	2.500	-	4.500
<b>Total Children's Care</b>	<b>1.100</b>	<b>2.107</b>	<b>2.500</b>	<b>-</b>	<b>5.707</b>

Council Funding	External Funding
£m	£m
0.016	-
0.028	-
0.251	-
0.007	-
0.022	0.078
0.755	-
0.050	-
4.500	-
<b>5.629</b>	<b>0.078</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Total Adult Social Care</b>					
Chronically Sick & Disabled Persons Act - All schemes	0.788	0.841	0.610	0.610	2.849
Disabled Facilities Grant - All schemes	1.963	2.566	-	-	4.529
Capitalisation of Staying Put Salaries	0.050	0.050	0.050	0.050	0.200
Home Loans Partnership (formerly 5 Lamps)	0.006	0.025	0.050	-	0.081
Small Schemes	-	0.030	-	-	0.030
Connect/Telecare IP Digital Switchover	0.077	0.170	-	-	0.247
<b>Total Adult Social Care</b>	<b>2.884</b>	<b>3.682</b>	<b>0.710</b>	<b>0.660</b>	<b>7.936</b>

Council Funding	External Funding
£m	£m
1.304	1.545
-	4.529
0.100	0.100
-	0.081
-	0.030
-	0.247
<b>1.404</b>	<b>6.532</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Legal and Governance Services</b>					
Desktop Strategy / Device Refresh	0.739	0.600	-	-	1.339
Enterprise Agreements	0.922	1.035	-	-	1.957
CRM	0.041	-	-	-	0.041
IT Refresh - Network Refresh	0.283	0.214	-	-	0.497
IT Refresh - Lights On	0.313	0.379	-	-	0.692
ICT Essential Refresh & Licensing	0.517	0.555	1.592	2.185	4.849
GIS Replacement	0.039	-	-	-	0.039
Prevention & Partnership Tablets	0.051	-	-	-	0.051
Sharepoint	0.318	0.720	-	-	1.038
HR Recruitment	-	0.035	-	-	0.035
IKEN	-	0.138	-	-	0.138
HR Pay	-	0.037	-	-	0.037
<b>Total Legal and Governance Services</b>	<b>3.223</b>	<b>3.713</b>	<b>1.592</b>	<b>2.185</b>	<b>10.713</b>

Council Funding	External Funding
£m	£m
1.339	-
1.957	-
0.041	-
0.497	-
0.692	-
4.849	-
0.039	-
0.051	-
1.038	-
0.035	-
0.138	-
0.037	-
<b>10.713</b>	<b>-</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>Finance</b>					
Former Partnership Investment (ICT Infrastructure Revenues & Benefits)	0.003	0.264	-	-	0.267
Business World Upgrade	0.001	0.026	-	-	0.027
Derisking Sites	0.105	0.288	1.978	0.500	2.871
Capitalisation of Property Finance Lease Arrangements	-	-	4.500	-	4.500
<b>Total Finance</b>	<b>0.109</b>	<b>0.578</b>	<b>6.478</b>	<b>0.500</b>	<b>7.665</b>

Council Funding	External Funding
£m	£m
0.267	-
0.027	-
2.869	0.002
4.500	-
<b>7.663</b>	<b>0.002</b>

	Actual	Forecast Expenditure			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>ALL DIRECTORATES</b>					
<b>Total ALL DIRECTORATES</b>	<b>58.962</b>	<b>63.004</b>	<b>97.893</b>	<b>22.673</b>	<b>242.532</b>

Council Funding	External Funding
£m	£m
<b>115.546</b>	<b>126.986</b>

	Actual	Forecast Funding			TOTAL
	2022/23	2023/24	2024/25	2025/26	
	£m	£m	£m	£m	£m
<b>FUNDED BY:</b>					
Borrowing	24.597	22.976	39.381	9.609	96.563
Finance Leases	-	-	4.500	-	4.500
Capital Receipts	0.755	6.279	1.939	5.347	14.320
Grants	30.653	32.034	46.784	7.617	117.088
Contributions	2.957	1.557	5.284	0.100	9.898
Revenue Resources	-	0.158	0.005	-	0.163
<b>Total FUNDING</b>	<b>58.962</b>	<b>63.004</b>	<b>97.893</b>	<b>22.673</b>	<b>242.532</b>

Council Funding	External Funding
£m	£m
96.563	-
4.500	-
14.320	-
-	117.088
-	9.898
0.163	-
<b>115.546</b>	<b>126.986</b>

<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Executive Member for Finance and Governance Interim Director of Finance (S151 Officer)
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<b>Submitted to:</b>	Executive
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<b>Date:</b>	23 August 2023
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<b>Title:</b>	Medium Term Financial Plan (MTFP) Refresh 2024/25 to 2026/27
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<b>Report for:</b>	Decision
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<b>Status:</b>	Public
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<b>Strategic priority:</b>	All
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<b>Key decision:</b>	Yes
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<b>Why:</b>	Decision(s) will incur expenditure or savings above £150,000 and have a significant impact in two or more wards
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<b>Urgent:</b>	No
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<b>Why:</b>	Not applicable
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**Executive summary**

On 27 February 2023, the Council approved its annual budget and Medium Term Financial Plan (MTFP) for the period 2023/24 to 2025/26. This report provides an update on the financial and economic outlook within which the Council is required to operate and sets the financial framework within Officers will work with the Mayor and Executive to develop the Council Plan and propose a balanced budget to Council in February 2024 for 2024/25 and over the three year period of the MTFP through to 2026/27.

The report represents the first stage in the Council’s annual budget planning process and provides an update on its projected financial position.

This forecast is based upon the best information available at this time and a range of assumptions that will be reviewed, modelled, and tested over the budget development period. The initial forecast gap on the General Fund budget for 2024/25 is £14.204m rising to £24.522m by 2026/27 and presents a significant financial challenge for the Council.

The forecast will be reviewed and refreshed over the period as new information becomes available during the budget development process. Budget proposals with options for income growth and savings will be developed over the Summer and early Autumn and a further report will be presented on 15 November 2023 for approval by the Executive at which point the budget consultation period will commence.

The report also sets out the proposed Reserves Policy for the Council which is an essential element of the MTFP for consideration by the Executive and referral to Council for approval.

That the Executive:

- Notes the increase in the forecast budget gap for 2024/25 to £14.204m rising to £24.522m over the term of the MTFP to 2026/27 (Table 2 and paragraphs 23 to 49).
- Agrees that the Leadership Management Team (LMT) in consultation with the relevant Executive Member prepare detailed plans and budget proposals in accordance with the Council's priorities and proposed budget strategy (paragraphs 21 and 22) taking account of periodic updates in MTFP assumptions.
- Agrees the proposed Reserves Policy as contained in Appendix 1 and recommend this to Council for approval.
- Notes the budget preparation timetable (Table 11 and paragraph 54) and that proposals will be presented to the Executive for approval in November 2023 as part of the draft MTFP and Budget Consultation.

## **Purpose**

1. The purpose of the report is to set out the financial framework and timetable within which Officers will work with the Mayor and the Executive to develop the 2024/25 budget and MTFP to 2026/27.
2. The report also includes the proposed Reserves Policy for consideration by the Executive and referral to Council for approval (Appendix 1)

## **Background and relevant information**

3. In common with all local authorities, the Council continues to operate within a difficult and uncertain economic environment. Inflationary drivers continue to place significant pressure upon service budgets and there is uncertainty in relation to future financial support from Central Government over the medium term.
4. The long-term impact of COVID-19 and the Cost of Living Crisis continue to impact adversely upon the demand for Council services and upon the cost of goods, works and services that are required to provide the wide range of services to the people of Middlesbrough.
5. This report is the first stage of the budget development strategy for the three year period 2024/25 to 2026/27 and builds upon the MTFP approved by Council on 27 February 2023. It sets out the financial framework and timetable within which Officers will work with the Mayor and Executive to develop budget proposals that will deliver the new Council Plan. The report incorporates the proposed Reserves Policy for referral to Council for approval.

### **2023/24 Budget and MTFP 2023/24 to 2026/27**

6. The MTFP covering the three year period 2023/24 to 2025/26 was approved by Council on 27 February 2023. In summary, the General Fund revenue budget was balanced in 2023/24 and a budget gap of £2.728m remained in 2024/25 and a further budget gap of £2.700m in 2025/26 as summarised in Table 1 below.

**Table 1 – MTFP 2023/24 to 2025/26 approved by Council 27 February 2023**

<b>2023/24 to 2025/26 MTFP Summary approved by Council in February 2023 (incremental)</b>				
<b>Budget Item</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26</b>	<b>Cumulative</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>Net Budget brought forward</b>	<b>117.471</b>	<b>126.354</b>	<b>133.102</b>	<b>376.927</b>
Pay Inflation / change in NI rate & employers pension rate	5.760	3.059	2.562	11.381
Contractual inflation	2.805	1.570	1.550	5.925
Energy inflation	1.000	-	-	1.000
Pay & Prices / Other inflation	(0.042)	1.867	-	1.825
Fees & Charges inflation	(1.441)	(1.290)	(0.860)	(3.591)
<b>Inflation subtotal</b>	<b>8.082</b>	<b>5.206</b>	<b>3.252</b>	<b>16.540</b>
Service Demand pressures	21.327	5.928	3.823	31.078
<b>Service Demand pressures subtotal</b>	<b>21.327</b>	<b>5.928</b>	<b>3.823</b>	<b>31.078</b>
Technical adjustments	(3.366)	3.844	0.511	0.989
Grant Funding adjustments	(8.377)	(2.515)	-	(10.892)
Insurance Fund adjustments	0.600	-	-	0.600
Savings proposals	(9.383)	(2.987)	-	(12.370)
<b>Projected Net Budget</b>	<b>126.354</b>	<b>135.830</b>	<b>140.688</b>	<b>402.872</b>
Future growth / reserve contribution	0.000	-	-	0.000
<b>Projected Net Budget including reserves</b>	<b>126.354</b>	<b>135.830</b>	<b>140.688</b>	<b>402.872</b>
Retained Business Rates, Top Ups & Revenue Support Grant	(59.885)	(62.879)	(64.766)	(187.531)
Council Tax	(67.309)	(70.222)	(73.222)	(210.754)
Collection Fund (Surplus) / Deficit	0.841	-	-	0.841
<b>Assumed Funding</b>	<b>(126.354)</b>	<b>(133.102)</b>	<b>(137.988)</b>	<b>(397.444)</b>
<b>Budget Gap + / Surplus ( )</b>	<b>0.000</b>	<b>2.728</b>	<b>2.700</b>	<b>5.428</b>

7. The budget incorporated savings totalling £9.383m in 2023/24, and a further £2.987m in 2024/25.
8. The former interim Director of Finance (S151 officer) set out her advice to Council in relation to the robustness of budget estimates and the adequacy of reserves in her report under section 25 of the Local Government Act 2003 on 27 February 2023. Within that report the key issues to note were:
  - Reserves were adequate in so far as the minimum level of general fund balance is set at £12m based on risk assessment and with no plans for its use, being the fund of last resort.
  - There is little resilience in earmarked reserves which are at a critical level and therefore the Council's financial position is fragile, which will require strict cost control and possibly the delivery of additional savings in the event of any unplanned costs.
  - The Council needs to have an unrelenting focus on the delivery of approved savings and demand management during 2023/24.
  - The financial pressures within Children's Services are of particular concern and the delivery of the children's financial improvement plan is key to maintaining the Council's financial position.
  - At the point of 2023/24 budget setting, the Council was not considered to be at risk of a s114 Notice under the Local Government Act 1988, but in the event of a significant change in the Council's risk profile or financial circumstances, the position could not be assured over the medium term. The requirement for this position to be kept under review and the need to give early consideration to budget proposals for 2024/25 with the prospect for acceleration of implementation if necessary was advised.

A review by CIPFA was commissioned in January 2023 to provide an independent assessment of the financial standing of the Council. The report of the former interim Finance Director (S151 Officer) incorporated the CIPFA review and recommendations arising from it.

9. The Quarter One 2023/24 budget monitoring and forecasting report is included elsewhere on this Executive agenda and sets out the measures taken by the S151 Officer to establish more robust and timely budgetary control together with the emerging financial position and action by Senior Officers within LMT in consultation with Executive to control expenditure within the approved 2023/24 budget. The impact of demand and inflationary pressures upon the position, indicate a forecast overspend for 2023/24 of £11.563m which is the subject of urgent and concerted management action to control the position within the approved budget.
10. A key assumption within this first stage of developing the MTFP is that the Council is successful in controlling revenue expenditure within the approved budget within 2023/24. This assumption will be kept under review as the budget and MTFP development work progresses and will be reflected as appropriate in further iterations of the MTFP forecast reported to the Executive. If expenditure is not brought under control on an ongoing basis, this will add to the budget gap reported within this report.
11. It is evident that the Council needs to embark upon a significant programme of transformation and modernisation over the medium term in order to deliver services from a lower cost base and become financially sustainable in the medium to long term.

### **Financial and Economic Context**

12. On 15 March 2023, the Chancellor of the Exchequer presented the Spring 2023 budget statement aimed at delivering five Government priorities announced by the Prime Minister on 4 January 2023:
  - Halving inflation by end of the year.
  - Growing the economy and creating better-paid jobs.
  - Reducing national debt.
  - Cutting NHS waiting lists.
  - Passing new laws to stop small boats crossing the English Channel
13. The key announcements within the budget statement that were relevant to Local Government are summarised below. Where these apply to Middlesbrough, officers will be engaging and pursuing funding aligned to the Council's priorities. Some of the funding announcements will be available directly or through a bidding process:
  - Business Rates Reform:
    - Business Rates Review : government will be publishing its response to technical consultation which closed in February 2022 on how business rates reform may be delivered, including a six month window for challenges following the 2026 revaluation, reducing to three months following the 2029 and subsequent revaluations

- Digitalising Business Rates (DBR) programme consultation – a reduction in scope, new legislation and an integrated system for ratepayers to interact with central government
- New consultation on business rates confirmed to include the Valuation Office agency consulting on providing more information on valuations and measures to combat business rates avoidance and evasion
- the intention of Government to expand 100% retention of business rates to more areas in the next Parliament
  
- Housing
  - a new discounted PWLB policy margin will support local authorities borrowing for Housing Revenue Account Purposes and the delivery of social housing
  - The Department for Levelling Up, Housing and Communities (DLUHC) launched a call for evidence from English planning authorities on 12 April 2023 with regards to locally led nutrient neutrality credit schemes
  
- Infrastructure
  - An additional £200m to be distributed across English local authorities (excluding London and Isle of Scilly) to finance pot hole repairs
  - £8.8bn committed for a second round of City Region Sustainable Transport Settlements for English city regions between 2027/28 to 2031/32.
  
- Levelling Up Devolution
  - 12 new Investment Zones programme, 8 of which are in England with access to interventions of £80m over five years to be created in agreed Mayoral Combined Authority areas
  - Central support for Local Enterprise Partnerships (LEPs) to be withdrawn from April 2024 with LEP functions to be delivered by local government. DLUHC and Department for Business and Trade consultation expected over Summer 2023.
  - Third round of Levelling Up Fund announced
  - Rollout of new Levelling Up Partnerships providing £400m to provide bespoke place-based regeneration of 20 areas in England between 2023/24 and 2024/25
  - £211m will be available for 16 high quality regeneration projects.
  - £58m will be invested in three levelling up capital projects in the Northwest of England.
  - £161m was set out for City and Metropolitan Regeneration Projects to fund high-value capital projects, intended for Mayoral Combined Authorities and the Greater London Authority.
  - 30 additional projects to be funded from the existing £150m Community Ownership Fund.
  
- Early Years, Children and Young Adults
  - £4.1bn to fund 30 hours of free childcare for every child over the age of 9 months to introduced in stages to 2025.
  - For nurseries offering free childcare, funding will be raised to £204m in September 2023 and rise to £288m the following year.
  - A cash incentive of £600 (startup grants) for new childminders, rising to £1,200 for those who register with Ofsted or a childminder agency.
  - Staff-to-child ratios to be changed from 1:4 to 1:5 for two-year-olds to align with comparable countries, future consultation on further measures to improve flexibility for providers



- From 1 September 2024, councils will receive funding to extend wraparound childcare provision between 8am and 6pm in schools with national scheme to roll out over academic years 2024/25 and 2025/26.
- Employment and Welfare
  - Employment package focused on: the long-term sick and disabled; welfare recipients and the unemployed; older workers and parents.
  - A new apprenticeship-style programme, called 'returnerships' to encourage those over the age of 50 to learn new skills and return to work.
  - Additional £3m over the next two years to pilot an expansion of the Supported Internships to young people entitled to Special Educational Needs support but who do not have an Education Health and Care Plan.
  - £8.1m to be made available over each of the next two years, expanding the Staying Close programme to half of local authorities by March 2025 supporting young people leaving residential care into employment.
  - The Youth Offer will be extended until April 2028, supporting young people who are not in education, employment or training to look for work, expanding to young people on Universal Credit who are not currently searching for work, including young parents and carers.
- Other
  - Government has reiterated its commitment to bringing forward wider proposals to improve Local Government Finance in the next Parliament.
  - New Swimming Pool Support Fund of £63m will be made available to help public leisure centres and public swimming pools with immediate cost pressures and investment in energy efficiency measures.
  - Local Government Pension Scheme (LGPS): A forthcoming consultation will propose LGPS funds transfer all listed assets into pools by March 2025 and set the direction for the future. This may include moving towards a smaller number of pools to optimise benefits of scale.
  - The Government will also consult on requiring LGPS funds to consider investment opportunities in illiquid assets such as venture and growth capital, thereby seeking to unlock some of the £364bn of LGPS assets into long-term productive assets.
  - £100m to support charities and community organisations in England targeted at those organisations most vulnerable to higher delivery cost of services or who are seeing increased demand from vulnerable groups.
  - Landfill Tax: Response to the Landfill Tax consultation to be published in due course following further engagement.
  - A grant scheme to be developed for public bodies in England to fund costs of Landfill Tax, where such costs are acting as a barrier to the remediation and redevelopment of contaminated land.

### **Local Government Finance Settlement**

14. The Local Government Finance Settlement (the Settlement) is a critical element of developing and finalising local authority budget setting and medium-term financial planning. The final Settlement for 2023/24 was announced on 6 February 2023 and it is expected that the Settlement for 2024/25 will broadly follow the same principles. The provisional Settlement is normally announced in late December which means that there is a lack of clarity and certainty for all local authorities for the duration of their financial planning cycle. The continuation of annual settlements and absence of multi-year settlements presents a significant challenge particularly in the current volatile economic

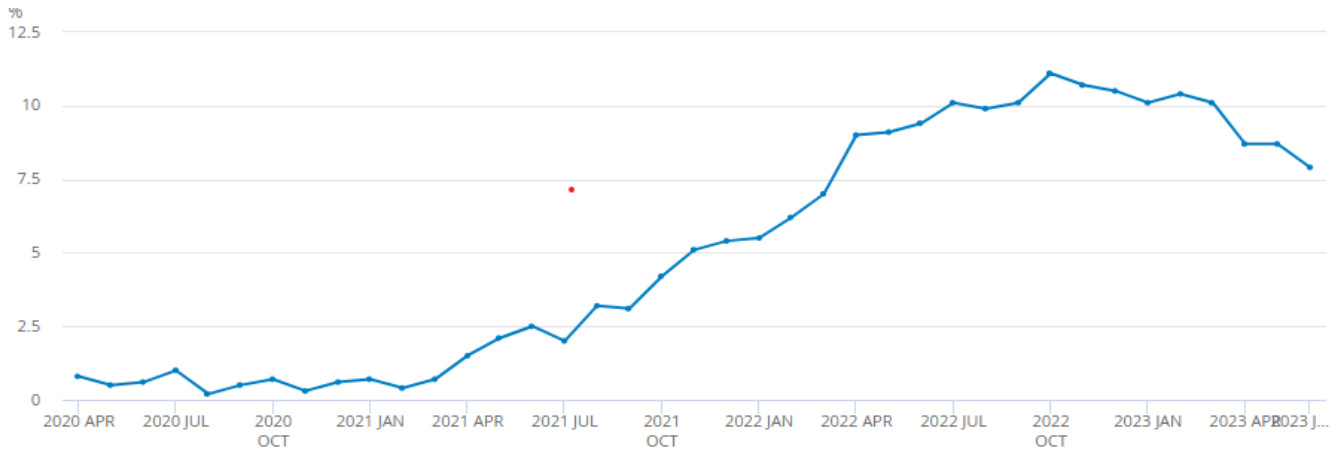
climate. The Council needs to plan for the worst case scenario in relation to the settlement and hope for additional financial support to ease some of the forecast pressures.

15. The balance of overall funding has altered in recent years with a greater proportion coming from Council Tax and specific Social Care funding. Significantly less funding has come through the Revenue Support Grant (RSG). Even though there was additional funding announced for 2023/24, Government funding for local government as a whole has fallen substantially since 2010. Since changes were made to the Local Government Finance System in 2013/14 Middlesbrough Council has suffered a significant reduction in Government funding, with a reduction of £37.7m (46%) from £81.2m received in 2013/14 to £43.5m in 2023/24.
16. It is important to note that there are a number of issues that central government still needs to resolve which have a significant impact upon the ability of all local authorities to plan and manage their finances effectively:
  - The Fair Funding Review of the formula allocation of funding from central government. The current formula is based on spending need in 2013/14 and is therefore not reflective of changing populations and relative need. The review was first promised in 2016.
  - Impact of Business Rate revaluations which determine the level of business rate income collectable from individual business properties. The latest valuations came into effect on 1 April 2023 which may result in increased levels of appeals which are considered by the Valuation Office Agency (VOA) which continues to suffer from processing backlogs made worse during the Covid-19 pandemic
  - The future of the New Homes Bonus grant scheme which is uncertain, given there have been plans to end this scheme for a number of years followed by decisions to extend.
  - Securing the long-term funding arrangements for Social Care beyond those set out in the last Government Spending Review
  - Arrangements for Council Tax and the future of the Adult Social Care Precept.

## **Inflation**

17. During October 2022 the rate of inflation as measured by the Consumer Prices Index (CPI) reached a 40 year high at 11.1% as a result of a range of adverse global factors including the impact of the Covid-19 Pandemic and the Russian invasion of Ukraine. Inflation has remained stubbornly high and stands at 7.9% for the 12 months to June 2023. This is 5.9% above the Bank of England inflation target of 2%. This is reflected in Chart 1 below:

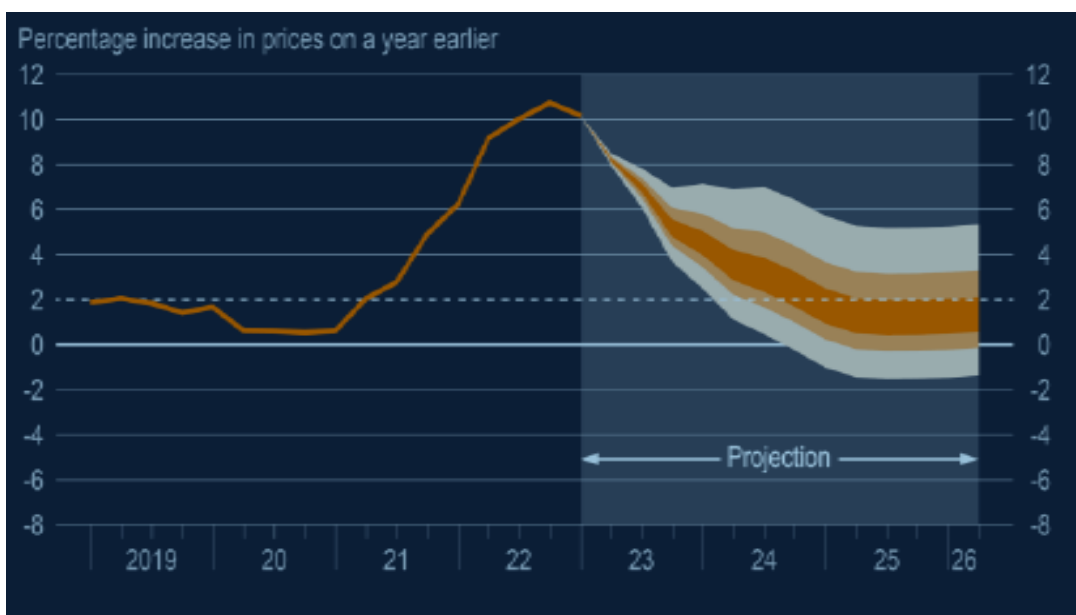
**Chart 1: CPI Monthly increase between April 2020 and June 2023**



Source: Office for National Statistics CPI Data Tables (June 2023)

18. The Bank of England has raised interest rates in an attempt to curb inflation, on 14 consecutive occasions since 19 March 2020 when the rate stood at 0.1% through to the rate in 3 August 2023 at 5.25%. There are a range of forecasts for inflation currently and these are variable due to a range of complex economic factors. The last Office for Budget Responsibility (OBR) prediction in April 2023 is for CPI to fall over the course of 2023 and reach 1.5% by Q1 of 2024. The forecast provided by the Council's Treasury Management Advisers, Arling Close indicates that this will not happen as quickly as forecast by the OBR. They predict that CPI inflation is expected to fall sharply as energy costs begin to ease, but that in the modal forecast conditioned on market interest rates, an increasing degree of economic slack and declining external pressures lead inflation to fall to materially below the 2% target in the medium term, but it is judged that the risks to that forecast are skewed significantly to the upside. The mean projection for CPI inflation, which incorporates these risks, is at or just below the 2% target in the medium term. This is demonstrated in Chart 2.

**Chart 2 : Outlook for UK CPI inflation**



Source: Arling Close

19. It is important to note that the inflation rates incurred and forecast over the foreseeable future have resulted in unprecedented cost increases for local authorities which thus far have not attracted central government support through the Settlement. Unless the 2024/25 settlement includes some financial support to address inflationary pressures, particularly for demand led statutory services, the Council will face extremely difficult decisions in achieving a balanced budget.
20. In common with most local authorities, the combination of high inflation and cost of living crisis and high energy and food prices have significantly impacted the local and national economy and put significant pressure upon demand for Council services and the cost of providing them. Within Quarter One of 2023/24, further financial pressures are emerging in relation to :
- Adults Social Care – expected increased cost due to increased demographic demand pressures and higher care fees to providers to offset their rising costs and capacity constraints due to labour shortages. The service is also experiencing challenges in recruitment and retention of staff of which pay is a driving factor.
  - Childrens Social Care – experiencing increased demand for care and cost increases due to provider rates and complexity of cases.
  - Integrated Transport Unit – the service is experiencing increased cost of transport from local suppliers and high levels of demand for service.
  - Waste Disposal – is incurring inflationary increases on the unit cost of waste disposal and increased demand beyond budgetary provision.
  - Homelessness Pressures and the effect on Housing Benefit Subsidy. The Council is experiencing an increase homelessness cases and a need for temporary accommodation together with an increase in the cost of provision, especially bed and breakfast. The Local Housing Allowance (LHA) within Housing Benefit Subsidy is proving to be insufficient to meet these costs resulting in a cost pressure to the General Fund budget.

## **Budget Strategy**

21. It is essential that the Council develops a credible medium term financial strategy to recover its financial position and achieve financial sustainability over the course of its MTFP whilst demonstrating that it is achieving Best Value in its use of resources. It is essential that the 2024/25 budget process achieves the following key objectives:
- Set and deliver a balanced General Fund budget for 2024/25.
  - Establish a plan to recover the Council's financial resilience through the achievement of a balanced MTFP and rebuilding of revenue reserves.
  - Develop a Transformation Programme that delivers the Mayor's priorities within a new Council Plan that is within an affordable cost envelope over the medium term.
  - Establishes and utilises more robust and reliable demand and cost modelling that can be used to more effectively plan, manage, forecast and control the cost of services.

22. The proposed budget strategy for 2024/25 and over the medium term will focus upon the following themes in order to establish a robust and affordable MTFP:

- Develop prevention and demand management strategies in relation to meeting statutory responsibilities.
- Service redesign and transformation to deliver improved outcomes from a lower cost base.
- Review, benchmark and prioritise services within resource constraints.
- Review, rationalise and optimise the use of Council assets to create a pipeline of capital receipts to fund transformation and reduce operational costs.
- Review and optimise Income from fees and charges.
- Review and optimise debt recovery.

### 2024/25 to 2026/27 Medium Term Financial Plan Refresh

23. The updated MTFP is set out in table 2 and reflects the cost of delivering current Council policy and service levels over the 3 years from 2024/25 to 2026/27 based upon the best information available at this time and the following key assumptions:

- That all agreed savings will be delivered as approved by Council in February 2023.
- That 2023/24 expenditure is controlled within the budget approved by Council in February 2023. Any failure to do so could add up to £11.563m (forecast overspend at Quarter One) to the budget gap for 2024/25.

**Table 2 – updated MTFP 2024/25 to 2026/27**

Refreshed MTFP Summary 2024/25 to 2026/27 (incremental)				
Budget Item	2024/25 £m	2025/26 £m	2026/27 £m	Table
<b>Net Budget brought forward</b>	<b>126.354</b>	<b>134.448</b>	<b>140.806</b>	
Pay Inflation	7.949	4.340	3.556	3
Contractual inflation	1.550	1.550	1.550	4
General inflation (including energy)	1.987	-	-	
Fees & Charges inflation	(1.290)	(0.860)	(0.860)	
<b>Inflation subtotal</b>	<b>10.196</b>	<b>5.030</b>	<b>4.246</b>	
Service Demand pressures	13.297	6.497	4.919	5
<b>Service Demand pressures subtotal</b>	<b>13.297</b>	<b>6.497</b>	<b>4.919</b>	
Technical adjustments	3.844	0.511	0.207	6
Risk contribution to Financial Resilience Reserve	0.500	0.750	0.750	
Grant Funding adjustments	(2.515)	-	-	7
Commercial Income	(0.036)	0.402	-	
Savings proposals	(2.987)	-	-	8
<b>Projected Net Budget</b>	<b>148.652</b>	<b>147.638</b>	<b>150.928</b>	
Future growth / reserve contribution	-	-	-	
<b>Projected Net Budget including reserves</b>	<b>148.652</b>	<b>147.638</b>	<b>150.928</b>	
Retained Business Rates, Top Ups, & Revenue Support Grant	(62.879)	(64.766)	(66.709)	
Council Tax	(71.568)	(76.039)	(80.734)	
Collection Fund (Surplus) / Deficit	-	-	-	
<b>Assumed Funding</b>	<b>(134.448)</b>	<b>(140.806)</b>	<b>(147.443)</b>	
<b>Incremental Budget Gap + / Surplus ( )</b>	<b>14.204</b>	<b>6.832</b>	<b>3.485</b>	
<b>Cumulative Budget Gap + / Surplus ( )</b>	<b>14.204</b>	<b>21.037</b>	<b>24.522</b>	

24. The estimated budget gap based upon these assumptions is £14.204m in 2024/25 rising to £24.522m by 2026/27. These assumptions will be reviewed, updated, and tested for robustness over the period of the budget setting process as new information becomes available. This provides an indication of the size and scale of savings to be delivered in order to achieve a legally balanced budget for 2024/25 and financial sustainability over the period of the MTFP.

25. The most significant drivers of the budget gap are as follows and these are detailed in the following paragraphs along with details of other components of the updated MTFP;

- Pay inflation
- Contractual inflation
- Service demand spending pressures including recurring pressures identified in Quarter One 2023/24 budget monitoring

**Pay inflation**

26. Table 3 below summarises the pay and pension items included in the MTFP. These form a significant driver to the increased MTFP gaps.

**Table 3 – Pay inflation**

<b>Pay model / pension (incremental increases to existing pay model resources)</b>				
<b>Item</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>Cumulative</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
2024/25 Pay award	5.334	3.556	3.556	12.446
Extra required for 2023/24 Pay Award	2.223	-	-	2.223
<b>Pay Model</b>	<b>7.557</b>	<b>3.556</b>	<b>3.556</b>	<b>14.669</b>
Increase in employers pension contributions following actuarial review	0.392	0.784	-	1.176
<b>Pension</b>	<b>0.392</b>	<b>0.784</b>	<b>-</b>	<b>1.176</b>
<b>Pay/Pension</b>	<b>7.949</b>	<b>4.340</b>	<b>3.556</b>	<b>15.845</b>

27. The overall cost of the final 2022/23 pay award and other pay related updates was £5.5m and this was reflected in directorate budgets as part of the MTFP approved by Council in February 2023. The estimated cost of the 2023/24 pay award, based on the Employers offer of £1,925 p.a. plus on-costs, is currently projected at a further £2.223m above the £4.445m provision already held within 2023/24 budgets, and this additional requirement will need to be fully reflected in the 2024/25 base.

28. The MTFP refresh currently assumes as a working assumption that the eventual 2024/25 pay award will be at 6% costing £5.334m p.a., with future years assumed as £3.556m p.a. or 4%. These compare with the original assumptions in the February MTFP of assumed 3% in 2024/25 and 2% in 2025/26.

29. Ongoing pension reductions, based on a draft triennial pension valuation and largely due to a reduction in the pension deficit charges, were included in the February MTFP.

**Contractual inflation**

30. Table 4 below summarises the contractual inflation increases included in the MTFP.

**Table 4 – Contractual inflation**

<b>Contractual inflation (incremental adjustments)</b>				
<b>Directorate</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>Cumulative</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Adult Social Care	1.021	1.021	1.021	3.063
Children's Care	0.426	0.426	0.426	1.279
Education & Partnerships	0.029	0.029	0.029	0.088
Regeneration	0.034	0.034	0.034	0.103
Environment & Community Services	0.009	0.009	0.009	0.028
Legal & Governance Services	0.029	0.029	0.029	0.086
Finance	0.001	0.001	0.001	0.002
<b>Contractual Inflation</b>	<b>1.550</b>	<b>1.550</b>	<b>1.550</b>	<b>4.650</b>

31. Contractual inflation is provided for a number of areas with the following key areas:

- Adult Social Care purchasing budgets
- Childrens' Care – mainly external residential and fostering contracts.

32. There are several areas of likely future contractual inflation where the modelling has not yet been updated since the assumptions underpinning the February MTFP position. All contracts that are potentially subject to inflationary increases will be reviewed This means that future years in the above table are very likely underestimating the potential impact.

#### **General inflation (including energy)**

33. Inflation totalling £1.987m from 2024/25 has been provided for the effects of potential additional inflation across a wide range of areas due to uncertainty around levels of inflation, including the cost of energy. This will initially be held centrally. This will be subject to review along with inflation previously provided to Directorates, with updates being provided in future MTFP updates.

#### **Fees and charges inflation**

34. For 2024/25 fees and charges are assumed to currently to increase by 3% producing £1.290m of income, and by 2% p.a. for 2025/26 and 2026/27 producing £0.860m p.a. This will be reviewed in line with inflation rates.

35. A full review of fees and charges is to take place shortly and this will look at the potential effect of increases in fees and charges on demand for services.

36. Consideration is also being given to a potential increase in fees and charges from 1 November 2023 in line with the underlying rate of inflation, where they can legally be increased, in order to help the financial position in 2023/24. This will be subject to a report to Executive in October 2023. It should be noted that for the majority of services the last increase applied was from 1 November 2022 and the full year effect of this was built into in the 2023/24 budget setting.

#### **Commercial Income**

37. The Council receives income from a number of Commercial developments. The February MTFP outlined that is currently assumed that they may potentially be some reduction

in income to be achieved in future years due to rent reviews at Cleveland Centre Shopping Centre, and potential break clauses in some of the rental contracts of the Centre Square buildings. These assumptions have not been changed at this stage but are being constantly reviewed in light of the effect of the current economic climate in particular on town centre retail. This will be part of the fees and charges review mentioned in paragraph 36. It should be noted that even with these potential reductions, the commercial developments have provided additional income to the Council, in excess of the cost, both in previous years and in the future.

### **Service Demand Pressures**

38. Table 5 below summarises the demand and service pressures increases identified by directorates and included in the MTFP. These form a significant driver to the increased MTFP gaps.

**Table 5 – Service Demand Pressures**

<b>Service Demand Pressures (incremental adjustments)</b>				
<b>Directorate</b>	<b>2024/25 £m</b>	<b>2025/26 £m</b>	<b>2026/27 £m</b>	<b>Cumulative £m</b>
Adult Social Care				
- Living Wage; external commissioned services	3.633	2.319	2.319	8.271
- Increased demand	3.259	1.100	1.100	5.459
- Increased homelessness costs	0.300	-	-	0.300
- Increases in grant expenditure (offset by corresponding increased grant income)	1.702	-	-	1.702
	<b>8.894</b>	<b>3.419</b>	<b>3.419</b>	<b>15.732</b>
Children's Care - demand	1.500	1.500	1.500	4.500
Education & Partnerships - Integrated Transport Unit (ITU)	1.300	-	-	1.300
Regeneration - Car parking income/reduced Housing	0.078	0.128	-	0.206
Growth/Leisure Trust adjustments				
Environment & Community Services - Waste Disposal	1.025	1.450	-	2.475
Finance - Housing Benefit Subsidy shortfall - homelessness	0.300	-	-	0.300
Central - increased cost of external audit fees	0.200	-	-	0.200
<b>Service Demand pressures</b>	<b>13.297</b>	<b>6.497</b>	<b>4.919</b>	<b>24.713</b>

39. As mentioned in paragraph 20 and shown in Table 5 above the key updates since the February MTFP reflect the following areas :

- Children's Care

Due to the fact that Children's Care is currently forecasting a £3.649m overspend as shown in the Quarter One 2023/24 report to this Executive it is prudent to include an amount for estimated costs above the current budget, due to increased demand for care and cost increases due to provider rates and complexity of cases, in the updated MTFP and an amount of £1.500m p.a. has been included for this

- Adult Social Care

Table 5 above shows that due to a number of potential pressures an additional £8.894m has been included in the updated MTFP for 2024/25 and £3.419m for



2025/26 and 2026/27. This assumes no further funding from the Government above that already announced for Adult Social Care.

- Integrated Transport Unit

The service is experiencing increased cost of transport from local suppliers and high levels of demand for service, and therefore £1.300m has been built into the updated MTFP from 2024/25.

- Waste Disposal

As mentioned in paragraph 20 and in the Quarter One 2023/24 report there are inflationary increases on the unit cost of waste disposal and increased demand beyond budgetary provision and therefore £1.025m has been included from 2024/25. Also there will be further increased costs from 2025/26 due to the extension of the current contract for a further year until the new Waste Recycling Site is complete, which is currently expected in 2026/27, and a further £1.450m has been built into the updated MTFP from 2025/26.

- Homelessness Pressures and effect on Housing Benefit Subsidy

The Council is experiencing an increase homelessness cases and a need for temporary accommodation together with an increase in the cost of provision, especially bed and breakfast. The Local Housing Allowance (LHA) within Housing Benefit Subsidy is proving to be insufficient to meet these costs resulting cost pressure to the General Fund budget. A total of £0.600m has been built into the updated MTFP, comprising of £0.300m for the effects of this within Adult Social Care and £0.300m within Finance. This is an emerging national issue affecting many local authorities across the country. A cross cutting review across all service areas involved in providing homelessness support is underway to understand current activities and future needs and to identify more cost effective solutions to meeting the needs of homeless households. This may lead to the amount provided in the MTFP being reviewed.

### **Technical adjustments**

40. Table 6 below summarises various technical adjustments contained in the updated MTFP.

**Table 6 – Technical Adjustments**

<b>Technical adjustments (incremental adjustments)</b>				
<b>Item</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>Cumulative</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Flexible Use of Capital Receipts 2023/24	3.000	-	-	3.000
Capital financing requirements (revenue costs of capital programme)	0.844	0.511	0.207	1.562
<b>Technical adjustments</b>	<b>3.844</b>	<b>0.511</b>	<b>0.207</b>	<b>4.562</b>

41. The Flexible Use of Capital Receipts line is the reversal of the one year use to balance the budget in 2023/24. This means that the £3m is not available for the budget from 2024/25 onwards and therefore needs to be included as a pressure in the MTFP.

## **Grants / contributions**

42. Table 7 below summarises various grants/contributions adjustments contained in the updated MTFP. None of these have changed from the February MTFP.

**Table 7 – Grants/contributions**

<b>Grants / Contributions (assumed incremental adjustments)</b>				
<b>Item</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>	<b>Cumulative</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
New Homes Bonus	0.551	-	-	0.551
Adult Social Care - Market Sustainability & Improvement Fund	(0.894)	-	-	(0.894)
Adult Social Care - Discharge Fund	(0.808)	-	-	(0.808)
Social Care Grant	(2.228)	-	-	(2.228)
21/22 Covid Council Tax Support Grant	0.864	-	-	0.864
<b>Grants/ Contributions</b>	<b>(2.515)</b>	<b>-</b>	<b>-</b>	<b>(2.515)</b>

## **Council Tax**

43. The MTFP assumes the following in respect of council tax and adult social care precept:

- 2.99% council tax increase over the period of the MTFP (maximum allowed without referendum)
- 2% Adult Social Care precept over the period of the MTFP (maximum allowed without referendum)
- Growth in the Council Tax Base of approximately 500 Band D equivalent properties per annum totalling £0.900m p.a. (this is to be reviewed regularly)

44. The actual level of Council Tax increase for 2024/25 will be formally approved by Full Council in February 2024. Any reduction from these maximum assumed levels will result in an increased budget gap from that presented. It should be noted that each 1% increase in Council Tax generates approximately £650,000 of resources.

45. The effect of the assumption of a 4.99% total increase in Council Tax (Middlesbrough Council element only excluding Police, Fire, and Parish Councils elements) for each council tax band for the period of the MTFP is shown in Table A below. This also includes the percentage of dwellings currently in each band on the Valuation List. It can be seen from the table that 68% of dwellings in Middlesbrough are in Bands A and B (the lowest bands for Council Tax). It should also be noted that a large proportion of residents in the lower band dwellings will be subject to the Council Tax Reduction Scheme and various discounts, e.g. single person's discount. Therefore even though the council tax increase is at the maximum allowed the effect on many residents in Middlesbrough will be minimal.

**Table A – effect of assumed 4.99% total increase in Middlesbrough element of Council Tax for the period of 2024/25 to 2026/27**

Band	% of dwellings per band*	2024/25 4.99% increase**			2025/26 4.99% increase**			2026/27 4.99% increase**		
		Council Tax	Annual increase	Weekly increase	Council Tax	Annual increase	Weekly increase	Council Tax	Annual increase	Weekly increase
		£	£	£	£	£	£	£	£	£
A	50.6%	1,317.17	62.60	1.20	1,382.90	65.73	1.26	1,451.91	69.01	1.33
B	17.2%	1,536.71	73.04	1.40	1,613.39	76.68	1.47	1,693.90	80.51	1.55
C	17.2%	1,756.23	83.47	1.61	1,843.87	87.64	1.69	1,935.88	92.01	1.77
D	8.3%	1,975.76	93.90	1.81	2,074.36	98.59	1.90	2,177.87	103.51	1.99
E	4.1%	2,414.82	114.77	2.21	2,535.32	120.50	2.32	2,661.83	126.51	2.43
F	1.5%	2,853.88	135.64	2.61	2,996.29	142.41	2.74	3,145.80	149.51	2.88
G	0.9%	3,292.94	156.51	3.01	3,457.26	164.32	3.16	3,629.77	172.52	3.32
H	0.1%	3,951.53	187.81	3.61	4,148.71	197.18	3.79	4,355.73	207.02	3.98

\* Based on number of dwellings on the Valuation List

\*\* Based on applying maximum increase without a referendum

46. Whilst Middlesbrough has one of the highest Band D council tax rates in the Tees Valley the actual council tax per household is the lowest in the Tees Valley due to the high number of lower banded properties.

### Government Funding

47. There is currently no change to the Government funding assumed in the February MTFP, with Revenue support Grant and Business Rates Top Up grant being assumed to increase by 5% in 2024/25 and 3% in 2025/26. This will be reviewed as and when further information is available.

### Savings

48. The following savings are included in the MTFP as previously approved by Council in February 2023.

**Table 8 – Savings**

Previously agreed savings proposals (incremental adjustments)				
Item	2024/25 £m	2025/26 £m	2026/27 £m	Cumulative £m
Directorate Savings	(1.119)	-	-	(1.119)
Children's Services Financial Improvement Plan	(1.868)	-	-	(1.868)
<b>Previously agreed savings</b>	<b>(2.987)</b>	<b>-</b>	<b>-</b>	<b>(2.987)</b>

49. The MTFP will be further updated over coming months and will take account of a range of potential risks. The adequacy of the General Fund balance and reserves will be assessed throughout the process, culminating in the issue of S151 Officer's statutory report under s25 of the Local Government Act 2003 in which advice to Council in relation to the robustness of budget estimates and the robustness of reserves will be provided ahead of budget setting in February 2024.

## General Fund Balance and Usable Reserves

50. The Council's General Fund Balance and other usable revenue reserves at 31 March 2023 are summarised in table 9 below. It should be noted that the General Fund balance is the reserve of last resort and stands at 9.5% of the 2023/24 net revenue budget. Unrestricted usable earmarked revenue reserves are at a critically low level and it is essential that 2023/24 expenditure is contained within the approved budget in order to protect these balances. The intention over the period of the MTFP is to replenish these reserves to rebuild the Council's financial resilience so that it can respond to unforeseen financial shocks outside of its control. The updated MTFP includes contributions to the Financial Resilience Reserve of £0.500m in 2024/25 and then £0.750m p.a. in 2025/26 and 2026/27.

**Table 9– Reserves as at 31 March 2023**

<b>Reserves as at 31st March 2023</b>	
	<b>Closing Balance 31/03/23 / Opening Balance 01/04/23 £m</b>
General Fund Reserve	12.041
<u>Usable Earmarked Reserves</u>	
Restricted Use	1.171
Unrestricted Use	2.788
	3.959
Unusable Earmarked Reserves	3.974
School Balances	3.640
Provisions	5.194
<b>Reserves as at 31st March 2023</b>	<b>28.808</b>

51. It is proposed that the Council adopts a Reserves Policy within 2023/24 and that this will be further updated and approved as an integral part of the MTFP for 2024/25 and future years. The proposed draft policy is set out in Appendix 1. The Executive is requested to consider and support the policy to apply in 2023/24 and refer to Council for approval.

## Local Government Finance Settlement

52. The modelling of funding projections will be kept under review through the budget process to reflect new information as it becomes available. It is not expected that there will be any significant policy changes for the 2024/25 provisional settlement, given that no Technical Consultations have been issued by Central Government which would usually be the case if significant changes were planned. The provisional settlement is normally issued in late December.

## Movement in budget gap since February 2023

53. For information table 10 below shows the movement in the budget gap in the updated MTFP since the approval of the MTFP in February 2023 incorporating the updates highlighted above.

**Table 10 – Movement in budget gap since February MTFP**

Item	2024/25 £m	2025/26 £m	2026/27 £m	Cumulative £m
<b>23/24 Budget Report to Council 27/02/23</b>	<b>2.728</b>	<b>2.700</b>	<b>0.000</b>	<b>5.428</b>
Pay model changes	4.890	1.778	3.556	10.224
Adult Social Care Living Wage changes	-	-	2.319	2.319
Contractual inflation changes	-	-	1.550	1.550
Fees & Charges changes	-	-	(0.860)	(0.860)
Capital Financing changes	-	-	0.207	0.207
Top up of Financial Resilience Reserve	0.500	0.750	0.750	2.000
Demand changes - Childrens	1.500	1.500	1.500	4.499
Demand Changes - Adult Social Care	2.709	1.100	1.100	4.908
<u>Changes arising from Q1 Budget Monitoring</u>				
Adult Social Care - Homelessness	0.300	-	-	0.300
Education & Partnerships - Integrated Transport Unit (ITU)	1.300	-	-	1.300
Environment & Community Services - Waste Disposal	1.025	0.475	-	1.500
Legal & Governance - Coroners inflationary increases	0.100	-	-	0.100
Finance - Housing Benefit Subsidy shortfall re: homelessness cases	0.300	-	-	0.300
Central - increased cost of external audit fees	0.200	-	-	0.200
<b>Net Budget movements</b>	<b>12.822</b>	<b>5.603</b>	<b>10.121</b>	<b>28.547</b>
Council Tax - assumed increase of 4.99% p.a.	(1.346)	(1.471)	(4.693)	(7.510)
Business Rates	0.000	0.000	(1.943)	(1.943)
<b>Funding movements</b>	<b>(1.346)</b>	<b>(1.471)</b>	<b>(6.636)</b>	<b>(9.453)</b>
<b>Refreshed Budget Gap + / Surplus ( )</b>	<b>14.204</b>	<b>6.832</b>	<b>3.485</b>	<b>24.522</b>

## Budget Development Timetable

54. It is proposed that the Council adopts the following timetable shown in Table 11 so that suitable proposals to balance the MTFP 2024/25 to 2026/27 can be published for public consultation before final decisions are made by Council in February 2024.

**Table 11 -2024/25 Budget Setting – Budget Timetable**

2024/25 Budget Setting - Budget Timetable		
Date	Responsible	Action
August 2023 - end of October 2023	LMT / Executive	Development of budget savings proposals
15 November 2023	Executive	Executive – budget savings proposals agreed for consultation. Capital Programme review
16 November 2023 – 10 January 2024	Finance	Budget Consultation period with public, political groups, OSB, business community & other stakeholders
Late December 2023 / Early January 2024	Finance	Consider Provisional Local Government Finance Settlement (usually available late December)
End January 2024 / Early February 2024	Finance	Final Local Government Finance Settlement to be considered
Mid January 2024 - early February 2024	Elected Mayor / Executive / LMT	Amend budget savings proposals in light of consultation feedback/updated officer advice & consider any alternative budget proposals
14 February 2024	Executive	Executive – agree final budget proposals for recommendation to Council
28 February 2024	Council	Full Council – to set 2024/25 revenue budget, 2024/25 Council Tax, revised MTFP to 2026/27 & Capital Strategy 2024/25

### What decision(s) are being recommended?

That the Executive:

- Notes the increase in the forecast budget gap for 2024/25 to £14.204m rising to £24.522m over the term of the MTFP to 2026/27 (Table 2 and paragraphs 23 to 49).
- Agrees that the Leadership Management Team (LMT) in consultation with the relevant Executive Member prepare detailed plans and budget proposals in accordance with the Council's priorities and proposed budget strategy (paragraphs 21 and 22) taking account of periodic updates in MTFP assumptions.
- Agrees the proposed Reserves Policy as contained in Appendix 1 and recommend this to Council for approval.
- Notes the budget preparation timetable (Table 11 and paragraph 54) and that proposals will be presented to the Executive for approval in November 2023 as part of the draft MTFP and Budget Consultation.

## **Rationale for the recommended decision(s)**

55. The Council is required to set a legally balanced budget for 2024/25 and achieve a financially sustainable position through a balanced MTFP to 2026/27. The budget development process requires significant measures to be taken to develop transformed and redesigned services that deliver improved outcomes that are affordable within available resources over the medium term.
56. The Council continues to face significant budget pressures and uncertainty, including the continuing level of support from Central Government over the medium term. Additionally due to increased demand for services, the long-term impact of COVID-19 and the current backdrop of economic uncertainty and inflation, council services continue to operate in a challenging environment.
57. This report is part of the Council's continuing budget setting and business planning processes and builds on the previous MTFP position recommended by Executive on 14 February 2023 and approved by Council on 27 February 2023.
58. This report sets out the updated MTFP projections and proposed budget strategy for 2024/25 to 2026/27 so that officers can prepare detailed proposals for Member consideration as part of the annual budget-setting cycle in line with the timetable in paragraph 54.
59. The overarching objective of our budget strategy is to set a priority-led budget over the medium term that is balanced and realistic; and supported by achievable saving plans. However, it must be recognised that meeting the significant budget gaps as that set out in this report will mean transforming the way we deliver services, doing some things differently and possibly stopping some services.
60. The LMT will work closely with the Elected Mayor and Executive Members to develop plans that meet the Mayor's priorities within available resources over the period of the MTFP.

## **Other potential decision(s) and why these have not been recommended**

61. The Council is required by law to set a balanced budget and this report sets out the development process and timeline for achieving that objective. Therefore no other options are feasible.

## **Impact(s) of the recommended decision(s)**

### ***Legal***

62. The Council is required under legislation to set a balanced budget for each year. The Medium Term Financial Plan and revenue and capital budgets form part of the Council's policy framework, as set out in its constitution. The approach outlined within the document will enable the Council to operate within the resources available and continue to meet its many statutory duties.

### ***Strategic priorities and risks***

63. The S151 Officer is required to provide statutory advice to Council on the robustness of the budget estimates and adequacy of reserves. As such an assurance was provided to Full Council that at the time it set the 2023/24 budget it had been reasonably based on the best available information and assumptions.
64. However, the uncertainties of the economic environment over the short to medium term present a high risk to the authority as reflected in the pressures being experienced and reflected in the Quarter One forecast overspend in the 2023/24 financial year. It is essential that Chief Officers within LMT in consultation with Executive Members are focused upon developing and delivering financial recovery plans to control expenditure within the approved budget. Any actual overspend will have a direct adverse impact upon the development of the MTFP for 2024/25 to 2026/27.
65. The development of the Council's MTFP is continually under review and will build upon projections for the current period and beyond as further details and analysis become available. Throughout the budget process a range of different options will be considered including various levels of council tax, investment, expenditure reductions and income generation proposals. These will be regularly reported and thoroughly considered as part of an iterative process involving LMT, the Elected Mayor and Executive Members. Impact assessments will be considered before final decisions are taken on whether or not to implement each proposal.

### ***Human Rights, Equality and Data Protection***

66. The Council must ensure that, in line with the Public Sector Equality Duty, that any budget saving proposals, other budget proposals, or proposed Council Tax increases thought to impact on those with protected characteristics are assessed, mitigated where possible and/or justified. As such impact assessments for any savings proposals will be undertaken as part of the budget process and included as part of the budget report to Council in February 2024.
67. The Public Sector Equality Duty (PSED) (as set out in the Equality Act 2010) places a statutory duty on the Council in exercising its functions, to have regard to the need to:
- eliminate discrimination, harassment and victimisation;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
68. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and



- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

69. The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Where proposed decisions may be relevant to one or more of these protected characteristics, the Council is obliged to assess the impact. If there is judged to be an adverse impact on these characteristics that is relevant to the duty above steps are taken to consider whether it can be avoided or mitigated. Where it cannot be avoided or mitigated, a decision can only be taken if it can be justified.

### **Financial**

70. This report represents the first step in a budget process that will continue over the coming months with further detailed consideration of the outcomes being evaluated prior to the Executive considering and approving a draft budget for public consultation in November 2023.

71. The budget process will culminate in the Chief Finance Officer's assessment of the robustness of the proposed budget and adequacy of reserves statement contained within the final report presented to Executive and Council in February 2024.

### **Actions to be taken to implement the recommended decision(s)**

<b>Action</b>	<b>Responsible Officer</b>	<b>Deadline</b>
Leadership Management Team (LMT) in consultation with the relevant Executive Member to prepare detailed plans and budget proposals in accordance with the Council's priorities and proposed budget strategy (paragraphs 21 and 22) taking account of periodic updates in MTFP assumptions.	Leadership Management Team (LMT) / Executive Members	31/10/23
If approved the proposed Reserves Policy as contained in Appendix 1 will be submitted to Council for approval	Interim Director of Finance / Head of Financial Planning & Support	30/9/23
That a further report is submitted to Executive on 15 November 2023 updating the MTFP and starting the consultation on budget savings proposals	Interim Director of Finance / Head of Financial Planning & Support	15/11/23

### **Appendices**

<b>1</b>	Reserves Policy 2023/24
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## Background papers

Executive	Children's Service Financial Improvement Plan	14/2/23
Council	Budget 2023/24 -S25 Report of the Chief Finance Officer	27/2/23
Council	Revenue Budget, Council Tax, Medium Term Financial Plan and Capital Strategy 2023/24	27/2/23
Executive	Revenue and Capital Budget – Forecast Outturn position at Quarter One 2023/24	23/8/23

**Contact:** Andrew Humble, Head of Financial Planning & Support  
(deputy S151 Officer)

**Email:** [andrew\\_humble@middlesbrough.gov.uk](mailto:andrew_humble@middlesbrough.gov.uk)

# APPENDIX 1

## Reserves Policy 2023/24

### Middlesbrough Council

#### 1. Background and Context

- 1.1. The Council is required to maintain adequate financial reserves. Reserves are an integral part of sound financial management, they help the Council plan for future spending commitments, balance the budget and manage unpredictable financial pressures.
- 1.2. Sections 32 and 43 of the Local Government Finance Act 1992 require councils to consider the level of reserves when setting a budget requirement. Section 25 of the Local Government Act 2003 requires the Chief Financial Officer (Section 151 Officer) to report formally to Council on the adequacy of proposed reserves when setting the budget and council tax requirement. This is completed at the Council through the Robustness Statement. The accounting treatment for reserves is set out in the Code of Practice on Local Authority Accounting.
- 1.3. CIPFA issued [Local Authority Accounting Panel \(LAAP\) Bulletin No.99](#), Guidance Note on Local Authority Reserves and Balances in July 2014. CIPFA also issued [CIPFA Bulletin 13 Local Authority Reserves and Balances](#) on 28 March 2023. Compliance with the guidance is recommended in CIPFA's Statement on the Role of the Chief Financial Officer in Local Government. In response to the above requirements, this policy sets-out the Council's approach for compliance with the statutory regime and relevant non-statutory guidance for the Council's cash backed usable reserves.
- 1.4. All reserves will be categorised as per the Local Authority Accounting Practice guidance, into groupings.
- 1.5. Within the Statement of Accounts for General Fund Earmarked Reserves, all individual reserves are reported and will include a description of the purpose of the reserve.
- 1.6. Earmarked reserves will be reviewed regularly as part of the in-year monitoring and accounts closure process and annually as part of the budget setting process, to determine whether the original purpose for the creation of the reserve still exists and whether or not the reserves should be released in full or in part or require topping up based on known/expected calls upon them.
- 1.7. Particular attention will be paid in the annual review to those reserves whose balances have not moved over a two-year period, other than the General Fund, for further detail see Section 4 Management and governance.

## 2. Overview

2.1. The Council will maintain a General Fund Balance and a number of sub reserves of the General Fund known as 'earmarked reserves' which will be held for three main purposes:

- **General Fund Balance** – a minimum balance which is a contingency to cushion the impact of unexpected events or emergencies. This is the fund of last resort.
- **Earmarked reserves:**
  - to support financial sustainability which are used to help cushion the impact of uneven cash flows, avoid unnecessary temporary borrowing manage the impact of unexpected adverse impacts upon the general fund budget (e.g., a financial resilience reserve).
  - to meet known or predicted requirements or established by statute. The purpose of these reserves is to enable sums to be set aside for specific purposes or in respect of potential or contingent liabilities where the creation of a provision is not required or permitted.
- **Unusable reserves** - these arise out of a requirement under legislation and proper accounting practice either to accumulate revaluation gains or as adjustment accounts to comply with statutory accounting requirements. These reserves are not backed by resources and therefore cannot be used for any other purpose. Hence, these reserves are not available to fund expenditure. These will generally be excluded from any discussion where the council talks about its level of reserves.

2.2. The level of the **General Fund Balance** is a matter for the Council to determine having had regard to the advice of the S151 Officer. A general assumption over many years was to allow for a balance of 5% of Net Revenue Expenditure. However, due to the increasing financial risks and uncertainties facing local authorities over the period since austerity in 2008/09, the minimum average balance recommended by S151 Officers has tended to increase. It is dependent upon the level of other earmarked reserves held and the assessment of risks facing individual authorities.

2.3 The Council's minimum General Fund Balance for 2023/24 is set at £12.041m which represents 9.5% of the 2023/24 Net Revenue Budget of £126.354m and reflects the risk assessed minimum balance determined by the S151 Officer in February 2023. The S151 Officer recommends that this level is maintained during 2023/24 and will be reassessed as part of the 2024/25 budget setting process.

The calculation of the level of General Fund Reserve for 2023/24 was set out in the budget report to Council in February 2023 and this assessment is outlined in Appendix C - Risk Based Assessment of Risk Reserve Balances.

2.4. The Chartered Institute of Public Finance and Accountancy (CIPFA) recommend that the following factors should be taken into account when considering the level of reserves and balances:

- Assumptions regarding inflation and interest rates.
- Estimates of the level and timing of capital receipts.
- The capacity to manage in-year demand led pressures.
- Ability to activate contingency plans if planned savings cannot be delivered.
- Risks inherent in any new partnerships.
- Financial standing of the authority (level of borrowing, debt outstanding etc.)
- The authority's record of budget management and ability to manage in year budget pressures.
- Virement and year-end procedures in relation to under and overspends.
- The general financial climate.
- The adequacy of insurance arrangements.

2.5. Each local authority must make their own decisions about the level of reserves they hold, taking into account all of the issues referred to above. The level of the general fund reserve will be a matter of judgement which will take account of the specific risks identified through the various corporate processes. It will also take account of the extent to which specific risks are supported through earmarked reserves. A risk assessment of the General Fund will be made each year and will consider the budget assumptions outlined in paragraph 2.3. This assessment is outlined in Appendix C - Risk Based Assessment of Risk Reserve Balances.

2.6. The level will be expressed as a cash sum over the period of the Medium Term Financial Plan (MTFP). The level will also be expressed as a percentage of Net Revenue Expenditure (to provide an indication of financial context).

2.7. On 1 April 2023, the Council held £12.041m in General Fund Reserve. The forecast profile as a proportion of the Net Revenue Expenditure over the period of the MTFP is summarised below:

Year	Forecast Contribution*	Forecast balance	Forecast NRE	Reserve to NRE
	£m	£m	£m	%
2023/24	-	12.041	126.354	9.5
2024/25	-	12.041	134.448	9.0
2025/26	-	12.041	140.806	8.6
2026/27	-	12.041	147.443	8.2

*\*Contributions are to be determined via the identification of savings*

*The forecast balance assumes no draw on the Reserve each year*

*The forecast NRE assumes a balanced MTFP each year as per the updated MTFP*

2.8. This will be reviewed annually in February as part of the budget setting process.

2.9 The Council's unrestricted usable earmarked revenue reserves at 31 March 2023 stand at £2.788m which is critically low. These need to be replenished as part of the MTFP in order build the Council's financial resilience.

### 3. Strategic context

- 3.1. The Council is facing a shortfall in funding compared to its demands and must urgently review its priorities and redesign and transform its services over the period of the MTFP to deliver savings to achieve a budget that is financially sustainable over the medium term.
- 3.2. To achieve Financial Sustainability, the Council will need to invest in a range of innovative and transformational activities in order to reduce future costs of service delivery. The Council's earmarked revenue reserves are at a critically low level and therefore are not sufficient to fund this innovation and transformation.
- 3.3. It is therefore proposed that the Council urgently reviews its asset base within 2023/24 to identify opportunities for rationalisation of land and buildings to dispose of assets in order to generate a pipeline of capital receipts. The utilisation of these receipts can then be considered for use in funding a Transformation Programme under the Flexible Use of Capital Receipts Policy in line with government regulations.
- 3.4. Over the term of the MTFP, the Council will need to replenish its earmarked revenue reserves in order to provide increased resilience and to fund further innovation to deliver continuous improvement over the medium term. Any underspend at final outturn will be transferred into the Council's Financial Resilience Reserve unless otherwise recommended by the S151 Officer.
- 3.5. The Council earns interest on the investment of its cash balances through its Treasury Management operations. This revenue income supports its general spending plans. By holding cash balances, the Council effectively internalises some of its borrowing, therefore avoiding interest charges on external debt. Balances held in reserves therefore help to reduce on-going revenue expenditure.
- 3.6. Reserves represent finite funds that can only be used once and are therefore regarded as **one-off funding**. The Council will avoid using reserves to meet ongoing financial commitments other than as part of a sustainable budget plan. A fundamental principle to be adopted in the management of the Council's finances is to end its reliance upon the use of one-off funding to fund service overspends. Further, the Council will not plan to use reserves to support the base budget i.e. this reserves strategy will prevent reserves being applied merely to balance the budget.

### 4. Management and governance

- 4.1. New reserves may be created at any time and approved by the Executive upon recommendation by the S151 Officer.
- 4.2. For each of earmarked reserve held there will be a clear protocol setting out:
  - The reason for/purpose of the reserve
  - How and when the reserve can be used
  - A profile over which the reserve is intended to be utilised showing expected contributions to and from the reserve, with an end date for its existence.
- 4.3. The S151 Officer shall approve the draw down of reserves provided that they are for the purpose for which the reserve has been established. The use of reserves will be reported as part of the quarterly financial monitoring report to the Executive.

- 4.4 The S151 Officer will review the use of reserves in accordance with the planned profile periodically through the financial year and as a minimum at accounts closure and budget setting. Protocols will be updated as appropriate.
- 4.5 All protocols will have an end date and at that point any balance will be transferred to the general reserve. If there is a genuine reason for slippage, then the protocol will be updated and submitted through Financial Planning for agreement by the S151 Officer or referred to the Executive as appropriate.
- 4.6 Ongoing recurring costs should not be funded from reserves unless part of a smoothing reserve and approved as part of the MTFP. The short-term use of reserves may be agreed to provide time to plan for a sustainable funding solution in the following financial year. Decisions on the use of reserves may be delayed until financial year-end and will be dependent on the overall financial position of the Council rather than the position of just one service area or directorate.
- 4.7 Council will consider a report from the S151 Officer on the adequacy of the level of reserves as part of the annual budget-setting process.
- 4.8 The Council will review and update the Reserves Strategy and Policy annually as part of the budget setting process.

## **5. General Fund and Useable Reserves**

- 5.1. The General Fund Balance is the statutory fund into which all the receipts of the Council are required to be paid in, and out of which all liabilities of the Council are to be met, except to the extent that statutory rules might provide otherwise. The General Fund Balance summarises the resources that the Council is statutorily empowered to spend on its services or on capital investment (or the deficit of resources that the Council is required to recover) at the end of the financial year.
- 5.2. Earmarked reserves are amounts set aside from the General Fund Balance to provide financing for future expenditure plans, see Appendix A.
- 5.3. Usable Reserves are those reserves that can be applied to fund expenditure or reduce local taxation; however, the Council is restricted in the use of these as the schools' balances are held by schools and can only be spent by schools. The Capital Grants Unapplied Account can only be used to finance the Capital Programme and the General Fund is used by the Council to maintain a prudent level of reserves.

5.4. In summary:

General Fund	Earmarked Reserves
<ul style="list-style-type: none"><li>• a minimum balance which is a contingency to cushion the impact of unexpected events or emergencies. This is the fund of last resort.</li></ul>	<ul style="list-style-type: none"><li>• Monies set aside for future events or liabilities or established by statute. To set monies aside for specific purposes in respect of potential or contingent liabilities where the creation of a provision is not required or permitted.</li><li>• Funds to support financial sustainability which are used to help cushion the impact of uneven cash flows, avoid unnecessary temporary borrowing manage the impact of unexpected adverse impacts upon the general fund budget (e.g. a financial resilience reserve).</li></ul>

**6. Unusable Reserves**

6.1. Unusable Reserves are those reserves that absorb the timing differences arising from different accounting arrangements. Details of all other reserves and balances including information regarding purpose, how and when to use and possible release to revenue budget is set out in Appendix B.



## Appendix A – General Fund & Earmarked Reserves

The Council holds a number of usable reserves, and these are listed below.

Reserve	Description
General Fund Balance	<p>This Fund is the statutory fund into which all the receipts of the Council are required to be paid in, and out of which all liabilities of the Council are to be met, except to the extent that statutory rules might provide otherwise.</p> <p>This is a minimum balance which is a contingency to cushion the impact of unexpected events or emergencies. This is the fund of last resort.</p> <p>This reserve ultimately smooths the financial impact of unexpected events, major incidents or emerging risks, including:</p> <ul style="list-style-type: none"> <li>• Inflation and pay awards increases above that budgeted</li> <li>• Further demand led pressures (mainly Adults and Childrens Care)</li> <li>• Non achievement of required budget savings and cost reductions</li> <li>• The general financial climate and the impact the cost-of-living crisis or a recession may have on the council including:               <ul style="list-style-type: none"> <li>○ Rising demand for Services</li> <li>○ A reduction in income from fees and charges</li> <li>○ Impact on income from commercial developments</li> <li>○ Impact on Council Tax and Business Rates income</li> <li>○ Exposure to rising Inflation and interest rates</li> <li>○ Ability to generate planned Capital receipts</li> </ul> </li> <li>• Financial risks arising as a result of new government legislation or new burdens</li> </ul>
Capital Receipts Reserve	This reserve holds amounts received from the disposal of assets and is only available to fund future capital projects.
Capital Grants and Contributions Unapplied Reserves	These reserves hold amounts from Capital Grants and Contributions that have been recognised in the Comprehensive Income and Expenditure Statement in line with the accounting code of practice, but for which the associated capital expenditure has not yet been incurred.

## Earmarked Reserves

Reserve	Description
Public Health	The Public Health Grant received by the Council is ring-fenced for use on public health services only. This reserve is for any amounts of grant not spent in year due to timing differences in service delivery.
Insurance Fund	The internal Insurance Fund was set up to cover all the Council's insurable risks. Only a limited amount of external insurance cover is provided for catastrophe or special risk incidents. The nature of the risks covered by the insurance reserve include fidelity guarantee, personal accident, employers' liability, fire, motor, marine, engineers, public liability and money losses.
Better Care Fund	<p>The Better Care Fund (BCF) has been established by the Government to provide funds to local areas to support the introduction of a fully integrated health and social care system. It is a requirement of the BCF that the Clinical Commissioning Group (CCG) and the Council establish a pooled fund for this purpose.</p> <p>Section 75 of the National Health Service Act 2006 gives powers to local authorities and CCGs to establish and maintain pooled funds to support the outcomes of the BCF.</p> <p>The Council has entered into a pooled budget arrangement with NHS Tees Valley Clinical Commissioning Group for the provision of health and social care services to meet the needs of the population of Middlesbrough. The services being commissioned or provided by the Council or Tees Valley Clinical Commissioning Group (TVCCG) depend upon the needs of the service recipient. The Council and TVCCG have an ongoing section 75 agreement in place for funding these services and this is reviewed annually. The Council is the host for this pooled budget and each partner's contribution is set out in the Better Care Fund section 75 agreement.</p> <p>This reserve is to hold balances from the pooled budget.</p>
Marton Library Section 106	This reserve is held for the purpose set out in the Section 106 agreement.
Housing Rental Sinking Fund	This reserve is for the replacement of major capital expenditure, e.g. replacement windows and boilers, for properties owned by the Council and rented out.
Financial Resilience Reserve	The purpose of the Reserve is to meet unforeseen financial pressures that cannot ultimately be managed within directorate budgets.
Change Fund	The reserve has been set up to pay for the one-off costs associated with implementing change within services including the funding of invest to save projects, early retirements / voluntary redundancies and altering the way services are commissioned.
Car Parking Reserve	This reserve was created from other reserves to cover potential pressures relating to car parking income arising in future years due to the on-going impact of Covid.

Elections Costs	This reserve covers the cost of elections which occur every four years, The reserve is built up with a contribution from the elections budget each year, and then drawn down in the fourth year when local elections take place.
Revenue Grants Unapplied	In situations where there are no grant conditions or that conditions have already been met and expenditure has not yet taken place, any unspent grants/contributions are transferred to the Revenue Grants Unapplied at year-end. These have been recognised as income in prior years in the Comprehensive Income & Expenditure Statement.
Schools Balances	This reserve holds the accumulated balances and the differences between the school budget and actual expenditure incurred in the year for all the Middlesbrough Council schools. In accordance with Government regulations and the Council's scheme of delegation for schools, these funds are carried forward and specifically earmarked for use by schools in future years.

## Appendix B – Unusable Reserves

Unusable Reserves are those reserves held by the Council that cannot be utilised to provide services. This includes reserves that hold unrealised gains and losses and adjustment accounts which deal with situations where income and expenditure are recognised statutorily against the General Fund balance on a different basis from that expected by accounting standards as adopted by the Code. Unusable reserves cannot be used to fund expenditure e.g., cannot fund revenue spend on services or capital spend on projects.

Reserve	Description
Revaluation Reserve	The Revaluation Reserve contains the accumulated net gains made by the Council arising from increases in the value of its Property, Plant and Equipment. The reserve only contains revaluation gains accumulated since 1 April 2007, the date when the Revaluation Reserve was constituted. Accumulated gains and losses accumulated before that date are consolidated into the Capital Adjustment Account. Amounts contained within this reserve will only become available to provide services (or limit resources in the case of losses) once the gains/losses are realised as the assets are disposed of.
Capital Adjustment Account	<p>The Capital Adjustment Account absorbs the timing differences arising from the different arrangements for accounting for the consumption of non-current assets and for financing the acquisition, construction or enhancement of those assets under statutory provisions. The Account is debited with the cost of acquisition, construction and enhancement as depreciation, impairment losses and amortisations are charged to the Comprehensive Income and Expenditure Statement (with reconciling postings from the Revaluation Reserve to convert fair value figures to a historical cost basis). The account is credited with amounts set aside by the Council as finance for the costs of acquisition, construction, and enhancement.</p> <p>The Account also contains accumulated gains and losses on Investment Property and gains recognised on donated assets as well as revaluation gains accumulated on Property, Plant and Equipment before 1st April 2007, the date that the Revaluation Reserve was created to hold such gains.</p>
Deferred Capital Receipts	Deferred Capital Receipts are amounts that are to be received in instalments over an agreed period of time. They arise from mortgages on the sale of Council Houses, or repayment terms from other asset sales. These can only be used for financing new capital expenditure when the actual receipt is received. When the deferred cash settlement eventually takes place, amounts are transferred to the Capital Receipts Reserve.
Financial Instrument Adjustment Account	This Account is held in accordance with the Code of Practice to write down over time the premiums paid on early debt repayment in order to spread the burden on Council Tax. This is a technical adjustment and has no impact on the overall financial position of the Council.

Pension Reserve	This reserve is used to reconcile the payments made for the year to various statutory pension schemes and the net change in the Council's recognised liability under IAS19 – Employee Benefits, for the same period.
Collection Fund Adjustment Account	The Collection Fund Adjustment Account holds the differences arising from the recognition of council tax and business rates income, in the Comprehensive Income and Expenditure Statement as it falls due from council tax payers and business rate payers compared with the statutory arrangements for paying across amounts to the General Fund from the Collection Fund.
Accumulating Compensated Absences Adjustment Account	The Accumulated Compensated Absences Adjustment Account reflects the value of compensated absences (employees time off with pay for holidays) earned but not taken in the year.
Dedicated Schools Grant Adjustment Account	From November 2020 The Local Authorities (Capital Finance and Accounting) Regulations (the 2003 Regulations) established new accounting practices in relation to the treatment of local authorities' schools budget deficits such that where a local authority has a deficit on its schools budget relating to its accounts for financial years from 1st April 2020, it must not charge the amount of that deficit to a revenue account. The local authority must record any such deficit in a separate account established solely for the purpose of recording deficits relating to its school's budget. The CIPFA local authority accounting code has determined this as the 'Dedicated Schools Grant Adjustment Account'. The new accounting practice has the effect of separating schools budget deficits from its General Fund revenue budget.

## Appendix C - Risk Based Assessment of Risk Reserve Balances

The calculation of the level of General Fund Reserve for 2023/24 was set out in the budget report to Council in February 2023 using established CIPFA criteria on the basis of identified risks and this assessment is outlined below.

The main high level factors affecting the assessment of the General Fund Reserve were uncertainty around the level of pay awards and inflation, the continued potential for increased demand and costs in Children's and Adults Social Care, non-achievement of required budget savings and cost reductions, and the degree of uncertainty in the financial and economic climate for local government due to a number of factors. The table below provides further details of this and shows that the calculation of the £12m level is made by using the mid-point of the following factors:

	<u>Low point</u> <u>£m</u>	<u>High point</u> <u>£m</u>	<u>Mid point</u> <u>£m</u>
Inflation (including pay awards) : to provide for an increase of 1%-2% for pay & 20%-30% for energy above that currently provided	2.0	3.6	<b>2.8</b>
Further demand-led pressures (mainly Adults and Children's Social Care): to provide for a realistic upturn in demand	0.5	4.0	<b>2.3</b>
Budget savings & Children's Services cost reductions : provide for non-achievement of 5% to 20% of full year budget savings	0.6	2.5	<b>1.6</b>
Local Government Finances : uncertainty post-24/25 around Government funding and business rates reform	0.5	1.5	<b>1.0</b>
General Economic Climate - mainly the effect on income including income from commercial developments, fees and charges, and Business Rates & Council Tax	0.5	3.0	<b>1.8</b>
DSG Deficit balance on Reserve : potential requirement to fund this from end of 2025/26 (assumed any requirement to repay would be over 3 years)	0.0	2.0	<b>1.0</b>
Adult Social Care reforms (Health and Social Care White Paper): costs of implementing the cap on personal care costs and changes to the means test within adult social care and moving to a fair cost of care being greater than funding provided by Government	0.0	1.0	<b>0.5</b>
Risk of potential future unknown emergencies not provided for	0.0	2.3	<b>1.2</b>
	4.1	19.9	<b>12.0</b>



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<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Executive Member for Community Safety Director for Environment and Commercial Services
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<b>Submitted to:</b>	Executive
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<b>Date:</b>	23 August 2023
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<b>Title:</b>	Final Report of the Culture and Communities Scrutiny Panel – Off Road Bikes - Service Response
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<b>Report for:</b>	Decision
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<b>Status:</b>	Public
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<b>Strategic priority:</b>	Crime and anti-social behaviour
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<b>Key decision:</b>	No
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<b>Why:</b>	Not applicable
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<b>Urgent:</b>	No
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<b>Why:</b>	Not applicable
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<b>Executive summary</b>	
<p>This report gives an overview of the investigation by the Culture and Communities Scrutiny Panel into the issue of Off-Road Bikes. The report also highlights actions taken against the scrutiny recommendations and provides details regarding the further work undertaken in partnership with Cleveland Police, to tackle the issue of Off-Road bikes within Middlesbrough.</p> <p>The Scrutiny Panel’s three recommendations are;</p> <ol style="list-style-type: none"> <li>1. That greater awareness is made to councillors and the general public on the dangers of Off-Road bikes;</li> <li>2. That Cleveland police provide the posters to the Council’s stronger community team so that these can be placed on social media sites and within the Love Middlesbrough magazine; and</li> <li>3. That the excellent partnership work with Cleveland Police and the Council continue and that the panel receive an update on Operation Endurance/ Edmondson 6 months after recommendations have been endorsed</li> </ol>	

The panel's recommendations have been reviewed and the appended Service Response and Action plan outlines how the Council will address them.

The impact of these recommendations is that there will be an improved awareness of the multi-agency work being undertaken to tackle the issue of Off-Road motorbikes.

## **Purpose**

For Executive to note the final report of the Culture and Communities Scrutiny Panel (Appendix 1) and to agree the Service Response and Action Plan (Appendix 2).

## **Background and relevant information**

The Culture and Communities Scrutiny Panel first met in October 2022 and agreed their work programme raising increasing concern regarding Off- Road bikes in the town.

The Panel wished to ask the following key questions to further their knowledge, as well as exploring avenues that the panel and local councillors could help assist the police to combat the issue.

The key questions the panel wished to ask were as follows:

- In the past 12 months, how many off road bikes have been seized and how many arrests have been made?
- How do Cleveland Police and Middlesbrough council work together?
- What powers do PSCOs have to deal with off road bikes?
- Is there any education being undertaken within primary/ secondary schools to increase awareness of Off-Road bikes?
- In your view is there anything, are there any specific areas that we, as a panel, can recommend to assist the police/ council to combat/ control the issue.
- What partners do we engage with?

The panel undertook their investigation over a series of two meetings. Also appended to this report (Appendix three to five) are several pieces of legislation and guidance documents for Executive's attention.

## **What decision(s) are being recommended?**

1. That the content of the Children and Young People's Learning Scrutiny Panel's final report on Special Educational Needs and or Disabilities (Appendix 1), be noted.
2. That the action plan (Appendix 2), developed in response to the scrutiny panel's recommendations, be approved.

## **Rationale for the recommended decision(s)**

Scrutiny conducted a review of this topic which resulted in these recommendations being proposed. Officers of the Council have reviewed these recommendations and set out how they can be achieved.

## **Other potential decision(s) and why these have not been recommended**

Not support the recommendations from the scrutiny report. This would result in the Council missing an opportunity to improve the service offered to members of the community.

### **Impact(s) of the recommended decision(s)**

Improved awareness of the multi-agency work being undertaken to tackle the issue of Off-Road motorbikes.

### ***Legal***

There are no legal implications in regard to the actions that are suggested to be taken further to the recommendations of the scrutiny panel.

### ***Strategic priorities and risks***

Strategic Priority: reducing crime and antisocial behaviour:

The scrutiny of this topic aligns with the two of the Council's three core aims set out within the Strategic plan 2021-24.

People - Working with communities and other public services in Middlesbrough to improve the lives of local people.

Place - Securing improvements in Middlesbrough's housing, infrastructure and attractiveness, improving the town's reputation, creating opportunities for local people and improving our finances.

Risks: The risk of not implementing these recommendations is that there will be a lack of awareness relating to what Middlesbrough council is doing with partners to tackle the issue.

### ***Human Rights, Equality and Data Protection***

It is not anticipated that this project will impact negatively on any members of the public.

### ***Financial***

There is no financial implication to delivering the recommendations within the report and they will be delivered as BAU.

### **Actions to be taken to implement the recommended decision(s)**

<b>Action</b>	<b>Responsible Officer</b>	<b>Deadline</b>
Please see Appendix 2 (Service Response Action Plan)		

### **Appendices**

<b>1</b>	Final Report of the Culture and Communities Scrutiny Panel
<b>2</b>	Service Response - Action Plan
<b>3</b>	CPN Procedure update 2023
<b>4</b>	Strategy to tackle Motorbike Issues
<b>5</b>	Crime stoppers Leaflet
<b>6</b>	Statutory Guidance ASB Crime and Policing Act 2014

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**MIDDLESBROUGH COUNCIL**

**OVERVIEW AND SCRUTINY BOARD**  
**22 FEBRUARY 2023**  
**SHORT REVIEW**  
**FINAL REPORT OF THE CULTURE AND**  
**COMMUNITIES SCRUTINY PANEL- OFF ROAD**  
**BIKES**

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## **PURPOSE OF REPORT**

1. To present the final report of the Culture and Communities Scrutiny Panel following its investigation into Offroad bikes.

## **AIM OF INVESTIGATION**

2. The aim of the panel's investigation was to consider Middlesbrough Council's and Cleveland Police's approach to Offroad bikes, following concerns within the community and recent media attention.

## **STRATEGIC PLAN 2021-24**

3. The scrutiny of this topic aligns with the two of the Council's three core aims set out within the Strategic plan 2021-24.

*People-* Working with communities and other public services in Middlesbrough to improve the lives of local people

*Place-* Securing improvements in Middlesbrough's housing, infrastructure and attractiveness, improving the town's reputation, creating opportunities for local people and improving our finances.

4. The scrutiny topic further links with the below priority set out for the next three years:

*Crime and anti- social behaviour-* We will tackle crime and anti-social behaviour head on, working with our partners to ensure local people feel safer.

## **TERMS OF REFERENCE**

5. The terms of reference for the panel's investigation were as follows:
  - To understand what initiative Cleveland Police and Middlesbrough Council have in place to combat the issue of off road bikes.

## **BACKGROUND**

6. At the panel's first meeting, they agreed their work programme and raised increasing concern regarding off road bikes in the town.
7. The Panel wished to ask the following key questions to further their knowledge, as well as exploring avenues that the panel and local councillors could help assist the police to combat the issue.
8. The key questions the panel wished to ask were as follows:
  - In the past 12 months, how many off road bikes have been seized and how many arrests have been made?
  - How do Cleveland Police and Middlesbrough council work together?
  - What powers to PSCOs have to deal with off road bikes?

- Is there any education being undertaken within primary/ secondary schools to increase awareness of off road bikes?
- In your view is there anything, are there any specific areas that we, as a panel, can recommend to assist the police/ council to combat/ control the issue.
- What partners do we engage with?

9. The panel undertook their investigation over a series of two meetings.

## **SETTING THE SCENE**

10. Sunday 7th August, it was estimated over 100 persons gathered across various locations in Middlesbrough on off and on road bikes, cars and quads. A subsequent “ride” out commenced where the group rode to Marske via the Trunk Road, Eston High Street and Redcar in convoy before returning to Middlesbrough where they dispersed.
11. This began a full scale investigation from Cleveland police and partners.

## **EVIDENCE- MIDDLESBROUGH COUNCIL**

12. At the panels meeting on 20 October 2022, the panel heard from Dale Metcalfe, Middlesbrough Council’s Operational Community Safety Manager in relation to the work the Council do to assist Cleveland Police.
13. The Manager advised that the Council are instrumental in what is known as 'Operation Endurance', a scheme that aims to crack down on nuisance riders and motorists initially in the Cleveland areas. The Scheme is led by Cleveland Police, however works with partners, including Middlesbrough Council and Thirteen. From the Council, Neighbourhood wardens and community safety officers will join forces with the Road traffic team to crack down on this issue. Under the Road Traffic Act 1988. It is illegal to drive or ride a mechanically propelled vehicle without lawful authority on common land, moorland or land not forming part of a road, or on any road which is a footpath, bridleway or restricted byway.
14. After the incident on 7 August 2022, the Police gathered CCTV images which had been gathered from Middlesbrough Council CCTV and private CCTV and mobile phone footage. These images were able to assist Cleveland Police in identifying individuals.
15. It was known that several railing fences were cut down by the offenders in order to gain easy access to “cut through” points for the intended route. These were repaired by Middlesbrough Council with additional target hardening methods put in place to prevent/ reduce the risk of this happening again in the future.
16. In terms of new build estates, the panel heard that Cleveland Police’s Security by design officer is involved in planning applications both at pre application stage and when the application is submitted to see if there are any possibilities to include bollards/ traffic calming measures. Any measures need to ensure they meet DDA compliance.

17. In terms of supporting the police, the Council have measures in place through the Statement of Policy and Procedures for antisocial behaviour to assist and there are 5 strands:

Stage 1; Warning letters,

Stage 2; Second warning letter

Stage 3; Joint interviews (with parents and perpetrators), contracts and anti-social behaviour agreements

Stage 4; Final warning

Stage 5; Fixed Penalty Notices and penalty notices for disorder /parenting Orders, Noise Abatement Notices, Civil Injunctions, CPN's, Public Space Protection Orders (PSPO) and Criminal Behaviour Orders for offenders with criminal behaviour linked to antisocial behaviour.

18. These measures may not follow these stages, however quite often with younger people, the stages must be built to support evidence in Court especially for example, in supporting to put an anti-social injunction (ASI) on an individual.
19. Statement of Policy and Procedures for antisocial behaviour, paragraph 4 identifies the importance of the Neighbourhood Safety Wardens and Neighbourhood Safety Officers, advising that:

*The teams gather and receive intelligence and evidence from a variety of sources, i.e. resident diary sheets, Ward Members, Police AS13 data and Neighbourhood Safety Warden Incident reports. As front line officers they will quickly identify emerging trends, hotspot locations and perpetrators responsible. As a result, the team play a crucial role in the Active Intelligence Mapping (AIM) process where officers are often identified as "problem owners" due to their co-ordinated multi-agency approach when tackling the issues. This in essence is a huge part of Operation Endurance.*

## **EVIDENCE- CLEVELAND POLICE**

### ***Operation Endurance***

20. At the panel's meeting on 17 November 2022, the Panel received evidence from Chief Inspector Wendy Tinkler and Chief Inspector Jon Hagen, Cleveland Police.
21. Chief Inspector Tinkler, provided information to the panel on Operation Endurance, the overall force strategy.
22. The incident on 7 August 2022 did bring some criticism to Cleveland Police, but wanted to reassure work is ongoing to identify and arrest those involved.
23. Since the incident, the panel were advised that there have been 20 arrests, 19 bikes seized, 8 suspects who were further identified from the press appeal and they are looking at undertaking a day of action.
24. Following on from the incident on 7 August, there was intelligence that a further incident was planned in 2 weeks' time. Due to this intelligence significant work was completed between the police and other partners (including Middlesbrough Council)



to prepare. This included several press releases to deter offenders and the event didn't come to fruition.

In terms of the status of the investigation:

- When the incident was made known to Cleveland Police, there had been no intelligence to suggest this would occur which hampered opportunity to prepare. At the time of the event the incident was risk assessed, weighing up factors against current demand, potential harm and risk to members of the public, Cleveland Police and Staff and the offenders themselves.
- The sheer number of people in attendance hampered any opportunity to consider pursuit tactics, as this would have increased the risk posed to members of the public.
- The deployment of stingers was an available tactic (spikes that can be laid across the road to burst tyres) however due to the quantity of bikes, this was neither suitable nor appropriate.
- Cleveland police requested assistance from air support, however as there was no significant threat to life this was not appropriate.
- Following risk assessing the situation the Silver Command decided that evidence gathering would be undertaken by officers on the ground, and management of the event to ensure safety and minimize disruption to the community.
- Officers were deployed with CCTV capabilities and also our town cctv was utilised.
- The evidence gathered from the event has been reviewed.
- The investigation was extensive involving the backtracking of CCTV footage in order to identify those riders who were wearing helmets and face coverings. This enabled the identification of some due to cctv footage being obtained where riders had their face coverings/helmets removed.
- Those who have not been identified have been forward tracked, where officers have reviewed cctv and press coverage appealing for information e.g types of bikes/ quads and from 20 face recognition, there were 2 responses.
- There were positive comments on social media, as the public felt the incident was being dealt with.
- After the incident, and under the preventative arm with partners, the route the bikes took was assessed and it was noted they had taken down a number of fences to gain access. Highways repaired these immediately and on the 2 days there was potential for another incident, there were Lorries on standby with boulders. The police also conducted high visibility patrols to ensure no further damage was done.
- There was significant social media and press releases to highlight the dangers and warn riders what would happen if they undertook this type of activity again.

25. Despite the incident on 7 August 2022, the panel were pleased to learn that Middlesbrough had one of the lowest number of off road bikes in the area.

26. The panel had heard of 'Smartwater' and wished to know whether it could be used in this situation. The Chief Inspector advised that it was not suitable for this scenario. However Cleveland Police do use 'SelectaDNA tagging' which comes in 2 forms: the first a spray which can be directed towards suspects and their vehicles and the second is a bomb burst style, which can be used in large crowds e.g football crowds.

27. In terms of further work, the Chief inspector outlined that they would link into SelectaDNA tagging spray under section 59 notices. There was currently a piece of work being undertaken to look at areas where off road bikes most affect communities.

28. Section 59 notices allow an uniformed officer, who may see an off road bike whose driver is causing anti-social behavior and nuisance, to serve a section 59 notice, and this MUST be done in order to seize the bike. If they haven't been served a notice, the police have no power to seize the bike.
29. Section 59 warning Signage prevents the requirement to provide a warning notice to offenders. In effect the signage acts as the warning notice. Partnership work is being conducted to have appropriate signage created and put in those areas most affected.
30. The Chief Inspector outlined that she would be working with Middlesbrough Council to have section 59 orders included in any further Public space protection orders.
31. Further police powers are as follows:
  - Driving offences
  - Section 59 warnings
  - Section 165 under the road traffic act
  - Those who are arrested, the police have the power to seize anything in relation to the incident. If it is identified that a bike is being kept in a lock up, a section 18 can be requested from their Inspector to search the property.

### ***Operation Edmondson***

32. The investigation from 7 August 2022 is still ongoing and Cleveland Police had established a Preventative Plan to reduce any further incidents, known as Operation Edmondson.
33. Chief inspector, Redcar and Cleveland, Jon Hagan, was lead on the Operation.
34. The Chief Inspectors tactic was looking at it like organised crime and drugs, whereby establishing where the bikes are coming from, break the networks , establish where the bikes are and where they are stored. In terms of governance, each area in Cleveland now has a lead on Operation Edmondson, in Middlesbrough case, this is Inspector Steve Pattison.
35. In terms of the overall plan, the Chief Inspector was using the template from the Home Office organised crime strategy, in relation to the 4 P's:
  - PURSUE: prosecuting and disrupting people engaged in serious and organised criminality
  - PREVENT: preventing people from engaging in serious and organised crime;
  - PROTECT: increasing protection against serious and organised crime;
  - PREPARE: reducing the impact of this criminality where it takes place.
36. Each area will have a four P Plan and must take ownership and come up with tactical options, e.g, educational packages for schools to combat generational problems.
37. The Chief Inspector stressed the importance of educating parents on the dangers of off road bike but also ensuring teachers and educators understand. If a child is seen/

heard to be using an off road bike, this is a safeguarding issue and must be reported to children's services and the police.

38. The force were further looking at gaining a holistic approach to reoffenders of off road bikes, this would allow support to be put in place if considered appropriate.
39. In terms of criminal behaviour orders, the panel were made aware that currently the police have to appeal with the magistrates court and ask for certain restraints on an individuals e.g. not allowed to own a quad bike or be seen in public wearing a balaclava. If they are caught breaching these conditions, this gives the police power of arrest.

### **Support from the Council and local community**

40. In terms of moving forward, the force were keen to advertise Operation Edmondson, and put 'faces' in the public domain (only over 18 years of age) as often 'naming' is the best way to catch perpetrators.
41. The Inspector advised the force was keen to work alongside the council to issue community protection orders which would allow PSCOs to issue warning letters, and if caught again they would be issued with a notice, where they are issued with a fine and if not paid, they can be taking to court.
42. Further action would be as follows:
  - community intelligence and utilise crime stoppers
  - days of action,
  - standard reporting mechanism for housing providers
  - call backs and report back to the community on what is being done.
  - Internally launching front line training to inform officers of their powers
  - Key initiatives- link in with garages to ensure they do not serve riders who wear helmets in the forecourt/ shop.
  - Posters will be recirculated in the garages and circulated in ward areas.
  - Inspector Steve Pattison is also looking at a multi -agency response for off road bikes which will include Cleveland Police, housing, the council fire brigade etc. This will allow for a structured approach and there will be monthly actions on a local level.
43. The Chief Inspector presented some posters which were to be distributed within Section 51 areas and on social media. This would hopefully bring further attention to public of the dangers of off road bikes.

### **CONCLUSIONS**

44. Based on the evidence received, the Panel applauds the excellent work being undertaken by Cleveland Police, Middlesbrough Council and partners.

Whilst there is excellent work being undertaken, the panel feels councillors and the wider community need to take action and promote information on what to do if they witness off road bikes.

## RECOMMENDATIONS

45. Based on the evidence gathered during the investigation, and the conclusions above, the Culture and Communities Scrutiny Panel makes the following recommendations for consideration by the Executive:-
- A) That greater awareness is made to councillors and the general public on the dangers of off road bikes. The panel recommend that all ward councillors are provided with Cleveland police's crimestoppers/ off road bike posters to promote within their community and social media sites.
  - B) That Cleveland police provide the posters to the Council's stronger community team so that these can be placed on social media sites and within the lovemiddlesbrough magazine.
  - C) That the excellent partnership work with Cleveland Police and the Council continue and that the panel receive an update on Operation Endurance/ Edmondson 6 months after recommendations have been endorsed.

## ACKNOWLEDGEMENTS

46. The Panel would like to thank the following officers for their assistance in their work:

- Geoff Field, Director of Environment and Community Services
- Marion Walker, Head of Stronger Communities
- Dale Metcalf, Operational Community Safety Manager
- Chief Inspector Wendy Tickler, Cleveland Police (Middlesbrough Neighbourhood Policing)
- Chief Inspector Jon Hagan, Cleveland Police ( Redcar and Cleveland Neighbourhood policing )

## BACKGROUND PAPERS

47. The following sources were consulted or referred to in preparing this report:

- Minutes of the Culture and Community Scrutiny Panel held on 20 October 2022 and 17 November
- Cleveland Police
- Gazette Live - Chief Inspector condemns 'unacceptable' group on off-road bikes who will be 'held accountable', 9 August 2022.

## COUNCILLOR C MCINTYRE- CHAIR OF CULTURE AND COMMUNITIES SCRUTINY PANEL

The membership of the scrutiny panel is as follows: Councillors C McIntyre (Chair), G Wilson (Vice-Chair), Z Uddin, R Arundale, D McCabe, M Nugent, C Dodds and J Rostron

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<p><b>Recommendation c)</b></p> <p>That the excellent partnership work with Cleveland Police and the Council continue and that the panel receive an update on Operation Endurance/ Edmondson 6 months after recommendations have been endorsed.</p>	<p>This work has continued and an with a strategic document being produced and the implementation of new enforcement powers using Community Protection Notices (Legislation from the 2014 Anti-Social Behaviour Crime and Policing Act) To support the recommendations an overview has been provided relating to the legislation around the use of Community Protection Notices, the agreed strategy to tackle this behaviour and the documentation used for enforcement action.</p> <p>Virtual (Teams) sessions will be set up for all Councillors including newly elected members so that they are made aware</p>	<p>Operational Community Safety Manager</p>		<p>October 2023</p>
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# Community Protection Warning and Notices



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## **Purpose**

Introduced by the ASB Crime and Policing Act 2014, Community Protection Notices (CPNs) are intended to deal with on-going problems of nuisance which have a negative effect on the community's quality of life.

The notice will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again, e.g.

- An individual who regularly allows their dog to foul in a communal garden
- A group regularly taking the same route home late at night whilst drunk, making noise and waking their neighbours
- Individual using off road motorbikes on public land without permission or to the detriment of the community
- A takeaway which persistently allows its customers to drop litter on the pavement outside and causes noise nuisance late at night

Breach of a CPN is a criminal offence.

## **Who can use this power?**

The following can issue Community Protection Notices:

- (a) A constable
- (b) The relevant local authority
- (c) A person designated by the relevant local authority for the purposes of this section. Local authorities have the authority to designate this power to landlords, PCSO'S, wardens etc.

## **Delegation of Powers**

The powers under the ASB Crime and Policing Act 2014 are granted to local borough and district councils along with constables of the relevant force. Delegation of authority to relevant senior and front-line officers to use the powers must be sought through appropriate committees and senior management teams.

## **Other Existing Local Authority Only Powers**

*Cleaner Neighbourhoods and Environment Act 2005:* This gives borough and district councils the power to issue fixed penalty notices (FPNs) for a range of offences under the Cleaner Neighbourhoods Act 2005, e.g. dog fouling, littering, fly-tipping etc.

*Environmental Protection Act 1990:* Local authorities can also issue Abatement Notices for statutory nuisance. Any issues around statutory nuisance should be reported to the local authority for review and action.

The following matters constitute a statutory nuisance:

- Any premises in such a state as to be prejudicial to health or a nuisance
- Smoke emitted from premises so as to be prejudicial to health or a nuisance
- Fumes or gases emitted from premises so as to be prejudicial to health or a nuisance



- Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance
- Any accumulation or deposit which is prejudicial to health or a nuisance
- Any animal kept in such a place or manner as to be prejudicial to health or a nuisance
- Any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance
- Artificial light emitted from premises so as to be prejudicial to health or a nuisance
- Noise emitted from premises so as to be prejudicial to health or a nuisance
- Noise that is prejudicial to health or a nuisance is emitted from or caused by a vehicle, machinery or equipment in the street
- Any other matter declared by any enactment to be a statutory nuisance.

### **Information Sharing**

Close liaison between the local authorities, police and registered social landlords is essential when issuing a warning letter (CPW) or a notice (CPN) to ensure the most effective power is used to protect victims.

Sharing information also ensures that all agencies are aware of the conditions placed on an individual or body so that enforcement/compliance of the warning or the notice can be monitored.

Information sharing for this process is governed by the current Multi Agency Information Sharing Protocol. Should a CPW or CPN be issued by police, it is essential that it is shared with the relevant local authority anti-social behavior team as soon as practicable.

### **Threshold**

Community Protection Notices are designed to have a broad use and should focus on how victims and communities are affected by the perpetrators. Staff should therefore talk to potential victims where possible and understand the wider harm to the community; this will give reassurance to communities and assist with building evidence against the perpetrator.

A CPN can only be issued if the authorised officer has reasonable grounds to believe that the conduct of the individual, business or organisation is:

- Having a detrimental effect on the quality of life of those in the area
- Persistent or continuing in nature, and
- Unreasonable

These 'tests' must be considered on a **case by case** basis: e.g.

- Busking and street entertainment not causing anti-social behaviour is reasonable and therefore not applicable for a CPN
- Individuals hosting a loud party impacting on neighbours at 3.00am is unreasonable and if it continues after a request has been made to turn it down, could be considered as continuing in nature and so a CPN is applicable
- An individual riding their motorbike along pavements and conducting stunts in a residential street, causing nuisance and concerns for safety is not reasonable.
- A café utilizes outdoor seating where customers are congregating and intimidating or annoying pedestrians passing by. This is not reasonable.

### **Who can you issue a CPN to?**

A CPN can be issued to any person aged 16 or over, a business, or an organisation. If a young person is aged 16-18 years, consultation must take place with the Youth Offending Team for the area **before** any further action is taken.

If a CPN is being issued to a business, it must be issued to the most appropriate person who can reasonably control or affect the behaviour, either in person or posted to them. E.g. shop owner of a small shop, store manager of a major supermarket. The CPN is considered issued from the time the notice is posted.

If the owner can't be determined, the issuing officer can post the CPN on the premises, provided reasonable enquiries have been made to identify them e.g. Land Registry check.

Case laws states that a CPN cannot be given to a parent of a child unless they are in some way contributing to the activity. Lord Justice Hickinbottom said: *"As a jurisdictional matter, a CPN cannot be issued to a person such as a parent who may have a degree of control over a second person whose conduct falls within s.43 by reason of that degree of control alone.*

*"As my Lady has indicated, that conclusion does not, of course, mean that an individual might not be served with such a notice if, for example, he or she encourages or otherwise supports the relevant anti-social behaviour. That encouragement or support may in itself be anti-social behaviour and fall within conduct covered by s.43."*

### **CPN Procedure**

#### The Written Warning

Before a CPN can be issued, a written warning must be issued to the person committing the anti-social behaviour. It must state that if the individual does not cease, they could be issued with a CPN. The CPN must also:

- Outline the behaviour that is considered anti-social
- State the time by which the behaviour (or its impact) is expected to have changed\*
- Set out the potential consequences of not complying with a CPN, and the sanctions if breached.

*\*it is down to the issuing officer to decide how long should be given for the matter to be dealt with although the templates have been set at 6 months which is considered reasonable. In certain circumstances the issuing officer may decide to issue more than one warning letter, before considering prosecution for breach.*

To ensure a consistent approach locally, a template warning letter has been drafted. This pre-agreed form of words can be used in correspondence or adapted to be used on the spot at an incident.

The issuing officer should inform victims and the community affected that a warning has been issued and explain the next steps if breached, to give victims confidence that their concerns are being responded to. It is likely in cases where there are repeated on numerous reports that such an update can be managed through media releases.

The CPW will remain in force for a period of 6 months. If there are no further issues, such warning will expire.

The warning document will need to be scanned on and saved to the relevant occurrence and a flag created against the subject indicating that a warning has been issued along with the conditions and expiry date.

### Issuing a CPN

If the recipient of the Warning Letter has not ceased their behavior within the timescales set, a CPN can be issued.

The aim of the CPN is to stop the behaviour and put in place steps to ensure it will not reoccur. It should be adapted to the situation and can include any or all the following:

- A requirement to **stop doing** specific things
- A requirement **to do** specific things
- A requirement to take reasonable steps to achieve specific results within the set timescales.

The requirements will vary depending on the situation. Consultation with the local multi-agency Community Safety Group is recommended to ensure requirements are appropriate and can be monitored by the agencies involved for breaches. **It is essential to consult with Youth Offending Service when a young person under 18 years of age is involved.**

To ensure a consistent approach locally, a template CPN has been created and is available on the OP ENDURANCE sharepoint.

The CPN will remain in force for a period of 12 months. If there are no further issues in this time period the notice will be discharged. A template discharge letter has also been created.

On issuing the CPN a case file should be started on the linked occurrence. A copy of the CPN should be attached to the case file along with a statement from the officer issuing the notice. See further guidance around the importance of evidence.

### **Appeals Process**

Any person issued with a CPN can appeal; the process is detailed on the CPN itself. The appeal will be heard in a Magistrates Court and can be made on the following grounds:

- The behaviour did not take place
- The behaviour has not had a detrimental effect on the quality of life of those in the locality
- The behaviour was not persistent or continuing
- The behaviour was not unreasonable

- The individual cannot reasonably be expected to control or affect the behaviour
- The requirements are considered unreasonable
- There is a material defect or error with the CPN, or
- The CPN was issued to the wrong person

Any appeal must be made within 21 days of the issue of a CPN. Any requirements to do a specific activity to achieve a specific result must be put on hold until the outcome of the appeal. Requirements to stop people doing specific things will continue to have effect.

### **Failure to comply with a CPN**

Failure to comply with a CPN is a criminal offence under Section 48 of the Act. If an individual is convicted, they may receive a level 4 fine (up to £2,500 for an individual, up to £20,000 for a business or organisation) or the following sanctions:

- Fixed Penalty Notice (FPN)
- Remedial Action
- Remedial Orders
- Forfeiture Orders
- Seizure

Consideration should be given to the victims' wishes e.g. a Fixed Penalty Notice may be appropriate, but it may not quickly alleviate the impact on the community.

### Prosecution of Breaches

Where there is a breach of a CPN which has been issued by an alternative authority the following procedure will be followed:

1. Warn the subject of the CPN that they have breached their CPN and that the details of the breach will be passed on to the issuing authority. This should be a documented account containing evidence of the warning given to the subject about the breach.
2. Send a witness statement to the authorising body outlining the incident(s) that constitutes a breach.
3. The witness will need to be available to give live evidence if required to do so by the court
4. Where an independent witness has come forward regarding an alleged breach, their details will be passed onto the issuing authority for further investigation.
5. Suspects breaching a CPN can be dealt with by arrest, summons or FPN.

### **Prosecutions or actions against breach of police issued CPN'S**

Whilst the legislation for CPNS dates from 2014, Cleveland Police have not previously been active users of the legislation or the powers that it offers. Previously the issuing, management and prosecution of CPN offences has been primarily left in the hands of the local authority as breaches were dealt with as civil matters.

The local authorities and authorised partners will continue to manage their CPN'S, police will take responsibility for managing and enforcing police issued CPN'S.

Evidence of a breach of CPN can come from any source including partners. It is therefore vital that partners are aware of the existence of all active CPN'S and their conditions. This will allow the sharing of evidence and intelligence and allow for effective management of offenders.

Each breach of CPN conditions should be assessed in its own right with consideration given to the most appropriate action to take in the circumstances. Whilst the breach of a CPN is a criminal offence for which arrest is a possible outcome, this action should always be weighed against the necessity test. All evidence regarding the service of the CPN and any breaches should be recorded on a case file from the outset to streamline the process of future breaches.

Potential actions include:

- Further issue of an amended CPN where there is no clear breach or new conditions required. This may also be an option when close to the expiry date of the existing CPN and there have been no previous breaches.
- A simple caution ( Over 18 years only) may be appropriate in certain circumstances but consideration will need to be given to the offenders criminal history as well as the nature of the breach.
- A referral to the Youth Offending Service must be made for any offender under the age of 18 who will assist in informing the finalization decision.
- £100 fixed penalty notice which can be issued on the spot, in custody or retrospectively. The payment for these breaches is made to the local authority and their tickets should be used.
- Court prosecution via arrest/summons will normally be expected to occur once all other options have failed to address the behavior. The evidence should be presented as a full file containing evidence of all previous breaches and the service of the CPW and CPN.
- Once a charge or summons action is pursued for repeat offenders, it is recommended to seek further orders to prevent further breaches including criminal behavior orders.

#### Fixed Penalty Notices

On breach of a CPN, a FPN, if decided to be the most appropriate course of action, **will be issued by an officer delegated by the local authority**, as all FPN payments will go the local authority regardless of which agency issued the warning letter and subsequent CPN. Close partnership working at a local level is essential to ensure there is no confusion over individual agencies roles in each case.

The maximum payable is £100. A lower level can be set if paid within 14 days. During this period, no further action can be taken, to allow time for payment. Payment of the FPN discharges any liability for the offence.

FPN documentation should include:

- Particulars of the circumstances alleged to constitute the offence
- States the period during which proceedings will not be taken
- Specifies the amount payable
- States the name and address of the person to whom the FPN should be paid, and specifies permissible methods of payment.

#### Remedial Orders

The prosecuting authority may ask the court to impose a remedial order and/or forfeiture order

where:

- The matter is so serious a court order is warranted
- Works need to be carried out to rectify the situation but consent is not forthcoming
- The issuing authority may believe that forfeiture or seizure of items is required, because of the behaviour e.g. sound making equipment, motorcycles used.

### Forfeiture Orders

Following conviction for an offence under Section 48 of the Act, the court may also order forfeiture of any items used to cause the anti-social behaviour e.g. spray paint, sound making equipment, a vehicles.

Items can be destroyed or disposed of. The item must be handed over as soon as reasonable, to either a police officer or local authority employee.

### Seizure

The court may issue a warrant authorising seizure of items used in the commission of the offence, due to the failure to comply with the CPN. A police or local authority enforcement officer may use reasonable force to seize the items.

## **The Importance of Evidence**

A CPN should not be issued unless the issuing officer believes that there is sufficient evidence that the appropriate test is met. The test is designed to be broad and focus on the impact that the anti-social behavior is having on victims and communities.

A CPN can be issued if an officer is satisfied on reasonable grounds that the conduct of the individual, business or organisation:

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable

It is therefore essential to talk to the local community and record evidence of the impact and timescales of the ASB. Evidence must be obtained prior to issuing of a CPN and saved within a case file linked to the initial issue of the CPN. This evidence should include but not be limited to:

- Statement detailing the alleged actions leading up to the issuing of the CPN and any breach.
- Chronology of events reported to police and or other agencies representing the views of the community and their need to call the relevant authorities to report matters. Include quotes where possible to demonstrate the community feeling towards the behavior.
- Evidence of how the offender has been identified.
- Redacted intelligence where appropriate.
- Ideally, the issuing of a CPW and or CPN should be captured on BWV to prevent any later appeals that it was not the subject who was issued with the notice/warning.
- Witness statements where appropriate
- CCTV/Still images
- Consider a Community Impact assessment

It is good practice to assume that a CPN will be breached and this evidence will be needed in later case files. By taking this approach an agency can ensure that for every CPN that is issued,

there is enough evidence to support a successful prosecution in the magistrates' court if breached.

The following information should be routinely recorded in statements regarding breach of a CPN or as evidence in support of the issuing of a CPN:

- A description of the breach that has occurred (a description of the continuing Anti-Social Behaviour)
- The location at which the breach occurred
- The date
- The time
- The name and address of the perpetrator
- The age of the perpetrator
- A description of the perpetrator
- The view of the officer that witnessed the breach (did the officer have a clear view of what happened?)
- The weather and light conditions at the time.
- How this behavior is having a detrimental effect on the community. *E.g Due to my role as the neighbourhood officer for \*\*\*\* ward I am well aware of the issues which impact the community, including the use of off road bikes which are regularly reported. Between the dates of \*\*\* and \*\*\*Cleveland police have received 6 reports regarding the use of ORB's in this locality. The volume and nature of these calls is a representation of the community impact that this behavior is having.*

There may be occasions when a third party, another professional or a member of the public, might have witnessed an act. If this is the case the officer is advised to take a statement, or PNB entry to record any evidence that the third party might be able to provide in support.

Photographs should also be considered as supporting evidence particularly for ASB such as graffiti, fly-tipping, litter, wheel marks across fields etc.

### **Publicity and communication**

The Community Protection Notice process will be actively promoted, both internally and to the public.

### **Monitoring and Review**

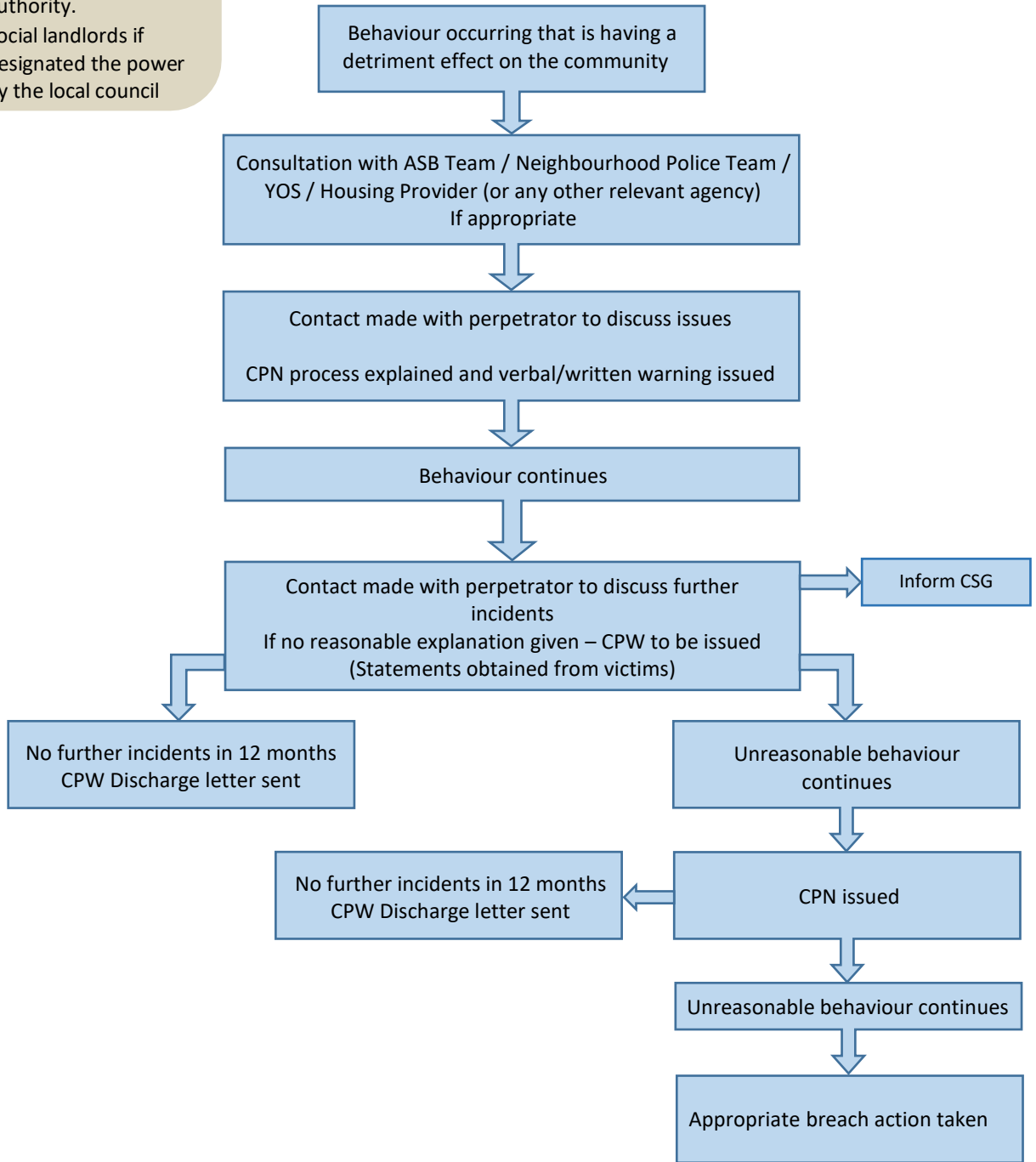
Community Protection Notices will be reviewed monthly at the local borough and district based Community Safety Groups.

**The issuing of any CPW, CPN or breaches should be shared with the relevant local authority Anti-Social Behaviour team. The copies of notices and evidence should be saved and linked to a NICHE event case file.**

**Who can use it?**

- Local Council officers
- Police officers
- PCSOs if designated the power by their Chief Constable and local authority.
- Social landlords if designated the power by the local council

## Community Protection Warning/Notice Flowchart



All incidents recorded in case chronology throughout





**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014  
PART 4, CHAPTER 1 – COMMUNITY PROTECTION WARNING**

**COMMUNITY PROTECTION WARNING**

This warning is used to:

Name:  
DOB:  
Address:

Cleveland Police is investigating and/or responding to complaints regarding anti-social behaviour described as:

*Brief description of incident i.e. Off road bikes riding in parkland.*

It is considered that on reasonable grounds that you are the appropriate person / appropriate person within a body or business, suspected of being responsible for the behaviour described and that it is having and/or is likely to have a detrimental effect on the quality of life for the people in the locality, and is reasonably expected that you are able to control or affect that behaviour.

The behaviour is deemed to be having or is likely to have a detrimental effect on the quality of life for the people in the locality. It is reasonably considered to be persistent and/or continuing and is considered to be both unreasonable and unnecessary in nature. It is believed that your behaviour is contributing to these concerns by:

*Describe actions the subject is suspected of committing.*

The above identified behaviour must stop, and you must now comply with the below listed conditions. These conditions are believed to be necessary to prevent the detrimental effect

NOT PROTECTIVELY MARKED

that your behaviour/conduct is having or likely to have on the quality of life for the people in the locality. You must now comply with the below conditions.

- Not to engage or threaten to engage in any behaviour which may cause harassment, alarm or distress to any resident, visitor or worker in the locality.
- Not to ride any off road vehicles on highways, on any open spaces where the public has access to or any private land that you do not have permission off the landowner to do so.
- Not to ride or drive any vehicle on road that you need a driving licence and insurance to do so. (until you hold the appropriate licence to do so)
- Not to ride or drive any vehicle on any public, private land or open space without having permission from the owner of that land.
- To positively engage with any Police or Council Officer wishing to speak with you.
- Not to wear any item of headwear designed or intended to conceal your identity

This warning will last 6 months from the date of issue. If you fail without reasonable excuse to comply with the requirement(s) of this warning notice, Cleveland Police and/or its authorised partners may issue you with a Community Protection Notice in accordance with Section 43 Anti-Social Behaviour, Crime and Policing Act 2014.

If you fail without reasonable excuse to comply with a Community Protection Notice you will be liable on summary conviction to a fine not exceeding £2500 in the case of an individual, or on summary conviction to a fine not exceeding £20,000 in the case of body or business.

Breach of a Community Protection Notice is a Criminal Offence, furthermore consideration may be given by the justice of the peace to apply remedial orders in order to prevent further incidents.

Consideration may also be given for the forfeiture of items used in the commission of the offence or seizure of items used in the commission of the offence.

Issuing officer	Event no.	
Signature	Date of issue	

Should you have further questions, you may call 101 for non-emergency enquiries and quote the reference at the top of this letter.

NOT PROTECTIVELY MARKED

# COMMUNITY PROTECTION NOTICE



## ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 PART 4, CHAPTER 1 – COMMUNITY PROTECTION NOTICE

I am satisfied on reasonable grounds that despite the prior written warning issued on \_\_\_\_\_ your conduct listed below is having a persistent or continuing detrimental effect on the quality of life of those in the locality and the conduct is unreasonable. Cleveland Police is satisfied that, despite having had enough as outlined in the warning letter, your unreasonable behaviour continues.

<b>Name:</b>		<b>Date of Birth:</b>	
<b>Address:</b>			
<b>Business Name:</b>		<b>Organisation:</b>	

**The nature of the conduct is as follows:**

**In order to address the offending conduct you must abide by the following conditions:**

1.	
2.	
3.	
4.	

If you wish to challenge this notice, you must do so by appeal to a Magistrates Court within 21 days. A person issued with a Community Protection Notice may appeal to a Magistrate’s Court against the notice on any of the following grounds.

1. That the conduct specified in the Community Protection Notice –
  - (a) did not take place,
  - (b) Has not had a detrimental effect on the quality of life of those in the locality,
  - (c) Has not been of a persistent or continuing nature,
  - (d) Is not unreasonable, or
  - (e) Is conduct that the person cannot reasonably be expected to control or affect.
2. That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable.
3. That there is a material defect or error in, or in connection with, the notice.
4. That the notice was issued to the wrong person.

If you have not appealed the notice in that time you can ask for a variation in the terms of the notice, but any such request must be made in writing and may be accepted or rejected within the discretion of the issuing authority.

<b>Issuing officer</b>		<b>Event no.</b>	
<b>Signature</b>		<b>Date</b>	

If you fail without reasonable excuse to comply:

- (i) You may be issued with a fixed penalty notice of £100 (payable within 14 days)
- (ii) You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500) for individuals, or an unlimited fine in the case of companies or other bodies;
- (iii) The court may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done.
- (iv) An order under this section may in particular require you
  - (a) to carry out specified work, or
  - (b) to allow specified work to be carried out by or on behalf of a specified local authority
- (v) The court may require you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority. The court may require this item to be destroyed or disposed of by the police force. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.

We will also consider what other action may be required to stop the problems, which may include criminal action if a criminal offence has been committed, another form of civil action, such as applying for an ASB Injunction, or notifying your landlord (where relevant) if we feel that breaches of your tenancy agreement/lease has occurred.

**You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.**

46. Appeals against notices (1) A person issued with a community protection notice (CPN) may appeal to a magistrates' court against the notice on any of the following grounds. 1 That the conduct specified in the CPN did not take place; has not had a detrimental effect on the quality of life of those in the locality; has not been of a persistent or continuing nature; is not unreasonable, or is conduct that the person cannot reasonably be expected to control or affect. 2 That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable. 3 That there is a material defect or error in, or in connection with, the notice. 4 That the notice was issued to the wrong person. (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice. (3) While an appeal against a CPN is in progress (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but (b) any other requirement imposed by the notice is of no effect. For this purpose an appeal is "in progress" until it is finally determined or is withdrawn. (4) A magistrates' court hearing an appeal against a CPN must (a) quash the notice, (b) modify the notice (for example by extending a period specified in it), or (c) dismiss the appeal.

47. Remedial action by local authority (1) Where a person issued with a CPN ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both). (2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given. (4) In subsection (3) "the necessary consent" means the consent of (a) the defaulter, and (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter). Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success. (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air. (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount. (9) In this section "the relevant local authority" means (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

48. Offence of failing to comply with notice (1) A person issued with a CPN who fails to comply with it commits an offence. (2) A person guilty of an offence under this section is liable on summary conviction (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual; (b) to a fine not exceeding £20,000, in the case of a body. (3) A person does not commit an offence under this section if (a) the person took all reasonable steps to comply with the notice, or (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders (1) A court before which a person is convicted of an offence under section 48 in respect of a CPN may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done. (2) An order under this section may in particular require the defendant (a) to carry out specified work, or (b) to allow specified work to be carried out by or on behalf of a specified local authority. (3) To be specified under subsection (2)(b) a local authority must be (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it. (4) A requirement

imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order. (5) In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant--(a) usually lives, or (b) is living at the time when the work is or would be carried out. (6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

50. Forfeiture of item used in commission of offence (1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence. (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable (a) to a constable, or (b) to a person employed by a local authority or designated by a local authority under section 53(1) (c). (3) An order under this section may require the item (a) to be destroyed, or (b) to be disposed of in whatever way the order specifies. (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

51. Seizure of item used in commission of offence (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting (a) that an offence under section 48 has been committed, and (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item. (2) In this section "designated person" means a person designated by a local authority under section 53(1) (c). (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section. (4) A constable or designated person who has seized an item under a warrant under this section (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized; (b) otherwise, must before the end of that period return the item to the person from whom it was seized. (5) In subsection (4) "relevant criminal proceedings" means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.



Dear <insert perpetrator name>,

**Re: Discharge of your Community Protection Notice/Community Protection Warning (delete as appropriate)**

I am writing to confirm that your Community Protection Notice/Community Protection Warning issued on (insert date) was discharged on <insert discharge date>.

I would like to thank you for your co-operation throughout the duration of the Warning/Notice. (delete as appropriate)

Please be aware that we will continue to monitor your behaviour but we are confident that our further intervention will not be required.

If there is anything further you wish to discuss please do not hesitate to contact me.

Yours sincerely

<insert officer name>

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# ARE OFF-ROAD BIKES CAUSING A NUISANCE IN YOUR NEIGHBOURHOOD?



IF SO, CALL **CRIMESTOPPERS**  
ANONYMOUSLY ON  
**0800 555 111** TO REPORT IT

Crimestoppers aren't interested in your name,  
just what you know.

To give information 100% anonymously call  
CrimeStoppers free on 0800 555 111 or fill  
in the quick and easy online form at  
[www.crimestoppers-uk.org](http://www.crimestoppers-uk.org)



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## **Partnership Strategy to tackle nuisance/illegal motorbike activity**

### **Introduction**

For several years the towns of Cleveland have suffered with issues of off road bikes, illegal bikes and bike related ASB. Since Covid lockdowns there has been a rise of such activity across the nation and these rises are echoes within our communities. In recent years we have seen a number of deaths as a result of illegal biking activities, disorder, collisions in urban areas, damage to land and property along with disruption of the road network.

With the increase in biking activity and the problems caused by them, there has been increased scrutiny from the media and the public along with issues being raised by local politicians within the House of Commons.

The increase in nuisance/illegal biking activity has raised community concerns and frequently attracts local media attention and regular complaints to services.

Each ward currently has a "Ward Profile" which is supported by analytical data from police and partner agencies. These profiles along with intelligence and local knowledge of officers and partners will allow us to work together to formulate plans and processes to address these issues together.

Within community safety partnership's Cleveland Police has been working with partners to respond to some of these concerns however it is recognised that a more bespoke strategy is now required to address these issues and make our communities safer.

Social media coverage suggests that public confidence in our ability to tackle the issue is low and this view is echoed in data gather by the ONS. A national study conducted on behalf of the home office shows that only 40% of victims/witnesses to vehicle related ASB reported it. Of people who did not report these issues 36% didn't feel that any action would be taken and 27% didn't think it would be taken seriously.

Whilst there have been numerous short term successes and recoveries of bikes causing misery, these are often greeted with negative comments on social media by those who continue to suffer from the related ASB. A sustainable strategic plan is required to implement significant improvements and lead a new drive in tackling these issues together.

### **The strategy will be in line with the current Police And Crime Plan:**

- Bringing offenders to justice;
- Getting tough on drugs and gangs;
- Tackling anti-social behaviour head-on;
- Helping to provide an effective police and criminal justice system;
- Preventing, reducing and tackling serious violence;
- Putting more police on the streets;
- Tackling violence against women and girls;
- Building confidence in Cleveland's communities;
- Providing effective, quality support for victims and witnesses;
- Using technology to combat crime.

The strategy will also align with the community safety priorities of each local authority.

The strategy and subsequent actions will be delivered using the principles of the 4 point plan:

- Prepare
- Prevent
- Protect
- Pursue

#### **What is nuisance/illegal motorbike activity?**

The simplest way to consider this activity is to identify it initially as ASB through the use of a motorcycle.

For the purpose of this strategy we will accept the definition as outlined in the Anti-social behaviour, Crime and Policing Act 2014.

- (a) Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- (b) Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- (c) Conduct capable of causing housing-related nuisance or annoyance to any person.

Once you look past the ASB element of motorbike use and the effects that such behaviour has on victims and communities, there are a wide variety of criminal offences which make the usage of these motorbikes illegal. Some such offences for consideration are:

- Driving where there is no right, or contravening a prohibition Driving on 'land' without lawful authority S.34(1) RTA 1988.
- Driving on footpaths, bridleways and restricted byways S.34(1) RTA 1988
- Failure to comply with traffic signs S.36 RTA
- Failure to comply with public spaces protection order S.67 ASBCPA 2014
- Driving without a licence (including underage driving) S.87 RTA 1988
- Driving without RTA insurance S.143 RTA 1988
- Driving without MoT Tests S.47 RTA 1988
- Using a vehicle without the correct excise duty ('road tax') S.29 VERA 1994
- Unauthorised passengers on a motorcycle S.23
- Careless, and inconsiderate, driving
- Driving so as to cause alarm or distress to other people may on occasions fall into S3 RTA 1988 or s.59 PRA 2002

## **Governance and Accountability**

### **MARORB**

Each police district will form a tactical and operations group with partners under the title MARORB (Multi agency response to off road bikes). Whilst not all problem bikes are technically “Off road”, this is a generally recognisable term.

The MARORB will be managed by the district police leads on tackling the issues of nuisance/illegal bikes and supported by the local authority and other identified partners. Each MARORB should have a nominated chair and deputy with those responsibilities shared between police and the local authority.

This group will meet each month to manage resources, identify emerging issues and agree and set actions and the implementation of tactical options.

The actions and progress will be recorded on what is referred to as “the 4p plan” by chair, deputy or nominated minute taker.

It is important that a clear tactical plan is set for each month to focus efforts of all partner agencies on key areas or individuals and allow for scrutiny.

Information shared within these meetings may often be sensitive or private in nature and it is important that partners agree to the principles of sharing information under a lawful basis and in line with information sharing agreements.

The MARORB should be an ever evolving process where there is no set stipulation or who should be members. However members should be able to actively contribute to solving the problem of nuisance/illegal bikes or their impact on victims or communities.

### **Daily Partnership Meeting**

There are currently, daily partner meetings within each district which may highlight new emerging issues in the time period between MARORB’S. These meetings allow for all partners to share issues and allow for instances where immediate action is required. Activity and actions from these meetings should be recorded on the 4PP.

## **Objectives**

Prepare:

- Effective communication between all internal and external partners.
- Develop processes of accurate data recovery
- Creative use of resources and digital assets to identify the needs of communities
- Develop joint communications plan between corporate communication/media departments.

- Engagement with wider force and partner departments and resources to secure commitment in supporting increased focus on activity
- Daily review of all incidents identified in partner meetings
- Ensure the services best placed to assist in addressing these issues are involved
- Develop programmes such as Neighbourhood Watch Schemes to build community cohesion and drive public engagement in tackling the problem.
- Take an ever evolving approach to problem solving and share and nurture ideas.

#### Prevent

- Understand in detail the issues and develop bespoke PSP's for repeat victims where necessary.
- Take a collective approach to identifying issues and generating solutions
- Consider all available preventative measures including designing out access to repeat locations or crime prevention advice for repeat victims.
- Ensure problem solving activity is multi agency and that internal and external partners are accountable for their service delivery and responsibilities.
- Develop internal knowledge and wider force application of S59 warnings, CPW/CPN and relevant legislation.
- Develop a bespoke resourcing plan to address the issues in each area according to their needs.
- Develop youth provisions and long term engagement to divert youths away from future ASB activity.

#### Pursue

- Through partnership intelligence and information sharing identify the suspects for crime and bike related ASB
- Tackle offending through a range of partnership measures and available legislation.
- Open-Source scoping of suspects to identify offending, vehicles, associates, locations frequented and safeguarding concerns
- Effectively deploy existing resources internal and external to provide high visibility policing at key times and adopt robust and proportionate policing style
- All Policing activity related to the tackling of nuisance/illegal bikes to be recorded on any existing PSP and the 4PP
- Ensure work continues with fuel stations around the sale of fuel to potential illegal bikers.
- Adopt a shared intelligence picture across the force area as evidence shows that illegal bikes travel throughout the region to engage in activities
- Share images of offenders/bikes on the Endurance sharepoint for assistance in gaining identification and allow officers/partners to keep a look out for the bikes
- Utilise all available powers to police and partners to effect change
- Ensure staff are aware of the legislation and powers around prosecution, warnings and seizure and ensure robust action is taken where possible.

#### Protect

- Ensure repeat victims are identified and correctly classified as vulnerable as per the APP
- Ensure ASB Risk Assessments are carried out as per the APP and ASB statutory guidance
- Effective briefing, communication and tasking developing a culture of accountability and ownership.
- Work in partnership to support victims with consideration of the cumulative effect of ASB.

- Work in line with the Home office guidance on ASB Principles
- Ensure victims are aware of their rights of appeal and support services such as ASBhelp and Resolve.
- Ensure the legal rights and freedoms of the general public are protected
- Improve safety to members of the community by tackling bike related crime and ASB.

### **Terms of Reference**

The purpose of the MARORB is to:

- Identify issues of nuisance/illegal bike ASB and coordinate a multi-agency approach to tackle offenders and prevent further incidents.
- To identify the correct mean of dealing with perpetrators of through a coordinated approach.
- To ensure that victims and particularly vulnerable victims are supported in line with the Home Office Principles of managing ASB.
- Identify repeat or persistent offenders and work together to target identified suspects.
- Identify hotspots across the district to inform patrol planning.
- Build public confidence through a coordinated approach.

Membership Representatives which should be considered:

- Local Authority
- Youth Offending Service where repeat offenders are identified as youths
- Fire and Rescue
- Social Care (Children & Adult)
- Probation
- Housing
- CCTV/Wardens

MARORB'S should meet on at least a monthly basis and should be considered as an integral part of the management of nuisance/illegal bike activity and its associated ASB.

Through identifying both hotspots and target offenders the members of the MARORB will be expected to case manage both people and places through a holistic approach.

It is important for each MARORB to have the confidence to freely discuss and share highly sensitive information and data on a "need to know basis"; core membership should be restricted in order to reflect this.

Further attendees might attend in order to give a specific perspective due to their expertise however care should be given around the details discussed in such circumstances should they not be party to an information sharing agreement.

Where core members are unable to attend they should send a representative, who has been briefed, in their place and provide a report about any emerging issues or outstanding actions.

Details of the meeting should be recoded on the 4PP and include a brief synopsis of the meeting and identified hotspots or offenders. Any actions should be recorded on the 4PP for following up with

details of the action owner. These actions should be updated as they progress and discussed at the next meeting.

MARORB agenda:

- Updated operational assessment overview based on analysis of data during since last meeting.
- Performance activity since the last meeting.
- Discuss any vulnerable and repeat victims, including those identified through the ASB Risk Assessment Matrix.
- Intelligence/report sharing from members.
- Identify any subjects or locations of concern based on intelligence and reports (e.g. top 5 offender/location targets)
- Any outstanding actions from previous meetings.
- Seek suggestions on future improvements.
- Determine plans for the month ahead and set actions as required.

Communication should regularly communicate the joint working approach to tackling the issues of nuisance/illegal bikes. There should be a focus on building community confidence and showing a concerted effort to improve service. Consideration should be given to including quotes from partners, generating newsletters and sharing successes across platforms available to all members to widen the audience.

This document is not prescriptive and should evolve as new members are identified and new techniques come to light.



Home Office

# **Anti-social Behaviour, Crime and Policing Act 2014:**

## **Anti-social behaviour powers**

### **Statutory guidance for frontline professionals**

Updated August 2019

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# Introduction

The Home Office published statutory guidance in July 2014 to support the effective use of new powers to tackle anti-social behaviour that were introduced through the Anti-social Behaviour, Crime and Policing Act 2014. This guidance replaces that earlier guidance, updating it in the light of experience since the new powers were introduced. The changes will help to ensure that there is a greater focus on the impact of anti-social behaviour on victims and on their needs, ensuring that the relevant legal tests are met before the powers are used, underlining the importance of ensuring that the use of the powers are focused on specific behaviour that is anti-social or causing nuisance, and ensuring that the issues of local consultation, accountability and transparency are addressed. The guidance is intended to assist those frontline professionals – the police, local councils and social landlords - who are able to make use of the powers to respond to instances of anti-social behaviour in their local areas.

This updated guidance emphasises the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social.

The powers introduced by the 2014 Act are deliberately local in nature. Those who work within and for local communities will be best placed to understand what is driving the behaviour in question, the impact that it is having, and to determine the most appropriate response.

The first part of this guidance focuses specifically on putting victims at the heart of the response to anti-social behaviour. We know that, where left unchecked, anti-social behaviour can have an overwhelming impact on its victims and in some cases, on the wider community. This is why the formal Anti-social Behaviour Case Review, commonly known as the Community Trigger, is an important safety net in ensuring that victims' voices are heard, but it is important that victims can easily access information about how to apply for a formal review and in what circumstances they can do so. The Community Remedy also gives victims a say in out-of-court punishments where the perpetrator of the anti-social behaviour is dealt with through a community resolution disposal.

The second part of the guidance focuses on the use of the powers provided by the 2014 Act. These are designed to be flexible to ensure that local agencies have the tools they need to respond to different forms of anti-social behaviour. The guidance sets out the legal tests that must be met before each of the powers can be used.

# Part 1: Putting the victim first

## The impact on victims and communities

The legal tests that govern the use of the anti-social behaviour powers are focused on the impact that the behaviour is having, or is likely to have, on victims and communities. When considering the response to a complaint of anti-social behaviour, agencies are encouraged to consider the effect that the behaviour in question is having on the lives of those subject to it recognising, for example, the debilitating impact that persistent or repeated anti-social behaviour can have on its victims, and the cumulative impact if that behaviour persists over a period of time.

The legislation requires the relevant local agencies to be satisfied that the specific legal tests and safeguards set out in the legislation are met before the anti-social behaviour powers are used. These tests are intended to help to ensure the appropriate and proportionate use of the powers and that they are being used to target specific problems or specific circumstances. They do allow for preventative action to be taken, for agencies to intervene early to prevent problems from escalating, and in some instances for there to be a focus on tackling the underlying causes of the anti-social behaviour.

The response to anti-social behaviour may require collaborative working between different agencies to determine the most appropriate solution. Where a report or complaint is made to one agency, that lead agency should consider the potential role of others in providing a solution if they are not themselves able to take action. This will help to ensure that reports of anti-social behaviour are not inadvertently lost between the different reporting arrangements of different agencies. It may also help to provide a mechanism for considering the potential for engaging the wider community in finding solutions to specific anti-social behaviour issues.

We recommend that, wherever possible, victims or complainants are kept informed while consideration is being given to deciding the most appropriate response, and that they are informed about the intended course of action. Local agencies also need to consider how victims are best supported.

## Giving victims a say

The Anti-social Behaviour, Crime and Policing Act 2014 included two specific measures designed to give victims and communities a say in the way that complaints of anti-social behaviour are dealt with, and to help ensure that victims' voices are heard. These measures are:

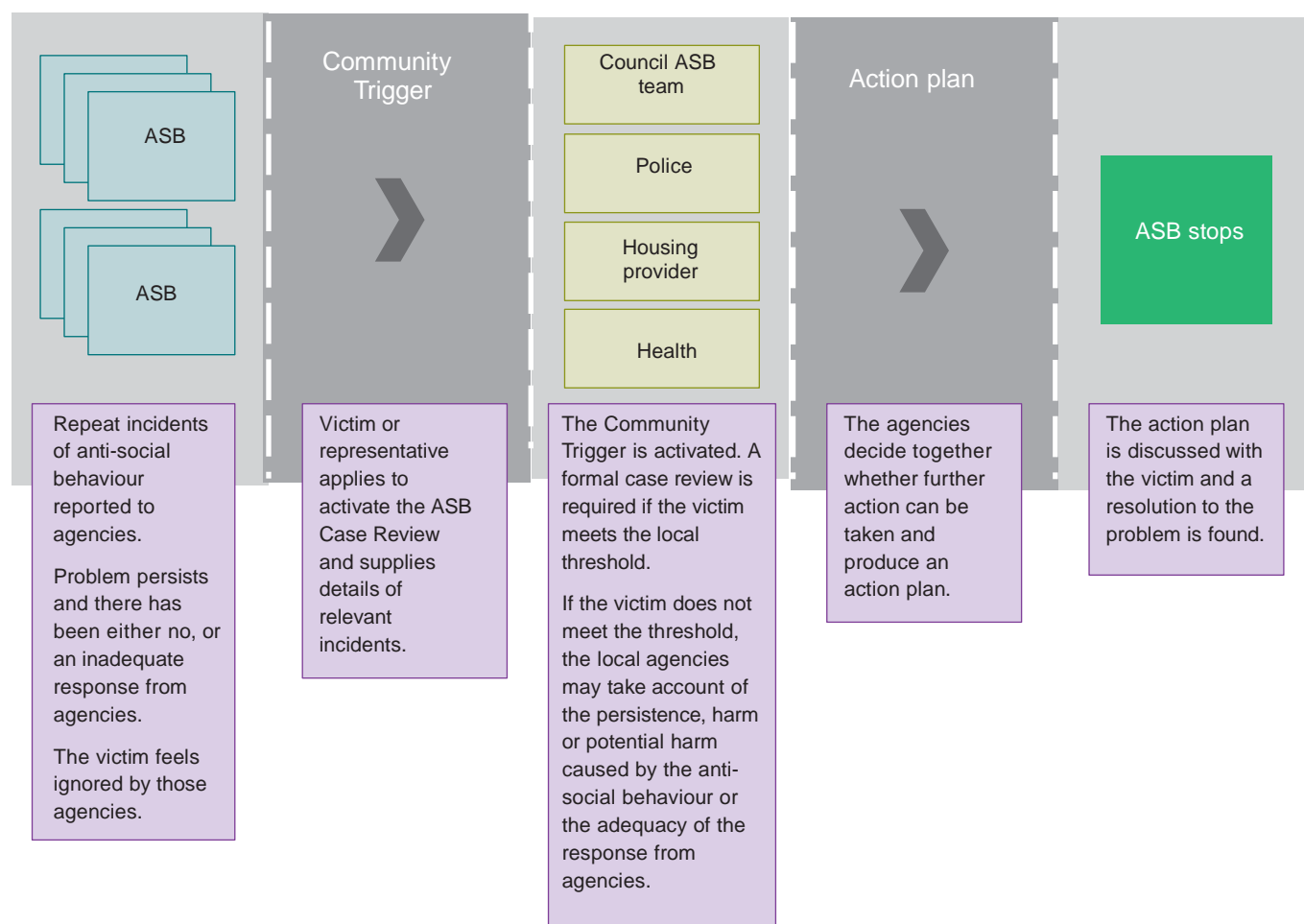
- **the ASB Case Review/Community Trigger:** this gives victims of persistent anti-social behaviour the ability to demand a formal case review where the locally defined threshold is met, in order to determine whether there is further action that can be taken. The relevant bodies in the local area must agree on, and publish their Case Review/Community Trigger procedures; and
- **the Community Remedy:** this gives victims a say in the out-of-court punishment of perpetrators of anti-social behaviour when a community resolution, conditional caution or youth conditional caution is chosen as the most appropriate response.

The above measures are discussed in more detail in this part of this guidance.

## 1.1 The ASB Case Review (also known as the Community Trigger)

Purpose	To give victims and communities the right to request a review of their case where a local threshold is met, and to bring agencies together to take a joined up, problem-solving approach to find a solution for the victim.
Relevant bodies and responsible authorities	<ul style="list-style-type: none"> <li>• Councils.</li> <li>• Police.</li> <li>• Clinical Commissioning Groups in England and Local Health Boards in Wales.</li> <li>• Registered providers of social housing who are co-opted into this group.</li> </ul>
Threshold	<p>To be defined by the local agencies, but not more than three complaints in the previous six month period.</p> <p>May also take account of:</p> <ul style="list-style-type: none"> <li>• the persistence of the anti-social behaviour;</li> <li>• the harm or potential harm caused by the anti-social behaviour;</li> <li>• the adequacy of response to the anti-social behaviour.</li> </ul> <p>The relevant bodies (listed above) must publish details of the procedure.</p>
Details	<p>When an ASB Case Review is requested, the relevant bodies must decide whether the threshold has been met and communicate this to the victim.</p> <p><b>If the threshold is met:</b></p> <ul style="list-style-type: none"> <li>• a case review will be undertaken by the relevant bodies. They will share information related to the case, review what action has previously been taken and decide whether additional actions are possible. The local ASB Case Review procedure should clearly state the timescales in which the review will be undertaken;</li> <li>• the review will see the relevant bodies adopting a problem-solving approach to ensure that all the drivers and causes of the behaviour are identified and a solution sought, whilst ensuring that the victim receives appropriate support;</li> <li>• the victim is informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.</li> </ul> <p><b>If the threshold is not met:</b></p> <ul style="list-style-type: none"> <li>• although the formal procedures will not be invoked, this does provide an opportunity for the relevant bodies to review the case to determine whether there is more that can be done.</li> </ul>
Who can use the ASB Case Review procedure?	<ul style="list-style-type: none"> <li>• A victim of anti-social behaviour or another person acting on behalf of the victim with his or her consent, such as a carer or family member, Member of Parliament, local councillor or other professional.</li> <li>• The victim may be an individual, a business or a community group.</li> </ul>
The legislation	Sections 104 and 105 of the Anti-social Behaviour, Crime and Policing Act 2014.
Protecting the vulnerable	The ASB Case Review or Community Trigger provides an important safety net for victims of persistent anti-social behaviour and those who may be most vulnerable.

## The ASB Case Review/Community Trigger



### Purpose

The ASB Case Review, often referred to as the 'Community Trigger', is an important statutory safety net for victims of anti-social behaviour who believe they have not had a satisfactory response to their complaints about anti-social behaviour. Where a locally determined threshold is met, victims can require the relevant bodies in the local area to undertake a formal review of the case, and those bodies have a statutory duty to undertake that review. In addition to the victim, the ASB Case Review can be activated by a person on behalf of the victim who is aware of the circumstances and acts with the victim's consent. This might include a family member, friend, carer, councillor, Member of Parliament or other professional.

**Putting victims first:** The 'Community Trigger' is an important safety net for victims of persistent anti-social behaviour. It provides a mechanism to ensure that their case is reviewed in order to secure a satisfactory resolution. The legislation requires the relevant local agencies to determine a local threshold for triggering the Case Review procedures. It is important that these agencies ensure that victims are aware of the procedures, the circumstances in which they can apply for a formal review, and how to do so. Consideration should also be given on how victims can best express the impact that the anti-social behaviour has had on their lives.

## Who are the relevant bodies?

The relevant bodies in any area are those organisations listed below who must have an ASB Case Review/Community Trigger procedure in place and who must undertake a case review when a person asks for one and the local threshold is met. The relevant bodies are:

- the district council, unitary authority or relevant London borough council for the area;
- the police force covering the area;
- the relevant clinical commissioning group in England or local health board in Wales; and
- local providers of social housing who are co-opted into the local arrangements.

### *Providers of social housing as relevant bodies*

The legislation allows for providers of social housing to be co-opted into local arrangements but it does not specify which housing providers should be co-opted. The recommended approach is to co-opt larger housing providers for the purposes of developing and reviewing the local procedures and setting the local threshold, with smaller providers involved where there are specific cases concerning their tenants.

For the purposes of the ASB Case Review or Community Trigger, local social housing providers include:

- in England: a private registered provider of social housing who grants tenancies of dwelling-houses in that area or who manages any house or other property in that area; and
- in Wales: a body registered as a social landlord under section 3 of the Housing Act 1996 who grants tenancies of dwelling-houses in that area or who manages any house or other property in that area.

### *Involving Police and Crime Commissioners*

The local Police and Crime Commissioner must be consulted when the ASB Case Review/Community Trigger procedure is set up and whenever it is reviewed. In addition, the Police and Crime Commissioner can be involved directly in the procedure, for example by:

- auditing case reviews;
- providing a route for victims to query the decision on whether the threshold was met or the way in which the review was carried out; or
- monitoring use of the ASB Case Review/Community Trigger to identify any learning and best practice.

Police and Crime Commissioners also have responsibilities for the commissioning of victims services and may also want to ensure that local agencies consider how the victim is supported as part of the process.

## What must the relevant bodies do?

The relevant bodies listed above must:

- set the local threshold for triggering ASB case reviews;
- establish and publish arrangements for conducting these reviews; and
- undertake a formal Case Review where an application is made and the local threshold is met.

## Setting the local threshold

The relevant bodies should collectively agree an appropriate ASB Case Review/Community Trigger threshold, having regard to the nature of anti-social behaviour experienced by victims in their area and the working practices of the agencies involved.

The threshold must be no higher than three qualifying complaints of anti-social behaviour in a six month period.

Where a person makes an application for a case review and has made at least the set number of qualifying complaints, the threshold for a review is met and the relevant bodies must undertake the review.

### *What qualifies as a complaint?*

For the purposes of the Case Review/Community Trigger procedures, a qualifying complaint is:

- where the anti-social behaviour was reported within one month of the alleged behaviour taking place; and
- the application to use the ASB Case Review/Community Trigger is made within six months of the report of anti- social behaviour.

It is open to the agencies involved in these reviews to set different levels to those set out above if appropriate for their area, provided that they do not lower the standard as set out here. The requirement for the anti-social behaviour to be recent is to prevent more historical incidents of anti-social behaviour being used to invoke these procedures.

The definition of anti-social behaviour in this context is behaviour causing harassment, alarm or distress to a member or members of the public. When deciding whether the threshold is met, agencies should consider the cumulative effect of the incidents and consider the harm or potential harm caused to the victim, rather than rigidly deciding whether each incident reached the level of harassment, alarm or distress.

Similarly, although housing-related anti-social behaviour has a lower test of nuisance or annoyance for an injunction under Part 1 of the 2014 Act, in such instances because of the victim's inability to separate themselves from the anti-social behaviour, the harm experienced may well result in harassment, alarm or distress for the purposes of the ASB Case Review/Community Trigger.

The ASB Case Review/Community Trigger is specifically designed to deal with anti-social behaviour. However anti- social behaviour can often be motivated by hate and the relevant bodies may wish to include reports of these incidents as part of their procedures.

## Hate Crime

A hate crime is any criminal offence perceived by the victim or any other person to be motivated by hostility on the grounds of race, religion, sexual orientation, disability or transgender identity. Incidents can range from harassment, abusive language, criminal damage/damage to property, to threats and physical violence. Incidents of hate crime may manifest themselves as anti-social behaviour, but on investigation these incidents may be found to be targeted against some intrinsic part of the victim's identity (their race, religion, sexual orientation, disability or transgender identity).

There are a number of laws in place to deal with those who commit hate crimes, including public order offences and racially and religiously aggravated offences. The courts also have powers to enhance a perpetrator's sentence for any offence that is motivated by hatred or hostility towards the victim.

*Action Against Hate: The UK Government's plan for tackling hate crime* was published in July 2016 and brings together the work of a number of departments and agencies to prevent and tackle hate crime. While the Government plays a vital role in setting national direction, the response to hate crime will be led at the local level. An effective multi-agency response to hate crime will involve professionals, the voluntary sector and communities working together to tackle incidents early before they can escalate.

There is extensive guidance on responding to hate crime in the College of Policing Hate Crime Operational Guidance. It, and many other resources, can be viewed on the police hate crime website True Vision ([www.report-it.org.uk](http://www.report-it.org.uk)).

Hate Crime creates fear and can have a devastating impact on individuals and communities. Individual incidents can send reverberations through communities, just as they can reinforce established patterns of prejudice and discrimination. Using Community Impact Statements to engage with communities helps criminal justice partners understand the wider impact of hate crime and can improve decision making and increase public confidence.

### *Setting the threshold: additional considerations*

In considering whether the threshold is met, the relevant bodies should have regard to:

- the persistence of the anti-social behaviour;
- the harm or potential harm caused by the anti-social behaviour; and
- the adequacy of the response from agencies.

The harm, or the potential for harm to be caused to the victim, is an important consideration in determining whether the threshold is met because the more vulnerable will be less resilient to anti-social behaviour. People can be vulnerable for a number of reasons, and vulnerability or resilience can vary over time depending on personal circumstances and the nature of the anti-social behaviour. The relevant bodies should use their risk assessment procedures as part of the decision on whether the threshold is met. Risk assessment matrices cannot provide a definitive assessment of someone's needs, but they will assist agencies in judging an appropriate response. It may be beneficial for the relevant bodies to adopt a common risk assessment matrix, or to have an agreed matrix for the purposes of the ASB Case Review/Community Trigger.

Cases where there are repeated applications by people which, on investigation, relate to non-anti-social behaviour matters may be indicative of an underlying vulnerability or unmet need. Consequently, even where the threshold is not met, local agencies may wish to consider the possibility of hidden needs or risks which may require a response.

Behaviour which falls below the level of harassment, alarm or distress, may not meet the threshold, but when assessed on the grounds of potential harm to the victim, the impact of the behaviour may be such that the threshold is considered to be met.

Where the victim is considered to be particularly vulnerable, the relevant bodies should consider whether additional practical and emotional support can be offered to the victim.

### **Publishing the ASB Case Review/Community Trigger procedure**

The relevant bodies must publish the ASB Case Review/Community Trigger procedure to ensure that victims are aware that they can apply to activate the procedures in appropriate circumstances.

Consideration should be given to where this information is published and how accessible the information is. For example, the title 'Community Trigger' in isolation may not be sufficient of itself to alert victims to the purpose of the procedures. More clearly linking the information to broader information about responding to anti-social behaviour, and making it clear that the procedure is about seeking a case review, is recommended.

The relevant bodies should decide an appropriate method and format for publicising the procedure, taking account of the needs of the local community. The information should be provided on the websites of all the relevant bodies, signposting the public to the lead agency's website, a point of contact and the procedures for activating the process. Consideration should be given to whether it is appropriate to translate the information into different languages.

#### *Publishing a point of contact*

The published information on the ASB Case Review/Community Trigger must include a point of contact for making an application. When publishing the point of contact it is good practice to provide a telephone number, email and postal address and a form which can be completed online.

**Putting victims first:** Using the ASB Case Review/Community Trigger should be made as straightforward as possible for victims of anti-social behaviour.

It is good practice to have a number of methods to contact an agency, recognising that some victims may feel more comfortable contacting one agency than another, or may not have access to the internet or, in the case of issues involving neighbours, may be reluctant to use the telephone for fear of being overheard. The ASB Case Review/Community Trigger can be used by any person and agencies should consider how to make it as accessible as possible to young people, those who are vulnerable, have learning difficulties or do not speak English.



## The ASB Case Review/Community Trigger procedure

The relevant bodies must work together to devise and agree the procedure for the ASB Case Review/Community Trigger. The procedure should ensure that the case review looks at what action has previously been taken in response to the victim's reports of anti-social behaviour. It must also include provision for a person to request a review of the way that their application for a case review has been dealt with, and the way in which the review was carried out.

### A basic ASB Case Review/Community Trigger procedure

Each area should agree a procedure that suits the needs of victims and communities in their area. However, the basic outline of that procedure is likely to include the following steps:

- a victim of anti-social behaviour (or someone acting on their behalf) makes an application to use the ASB Case Review/Community Trigger;
- the relevant bodies decide whether the threshold is met;
- if the threshold is met, the relevant bodies share information about the case, consider whether any new relevant information needs to be obtained, review previous actions taken and propose a response. The victim is informed of the outcome, or agencies will work with the victim to devise and implement an action plan;
- if necessary, escalation and review.

When setting up the procedure the relevant bodies should consider how the ASB Case Review/Community Trigger can be built into existing processes. Many areas already have regular multi-agency meetings to discuss cases of anti-social behaviour. These may be suitable forums to undertake the case review. Alternatively, the relevant bodies may decide that it is more appropriate to have a separate forum to discuss case reviews. Where the perpetrator is under the age of 18, the youth offending team should be invited to attend the review.

Where most of the agency representatives have been involved in a particular case, consideration should be given to involving somebody independent in the review to provide an external or fresh perspective on the case and the action that has been taken.

**Putting victims first:** It is good practice to have somebody involved in the case review to represent the victim, such as from Victim Support or another organisation providing support for victims in the local area. Consideration should also be given to whether it is appropriate for the victim to be invited to attend the case review to help all members of the panel understand the level of harm and impact or whether, in the circumstances, there are good reasons for them not to do so. In such circumstances, it may more be appropriate to invite a representative of the victim to attend, especially where they have activated the case review on behalf of the victim.

The case review should not include a review of any decisions made by the Crown Prosecution Service (CPS). If a victim is not satisfied with a decision made by the CPS they should refer to the CPS complaints process, and the Victims' Right to Review Scheme. The latter makes it easier for victims to seek a review of a CPS decision not to bring charges against a suspect or to terminate proceedings, in relation to decisions made after 5 June 2013.

## Sharing information

The effective operation of the ASB Case Review/Community Trigger requires the relevant bodies to share information for the purpose of carrying out the review. This may include details of previous complaints made by the victim, information about the effect the issue has had on others and details of what action has previously been taken. Relevant bodies should therefore have agreements in place for information sharing, risk assessments and a common understanding of the aims of the ASB Case Review/Community Trigger. Victims also need to give consent for information about them to be collected and shared between agencies.

The relevant bodies may request any person to disclose information for the purpose of the case review. If the request is made to a person who exercises public functions and they possess the information, they must disclose it. The only exception to that is where to share the information would be either:

- in contravention of any of the provisions of the Data Protection Act 1998; or
- prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

Other than these two exceptions, disclosing information for the ASB Case Review/Community Trigger does not breach any obligation of confidence or any other restriction on the disclosure of information.

### Sharing information: housing providers

Housing providers undertake several functions, including some that are public in nature and some that are not. If a request is made in relation to their functions that are considered to be public in nature, the information sharing duty applies. This is the case for housing providers who are co-opted into the group of relevant bodies as well as those who are not.

#### Sharing information

The Homes and Communities Agency's Regulatory Framework, Neighbourhood and Community Standard, requires registered housing providers to:

- co-operate with relevant partners to help improve social, environmental and economic wellbeing in areas where they own properties; and
- work in partnership with other agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes.

## Making recommendations

The relevant bodies who undertake a case review may make recommendations to other agencies. The legislation places a duty on a person who carries out public functions to have regard to those recommendations. This means that they are not obliged to carry out the recommendations, but that they should acknowledge them and may be challenged if they choose not to carry them out without good reason.

The recommendations are likely to take the form of an action plan to resolve the anti-social behaviour. Whenever possible, the relevant bodies should involve the victim in devising the action plan to help ensure that it meets their needs. The relevant bodies will not be able to recommend the CPS to take action as it operates independently under the superintendence of the Attorney General, and must make decisions in accordance with the Code for Crown Prosecutors.

## Responding to the victim

The Act places a duty on the relevant bodies to respond to the victim at particular points in the process. These include:

- the decision as to whether or not the threshold is met;
- the outcome of the review; and
- any recommendations made as an outcome of the review.

The relevant bodies should agree as part of the procedure whether one agency will communicate with all victims, or whether an appropriate agency will lead in a specific case. People who make use of the ASB Case Review/Community Trigger procedure may well feel that they have been let down by agencies in the past so it is important that they receive timely and consistent communication regarding their case.

When communicating with victims, local agencies should consider victim support issues and whether they could benefit from being signposted or referred to local victims services.

## Publishing data:

The legislation states that relevant bodies must publish information covering:

- the number of applications for ASB Case Reviews received;
- the number of times the threshold for review was not met;
- the number of anti-social behaviour case reviews carried out; and
- the number of anti-social behaviour case reviews that resulted in recommendations being made.

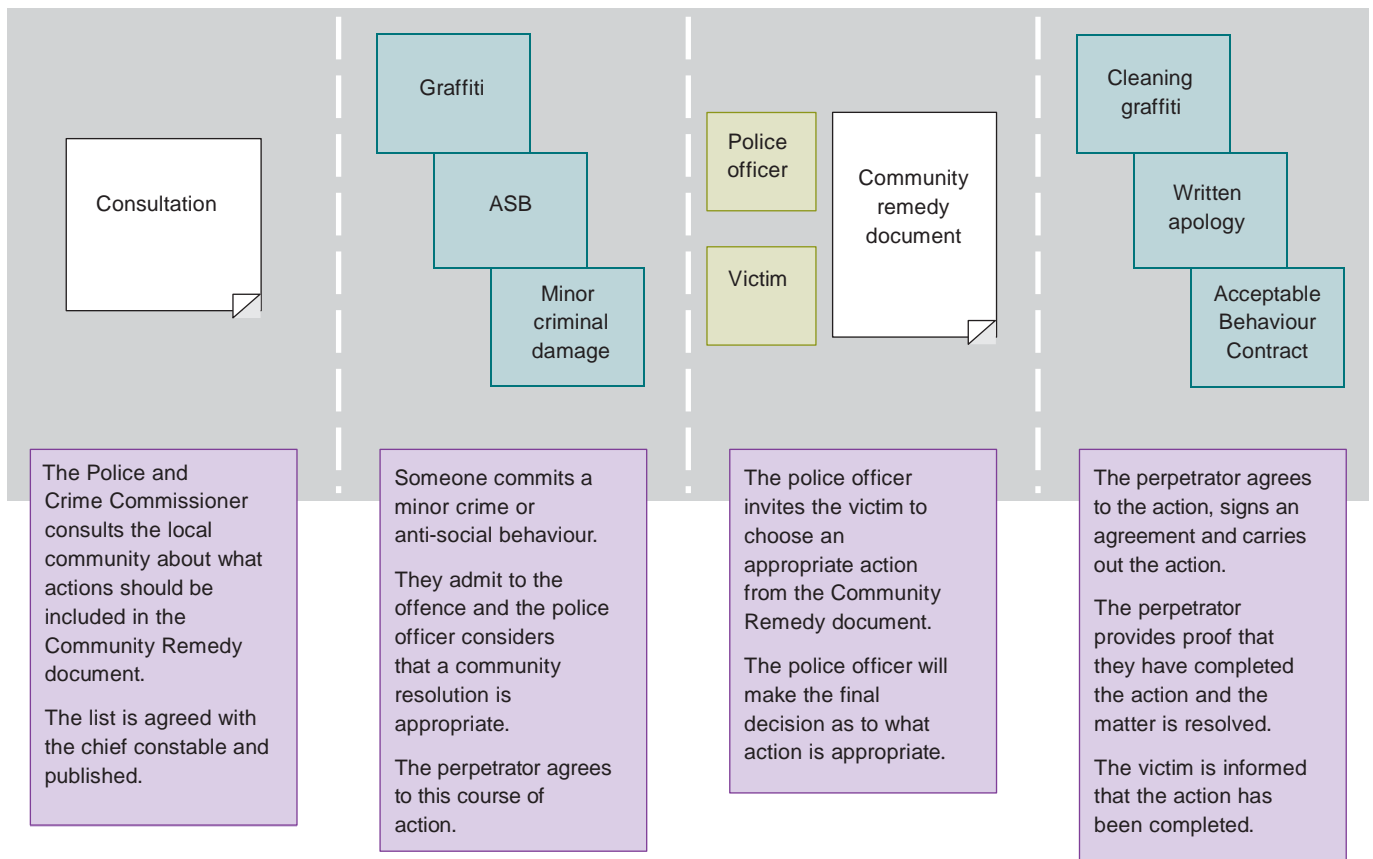
This data can represent the whole area; it does not need to be broken down by relevant body. One relevant body can publish the information on behalf of all the relevant bodies in the area.

The data must be published at least annually, although the relevant bodies may wish to publish data more frequently, or to publish additional details. For example, the relevant bodies may publish information about which area applications came from, or the agencies that they related to, if this information is useful to communities and victims. Published information must not include details which could identify victims.

## 1.2 Community Remedy

Purpose	To give victims a say in the out-of-court punishment of perpetrators of less serious crime and anti-social behaviour.
The Community Remedy document	<p>The Community Remedy document is a list of actions which may be chosen by the victim for the perpetrator to undertake in consequence of their behaviour or offending.</p> <p>The Act places a duty on the Police and Crime Commissioner to consult with members of the public and community representatives on what punitive, reparative or rehabilitative actions they would consider appropriate to be on the Community Remedy document.</p>
Applicants / who can use the Community Remedy	<ul style="list-style-type: none"> <li>• Police officer;</li> <li>• An investigating officer (which can include Police Community Support Officers for certain offences, if designated the power by their chief constable);</li> <li>• A person authorised by a relevant prosecutor for conditional cautions or youth conditional cautions.</li> </ul>
Community resolutions	When dealing with anti-social behaviour or low-level offences through a community resolution the police officer may use the Community Remedy document as a means to engage the victim in having a say in the punishment of the perpetrator.
Test	<ul style="list-style-type: none"> <li>• The officer must have evidence that the person has engaged in anti-social behaviour or committed an offence;</li> <li>• The person must admit to the behaviour or the offence (and agree to participate);</li> <li>• The officer must think that the evidence is enough for court proceedings including for a civil injunction, or impose a caution, but considers that a community resolution would be more appropriate.</li> </ul>
Conditional cautions	The Community Remedy document should be considered when it is proposed that a perpetrator be given a conditional caution or youth conditional caution as a means of consulting the victim about the possible conditions to be attached to the caution.
Failure to comply	If the perpetrator fails to comply with a conditional caution or youth conditional caution they can face court action for the offence.
The legislation	Sections 101 to 103 of the Anti-social Behaviour, Crime and Policing Act 2014.

## Community Remedy



### Purpose

All Police and Crime Commissioners, and the Mayor’s Office for Policing and Crime in London, must have a Community Remedy document in place to set out how victims of less serious crime and anti-social behaviour can have a say in the punishment of perpetrators who receive an ‘out of court’ disposal; that is, a community resolution, conditional caution or youth conditional caution. Where a conditional caution or youth conditional caution is given, the Community Remedy provides a means of consulting the victim about possible conditions to be attached to the caution.

### The Community Remedy document

The Community Remedy document is a list of actions that the victim will be invited to choose from when a community resolution is to be used. The list of actions may vary from one police force to another, based on what is available in the area and what the Police and Crime Commissioner and chief constable agree is appropriate. The Community Remedy document must be published.

## Consultation

The Police and Crime Commissioner (and Mayor's Office for Policing and Crime in London) must consult on the actions to be included in the Community Remedy document with:

- members of the public;
- whichever community representatives the Police and Crime Commissioner considers appropriate to consult;
- the relevant local authority; and
- the chief officer of police for the area.

The public consultation may be undertaken in whatever format the Police and Crime Commissioner considers appropriate (for example, online consultation, talking to community groups or local victims groups, via local newspapers and so on) and may be undertaken as part of another consultation such as on the local Police and Crime Plan. The Community Remedy document may be revised at any time, particularly when new options are to be added.

## Actions to be included in the Community Remedy document

The Police and Crime Commissioner and the chief constable will agree the actions that are listed in the Community Remedy document. These actions must be appropriate and proportionate to the types of offences for which community resolutions are used, and seek to have a positive impact on the perpetrator. Each of the actions must have:

- a punitive element, reflecting the effects on the victim and the wider community; or
- a reparative element, to provide appropriate restitution/reparation to the victim; or
- a rehabilitative element, to address the causes of the perpetrator's behaviour; or
- a combination of the above.

### What could be included?

The legislation does not specify what actions should be included in the Community Remedy document. These will vary between areas, reflecting the views of local people and the availability of activities. Examples of actions that might be included are:

- mediation (for example, to resolve a neighbour dispute);
- a written or verbal apology;
- the perpetrator signing an Acceptable Behaviour Contract – where they agree not to behave anti-socially in the future – or face more formal consequences;
- take part in a restorative justice activity such as a neighbourhood justice panel;
- paying an appropriate amount for damage to be repaired or stolen property to be replaced;
- participation in structured activities that are either educational or rehabilitative, funded by the Police and Crime Commissioner as part of their efforts to reduce crime; or
- reparation to the community (for example, by doing local unpaid work for a short period).

## Community Resolutions

Community resolutions are a means of resolving less serious offences or instances of anti-social behaviour. They are used where the perpetrator has been identified and admits to the behaviour or offence in question and the police believe that there is sufficient evidence to obtain a civil injunction or other disposal, but consider that a community resolution would be a more appropriate and proportionate response.

Community resolutions can be used by:

- a police officer;
- an investigating officer (a person employed by a police force or a Police and Crime Commissioner's office or who is under the direction and control of the chief officer and has been designated as an investigating officer); and
- a police community support officer in relation to offences which their chief constable has designated them powers to deal with or more generally on the authority of a police officer of appropriate rank.

### Using the community remedy document with community resolutions

When a community resolution is used, the officer must make a reasonable effort to obtain the views of the victim on whether the perpetrator should carry out any of the actions in the Community Remedy document. If the officer considers that the action chosen by the victim is appropriate, the perpetrator should be asked to carry out that action. The officer will have ultimate responsibility for ensuring that the action offered is appropriate and proportionate to the nature of the anti-social behaviour or the offence committed. Where there are multiple victims, the officer should make reasonable efforts to take the views of all victims into account.

Community resolutions are entirely voluntary. The officer should ensure that the victim understands the purpose of community resolutions and that he or she knows that they can choose not to be involved. This will help to ensure the victim has realistic expectations of what can be achieved. For example, the resolution may not be legally enforceable if the perpetrator fails to complete the agreed action.

**Putting victims first:** The Community Remedy gives victims more say in the out of court punishment of perpetrators. However, the victim's involvement is voluntary and the victim must not be made to feel that they should take part in a process that they are not comfortable with, that they think may put them at risk, or that they do not believe will be of benefit to them.

When using the Community Remedy the officer should consider the most appropriate way to involve the victim. If the victim is under 18 or vulnerable, they may require a family member or carer to assist their understanding of the purpose of community resolutions and choose an action from the Community Remedy document.

If the victim is not contactable, or it cannot be ascertained who the victim is, for example, if the offence is graffiti in a public place, the officer may choose an appropriate action for the perpetrator to undertake.

## Conditional caution and youth conditional caution

When a conditional caution or a youth conditional caution is used, the officer or authorised person must make reasonable efforts to obtain the views of the victim as to whether the perpetrator should carry out any of the actions listed in the Community Remedy document. If the officer issuing the conditional caution considers that the action chosen by the victim is appropriate, the action can form part of the conditions of the caution. The police officer or investigating officer (or prosecutor in some cases) will have ultimate responsibility for ensuring that the sanction offered to the perpetrator is appropriate and proportionate to the offence. If there are multiple victims, the officer must make reasonable efforts to take the views of all the victims into account.

Conditional cautions are available for all offences except domestic violence and hate crimes, which are excluded from the conditional caution scheme. For full details of the considerations to apply when deciding whether to use a conditional caution, see the Ministry of Justice Code of practice for adult conditional cautions:

<https://www.gov.uk/government/publications/code-of-practice-for-adult-conditional-cautions>

A youth conditional caution is available for any offence, except for domestic violence or hate crime. Full details can be found in the Ministry of Justice Code of practice for youth conditional cautions:

<https://www.gov.uk/government/publications/code-of-practice-for-youth-conditional-cautions>



# Part 2: More effective powers

The powers for dealing with anti-social behaviour provided by the Anti-social Behaviour, Crime and Policing Act 2014 are deliberately flexible to allow professionals to use them to protect the public from different forms of anti-social behaviour.

## Working together and sharing information

The powers allow the police, councils, social landlords and others to deal quickly with issues as they arise, with agencies working together where appropriate to ensure the best results for victims. To assist joined-up working, an effective information-sharing protocol is essential. There is already a duty on some bodies (such as the police and councils) to work together and in respect of anti-social behaviour specifically, there is a specific duty on specified bodies to work together when the ASB Case Review/Community Trigger is activated, as set out earlier in this guidance.

## Vulnerability

The powers also strengthen the protection to victims and communities and provide fast and effective responses to deal with anti-social behaviour. Particular consideration should be given to the needs and circumstances of the most vulnerable when applying the powers to ensure that they are not disproportionately and unreasonably impacted upon, and local agencies must be satisfied that the behaviour meets the legal tests. Any use of these powers must be compliant with the Human Rights Act 1998, the Equality Act 2010 (in particular the public sector equality duty pursuant to section 149) along with all other relevant legislation.

## Assessing the risk to victims

It is good practice for agencies to assess the risk of harm to the victim, and their potential vulnerability, when they receive a complaint about anti-social behaviour. This should be the starting point of a case-management approach to dealing with anti-social complaints. The welfare, safety and well-being of victims must be the main consideration at every stage of the process. It is therefore important to identify the effect that the reported anti-social behaviour is having on the victim, particularly if repeated incidents are having a cumulative effect on their well-being. A continuous and organised risk assessment will help to identify cases that are causing, or could result in, serious harm to the victim, either as a one-off incident or as part of a targeted and persistent campaign of anti-social behaviour against the victim.

## Early and informal interventions

Early intervention, especially through informal approaches, may often be all that is necessary to stop incidents of anti-social behaviour. Such interventions can establish clear standards of behaviour and reinforce the message that anti-social behaviour is not tolerated. In many cases, awareness of the impact of the behaviour on victims, and the threat of more formal enforcement, may be sufficient to encourage an individual to change their behaviour. Frontline professionals will be best placed to decide when and how to use these approaches, but it is recommended that the use of informal methods be considered first in most cases, and particularly when dealing with young people as a means of preventing poor behaviour from escalating.

It is, however, the case that informal intervention may not be the appropriate first step in the circumstances of some cases, such as where the victim is at risk of harm, and it is right that frontline professionals make informed decisions about the approach to be taken.

Possible informal interventions include:

- **A verbal or written warning**

In deciding whether or not to use a verbal or written warning, the police, council or housing officer should still be satisfied that there is evidence that anti-social behaviour has occurred, or is likely to occur. The warning should be specific about the behaviour in question and why it is not acceptable, the impact that this is having on the victim or community and the consequences of non-compliance.

Where appropriate, local agencies should alert each other when a warning has been given so that it can be effectively monitored and a record should be kept so that it can be used as evidence in court proceedings later, if matters are taken to that stage.

- **A community resolution**

Community resolutions are a means of resolving less serious offences or instances of anti-social behaviour through informal agreement between the parties involved as opposed to progression through the criminal justice process. A community resolution may be used with both youth and adult perpetrators and allows the police to deal more proportionately with less serious crime and anti-social behaviour, taking account of the needs of the victim, perpetrator and wider community.

Community resolutions are primarily aimed at first time perpetrators where genuine remorse has been expressed, and where an out-of-court disposal is more appropriate than taking more formal action. The Community Remedy document discussed in Part 1 of this guidance must be used when dealing with anti-social behaviour or less serious offences out of court through community resolutions.

- **Mediation**

In appropriate circumstances, mediation can be an effective way of resolving an issue by bringing all parties together. This can be effective in resolving neighbour disputes, family conflicts, lifestyle differences such as noise nuisance complaints and similar situations. However, mediation is unlikely to work if forced on those involved. All parties should be willing to come to the table and discuss their issues.

It is not for the mediator to establish a solution to the issue as, in most cases, they will have already tried this with each party unsuccessfully. For mediation to deliver long-term solutions, those in dispute should agree a solution. The mediator should facilitate the conversation and draw up any agreement if required for all parties to sign-up to if agreement is reached.

- **Acceptable Behaviour Contracts/Agreements**

An acceptable behaviour contract or agreement is a written agreement between a perpetrator of anti-social behaviour and the agency or agencies acting locally to prevent that behaviour. It can be an effective way of dealing with anti-social individuals, and particularly young people, to nip the problem behaviour in the bud before it escalates. They provide an opportunity to include positive requirements as well as prohibitions to help support the person tackle any underlying issues which are driving their behaviour.

The terms of an acceptable behaviour contract or agreement should be discussed with the perpetrator before they are drafted and signed to help encourage compliance. However, there is no formal sanction associated with refusing to sign, although in such circumstances, this may suggest that a Civil Injunction or a Criminal Behaviour Order might be the more appropriate approach.

Similarly, there are no formal sanctions associated with breaching an acceptable behaviour contract or agreement, and where this occurs, consideration can be given to taking further steps, such as seeking a Civil Injunction, if the circumstances warrant this. Where this is the case, the work undertaken as part of drafting the acceptable behaviour contract or agreement can form part of the evidence pack for the court.

- **Parenting contracts**

Where informal interventions are used with a young person under 18, his or her parents or guardians should be contacted in advance of the decision to take action. In many cases, they may be able to play an important part in ensuring the individual changes their behaviour. While there are formal routes such as parenting orders, at this stage it may be appropriate to include a role for the parent in any acceptable behaviour contract. However, where the behaviour of the parent or guardian is part of the issue (either because they are a bad influence or are failing to provide suitable supervision) agencies could consider a parenting contract. These are similar to an acceptable behaviour contract but are signed by the parent or guardian. They could also be considered where the child in question is under 10 and where other interventions are not appropriate for the perpetrator themselves.

- **Support and counselling**

The anti-social behaviour powers allow professionals to respond to the underlying causes of anti-social behaviour, for example through positive requirements attached to a Civil Injunction or Criminal Behaviour Order. However, providing positive support does not have to wait for formal court action, and can be given as part of any informal intervention, for example by providing support around overcoming substance misuse or alcohol dependency that may be linked to the person's anti-social behaviour.

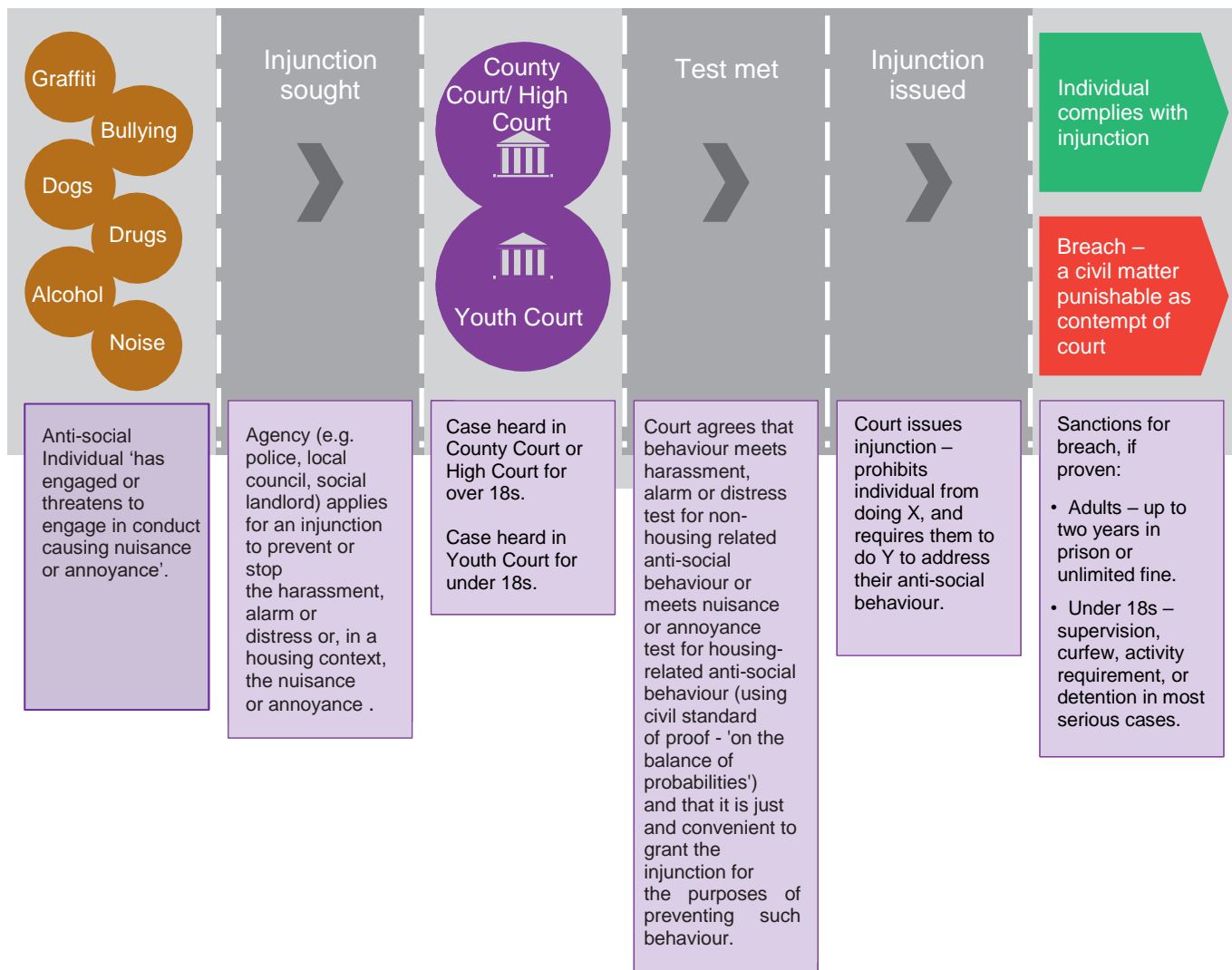
## Conclusion

In many cases, informal and early intervention can be successful in changing behaviour and protecting communities. Such interventions may be included in local plans to deal with anti-social behaviour but should not replace formal interventions where these are the most effective means of dealing with anti-social behaviour.

## 2.1 Civil Injunction

Purpose	To stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate.
Applicants	<ul style="list-style-type: none"> <li>• Local councils;</li> <li>• Social landlords;</li> <li>• Police (including British Transport Police);</li> <li>• Transport for London; West Midlands Combined Authority; Transport for Greater Manchester;</li> <li>• Environment Agency and Natural Resources Wales; and</li> <li>• NHS Protect.</li> </ul>
Test	<ul style="list-style-type: none"> <li>• On the balance of probabilities;</li> <li>• Behaviour likely to cause harassment, alarm or distress (non-housing related anti-social behaviour); or</li> <li>• Conduct capable of causing nuisance or annoyance (housing-related anti-social behaviour); and</li> <li>• Just and convenient to grant the injunction to prevent anti-social behaviour.</li> </ul>
Details	<ul style="list-style-type: none"> <li>• Issued by the county court and High Court for over 18s and the youth court for under 18s.</li> <li>• Injunction will include prohibitions and can also include positive requirements to get the perpetrator to address the underlying causes of their anti-social behaviour.</li> <li>• Agencies must consult youth offending teams in applications against under 18s.</li> </ul>
Penalty on breach	<ul style="list-style-type: none"> <li>• Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt.</li> <li>• Over 18s: civil contempt of court with unlimited fine or up to two years in prison.</li> <li>• Under 18s: supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 year olds.</li> </ul>
Appeals	<ul style="list-style-type: none"> <li>• Over 18s to the High Court; and</li> <li>• Under 18s to the Crown Court.</li> </ul>
The legislation	Sections 1 to 21 of the Anti-social Behaviour, Crime and Policing Act 2014.

# Civil Injunction



## Purpose

The injunction under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 is a civil power to deal with anti-social individuals. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating.

Although the injunction is a civil power, it is a formal sanction and in appropriate cases professionals will want to consider whether an informal approach might be preferable before resorting to court action, especially in the case of under 18s. However, where informal approaches have not worked or professionals decide that a formal response is needed, they are free to apply to the court for a civil injunction.

## Who can apply for an injunction?

A number of agencies can apply for the injunction, which ensures that the body best placed to lead on a specific case can do so.

The agencies who can apply for an injunction are:

- a local council;
- a housing provider;
- the chief officer of police for the local area;
- the chief constable of the British Transport Police;
- Transport for London;
- West Midlands Combined Authority<sup>1</sup>;
- Transport for Greater Manchester<sup>2</sup>;
- the Environment Agency and Natural Resources Wales;
- NHS Protect.

## The legal tests for granting an injunction

These are:

- **non-housing related**

For anti-social behaviour in a non-housing related context the test is that the conduct concerned has caused, or is likely to cause, harassment, alarm or distress to any person. This will apply, for example, where the anti-social behaviour has occurred in a public place, such as a town or city centre, shopping mall, or local park, and where the behaviour does not affect the housing management functions of a social landlord or people in their homes.

- **housing-related**

For anti-social behaviour in a housing context the nuisance or annoyance test will apply, that is, where the conduct is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises or the conduct is capable of causing housing-related nuisance or annoyance to any person. Only social landlords, local councils or the police are able to apply for an injunction under these provisions. In the case of social landlords only, "housing-related" means directly or indirectly relating to their housing management function.

The injunction can be applied for by the police, local councils and social landlords against perpetrators in social housing, the private-rented sector and owner-occupiers. This means that it can be used against perpetrators who are not necessarily tenants of the social landlord applying for the order.

The injunction can also be used in situations where the perpetrator has allowed another person to engage in anti-social behaviour, as opposed to actively engaging in such behaviour themselves. For example, in a case where another person, such as a visitor or lodger, is or has been behaving anti-socially, the injunction could be used against the problem visitor, lodger or owner if applicable. An agency seeking to apply for the injunction must produce evidence to the civil standard of proof, that is, 'on the balance of probabilities', and satisfy the court that it is both 'just and convenient' to grant the order.

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<sup>1</sup> The West Midlands Combined Authority (Functions and Amendment) Order 2017

<sup>2</sup> The Anti-social Behaviour, Crime and Policing Act 2014 (Amendment) Order 2019

**Putting victims first:** In deciding whether the individual's conduct has caused or is likely to cause harassment, alarm or distress or is capable of causing nuisance or annoyance, agencies should contact all potential victims and witnesses to understand the wider harm to individuals and the community. Not only will this ensure that victims and communities feel that their problem is being taken seriously, it will also aid the evidence-gathering process for the application to the court.

## Details

**Who can the injunction be issued against?** A court may grant the injunction against anyone who is 10 years of age or over. Applications against individuals who are 18 years of age or over must be made in the county court or High Court, and applications against individuals who are under 18 must be made in the youth court.

**Intergenerational or 'mixed aged' cases:** Where a hearing involves more than one individual and involves both over 18s and under 18s, the applicant can apply to the youth court to have the cases heard together as joint hearings. The youth court must find that it is in the interests of justice to hear the 'mixed aged' case and, if it does so, the case can only be heard in that court – the joint hearing cannot be heard in the county court. However, subsequent hearings (breach etc.) involving individuals over 18 will take place in the county court.

**Dealing with young people:** Applicants must consult the local youth offending team if the application is against someone under the age of 18 and inform any other body or individual the applicant thinks appropriate, for example, a youth charity that is already working with the young person. Although the consultation requirement does not mean that the youth offending team can veto the application, it is important that applicants fully consider and take into account representations from the youth offending team as part of developing good partnership working in cases involving young people.

The youth offending team will be important in getting the young person to adhere to the conditions in the injunction and that they are understood. The conditions will be overseen by a responsible officer in the youth offending team or children and family services. The youth offending team will also work with applicants as part of a multi-agency approach to ensure that positive requirements in the injunction are tailored to the needs of the young person.

**When can injunctions be used?** The injunction can be used to deal with a wide range of behaviours, many of which can cause serious harm to victims and communities in both housing-related and non-housing related situations. This includes vandalism, public drunkenness, aggressive begging, irresponsible dog ownership, noisy or abusive behaviour towards neighbours, or bullying. Injunctions should not be used to stop reasonable, trivial or benign behaviour that has not caused, or is not likely to cause, anti-social behaviour to victims or communities, and potential applicants are encouraged to make reasonable and proportionate judgements about the appropriateness of the proposed response before making an application for an injunction.

The Civil Injunction can also be used to tackle gang related activity, either directly on gang members or on those being exploited by gangs in order to disrupt their operations. This can be particularly useful in cases of 'county lines' where urban gangs exploit children and vulnerable people to move drugs and money to suburban areas and market and coastal towns. In such cases, the conditions of the injunction can include prohibitions on entering certain areas or affiliating with certain individuals. They could also include positive requirements such as engaging in drug treatment if the reason they became involved with, and remain indebted to, the gang is because of a drug dependency.

Applicants should also consider consulting the relevant local authority as they may hold information which is of relevance and/or which may need to be considered as part of the application. For example, a young person may be a child in need or on a child protection plan and additional safeguarding measures may be required. The local authority may also hold information which supports the application.

**What to include:** The injunction will include relevant prohibitions to get individuals to stop behaving anti-socially. It can also include positive requirements to get the individual to deal with the underlying cause of their behaviour. Agencies will have the discretion to tailor the positive requirements in each case to address the respondent's individual circumstances, behaviour and needs. There may be opportunities to work with voluntary sector organisations.

Positive requirements might, for example, include the respondent:

- attending alcohol awareness classes for alcohol-related problems;
- attending dog training classes provided by animal welfare charities where the issue is to do with irresponsible dog ownership; or
- attending mediation sessions with neighbours or victims.

The prohibitions or requirements in the injunction must be reasonable and must not, so far as practicable:

- interfere with the times, if any, at which the respondent normally works or attends school or any other educational establishment; or
- conflict with the requirements of any other court order or injunction to which the respondent may be subject.

In addition, applicants should also consider the impact on any caring responsibilities the perpetrator may have and, if they have a disability, whether he or she is capable of complying with the proposed prohibitions or requirements.

A draft of the proposed terms of the injunction should include all proposed prohibitions and requirements, their duration and any powers of arrest attached. Applicants will need to be prepared for the court to examine each prohibition and requirement, and will need to be able to prove how each will help stop or prevent the respondent from engaging in or threatening to engage in anti-social behaviour in the future. It is also important that any requirement is clear about who is responsible for supervising compliance and the court must receive evidence about its suitability and enforceability. Where two or more requirements are included the court must consider their compatibility with each other.

**Putting victims first:** Keeping victims and communities updated on enforcement action at key points can help them to deal with the impact the behaviour is having. Victims may feel that their complaint has been ignored if they do not see changes to the behaviour. Letting victims know what is happening can make a big difference.

**Duration of injunctions:** Prohibitions or requirements in the injunction can be for a fixed or indefinite period for adult perpetrators. In the case of under 18s the prohibitions or requirements must have a specified time limit, with a maximum term of 12 months.

**Exclusion from the home:** The court may exclude a perpetrator over the age of 18 from any premises or an area specified within the terms of the injunction. This can include their home, where the court thinks that the anti-social behaviour includes the use, or threatened use, of



violence against other persons, or there is a significant risk of harm. The word harm is defined in section 20 of the legislation as including “serious ill-treatment or abuse, whether physical or not” – which means that it could include emotional or psychological harm, such as harassment or racial abuse.

Social landlords will only be able to apply to the court to exclude their own tenants and visitors to properties managed by them, whilst councils and the police will be the lead agencies in applying to exclude private tenants or owner-occupiers from their homes. In cases where the police or local council is the lead agency in an application to exclude a social tenant, they should consult the landlord. If the exclusion is applied to someone in privately rented accommodation or in residential leasehold housing, the police or council should, where circumstances permit, inform and consult the landlord (generally referred to in the leasehold as the freeholder) beforehand.

We do not expect the power of exclusion to be used often and the court will pay special attention to issues of proportionality. As such, applications should only be made for exclusion in extreme cases that meet the higher threshold set out above.

**Publicising an injunction issued to a young person:** Making the public aware of the perpetrator and the terms of the order can be an important part of the process in dealing with anti-social behaviour and providing reassurance to victims, as well as providing the information people need to identify and report breaches. The decision to publicise the injunction will be taken by the police or council unless the court has made a section 39 order (Children and Young Persons Act 1933) prohibiting publication. When deciding whether to publicise the injunction, public authorities (including the courts) must consider that it is necessary and proportionate to interfere with the young person’s right to privacy, and the likely impact on a young person’s behaviour. This will need to be balanced against the need to provide re-assurance to the victims and the wider community as well as providing information so that they can report any breaches. Each case should be decided carefully on its own facts.

**‘Without notice’ applications:** Injunctions can be applied for ‘without notice’ being given to the perpetrator in exceptional cases to stop serious harm to victims. They should not be made routinely or in place of inadequate preparation for normal ‘with notice’ applications. The notification and consultation requirements that apply to ‘with notice’ applications do not apply to ‘without notice’ applications.

**Interim injunctions:** The court will grant an interim injunction if a ‘without notice’ application is successful. The court may also grant an interim injunction where a standard application is adjourned. The interim injunction can only include prohibitions, not positive requirements. When applying for an interim injunction, the applicant should ensure that the application presents the victim’s case and also why the interim injunction is necessary.

**Variation and discharge of injunctions:** The court has the power to vary or discharge the injunction upon application by either the perpetrator or the applicant. If the applicant wishes to discharge or vary the injunction, they should notify the people and organisations they consulted as part of the initial application process. Applicants may consider applying to vary the injunction in response to changes in the respondent’s behaviour. The powers of the court to vary the injunction include:

- to remove a prohibition or requirement in the injunction;
- to include a prohibition or requirement in the injunction;
- to reduce the period for which a prohibition or requirement has effect;
- to extend the period for which a prohibition or requirement has effect; or
- to attach a power of arrest, or extend the period for which a power of arrest has effect.

If the court dismisses an application to vary the injunction, the relevant party is not allowed to make a further application without the consent of the court or the agreement of the other party.

**Power of arrest:** The court can attach a power of arrest to any prohibition or requirement in the injunction, except a positive requirement, that is, a requirement that the respondent participates in a particular activity. The court can only attach a power of arrest if:

- the anti-social behaviour in which the respondent has engaged, or threatens to engage, consists of or includes the use, or threatened use, of violence against other persons; or
- there is a significant risk of harm to other persons from the respondent.

If the applicant believes a power of arrest is appropriate, they should present this by way of written evidence. Such evidence may indicate that the respondent poses a high level of risk to the victim or the community should any of the conditions in the injunction be breached, for example, where there is a history of violent behaviour.

Where a power of arrest is attached to a condition of the injunction, a police officer can arrest the respondent without warrant if he or she has reasonable cause to believe that a breach has occurred. The police must present the respondent to court within 24 hours of their arrest (except on Sunday, Christmas Day and Good Friday).

If the applicant thinks that the respondent has breached a term of the injunction to which a power of arrest has not been attached, they may apply to the court for an arrest warrant. The application must be made to a judge in the county court in the case of an adult and a justice of the peace in the case of respondents below the age of 18. The court may then issue a warrant for the respondent's arrest and to be brought before the court but only if it has reasonable grounds for believing the respondent has breached a provision in the injunction. The police must inform the applicant when the respondent is arrested.

**Hearsay evidence:** Hearsay and professional witness evidence allow for the identities of those who are unable to give evidence due to fear or intimidation, to be protected. This is especially important as cases can involve anti-social behaviour in residential areas where local people and those targeted by the behaviour may feel unable to come forward for fear of reprisals. Hearsay evidence could be provided by a police officer, healthcare official, or any other professional who has interviewed the witness directly.

**Penalty on breach:** Breach of the injunction is not a criminal offence. However, due to the potential severity of the penalties which the court can impose on respondents, the criminal standard of proof – 'beyond reasonable doubt' – is applied in breach proceedings.

For adults, breach is dealt with by a civil contempt of court, which is punishable by up to two years in prison and/or an unlimited fine. The imprisonment is for contempt of court, not for the conduct. For under 18s, breach proceedings are dealt with in the youth court and could result in a supervision order with a supervision, curfew or activity requirement. In the most serious cases, (that is, 'where the court determines that because of the severity or extent of the breach no other power available to it is appropriate') the court may impose a detention order on a young person for breaching the terms of the injunction, including breach of a positive requirement. For under 18s, only those between 14 and 17 years of age can be detained for breaching the injunction and they cannot be detained for longer than three months.

**Remands:** The court has the power to remand a perpetrator in custody or on bail after they have been arrested for suspected breach of the injunction (with or without warrant). An under 18 can only be remanded in custody on medical grounds, that is, after obtaining evidence from a registered medical practitioner the court is satisfied that the young person is suffering from a mental disorder and it would be impracticable to get a medical report for the young

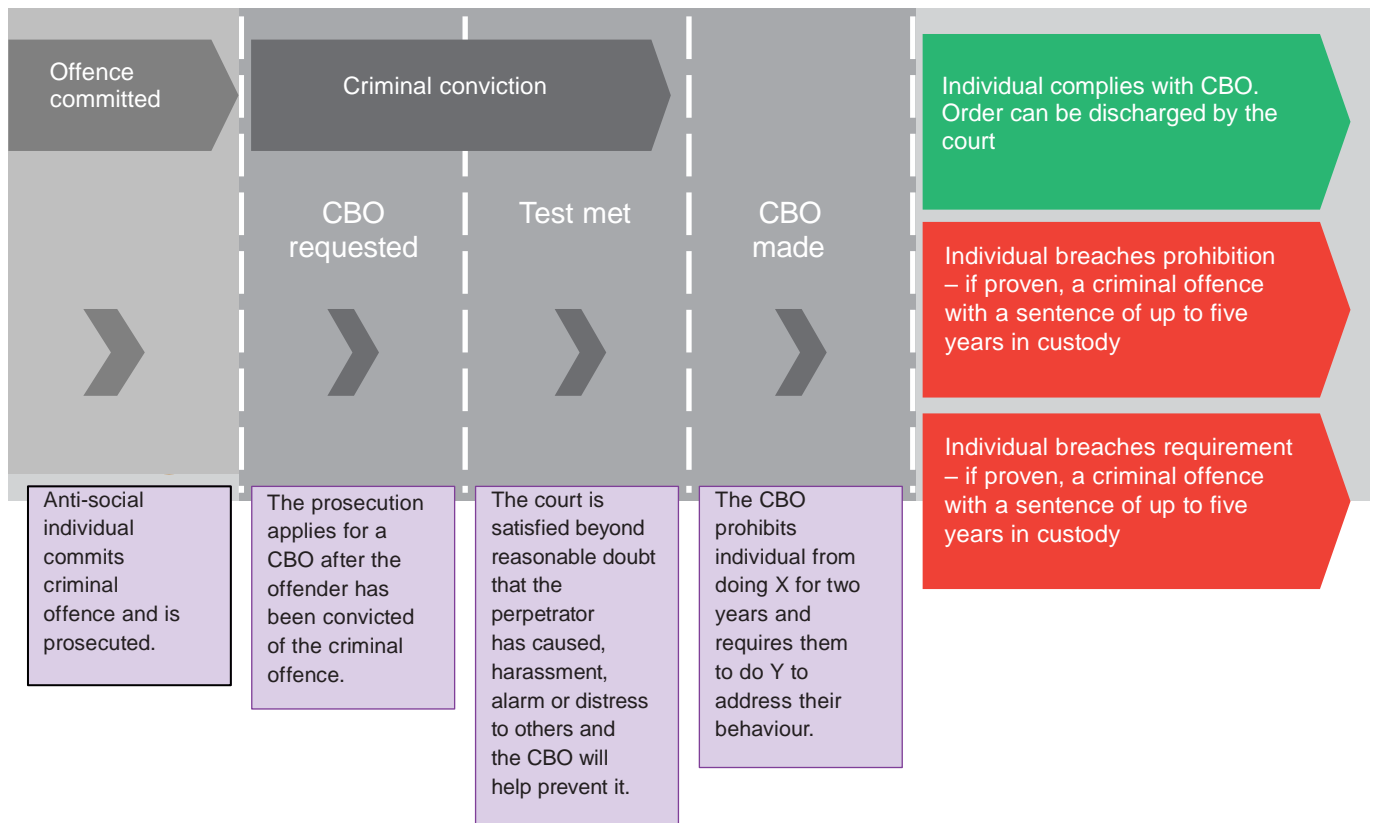
person if they were granted bail. The court has discretion as to whether to remand a person on bail or in custody.

**Appeals:** Appeals may be lodged by both the applicant and perpetrator following the grant, refusal, variation or discharge of the injunction. A decision by the county court (in the case of proceedings in respect of an adult) may be appealed to the High Court. Appeals against decisions of the youth court in under 18 cases are heard in the Crown Court.

## 2.2 Criminal Behaviour Order

Purpose	Issued by any criminal court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity.
Applicants	The prosecution, in most cases the Crown Prosecution Service, either at its own initiative or following a request from the police or council.
Test	<ul style="list-style-type: none"> <li>• That the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and</li> <li>• The court considers that making the order will help prevent the offender from engaging in such behaviour.</li> </ul>
Details	<ul style="list-style-type: none"> <li>• Issued by any criminal court on conviction for any criminal offence.</li> <li>• The anti-social behaviour does not need to be part of the criminal offence.</li> <li>• Order will include prohibitions to stop the anti-social behaviour but can also include positive requirements to get the offender to address the underlying causes of their behaviour.</li> <li>• Agencies must find out the view of the youth offending team for applications in respect of anybody under 18.</li> </ul>
Penalty on breach	<ul style="list-style-type: none"> <li>• Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.</li> <li>• For over 18s on summary conviction: up to six months imprisonment or a fine or both.</li> <li>• For over 18s on conviction on indictment: up to five years imprisonment or a fine or both.</li> <li>• For under 18s: the sentencing powers in the youth court apply.</li> </ul>
Appeal	<ul style="list-style-type: none"> <li>• Appeals against orders made in the magistrates' court (which includes the youth court) lie to the Crown Court.</li> <li>• Appeals against orders made in the Crown Court lie to the Court of Appeal.</li> </ul>
The legislation	Sections 22 to 33 of the Anti-social Behaviour, Crime and Policing Act 2014.

# Criminal Behaviour Order



## Purpose

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The court may make a CBO so long as the court imposes a sentence in respect of the offence or discharges the offender conditionally. The order is intended for tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

**Applicants:** The prosecution may apply for a CBO after the offender has been convicted of a criminal offence. The prosecution can make such an application at its own initiative or following a request from a council or the police. The CBO hearing will occur after, or at the same time as, sentencing for the criminal conviction.

Good relationships between local agencies and the CPS will be important to ensure that the CBO application can be properly reviewed and notice of it served as soon as practicable, without waiting for the verdict in the criminal case. Agencies should consider setting up local information exchanges to make sure that the CBO is considered in appropriate cases where anti-social behaviour is brought before a criminal court.

**The test:** For a CBO to be made the court must be satisfied beyond reasonable doubt that the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to any person and that making the order will help in preventing the offender from engaging in such behaviour.

## Details

**When can a Criminal Behaviour Order be used?** The CBO can be used to deal with a wide range of anti-social behaviours following an individual's conviction for a criminal offence; for example, threatening others in the community, persistently being drunk and aggressive in public, or to deal with anti-social behaviour associated with a more serious conviction, such as for burglary or street robbery. The CBO can also be used to address the anti-social behaviour of gang members, for example to prevent them from affiliating with certain individuals or to require them to attend a job readiness course to help them get employment.

However, an application for a CBO does not require a link between the criminal behaviour which led to the conviction and the anti-social behaviour it addresses for it to be issued by the court. Agencies must make proportionate and reasonable judgements before applying for a CBO, and conditions of an order should not be designed to stop reasonable, trivial or benign behaviour that has not caused, or is unlikely to cause, harassment, alarm or distress to victims or communities.

An application for a CBO does not require a link between the criminal behaviour which led to the conviction and the anti-social behaviour for it to be issued by the court.

**Consultation:** The only formal consultation requirement applies where an offender is under 18 years of age. In these cases, the prosecution must find out the views of the local youth offending team before applying for the CBO. The views of the youth offending team must be included in the file of evidence forwarded to the prosecution. In practice, the consultation with the youth offending team must be carried out by the organisation preparing the application for the CBO; that is, the council or the police.

The legislation has deliberately kept formal consultation requirements to a minimum to enable agencies to act quickly where needed to protect victims and communities. However, in most cases it is likely that the police or local council will wish to consult with other agencies. This could include local organisations that have come into contact with the individual, such as schools and colleges of further education, providers of probation services, social services, mental health services, housing providers or others. Their views should be considered before the decision is made to ask the CPS to consider applying for a CBO. This will ensure that an order is the proper course of action in each case and that the terms of the order are appropriate.

Evidence not heard in the criminal case can still be admissible at the CBO hearing, for example, evidence of other anti-social behaviour by the offender and information about why an order is appropriate in the terms asked for. Witnesses who might be reluctant to give evidence in person may have their evidence accepted as a written statement, or given by someone such as a police officer as hearsay evidence, but this will depend on the circumstances of the case.

Special measures are available in CBO proceedings for witnesses under 18 and vulnerable and intimidated adult witnesses (sections 16 and 17, Youth Justice and Criminal Evidence Act 1999). The court has to satisfy itself that the special measure, or combination of special measures, is likely to maximise the quality of the witness's evidence before granting an application for special measures.

**Interim orders:** In cases where an offender is convicted of an offence but the court is adjourned for sentencing, or the CBO hearing is adjourned after sentence, an interim order can be granted if the court thinks that it is just to do so. The prosecution can apply for the interim order.

**Duration of a Criminal Behaviour Order:** The terms of the CBO must include the duration of the order. For adults this is a minimum of two years, up to an indefinite period. For under 18s the order must be between one and three years.

**Prohibitions and requirements:** The CBO must clearly describe the details of what the offender is not allowed to do (prohibitions) as well as what they must do (requirements). Orders can include prohibitions or requirements or both. It is up to the court to decide which are needed to help prevent further anti-social behaviour and which measures are most appropriate and available to tackle the underlying cause of the behaviour. So far as practicable, these must not interfere with an offender's education or work commitments or conflict with any other court order or injunction that the offender is subject to. In addition practitioners should, in proposing prohibitions or requirements to the court, also consider the impact on any caring responsibilities the respondent may have and, in the event that the respondent has any disability, whether he or she is capable of complying with the proposed prohibitions or requirements.

The Crown Prosecution Service has issued a guide to assist the police and local councils in preparing CBO applications setting out the general principles to consider; for example, the prohibitions need to deal with the behaviour in question that has caused or is likely to cause harassment, alarm or distress. The order and requirements need to be proportionate and specific, and clear and easy to understand. Requirements could include:

- attendance at an anger management course where an offender finds it difficult to respond without violence;
- youth mentoring;
- a substance misuse awareness session where an offender's anti-social behaviour occurs when they have been drinking or using drugs; or
- a job readiness course to help an offender get employment and move them away from the circumstances that cause them to commit anti-social behaviour.

Before proposing any requirements evidence must be provided in support of that requirement including information about the person or organisation who will be responsible for supervising compliance and the suitability and enforceability of the requirement. For any requirements where a course is proposed, details of that course and what is involved should be provided, including frequency of appointments and the issues that the appointments will cover or address.

In addition, the responsible person or organisation must inform the police if the offender fails to comply with a requirement; must be a willing participant in the order and be prepared to assist with enforcement.

**Putting victims first:** The potential impact on the victim or victims will be at the heart of the consideration of the terms of the CBO. Stopping the anti-social behaviour is for the benefit of the victim and thinking about how the terms of the order will impact on the victim is critical. What would they think? Would they be satisfied? It is also good practice to take the time to explain the terms of the order to the victims so that they are aware of the outcome of the court case.

**Publicising a CBO issued to a young person:** Making the public aware of the offender and the terms of the order can be an important part of the response to anti-social behaviour. It can provide reassurance for communities that action is being taken and it will provide the information that local people need to identify and report breaches.

The decision to publicise a CBO will be taken by the police or council unless the court has made a section 39 order (Children and Young Persons Act 1933) prohibiting publication. When deciding whether to publicise a CBO, public authorities (including the courts) must consider that it is necessary and proportionate to interfere with the young person's right to privacy, and the likely impact on a young person's behaviour. This will need to be balanced against the need to provide re-assurance to victims and the wider community as well as providing them with information so that they can report any breaches. Each case should be decided carefully on its own facts.

**Applications to vary or discharge a Criminal Behaviour Order:** A CBO may be varied or discharged by the court which made the original order. Either the offender or the prosecution can make an application but if this is dismissed by the court neither party can make a subsequent application without the consent of either the court or the other party. The power to vary includes extending the term of the order or including additional prohibitions or requirements. This flexibility allows for those monitoring the progress of offenders to alter the conditions of the order to suit developing or new circumstances.

**Annual reviews for under 18s:** Where the order is made against someone under 18 there is a requirement to conduct annual reviews. The review must include consideration of:

- the extent to which the offender has complied with the order;
- the adequacy of any support available to help them to comply with the order; and
- anything else relevant to the question of whether an application should be made to vary or discharge the order.

The police have overall responsibility for carrying out such a review, with a requirement to act in co-operation with the council. The police may invite any other person or body to participate in the review. This could include youth offending teams, educational establishments or other organisations who have been working with the young person. As a result of the review an application to vary or discharge the CBO may be made to the court.

**Penalty on breach:** It is a criminal offence if an offender fails to comply, without reasonable excuse, with either the requirements or prohibitions in the CBO. Failure to comply with a prohibition or requirement should be notified to the police. The court has the power to impose serious penalties on conviction, including:

- on summary conviction in the magistrates' court: a maximum of six months in prison or a fine or both;
- on conviction on indictment in the Crown Court: a maximum of five years in prison or a fine or both.

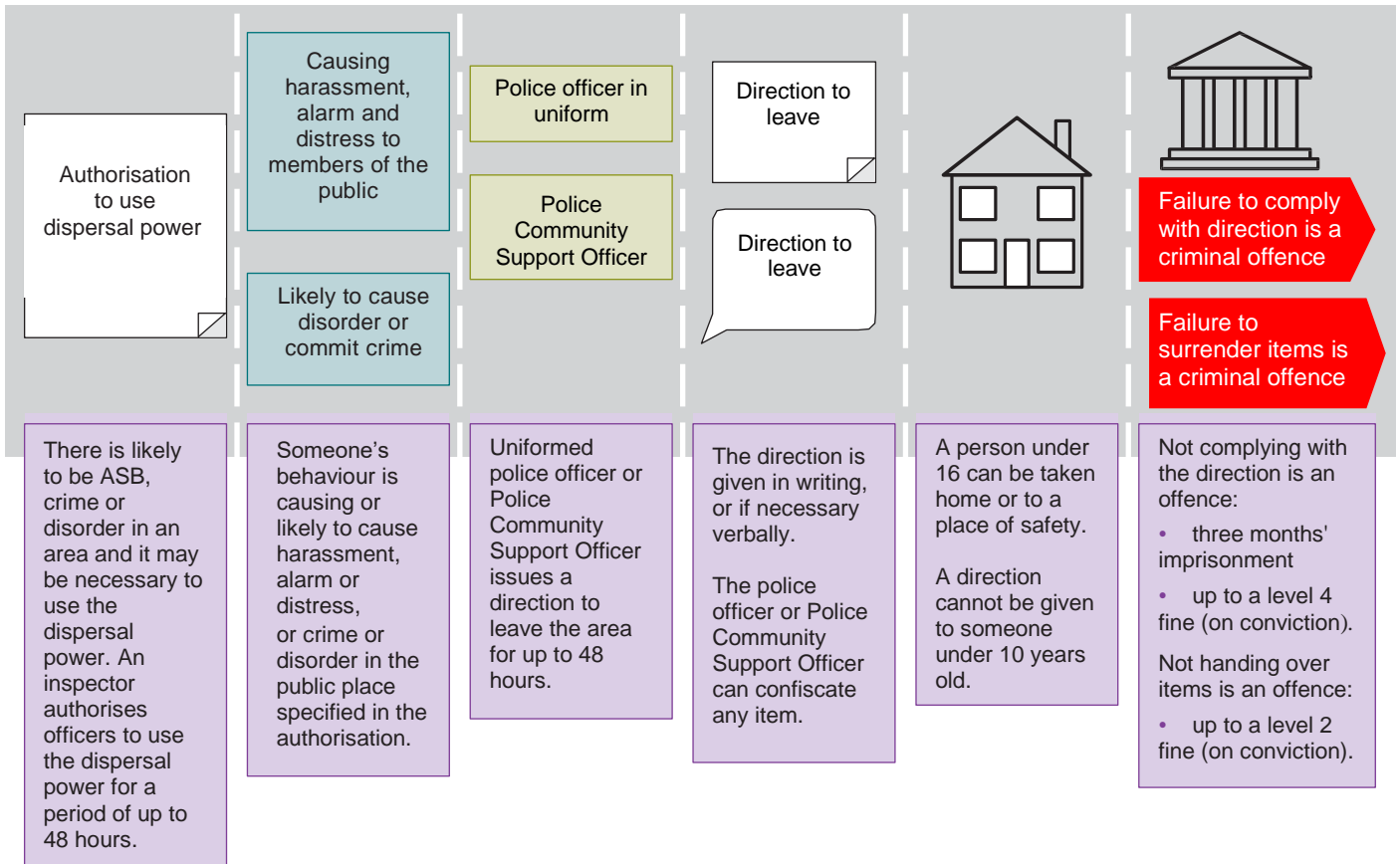
Hearings for those under 18 will take place in the youth court where the maximum sentence is a two year detention and training order.



## 2.3 Dispersal Power

Purpose	Requires a person committing or likely to commit anti-social behaviour, crime or disorder to leave an area for up to 48 hours.
Used by	<ul style="list-style-type: none"> <li>• Police officers in uniform; and</li> <li>• Police Community Support Officers (if designated the power by their chief constable).</li> </ul>
Test	<ul style="list-style-type: none"> <li>• Contributing or likely to contribute to members of the public in the locality being harassed, alarmed or distressed (or the occurrence of crime and disorder); and</li> <li>• Direction necessary to remove or reduce the likelihood of the anti-social behaviour, crime or disorder.</li> </ul>
Details	<ul style="list-style-type: none"> <li>• Must specify the area to which it relates and can determine the time and the route to leave by.</li> <li>• Can confiscate any item that could be used to commit anti-social behaviour, crime or disorder.</li> <li>• Use in a specified locality must be authorised by a police inspector and can last for up to 48 hours.</li> <li>• A direction can be given to anyone who is, or appears to be, over the age of 10.</li> <li>• A person who is under 16 and given a direction can be taken home or to a place of safety.</li> </ul>
Penalty on breach	<ul style="list-style-type: none"> <li>• Breach is a criminal offence.</li> <li>• Failure to comply with a direction to leave: up to a level 4 fine and/or up to three months in prison although under 18s cannot be imprisoned.</li> <li>• Failure to hand over items: up to a level 2 fine.</li> </ul>
Appeals	A person who is given a direction and feels they have been incorrectly dealt with should speak to the duty inspector at the local police station. Details should be given to the person on the written notice.
The legislation	Sections 34 to 42 of the Anti-social Behaviour, Crime and Policing Act 2014.
Protecting the vulnerable	<ul style="list-style-type: none"> <li>• Consideration should be given to how the use of this power might impact on the most vulnerable members of society.</li> <li>• Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to.</li> <li>• There is value in working in partnership to resolve ongoing problems and find long term solutions.</li> </ul>

# Dispersal Power



## Purpose

The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to the local community. The power is preventative, allowing an officer to deal quickly with someone's behaviour and nip the problem in the bud before it escalates.

Restricting an individual's freedom of movement is a serious issue, and accordingly the power should not be invoked lightly. This is why the legislation requires the authorising officer to be satisfied on reasonable grounds that use of the power is necessary to remove or reduce the likelihood of people being harassed, alarmed or distressed or the occurrence of crime or disorder.

In areas where there are regular problems, it is recommended that the police work with the local council to find a sustainable long-term solution. The impact on the local community should be considered when using the dispersal power.

## Who can use the power?

The dispersal power can be used by police officers in uniform. Police Community Support Officers can also use this power if designated by their chief constable.

Use of the dispersal power must be authorised by an officer of at least the rank of inspector. This helps to ensure that the power is not used to stop activities which are not causing anti-social behaviour. It may be appropriate for an officer of a more senior rank to authorise the use of the power where, for example, there is no inspector on duty who knows the specific circumstances of the area. The authorising officer can sanction use of the power in a specified locality for a period of up to 48 hours.

The inspector (or above) must record the authorisation in writing, specifying the grounds on which it is given and sign the authorisation. The decision should be based on objective grounds: this may include local knowledge of the area and information to suggest that individuals are likely to cause harassment, alarm or distress to others or engage in crime and disorder at a specific time. The authorising officer should ensure that the evidence is sufficient to justify using the power, and should take account of wider impacts, such as on community relations. The written authorisation may be admitted in evidence if the authorisation is in dispute.

**Ensuring proportionality:** Restricting people's freedom of movement is a serious matter and it is important that the dispersal power is used proportionately and reasonably, respecting individuals' rights of lawful freedom of expression and freedom of assembly.

The dispersal power can only be used in the specific location authorised by the inspector (or above) who should define a specific geographic location, for example by listing the streets to which it applies or the streets which form the boundary of the area, rather than stating 'in and around the area of'. The authorisation should not cover an area larger than is necessary. If the anti-social behaviour occurs outside the authorised area, the authorising officer will have to increase the area or officers will not be able to use the power.

**Consultation:** Wherever practicable, the authorising officer should consult the local council or community representatives before making the authorisation. This will help to understand the implications of using the power within a particular community or area and whether the community will benefit from use of the dispersal power. Working with the relevant council can also assist the police in gaining community consensus and support when it is necessary to use the dispersal power, or assist community relations where there are concerns about the use of the power in a particular area. When it has not been practical to consult the local council, the authorising officer may wish to notify the local authority of the authorisation or the use of the power.

**Transparency and scrutiny:** Police forces may wish to put in place appropriate arrangements for maintaining records of authorisations and use of the dispersal power and the circumstances in which it is used, and to publish data on its use. Police and Crime Commissioners have an important role in holding forces to account to ensure that officers are using the power proportionately. Publication of data will help to highlight any 'hotspot' areas that may need a longer-term solution, such as diversionary activities for young people or security measures in pubs and clubs to prevent alcohol-related anti-social behaviour in town centres.

## Details

**The legal tests:** Two conditions need to be met for a direction to be given:

- the officer must have reasonable grounds to suspect that the behaviour of the person has contributed, or is likely to contribute, to:
  - members of the public in the locality being harassed, alarmed or distressed; or
  - crime and disorder occurring in the locality.
- the officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime or disorder.

Including behaviour that is likely to cause harassment, alarm or distress in the legal tests allows the power to be used as a preventative measure. The power is for use in public places; this includes places to which the public has access by virtue of express or implied permission such as a shopping centre.

**Written notice:** The direction must be given in writing, unless that is not reasonably practicable. The written notice will specify the locality to which the direction relates and for how long the person must leave the area. The officer can also impose requirements as to the time by which the person must leave the locality and the route they must take. The officer must also tell the person that failure to comply, without reasonable excuse, is an offence unless it is not reasonably practicable to do this.

The information should be provided as clearly as possible and the officer should ensure the person has understood it. If the direction is given verbally a written record of it must also be kept in order to enforce it in the event that it is breached, and for the police force to be able to monitor use of the power. The written notice may also be admitted in evidence in breach proceedings.

Many forces have already established good practice in relation to the use of dispersal powers. For instance, in some forces, officers carry a pre-printed notepad to provide details of the direction, the consequences of a failure to comply, where to collect any confiscated items, and a map to clarify the area a person is excluded from.

**Dispersing young people:** A police officer (or Police Community Support Officer where designated) can give a direction to anyone who is, or appears to be, over the age of 10. If the officer reasonably believes the person given the direction to be under the age of 16, the officer can take them home or to another place of safety. Under the provisions of the Children Act 2004 the police have a duty to 'safeguard and promote the welfare of children'. Police forces have safeguarding arrangements in place to ensure that children are not returned to unsafe homes or placed in potentially harmful situations.

Case law in relation to Part 4 of the Anti-social Behaviour Act 2003 states that to 'remove' a person under 16 to their place of residence carries with it a power to use reasonable force if necessary to do so: see *R (on the application of W by his parent and litigation friend PW) (Claimant) v (1) Commissioner of Police for the Metropolis, (2) Richmond-upon-Thames London Borough Council (Defendants) and the Secretary of State for the Home Department (Interested Party) [2006]*.

**Restrictions:** A direction cannot be given to someone engaged in peaceful picketing that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 or if they are taking part in a public procession as defined in section 11 of the Public Order Act 1986.

In addition, the direction cannot restrict someone from having access to the place where they live or from attending a place where they:

- work, or are contracted to work for that period of time;
- are required to attend by a court or tribunal;
- are expected for education or training;
- are required to attend a service provision appointment or to receive medical treatment during the period of time that the direction applies.

**Providing information to the public:** Where use of the dispersal power has been authorised in advance, the police should consider providing information to those who may be affected.

**Putting victims first:** If the dispersal power is used in response to a complaint from a member of the public, the officer should update them about what has been done in response to their complaint. Keeping victims updated on enforcement action can provide reassurance to the community and result in fewer follow up calls on the issue

**Surrender of property:** The police officer or Police Community Support Officer can require the person given the direction to hand over items causing or likely to cause anti-social behaviour. This could be any item but typical examples are alcohol, fireworks or spray paint. The officer does not have the power to seize the item; therefore the person's consent is required to take the item. However, it is an offence for the person not to hand over the item if asked to do so.

Surrendered items will be held at the police station and can be collected after the period of the direction has expired. If the item is not collected within 28 days it can be destroyed or disposed of. If the individual is under the age of 16 they can be required to be accompanied by a parent or other responsible adult to collect the item; this will mean that the adult can be made aware of the young person's behaviour and will help encourage parental responsibility.

**Recording information and publishing data:** The officer giving the direction must record:

- the individual to whom the direction is given;
- the time at which the direction is given; and
- the terms of the direction (including the area to which it relates and the exclusion period).

If a direction is varied or withdrawn the officer must record the time this was done and the terms of the variation.

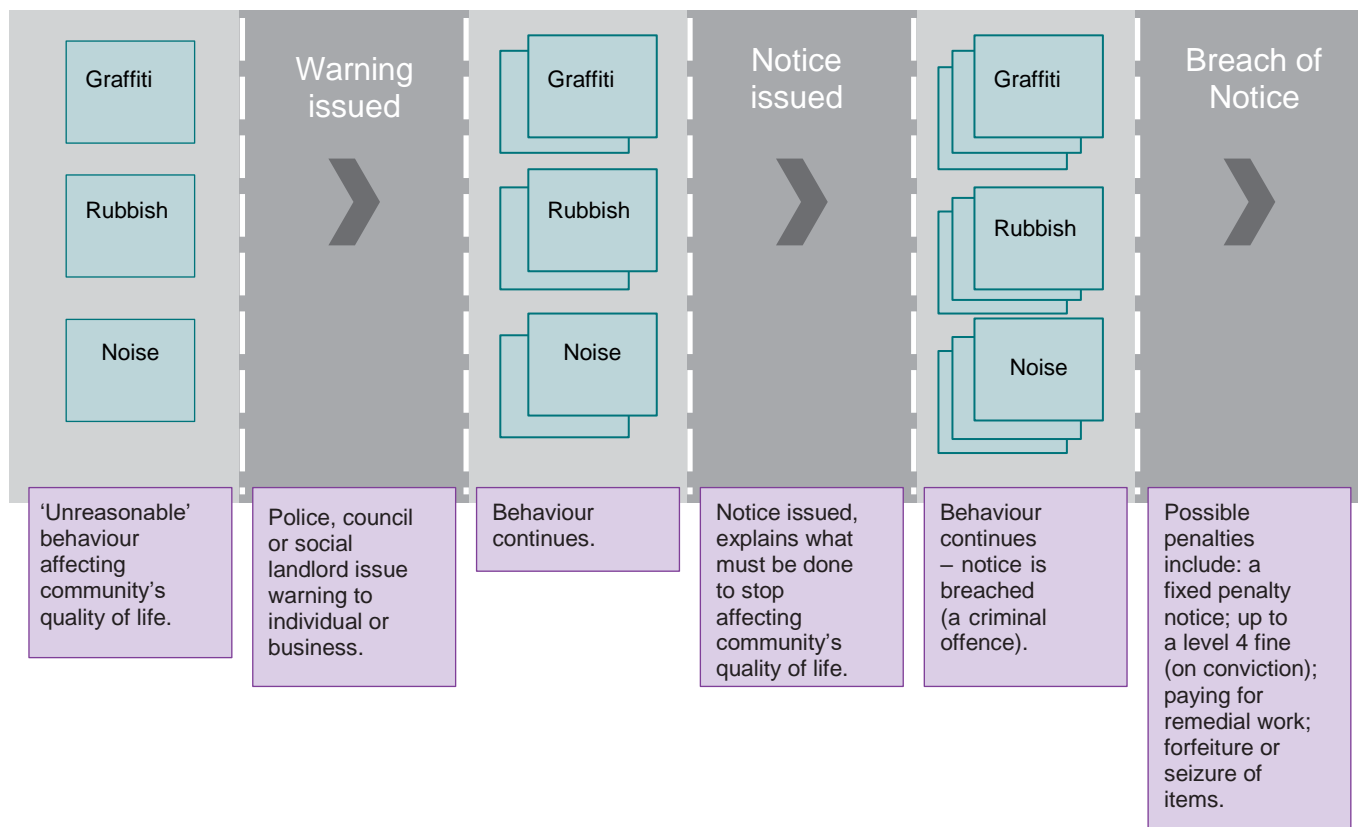
**Penalty on breach:** Failure to comply with the direction is a summary only criminal offence which will be dealt with in the magistrates' court or youth court for people under the age of 18. On conviction it carries a maximum penalty of a level 4 fine and/or three months imprisonment, although those people under the age of 18 cannot be imprisoned. Failure to surrender items is also a criminal offence with a maximum penalty of a level 2 fine.

**Appeals:** A person who is given a direction and feels they have been incorrectly dealt with should speak to the duty inspector at the local police station. Details should be given to the person on the written notice.

## 2.4 Community Protection Notice

Purpose	To stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life.
Who can issue a CPN	<ul style="list-style-type: none"> <li>• Council officers;</li> <li>• Police officers;</li> <li>• Police community support officers (PCSOs) if designated; and</li> <li>• Social landlords (if designated by the council).</li> </ul>
Test	<p>Behaviour has to:</p> <ul style="list-style-type: none"> <li>• have a detrimental effect on the quality of life of those in the locality;</li> <li>• be of a persistent or continuing nature; and</li> <li>• be unreasonable.</li> </ul>
Details	<ul style="list-style-type: none"> <li>• The Community Protection Notice (CPN) can deal with a range of behaviours; for instance, it can deal with noise nuisance and litter on private land.</li> <li>• The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again.</li> <li>• A written warning must first be issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing.</li> <li>• A CPN can then be issued including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour.</li> <li>• Can allow council to carry out works in default on behalf of a perpetrator.</li> </ul>
Penalty on breach	<ul style="list-style-type: none"> <li>• Breach is a criminal offence.</li> <li>• A fixed penalty notice can be issued of up to £100 if appropriate.</li> <li>• A fine of up to level 4 (for individuals), or £20,000 for businesses.</li> </ul>
Appeals	<ul style="list-style-type: none"> <li>• Terms of a CPN can be appealed by the perpetrator within 21 days of issue.</li> <li>• The cost of works undertaken on behalf of the perpetrator by the council can be challenged by the perpetrator if they think they are disproportionate.</li> </ul>
The legislation	Sections 43 to 58 of the Anti-social Behaviour, Crime and Policing Act 2014.
Protecting the vulnerable	<ul style="list-style-type: none"> <li>• Particular care should be taken to consider how use of the power might impact on more vulnerable members of society.</li> </ul>

# Community Protection Notice



## Purpose

The Community Protection Notice can be used to deal with particular, ongoing problems or nuisances which are having a detrimental effect on the community's quality of life by targeting those responsible.

## Who can issue a Community Protection Notice

Local councils have traditionally taken the lead in dealing with the sort of issues that can be addressed through the use of Community Protection Notices, but the police are also able to issue these Notices, as are social landlords where they have been designated to do so by the relevant local authority, recognising their role in responding to anti-social behaviour in the dwellings they manage.

**Putting victims first:** To understand the impact that the behaviour is having on the quality of life of those in a locality, the agency considering the use of a Community Protection Notice should first speak to members of the community to gain a proper understanding of the harm that is being caused to individuals and the community. This will help to ensure that victims feel that the issue is being taken seriously and will also help to ensure that the decision to issue a Community Protection Notice is based on evidence of the impact that the perpetrator's behaviour is having. It will also help to ensure that officers do not use the notice to stop activities which are not causing anti-social behaviour.

## Details

**The legal tests:** These focus on the impact that the behaviour is having on victims and communities. A Community Protection Notice can be issued by one of the bodies mentioned above if they are satisfied, on reasonable grounds, that the conduct of an individual, business or organisation:

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable.

Agencies should have sufficient evidence to satisfy themselves that the behaviour in question is genuinely having a detrimental effect on others' quality of life, in terms of the nuisance or harm that is being caused to others, rather than being a behaviour that others may just find annoying.

Similarly, decisions on whether behaviour is persistent or continuing in nature should be taken on a case by case basis. For example, where an individual is storing rubbish in their garden for many months, proving persistence will be relatively straightforward. However, there will be cases where behaviour is continuing over a much shorter time period and the individual has been asked to cease the behaviour but has refused to do so and persists with the behaviour.

The issuing officer must also make a judgement as to whether the behaviour in question is unreasonable. For instance, a baby crying in the middle of the night may well have a detrimental effect on immediate neighbours and is likely to be persistent in nature. However, it is unlikely to be reasonable to issue the parents with a Community Protection Notice if there is not a great deal that they can do to control or affect the behaviour.

There is significant merit in involving the local council, who will have many years of experience in tackling environmental issues, when deciding whether or not to serve a Community Protection Notice. In addition, the issuing body should be satisfied that it has sufficient evidence that the activity in question is having a detrimental effect on others' quality of life, is persistent or continuing and is unreasonable.

**Who can a Community Protection Notice be issued to?** A Community Protection Notice can be issued against any person aged 16 or over or to a body, including a business. Where a body is issued with a Community Protection Notice, it should be issued to the most appropriate person. In the case of a small business, it could be the shop owner whereas in the case of a major supermarket it may well be the store manager. The issuing officer will need to be satisfied that the person issued with the Community Protection Notice can be reasonably expected to control or affect the behaviour in question, taking into consideration all the available circumstances. There is also a need to have due regard to the Equality Act 2010.

The Community Protection Notice can be handed directly to the person in question or it can be posted. In circumstances where the owner or occupier cannot be determined, the issuing officer can post the Community Protection Notice on the premises and it is considered as having been served at that point. In such a scenario, the issuing officer would need to demonstrate that reasonable enquiries had been undertaken to ascertain the identity of the owner or occupier, for instance, checking with the Land Registry.



**Community Protection Notices and statutory nuisance:** Issuing a Community Protection Notice does not discharge the council from its duty to issue an Abatement Notice where the behaviour constitutes a statutory nuisance for the purposes of Part 3 of the Environmental Protection Act 1990. A statutory nuisance is one of the matters listed in section 79(1) of that Act which, given all the circumstances, is judged to be 'prejudicial to health or a nuisance'. For England and Wales, statutory nuisances are listed as:

- any premises in such a state to be prejudicial to health or a nuisance;
- smoke emitted from premises so as to be prejudicial to health or a nuisance;
- fumes or gases emitted from (domestic) premises so as to be prejudicial to health or a nuisance;
- any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- any accumulation or deposit and being prejudicial to health or a nuisance;
- any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;
- artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- noise emitted from premises so as to be prejudicial to health or a nuisance;
- noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street;
- any other matter declared by any enactment to be a statutory nuisance.

Many of these terms have special meanings, either under the 1990 Act or following decisions of the courts. In particular, 'nuisance' means something different to 'bothersome' or an 'annoyance'. The assessment of nuisance is an objective test, taking into account a range of factors and is based on what is reasonable for the 'average' person. 'Prejudicial to health' means 'injurious or likely to cause injury to health' under section 79(7) of the 1990 Act. While a Community Protection Notice can be issued for behaviour that may constitute a statutory nuisance, the interaction between the two powers should be considered. It remains a principle of law that a specific power should be used in preference to a general one.

As a Community Protection Notice can only be issued for behaviour that is persistent or continuing and unreasonable, in most cases, social landlords or the police will have sufficient time to contact the relevant council team in advance of issuing the Notice if they believe the behaviour could be a statutory nuisance. If it could be a statutory nuisance, the issuing authority should consider whether issuing a Community Protection Notice is necessary given the powers afforded to council under the 1990 Act. If they do decide to issue a Community Protection Notice in parallel, they should work with the relevant council team to ensure any restrictions or requirements complement those that may be included in any future Abatement Notice.

**The written warning:** In many cases, the behaviour in question will have been ongoing for some time. Informal interventions may well have been exhausted by the time the applicant decides to proceed with a Community Protection Notice. However, before a Notice can be issued, a written warning must be issued to the person committing anti-social behaviour.

The written warning must make clear to the individual that if they do not stop the anti-social behaviour, they could be issued with a Community Protection Notice. However, local agencies may wish to include other information in the written warning, for instance:

- outlining the specific behaviour that is considered anti-social and which is having a detrimental effect on others' quality of life, as this will ensure there is little doubt over what needs to be done to avoid the formal Notice being issued;
- outlining the time by which the behaviour is expected to have changed in order to give the alleged perpetrator a clear understanding of when the Community Protection Notice might be served;
- setting out the potential consequences of being issued with a Community Protection Notice and in particular the potential sanctions on breach, which could act as an incentive for the individual to change their behaviour before a formal Notice is issued.

How the written warning is discharged is up to each agency. In cases where a problem has been continuing for a period of time, the written warning may be included in other correspondence. However, in cases where the issue of a written warning is required more quickly, it could be a standard form of words, adaptable to any situation – for instance, a pre-agreed form of words that can be used by the officer on the spot.

Enough time should be left between the issue of a written warning and the issue of a Community Protection Notice to allow the individual or body to deal with the matter. It will be for the issuing officer to decide how long is allowed on a case by case basis. For instance, in an example where a garden is to be cleared of waste, several days or weeks may be required to enable the individual to make the necessary arrangements. However, where an individual is playing loud music in a park, as outlined above, the officer could require the behaviour to stop immediately.

**Putting victims first:** Keeping victims and communities updated on enforcement action at important points can help them to deal with the impact of the behaviour. Victims may feel that their complaint has been ignored if they do not see immediate changes to the behaviour. However, informing them of what is happening can make a difference and result in fewer follow up calls on the issue. If a Community Protection Notice has been issued, the officer may wish to speak to those affected by the anti-social behaviour to inform them of what steps have been taken, potential timescales and possible implications for the perpetrator.

**Partnership working:** In many cases, the issuing agency will have already had contact with other partners in dealing with a persistent issue. For instance, in a case dealing with a build-up of litter, the council may have spoken to the local neighbourhood policing team or social landlord. However, in situations that develop more quickly, the relevant officer will have to decide whether there are other individuals or bodies that should be informed. In particular, for matters that could amount to a statutory nuisance it will often be advisable to seek the expert view of council environmental health officers before issuing a Community Protection Notice.

**What to include in a Community Protection Notice** A CPN can be drafted from scratch if necessary so that it is appropriate to the situation and can include any or all of the following:

- a requirement to stop doing specified things;
- a requirement to do specified things;
- a requirement to take reasonable steps to achieve specified results.

This means that not only can the relevant officer stop someone being anti-social, they can also put steps in place to ensure the behaviour does not recur.

In deciding what should be included as a requirement in a Community Protection Notice, issuing officers should consider what is reasonable to include in a notice of this type and any timescales they wish to add. The Community Protection Notice is intended to deal with short or medium-term issues. While restrictions and requirements may be similar to those in a Civil Injunction, more onerous conditions, such as attendance at a drug rehabilitation course, would clearly be more appropriate to a court issued order. The CPN could be used, for example, to require a dog owner to attend training classes or fix fencing to deal with straying incidents where this is having a detrimental effect on the community's quality of life.

**Putting victims first:** When the issuing officer has decided what to include as a requirement in the Community Protection Notice they should consider the desired outcome for the community. Victims will not only want the behaviour to stop, they will also want it not to occur again. Consideration should be given to whether there are requirements that could ensure the anti-social behaviour does not recur.

**Penalty on breach:** Failure to comply with a Community Protection Notice is an offence. Where an individual, business or organisation fails to comply with the terms of a Community Protection Notice, a number of options are available for the issuing authority and these are outlined in more detail below.

- **Fixed penalty notices**

Depending on the behaviour in question, the issuing officer could decide that a fixed penalty notice would be the most appropriate sanction. This can be issued by a police officer, Police Community Support Officer, council officer or, if designated, a social landlord. In making the decision to issue a fixed penalty notice, the officer should be mindful that if issued, payment would discharge any liability to conviction for the offence.

**Putting victims first:** When deciding which sanction to choose on non-compliance with a Community Protection Notice, the issuing authority should where appropriate consider the potential wishes of the victim. While issuing a fixed penalty notice may be considered appropriate, if it does nothing to alleviate the impact on the community or leaves victims feeling ignored, this may not be the best course of action and may lead to further complaints and the requirement for more action.

A fixed penalty notice should not be more than £100 and can specify two amounts, for instance, a lower payment if settled early, say within 14 days. In order to allow the individual time to pay, no other associated proceedings can be taken until at least 14 days after the issue. The exact wording or design of a fixed penalty notice can be determined locally to fit with local standards and protocols but must:

- give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- state the period during which proceedings will not be taken for the offence;
- specify the amount or amounts payable;
- state the name and address of the person to whom the FPN should be paid; and
- specify permissible methods of payment (for example, cash, cheque, bank transfer).

- **Remedial action**

If an individual or body fails to comply with a Community Protection Notice issued by the council, it may decide to take remedial action to address the issue. Where the Community Protection Notice has been issued by the police or a social landlord, but they believe remedial action is an appropriate sanction, they should approach the council to discuss the best way to move forward. For instance, the social landlord could undertake the work on behalf of the council.

If it is decided that remedial action is the best way forward, the council (or the other agency in discussion with the council) should establish what works are required to put the situation right. For instance, in a situation where the complaint relates to a significant build up of rubbish in someone's front garden, remedial action could take the form of clearing the garden on the perpetrator's behalf.

**Putting victims first:** Punishment of the perpetrator may not be top of the victim's priority list; they may just want to see the situation fixed. If remedial action is chosen as the most appropriate action, it may help those affected by the behaviour to know when they can expect remedial works to be undertaken

Where this work is to be undertaken on land 'open to the air', the council or their agent (for instance, a rubbish disposal contractor) can undertake these works without the consent of the owner or occupier. Where works are required indoors the permission of the owner or occupier is required. When it has been decided what works are required, the council has to specify to the perpetrator what work it intends to carry out and the estimated cost. Once the work has been completed, the council should give the perpetrator details of the work completed and the final amount payable. In determining a 'reasonable' charge, local authorities should ensure the costs are no more than is necessary to restore the land to the standard specified in the notice. Such costs may include officer time, use of cleaning equipment (unless of a specialised nature), and administration costs relating to the clearance itself.

- **Remedial orders**

On conviction for an offence of failing to comply with a Community Protection Notice, the prosecuting authority may ask the court to impose a remedial order and/or a forfeiture order. This could be for a number of reasons, for instance:

- the matter may be deemed so serious that a court order is warranted;
- works may be required to an area that requires the owner's or occupier's consent and this is not forthcoming; or
- the issuing authority may believe that forfeiture or seizure of one or more items is required as a result of the behaviour (for instance, sound making equipment).

A remedial order may require the defendant:

- to carry out specified work (this could set out the original Community Protection Notice requirements); or
- to allow work to be carried out by, or on behalf of, a specified local authority.

Where works are required indoors, the defendant's permission is still required. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order.

- **Forfeiture orders**

Following conviction for an offence under section 48, the court may also order the forfeiture of any item that was used in the commission of the offence. This could be spray paints, sound making equipment or a poorly socialised dog where the court feels the individual is not able to manage the animal appropriately (re-homed in the case of a dog). Where items are forfeited, they can be destroyed or disposed of appropriately.

- **Seizure**

In some circumstances, the court may issue a warrant authorising the seizure of items that have been used in the commission of the offence of failing to comply with a Community Protection Notice. In these circumstances, an enforcement officer may use reasonable force, if necessary, to seize the item or items.

Failure to comply with any of the requirements in the court order constitutes contempt of court and could lead to a custodial sentence. If an individual is convicted of an offence under section 48, they may receive up to a level 4 fine (up to £20,000 in the case of a business or organisation).

**Appeals:** Anyone issued with a Community Protection Notice has the opportunity to appeal it. Appeals are heard in a magistrates' court and the Notice should provide details of the process, how an individual can appeal and the timeframe to appeal (within 21 days of the person being issued with the notice). As the legislation makes clear, an appeal can be made on the following grounds:

The test was not met if:

- **the behaviour did not take place:** in most cases, officers will have collected evidence to place beyond any reasonable doubt that the behaviour occurred. However, in cases where the officer has relied on witness statements alone, they should consider the potential for this appeal route and build their case accordingly;
- **the behaviour has not had a detrimental effect on the quality of life of those in the locality:** again, the importance of witness statements and any other evidence that the behaviour in question is having a negative impact on those nearby should be collected to ensure this defence is covered;
- **the behaviour was not persistent or continuing:** in some cases, judging persistence will be straightforward. However, in cases where a decision to issue a Community Protection Notice is taken more quickly, officers should use their professional judgement to decide whether this test is met and may need to justify this on appeal;

- **the behaviour is not unreasonable:** In many cases, individuals, businesses or organisations that are presented with evidence of the detrimental impact of their behaviour will take steps to address it. Where they do not, they may argue that what they are doing is reasonable. In deciding whether behaviour is unreasonable, officers should consider the impact the behaviour is having on the victim or victims, whether steps could be taken to alleviate this impact and whether the behaviour is necessary at all.
- **the individual cannot reasonably be expected to control or affect the behaviour:** in issuing the CPN, the officer must make a judgement based on reasonable grounds as to whether the individual, business or organisation can reasonably be expected to do something to change the behaviour. The officer should be prepared to justify this decision in court if required.

Other reasons:

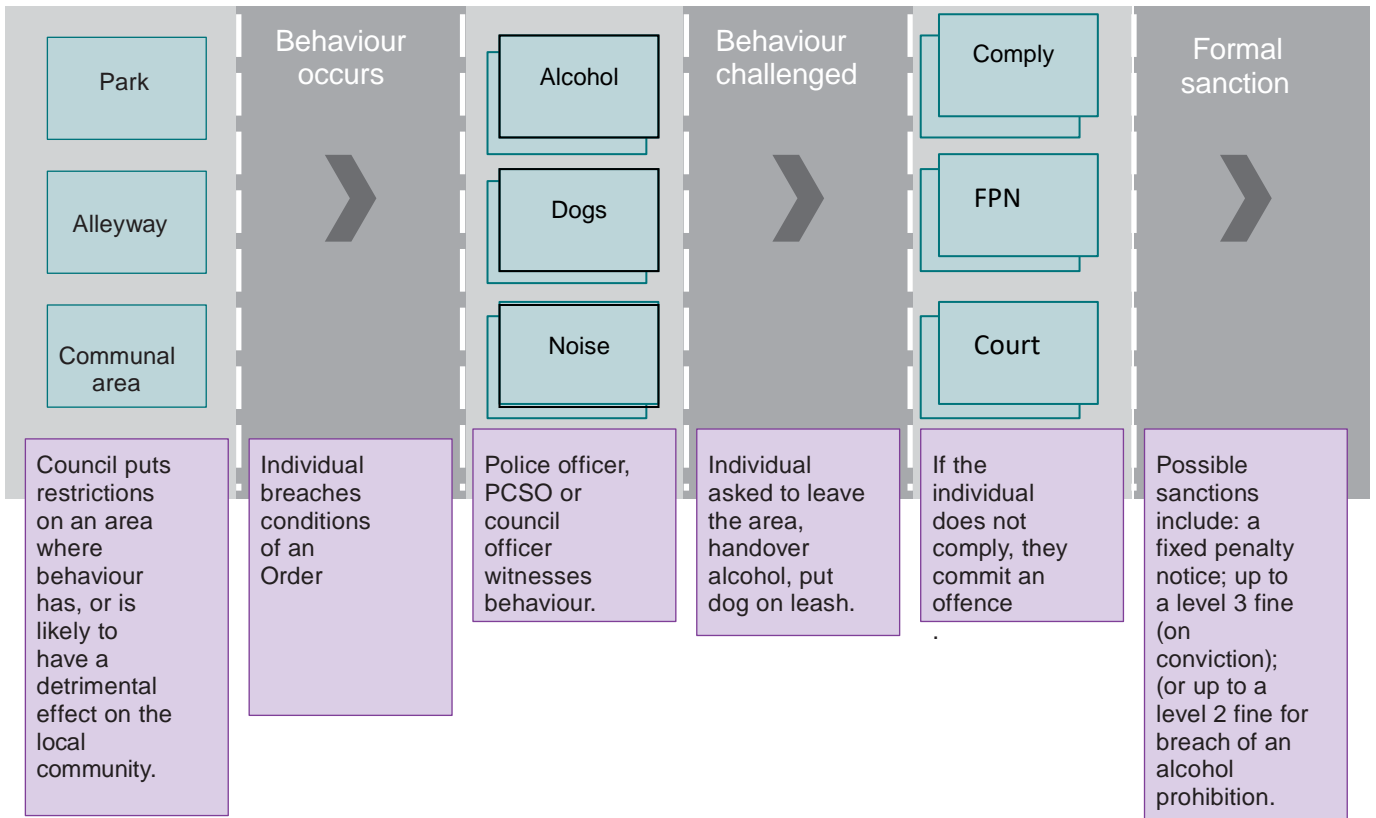
- **any of the requirements are unreasonable:** requirements in a Community Protection Notice should either prevent the anti-social behaviour from continuing or recurring, or reduce the detrimental effect or reduce the risk of its continuance or recurrence. As such, it should be related to the behaviour in question;
- **there is a material defect or error with the Community Protection Notice:** this ground for appeal could be used if there was a failure to comply with a requirement in the Act, such as a failure to provide a written warning before issuing the Notice;
- **the Notice was issued to the wrong person:** this could be grounds for appeal if the Notice was posted to the wrong address or the wrong person was identified in a business or organisation.

The person issued with the Community Protection Notice must appeal within 21 days of issue. Where an appeal is made, any requirement included under section 43(3)(b) or (c), namely a requirement to do specified things or take reasonable steps to achieve specified results, is suspended until the outcome of the appeal. However, requirements stopping the individual or body from doing specified things under section 43(3)(a) continue to have effect. In addition, where remedial action is taken by a council under section 47 or 49 the individual has the opportunity to appeal on the grounds that the cost of the work being undertaken on their behalf is disproportionate.

## 2.5 Public Spaces Protection Order

Purpose	Designed to stop individuals or groups committing anti-social behaviour in a public space.
Who can make a PSPO	<ul style="list-style-type: none"> <li>Councils issue a Public Spaces Protection Order (PSPO) after consultation with the police, Police and Crime Commissioner and other relevant bodies.</li> </ul>
Test	<p>Behaviour being restricted has to:</p> <ul style="list-style-type: none"> <li>be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;</li> <li>be persistent or continuing nature; and</li> <li>be unreasonable.</li> </ul>
Details	<ul style="list-style-type: none"> <li>Restrictions and requirements set by the council.</li> <li>These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.</li> <li>Can restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour.</li> <li>Can be enforced by a police officer, police community support officers and council officers.</li> </ul>
Penalty on breach	<ul style="list-style-type: none"> <li>Breach is a criminal offence.</li> <li>Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate.</li> <li>A fine of up to level 3 on prosecution.</li> </ul>
Appeals	<ul style="list-style-type: none"> <li>Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue.</li> <li>Further appeal is available each time the PSPO is varied by the council.</li> </ul>
The legislation	Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014.
Protecting the vulnerable	<ul style="list-style-type: none"> <li>Consideration should be given to how the use of this power might impact on the most vulnerable members of society.</li> <li>Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to</li> <li>There is value in working in partnership to resolve ongoing problems and find long term solutions.</li> </ul>

# Public Spaces Protection Order



## Purpose

Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

## Who can make a PSPO?

Local councils are responsible for making Public Spaces Protection Orders: district councils should take the lead in England with county councils or unitary authorities undertaking the role where there is no district council. In London, borough councils are able to make Public Spaces Protection Orders, as is the Common Council of the City of London and the Council of the Isles of Scilly. In Wales, responsibility falls to county councils or county borough councils. Parish councils and town councils in England, and community councils in Wales are not able to make these Orders. In addition, section 71 of the Anti-social Behaviour, Crime and Policing Act 2014 allows bodies other than local authorities to make Public Spaces Protection Orders in certain circumstances by order of the Secretary of State. This power has been exercised by the Secretary of State to allow the City of London Corporation to manage a number of public spaces with the permission of, and on behalf of, local authorities.



## Details

**The legal tests:** The legal tests focus on the impact that anti-social behaviour is having on victims and communities. A Public Spaces Protection Order can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:

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

**Putting victims first:** In deciding to place restrictions on a particular public space, councils should consider the knock on effects of that decision and ensure that this is a reasonable and proportionate response to incidents of anti-social behaviour in the area. Introducing a blanket ban on a particular activity may simply displace the behaviour and create victims elsewhere.

**Where can it apply?** The council can make a Public Spaces Protection Order on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre.

**Consultation and working with partners:** Before making a Public Spaces Protection Order, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discussing the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted. This should include the county council (if the application for the Order is not being led by them) where they are the Highway Authority.

The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. The council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of a park or those involved in specific activities in the area, such as buskers and other street entertainers.

**Openness and accountability:** Before making, varying, extending or discharging a Public Spaces Protection Order, the council must carry out the necessary publicity and necessary notification (if any) in accordance with section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014 – this includes publishing the text of a proposed order or variation and publishing the proposal for an extension or variation. The council must also publish information about the order in accordance with regulations made by the Secretary of State - this includes publishing the order as made, extended or varied on its website, and, where an order is discharged, publishing a notice on its website identifying the order which has been discharged and the date on which it ceases to have effect.

Given that the effect of Public Spaces Protection Orders is to restrict the behaviour of everybody using the public place, the close or direct involvement of elected members will help to ensure openness and accountability. This will be achieved, for example, where the decision is put to the Cabinet or full Council.

### Land requiring special consideration

Before a council makes a Public Spaces Protection Order it should consider whether the land falls into any of the following categories:

- **Registered common land:** There are around 550,000 hectares of registered common land in England and Wales. Common land is mapped as open access land under the Countryside and Rights of Way (CROW) Act 2000 with a right of public access on foot. Some commons, particularly those in urban districts, also have additional access rights and these may include rights for equestrian use.
- **Registered town or village green:** Town and village greens developed under customary law as areas of land where local people indulged in lawful sports and pastimes. These might include organised or ad-hoc games, picnics, fetes and similar activities, such as dog walking.
- **Open access land:** Open access land covers mountain, moor, heath and down and registered common land, and also some voluntarily dedicated land, for example the Forestry Commission's or Natural Resources Wales' freehold estate. Open access land provides a right of open-air recreation on foot although the landowner can voluntarily extend the right to other forms of access, such as for cycling or horse-riding.

This can be done by contacting the Commons registration authority (county council in two-tier areas; unitary authority elsewhere). If the land in question is a registered common, the council will be able to find out what common land rights exist and the access rights of any users. The Department for Environment, Food & Rural Affairs considers the model set out in 'A Common Purpose' to be good practice in consulting directly affected persons (including commoners) and the public about any type of potential change in the management of a common.

If land is a registered green, it receives considerable statutory protection under the 'Victorian Statutes'. In terms of open access land, there are various national limitations on what activities are included within the access rights. It is possible for local restrictions on CROW rights to be put in place to meet wider land use needs, and this system is normally administered by Natural England.

Where an authority is considering an order on one of these types of land, the council should consider discussing this with relevant forums and user groups (e.g. Local Access Forums, Ramblers or the British Horse Society) depending on the type of provision that is contemplated in the order. It could also be appropriate to hold a local public meeting when considering whether to make an order for an area of such land to ensure all affected persons are given the opportunity to raise concerns.

**What to include in a Public Spaces Protection Order.** The Order can be drafted from scratch

based on the individual and specific issues being faced in a particular public space. A single Order can also include multiple restrictions and requirements. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead in designated areas.

When deciding what to include, the council should consider scope. The broad aim is to keep public spaces welcoming to law abiding people and communities and not simply to restrict access. So restrictions or requirements can be targeted at specific people, designed to apply only at certain times or apply only in certain circumstances.

**Putting victims first:** Although it may not be viable in each case, discussing potential restrictions and requirements prior to issuing an Order with those living or working nearby may help to ensure that the final Order better meets the needs of the local community and is less likely to be challenged.

In establishing which restrictions or requirements should be included, the council should be satisfied on reasonable grounds that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring.

As with all the anti-social behaviour powers, the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.

When the final set of measures is agreed the Order should be published in accordance with regulations made by the Secretary of State and must:

- identify the activities having the detrimental effect;
- explain the potential sanctions available on breach; and
- specify the period for which the Order has effect.

## **Homeless people and rough sleepers**

Public Spaces Protection Orders should not be used to target people based solely on the fact that they are homeless or rough sleeping, as this in itself is unlikely to mean that their behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies imposing restrictions using a PSPO. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community's quality of life which is within the control of the person concerned.

Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets.

The council should also consider consulting with national or local homeless charities when considering restrictions or requirements which may impact on homeless people and rough sleepers.

## **Controlling the presence of dogs**

Under the Animal Welfare Act 2006, owners of dogs are required to provide for the welfare needs of their animals. This includes providing the necessary amount of exercise each day, which in many cases will require dogs to be let off the lead whilst still under control. Councils will be aware of the publicly accessible parks and other public places in their area which dog walkers can use to exercise their dogs without restrictions.

When deciding whether to make requirements or restrictions on dogs and their owners, local councils will need to consider whether there are suitable alternative public areas where dogs can be exercised without restrictions. Councils should consider if the proposed restrictions will displace dog walkers onto other sensitive land, such as farmland or nature conversation areas.

Councils should also consider the accessibility of these alternative sites for those with reduced mobility, including but not limited to, assistance dog users. For example, is there step free access, are there well maintained paths and what transport options are available, including in the early morning and evening.

Councils are also encouraged to publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions. Both dog walkers and non-dog walkers would then have a clear opportunity to submit their views on whether these alternatives were suitable. This should help minimise the risks of unwanted and unintended displacement effects.

Guidance published by the Department for Environment, Food and Rural Affairs on dog control states that councils must consult dog law and welfare experts e.g vets or animal welfare officers and organisations affected by restrictions before seeking to impose restrictions. Councils may also wish to consider consulting the Kennel Club. Where a Public Spaces Protection Order proposes to restrict dog walking in parks and other commonly used dog walking sites, consideration should be given to how to alert interested people to the proposed restrictions, such as posting notices of the proposed restrictions and consultation details within these spaces.

Consideration must also be given on how any dog walking restrictions being proposed would affect those who rely on assistance dogs, ensuring any prohibition or requirement is compliant with the provisions of Equality Act 2010 or considering what exemptions should apply for assistance dogs.

In relation to dogs and their owners, a Public Spaces Protection Order could, for example:

- exclude dogs from designated areas (e.g. a children's play area in a park);
- require the person in charge of the dog to pick up after it;
- require dogs to be kept on leads in a designated area;
- be framed to apply during specific times or periods (e.g. dogs excluded from a beach from 9am to 6pm, 1 May to 30 September);
- restrict the number of dogs that can be walked by one person at any one time; and
- put in place other restrictions or requirements to tackle or prevent any other activity that is considered to have a detrimental effect on the quality of life of those in the locality, or is likely to have such an effect.

Councils should also consider whether alternative options are available to deal with problems around irresponsible dog ownership or dogs being out of control. It may be that if there are local problems with specific individuals allowing their dogs to stray or run out of control for which one of the other available powers, such as the Community Protection Notice, may be more appropriate. The Department for Environment, Food and Rural Affairs has produced detailed guidance in the form of a practitioner's guide on the range of tools available to deal with irresponsible dog ownership. Targeted measures and educational days for irresponsible dog owners can bring about real improvements in the behaviour of irresponsible dog owners.

#### **Parish and Town Councils:**

Public Spaces Protection Orders are not available to Parish and Town Councils. Parish and Town Councils wishing to deal with dog control issues should discuss the issue with their principal authority, including whether a Public Spaces Protection Order would provide the means to address the issues being experienced by the local community. If the principal authority is satisfied that the legal tests for the use of the power are met and that it is a proportionate response to the level of harm and nuisance being caused it should consider consulting on putting in place a Public Spaces Protection Order. This ensures a single approach on dog control matters within the local community and avoids the risk of any duplication or conflicting requirements and restrictions being put in place.

**Restricting alcohol:** A Public Spaces Protection Order can be used to restrict the consumption of alcohol in a public space where the relevant legal tests are met. However, such an Order cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol (other than council operated licenced premises). There are also limitations where a temporary event notice has been given under Part 5 of the Licensing Act 2003, or where the sale or consumption of alcohol is permitted by virtue of permission granted under section 115E of the Highways Act 1980. This is because the licensing system already includes safeguards against premises becoming centres for anti-social behaviour. It would create confusion and duplication if Public Spaces Protection Orders were introduced here.

### **Groups hanging around/standing in groups/playing games**

It is important that councils do not inadvertently restrict everyday sociability in public spaces. The Public Spaces Protection Order should target specifically the problem behaviour that is having a detrimental effect on the community's quality of life, rather than everyday sociability, such as standing in groups which is not in itself a problem behaviour.

Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

People living in temporary accommodation may not be able to stay in their accommodation during the day and so may find themselves spending extended times in public spaces or seeking shelter in bad weather. It is important that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.

**Restricting access:** In the past, Gating Orders have been used to close access to certain public rights of way where the behaviour of some has been anti-social.

A Public Spaces Protection Order can be used to restrict access to a public right of way. However, when deciding on the appropriateness of this approach, the council must consider a number of things, as set out below:

- **Can they restrict access?** A number of rights of way may not be restricted due to their strategic value.
- **What impact will the restriction have?** For instance, is it a primary means of access between two places and is there a reasonably convenient alternative route?
- **Are there any alternatives?** Previously gating was the only option, but it may be possible under a Public Spaces Protection Order to restrict the activities causing the anti-social behaviour rather than access in its totality.

There are also further consultation requirements where access is to be restricted to a public right of way. These include notifying potentially affected persons of the possible restrictions. This could include people who regularly use the right of way in their day to day travel as well as those who live nearby. Interested persons should be informed about how they can view a copy of the proposed order, and be given details of how they can make representations and by when. The council should then consider these representations.

It will be up to the council to decide how best to identify and consult with interested persons. In the past newspapers have been used, but other channels such as websites and social media may now be more effective. Where issues are more localised, councils may prefer to deal with individual households. Or, where appropriate, councils may decide to hold public meetings and discuss issues with regional or national bodies (such as the Local Access Forum) to gather views.

**Duration of a Public Spaces Protection Order:** The maximum duration of a Public Spaces Protection Order is three years but they can last for shorter periods of time where more appropriate. Short-term Orders could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way, and in such circumstances the council might decide to make an initial Order for 12 months and then review that decision at that point.

At any point before expiry, the council can extend a Public Spaces Protection Order by up to three years if they consider it is necessary to prevent the original behaviour from occurring or recurring. They should also consult with the local police and any other community representatives they think appropriate before doing so.

**Changing the terms of a Public Spaces Protection Order:** A Public Spaces Protection Order can cover a number of different restrictions and requirements so there should be little need to have overlapping orders in a single public space. However, if a new issue arises in an area where an Order is already in force, the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. For instance, a Public Spaces Protection Order may exist to ensure dogs are kept on their leads in a park but, after 12 months, groups start to congregate in the park drinking alcohol which is having a detrimental effect on those living nearby. As a result, the council could vary the Order to deal with both issues. Any proposed variation to an existing Public Spaces Protection Order would require the council to undertake the necessary consultation on the proposed changes.

As well as varying the Order, a council can also seek to discharge it at any time, for instance when the issue that justified the Order has ceased or where the behaviour has stopped or the land ceases to be classified as a public space.

**Penalty on breach:** It is an offence for a person, without reasonable excuse, to:

- do anything that the person is prohibited from doing by a Public Spaces Protection Order (other than consume alcohol – see below); or
- fail to comply with a requirement to which the person is subject under a Public Spaces Protection Order.

A person does not commit an offence by failing to comply with a prohibition or requirement that the council did not have power to include in a Public Spaces Protection Order. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone. This is liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice would be the most appropriate sanction. This can be issued by a police officer, a Police Community Support Officer, council officer or other person designated by the council. In making the decision to issue a fixed penalty notice, the officer should consider that if issued, payment would discharge any liability to conviction for the offence. However, payment is not made within the required timescale, court proceedings can be initiated (prosecution for the offence of failing to comply with the Public Spaces Protection Order).

**Appeals:** Any challenge to the Public Spaces Protection Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council. Additionally, as with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge.

Interested persons can challenge the validity of an Order on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the Public Spaces Protection Order pending the verdict in part or in totality. The High Court has the ability to uphold the Public Spaces Protection Order, quash it, or vary it.

**Enforcement:** Although Public Spaces Protection Orders are made by the council in an area, enforcement is the responsibility of a wider group. Council officers are able to enforce the restrictions and requirements, as are other groups that they designate, including officers accredited under the community safety accreditation scheme. In addition, police officers and Police Community Support Officers are able to enforce Public Spaces Protection Orders.



## Transition of existing orders to Public Spaces Protection Orders

Section 75 of the Anti-social Behaviour, Crime and Policing Act 2014 sets out that where a Gating Order, Dog Control Order or Designated Public Place Order is still in force three years from commencement of the Act (i.e. on 20 October 2017) the provisions of such an order will automatically be treated as if they were provisions of a Public Spaces Protection Order. The transitioned Order will then remain in force up to a maximum of three years from the point of transition i.e. 2020.

Section 75(3) of the Anti-social Behaviour, Crime and Policing Act 2014 treats transitioned orders as Public Spaces Protection Orders that have already been made. The consultation, notification and publicity requirements in section 72(3) of the Act apply before a Public Spaces Protection Order has been made; the obligation under section 59(8) of the Act to publish arises once a Public Spaces Protection Order has been made.

Councils are not required to undertake a new consultation (or associated publications, and notifications, set out in section 72(3) of the Act) where a Gating Order, Dog Control Order or Designated Public Place Order automatically transitions to a Public Spaces Protection Order after October 2017.

However, local councils should publish the Public Spaces Protection Order online when the Gating Order, Dog Control Order or Designated Public Place Order transitions in order to make the public aware of the specific provisions of the Public Spaces Protection Order.

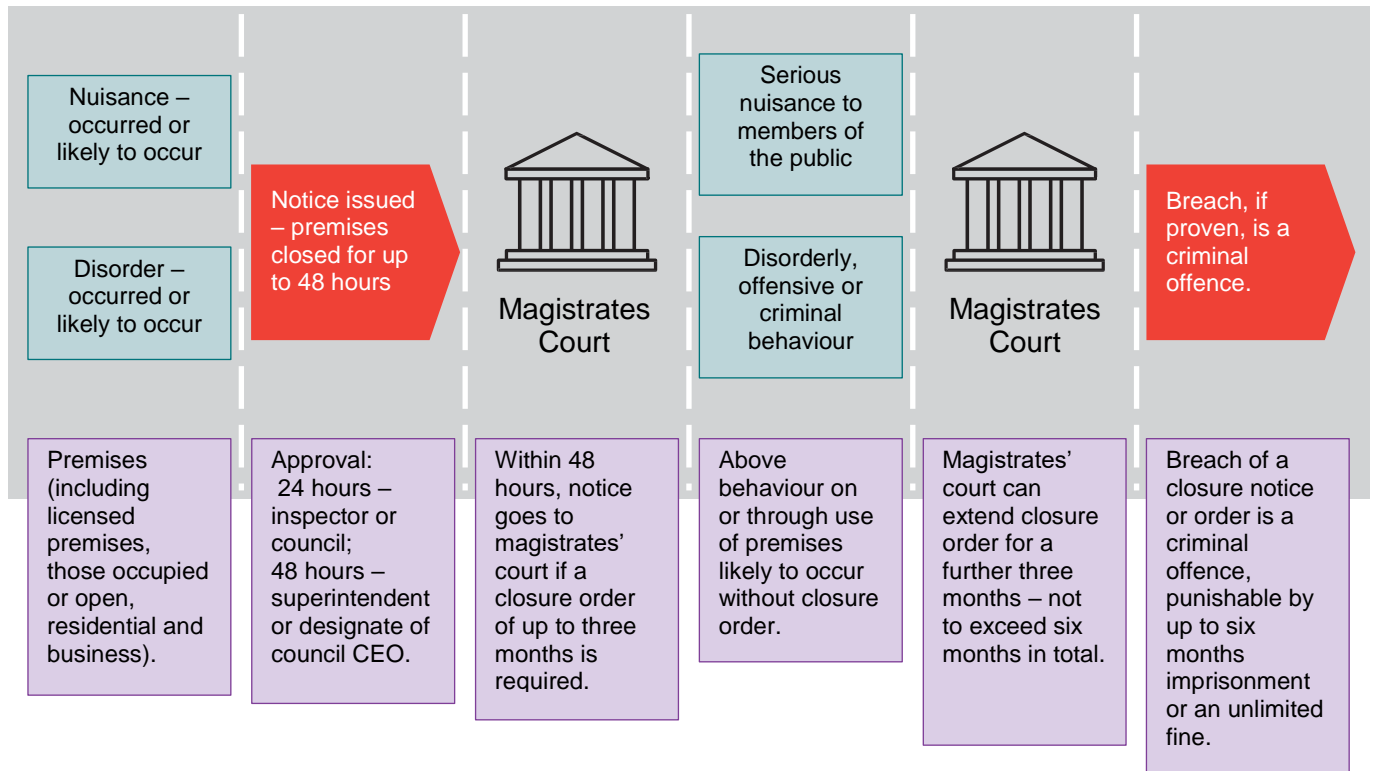
It will be for local councils to consider what changes to signage are necessary to sufficiently draw the matters set out in Regulation 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulation 2014 to members of the public's attention.

Any extension, variation or discharge of a transitioned Public Spaces Protection Order would mean that the local council would need to carry out the necessary consultation and publication as required under section 72 (3) of the Anti-social Behaviour, Crime and Policing Act 2014.

## 2.6 Closure Power

Purpose	To allow the police or council to close premises quickly which are being used, or likely to be used, to commit nuisance or disorder.
Applicants	<ul style="list-style-type: none"> <li>Local council.</li> <li>Police.</li> </ul>
Test	<p>The following has occurred, or will occur, if the closure power is not used:</p> <p><b>(a) Closure Notice (up to 48 hours):</b></p> <ul style="list-style-type: none"> <li>Nuisance to the public; or</li> <li>Disorder near those premises.</li> </ul> <p><b>(b) Closure Order (up to six months):</b></p> <ul style="list-style-type: none"> <li>Disorderly, offensive or criminal behaviour;</li> <li>Serious nuisance to the public; or</li> <li>Disorder near the premises.</li> </ul>
Details	<ul style="list-style-type: none"> <li>A Closure Notice is issued out of court in the first instance. Flowing from this the Closure Order can be applied for through the courts.</li> <li><b>Notice:</b> can close premises for up to 48 hours out of court but cannot stop owner or those who habitually live there accessing the premises.</li> <li><b>Order:</b> can close premises for up to six months and can restrict all access.</li> <li>Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.</li> </ul>
Penalty on breach	<p>Breach is a criminal offence.</p> <ul style="list-style-type: none"> <li><b>Notice:</b> Up to three months in prison.</li> <li><b>Order:</b> Up to six months in prison.</li> <li>Both: Up to an unlimited fine for residential and non-residential premises.</li> </ul>
Who can appeal	<ul style="list-style-type: none"> <li>Any person who the Closure Notice was served on;</li> <li>Any person who had not been served the Closure Notice but has an interest in the premises;</li> <li>The council (where Closure Order was not made and they issued the notice);</li> <li>The police (where Closure Order was not made and they issued the notice).</li> </ul>
The legislation	Sections 76 to 93 of the Anti-social Behaviour, Crime and Policing Act 2014

## Closure Power



## Purpose

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.

## Applicants

The power comes in two stages: the Closure Notice and the Closure Order which are intrinsically linked. The Closure Notice can be used by the council or the police out of court. Following the issuing of a Closure Notice, an application must be made to the magistrates' court for a Closure Order, unless the closure notice has been cancelled.

## Details

**The legal tests:** A Closure Notice can be issued for 24 hours if the council or police officer (of at least the rank of inspector) is satisfied on reasonable grounds:

- that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or
- that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

The Closure Notice can be issued in the first instance for 48 hours or extended from 24 hours up to a maximum of 48 hours by the council's chief executive officer (head of paid service) or designate thereof, or by a police superintendent.

A Closure Order can subsequently be issued if the court is satisfied:

- that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or
- that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or
- that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

A Closure Notice cannot prohibit access in respect of anyone who habitually lives on the premises. This means that the notice cannot prohibit those who routinely or regularly live at those premises. It is therefore unlikely to disallow access to, for example, students who live away from the family home for part of the year but routinely return to the family home or those who spend the majority of the week living at the pub in which they work. However, a Closure Order, granted by the court, can prohibit access to those who routinely live at the premises.

In prohibiting access through a Closure Notice it will be important to consider who is responsible for the premises and who may need access to secure the premises. This might not always be the owner, for example an individual managing premises on behalf of an owner who lives abroad may need to secure the premises on their behalf.

**Approvals:** The level or role of employee within the council who can issue a notice for up to 24 hours has not been specified due to the different structures in place in different areas. In considering who should be authorised as designates of the chief executive officer for the issuing of the 48 hour notice, councils will also want to consider who is delegated to issue the Closure Notice for 24 hours and consider whether the extension to 48 hours should be authorised by an officer of greater seniority, as is the case for the police. This may take into consideration the need for the power to be used quickly, its flexible nature, and equivalent requirement for a police inspector to issue a Closure Notice for 24 hours.

**Notifications:** With every issue of a Closure Notice, an application must be made to the magistrates' court for a Closure Order. Where the intention is to cancel the notice prior to the end of the 48 hour period because a Closure Order or a temporary order is not deemed necessary, this should be communicated to the court on application for a hearing for the Closure Order.

The police and council will want to consider when the courts will be able to hear the application for the Closure Order. The courts are required to hear the application within 48 hours of the service of the Closure Notice. This 48 hour period for the courts excludes Christmas day. To avoid undue pressure on the courts to hear applications for Closure Orders within 48 hours of serving the Closure Notice, careful thought should be given as to exactly when to serve the Closure Notice. Where possible, it is advisable to liaise with the court's listing office before serving the Closure Notice so that victims can be effectively protected at the earliest opportunity.

**Putting victims first:** The issuing body should undertake to inform the victim of the anti-social behaviour of the Closure Notice and to inform them of the details of the Closure Order hearing where possible and appropriate.

**Temporary orders:** Courts can consider giving an extension of the Closure Notice if required. This can be considered as an option by the magistrates' court at the hearing for the Closure Order. The court can order a Closure Notice to stay in force for a further 48 hours if it is satisfied that this meets the test required for a Closure Notice.

A court may also order that a Closure Notice continue in force for a period of not more than 14 days in circumstances where the hearing is adjourned. A hearing can be adjourned for no more than 14 days to enable the occupier or anyone with an interest in the premises to show why a Closure Order should not be made.

**Partnership working:** Consultation is required as part of the Closure Notice. Before issuing a notice the police or council must ensure that they consult with anyone they think appropriate. This should include the victim, but could also include other members of the public that may be affected positively or negatively by the closure, community representatives, other organisations and bodies, the police or local council (where not the issuing organisation) or others that regularly use the premises. There may also be people who use the premises as access to other premises that are not subject to the closure notice but may be impacted on by the closure.

The method of consultation will depend on the situation and urgency. The police or council will want to consider how to keep a record of those consulted in case challenged at a later date (for instance, as part of a court case).

What to include in a Closure Notice? The Closure Notice should:

- identify the premises;
- explain the effect of the notice;
- state that failure to comply with the notice is an offence;
- state that an application will be made for a closure order;
- specify when and where the application will be heard;
- explain the effect of the closure order; and
- give information about the names of, and means of contacting, persons and organisations in the area that provide advice about housing and legal matters.

Information should be displayed clearly in simple language, avoiding the use of jargon.

**Putting victims first:** It is not necessary to include information about those consulted within an order so as to protect those who may have made a complaint from any retribution. However, the officer issuing the Closure Notice should keep a record of those consulted.

**Access:** There may be times where the closure of premises through a Closure Order has a wider impact. An item may have been left in the premises or access has become restricted to other premises. Where an item has been left on premises it is expected that the police and local council will use their discretion in either allowing access temporarily to enable the individual to retrieve their item or retrieving the item on their behalf. Where an individual accesses the premises themselves without communication to the police or council they commit an offence unless they have a reasonable excuse. It is therefore sensible for the police and council to have clear communication with individuals affected.

Where a Closure Order restricts access to other premises or part of other premises that are not subject to a Closure Order the individuals affected will be able to apply to the appropriate court to have the order considered. The court may make any order that it thinks appropriate. This may be a variation order to vary the terms of the order or it could cancel the order if considered inappropriate for it to remain in place.

**Penalty on breach:** An offence is committed when a person, without reasonable excuse, remains on or enters premises in contravention of a Closure Notice or a Closure Order.

**Closure Notice and temporary order:** Breaching a Closure Notice or temporary order is a criminal offence carrying a penalty of either imprisonment for a period of up to three months or an unlimited fine or both.

**Closure Order:** Breaching a Closure Order is a criminal offence carrying a penalty of either imprisonment for a period of up to six months or an unlimited fine, or both.

**Obstruction:** It is a criminal offence to obstruct a police officer or local council employee who is:

- serving a Closure Notice, cancellation notice or variation notice;
- entering the premises; or
- securing the premises.

This offence carries a penalty of either imprisonment for a period of up to three months or an unlimited fine, or both.

**Who can appeal:** A Closure Notice cannot be appealed. A Closure Order can be appealed. Appeals are to the Crown Court and must be made within 21 days beginning with the date of the decision to which the appeal relates.

An appeal against the decision to issue the order may be made by:

- a person who was served the Closure Notice; or
- anyone who has an interest in the premises upon whom the notice was not served.

Where the court decides not to issue a closure order the following may appeal:

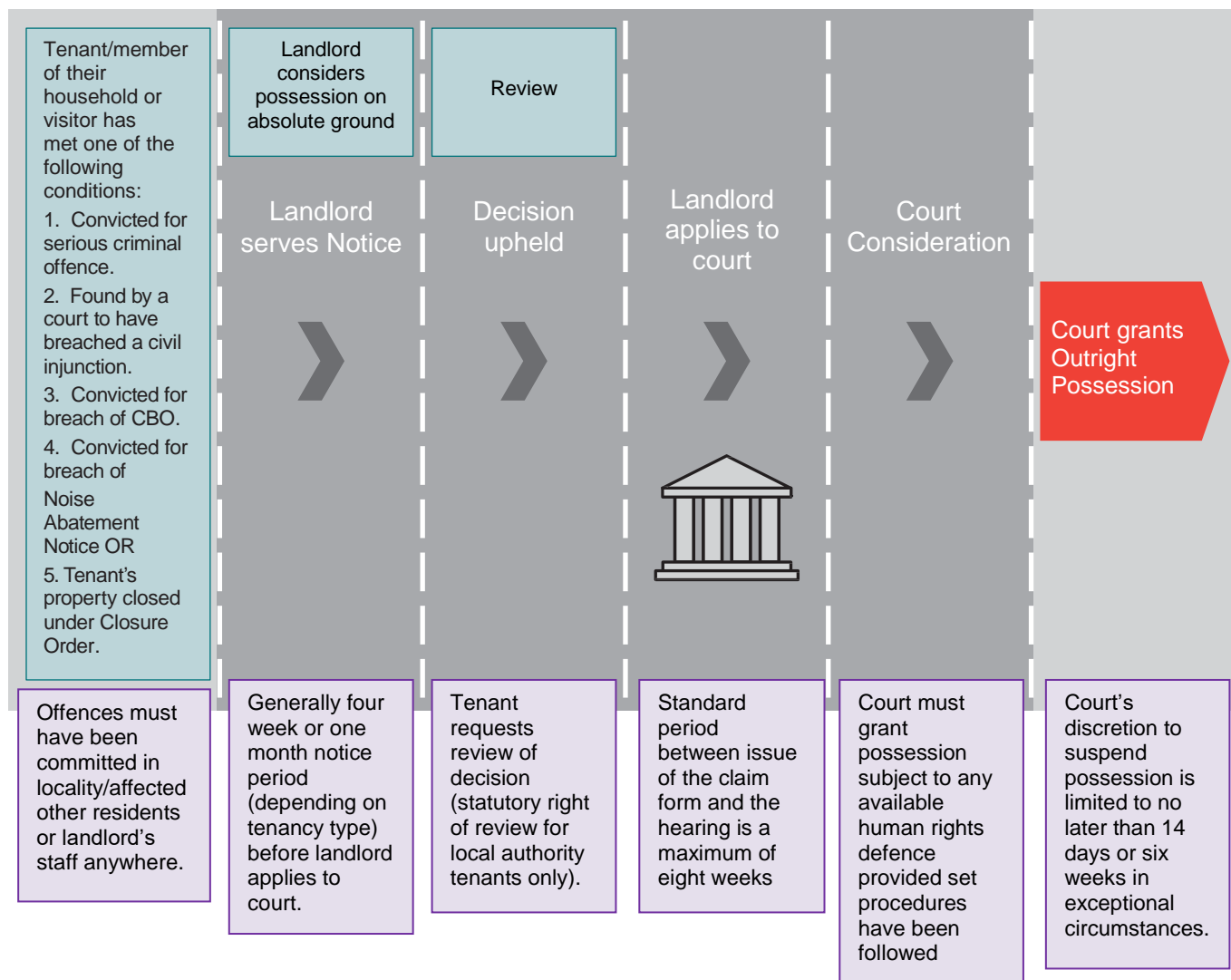
- the police may only appeal where they issued the Closure Notice;
- the local council may only appeal where they issued the Closure Notice.

On appeal, the Crown Court may make whatever order it thinks appropriate. If the premises is licensed the court must inform the licensing authority. It should also be considered whether it is appropriate and possible to update the victim on the progress of the case.

## 2.7 Absolute ground for possession

Overview	The Act introduced a new absolute ground for possession of secure and assured tenancies where anti-social behaviour or criminality has already been proven by another court.
Purpose	To expedite the eviction of landlords' most anti-social tenants to bring faster relief to victims.
Applicants / Who can use the new ground	<ul style="list-style-type: none"> <li>• Social landlords (local authorities and housing associations).</li> <li>• Private rented sector landlords.</li> </ul>
Test	<p>The tenant, a member of the tenant's household, or a person visiting the property has met one of the following conditions:</p> <ul style="list-style-type: none"> <li>• convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985);</li> <li>• found by a court to have breached a civil injunction;</li> <li>• convicted for breaching a criminal behaviour order (CBO);</li> <li>• convicted for breaching a noise abatement notice; or</li> <li>• the tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour.</li> </ul>
Details	<ul style="list-style-type: none"> <li>• Offence/breach needs to have occurred in the locality of the property or affected a person with a right to live in the locality or affected the landlord or his or her staff/contractors;</li> <li>• Secure tenants of local housing authorities will have a statutory right to request a review of the landlord's decision to seek possession. Private registered providers are encouraged to adopt a similar practice.</li> </ul>
Result of action	<ul style="list-style-type: none"> <li>• If the above test is met, the court must grant a possession order (subject to any available human rights defence raised by the tenant, including proportionality) where the correct procedure has been followed.</li> </ul>
Important changes/differences	<ul style="list-style-type: none"> <li>• Unlike the discretionary grounds for possession, the landlord is not required to prove to the court that it is reasonable to grant possession. This means the court is more likely to determine cases in a single, short hearing;</li> <li>• This offers better protection and faster relief for victims and witnesses of anti-social behaviour, saves landlords costs, and frees up court resources and time;</li> <li>• It provides flexibility for landlords to obtain possession through this route for persistently anti-social tenants;</li> <li>• The court cannot postpone possession to a date later than 14 days after the making of the order except in exceptional circumstances, and cannot postpone for later than six weeks in any event.</li> </ul>
The legislation	Sections 94 to 100 of the Anti-social Behaviour, Crime and Policing Act 2014

## Absolute ground for possession



## Overview

Prevention and early intervention should be at the heart of all landlords' approaches to dealing with anti-social behaviour. Available evidence shows this is the case with over 82% of anti-social behaviour complaints resolved by social landlords through early intervention and informal routes without resorting to formal tools in 2015/16.

It has, however, been a source of frustration for landlords and victims that in exceptional cases where anti-social behaviour (or criminality) persists and it becomes necessary to seek possession, the processes for evicting anti-social tenants can be lengthy and expensive, prolonging the suffering of victims, witnesses and the community.

## Purpose

The absolute ground for possession was introduced to speed up the possession process in cases where anti-social behaviour or criminality has been already been proven by another court. This strikes a better balance between the rights of victims and perpetrators and provides swifter relief for those victims. The absolute ground for possession is intended to be used in the most serious cases and landlords are encouraged to ensure that the ground is used selectively.



## Details

**Informing the tenant:** Landlords should ensure that tenants are aware from the commencement of their tenancy that anti-social behaviour or criminality either by the tenant, people living with them, or their visitors could lead to a loss of their home under the absolute ground.

**Applicants:** The absolute ground is available for secure and assured tenancies, and can be used by both social landlords and private rented sector landlords. In practice, many private rented sector landlords continue to use the 'no fault' ground for possession, in section 21 of the Housing Act 1988, where this is available. This does not require the tenant to be in breach of any of the terms of their tenancy and, therefore, does not require the landlord to show that it is reasonable to grant possession as long as the relevant notice has been served. However, the 'no fault' ground can only be used at the end of the fixed term of the tenancy, which must be at least six months from the initial inception of the tenancy. This often limits private landlords' ability to seek possession where a tenant commits serious anti-social behaviour or criminality in the early stages of the tenancy. The absolute ground should assist private rented sector landlords to end tenancies quickly in cases of serious anti-social behaviour or criminality that occur during the fixed term of an assured short-hold tenancy.

**The legal tests:** The court must grant possession (subject to any available human rights defence raised by the tenant, including proportionality) provided the landlord has followed the correct procedure and at least one of the following five conditions is met:

- the tenant, a member of the tenant's household, or a person visiting the property has been convicted of a serious offence;
- the tenant, a member of the tenant's household, or a person visiting the property has been found by a court to have breached a Civil Injunction;
- the tenant, a member of the tenant's household, or a person visiting the property has been convicted for breaching a Criminal Behaviour Order;
- the tenant's property has been closed for more than 48 hours under a closure order for anti- social behaviour; or
- the tenant, a member of the tenant's household, or a person visiting the property has been convicted for breaching a noise abatement notice or order.

The offence or anti-social behaviour must have been committed in, or in the locality of, the property, affected a person with a right to live in the locality of the property or affected the landlord or the landlord's staff or contractors.

Serious offences for this purpose include, for example: violent and sexual offences and those relating to offensive weapons, drugs and damage to property. A list of the relevant offences is found in Schedule 2A to the Housing Act 1985.

The ground is available to landlords in addition to the discretionary grounds for possession set out in Schedule 2 to the Housing Act 1985 for secure tenants and Schedule 2 to the Housing Act 1988 for assured tenants. Landlords are able to choose to use the absolute ground, in addition to, or instead of the discretionary grounds for anti-social behaviour where one or more of the five conditions are met.

**Partnership working:** Close working relationships with the police, local councils and other local agencies are important to ensure that the landlord is always aware when one or more of the triggers for the absolute ground has occurred.

### Secured and Assured Tenancies

**Secure tenants** are generally tenants of local councils with a very high level of security of tenure. Apart from the absolute ground, secure tenants can only be evicted from their property on the discretionary grounds for possession in Schedule 2 to the Housing Act 1985.

Tenants of housing associations generally have **non-shorthold assured tenancies** giving them a high level of security of tenure (although not fully equivalent to that of secure tenants). They can be evicted under mandatory grounds for possession provided for in Schedule 2 to the Housing Act 1988 (for example, for rent arrears) as well as discretionary grounds for possession.

Private rented sector tenants generally have **assured shorthold tenancies** giving them limited security of tenure. They can be evicted under the grounds for possession in Schedule 2 to the Housing Act 1988 as well as the 'no fault' ground in section 21 of the Housing Act 1988. This simply requires the landlord to give the tenant the proper notice before seeking a court order (usually without a hearing).

**Notice requirements:** In order to seek possession under the absolute ground, landlords must serve a notice of the proceedings on the tenant, either:

- within 12 months of the relevant conviction or finding of the court being relied on (or if there is an appeal against the finding or conviction within 12 months of the appeal being finally determined, abandoned or withdrawn); or
- within three months where the tenant's property has been closed under a closure order (or if there is an appeal against the making of the closure order, within three months of the appeal being finally determined, abandoned or withdrawn).

The minimum notice period for periodic tenancies is four weeks, or the tenancy period (i.e. the rent period) if longer. In the case of a fixed term tenancy the minimum notice period is one month. The notice is valid for 12 months.

The notice must include the following information:

- the landlord's intention to seek possession under the absolute ground;
- the reasons why they are seeking possession;
- which of the five conditions for the absolute ground the landlord proposes to rely on;
- the relevant conviction, finding of the court, or closure order the landlord proposes to rely on;
- details of any right that the tenant may have to request a review of the landlord's decision to seek possession, and the time within which the request must be made;
- where and how a tenant may seek advice on the notice; and
- the date after which possession proceedings may be begun.

If the landlord wishes to seek possession on one or more of the discretionary grounds as well, he or she must also specify and give details of the relevant discretionary ground/s in the notice.

There are no prescribed forms of notice for the absolute ground for either secure or assured tenancies. In the case of secure tenancies, section 83ZA of the Housing Act 1985 (inserted by section 95 of the Anti-social Behaviour, Crime and Policing Act 2014) simply specifies that certain information must be contained in the notice.

The provisions of section 83ZA (4) also makes clear that where possession of a secure tenancy is being sought under the absolute ground as well as one of the grounds in Schedule 2 of the 1985 Act, the notice need not be served in a form prescribed by regulations as required by section 83 of the 1985 Act but should follow the requirements of section 83ZA in such circumstances.

In the case of assured tenancies, section 97 of the Anti-social Behaviour, Crime and Policing Act 2014 has amended section 8 of the 1988 Act to modify the notice requirements for possession under assured tenancies to take account of the absolute ground.

The court has no power to dispense with service of a notice for possession under the absolute ground. Therefore where a landlord decides to seek possession for anti-social behaviour on the absolute ground alongside one or more of the discretionary grounds, the court will not be able to dispense with the notice as they would have been able to do if the possession was sought solely on the discretionary ground.

### **The review procedure:**

- Local council tenants have a statutory right to request a review of the landlord's decision to seek possession under the new absolute ground.
- The request for a review must be made in writing within seven days of the notice to seek possession being served on the tenant.
- The review must be carried out before the end of the notice.
- The landlord must communicate the outcome of the review to the tenant in writing.
- If the decision is to confirm the original decision to seek possession, the landlord must also notify the tenant of the reasons for the decision.
- If the review upholds the original decision, the landlord will proceed by applying to the court for the possession order.
- The statutory review procedure does not apply to housing associations tenants. However, we expect housing associations to offer a similar non-statutory review procedure (in the same way that they have done so for starter tenancies for example).

**Putting victims first:** In preparation for the court process, landlords should consider:

- reassuring victims and witnesses by letting them know what they can expect to happen in court;
- using professional witnesses where possible; and
- taking necessary practical steps with court staff to reassure and protect vulnerable victims and witnesses in court (e.g. the provision of separate waiting areas and accompanying them to and from court).

Landlords should also consider providing support/protection for victims and witnesses out of court, at home, and beyond the end of the possession proceedings when necessary.

**Court hearing and defences:** Tenants are entitled to a court hearing. As with other grounds of possession, tenants of public authorities or landlords carrying out a public function are able to raise any available human rights defence, including proportionality, against the possession proceedings.

The court will consider whether such a defence meets the high threshold of being 'seriously arguable' established by the Supreme Court. Subject to any available human rights defence raised by the tenant, the court must grant an order for possession where the landlord has followed the correct procedure.

**Suspension of possession order:** The court may not postpone the giving up of possession to a date later than 14 days after the making of the order; unless exceptional hardship would result in which case it may be postponed for up to six weeks.

### Important differences

Unlike with the discretionary grounds for possession, landlords do not need to prove to the court that it is reasonable to grant possession. This means that the court will be more likely to determine cases in a single hearing, thereby expediting the process.

The absolute ground is an additional tool which provides more flexibility for landlords but is applicable only in limited circumstances – where a court has already found a tenant or member of their household guilty of anti-social behaviour or criminality in the locality of the property.

The court has no power to dispense with service of a notice for possession under the absolute ground as they can do under the discretionary ground for anti-social behaviour.

Local council tenants have a statutory right to request a review of the landlord's decision to seek possession under the absolute ground. We expect housing associations to make a similar non-statutory review procedure available to their tenants.

The court only has the discretion to suspend a possession order made under the absolute ground to a date no later than 14 days after the making of the order (unless it appears to the court that exceptional hardship would be caused, in which case it may be postponed to a date no later than six weeks after the making of the order).

**MIDDLESBROUGH COUNCIL**



<b>Report of:</b>	Executive Member for Regeneration Director of Regeneration
<b>Submitted to:</b>	Executive
<b>Date:</b>	23 August 2023
<b>Title:</b>	Hemlington North – Disposal
<b>Report for:</b>	Decision
<b>Status:</b>	Public
<b>Strategic priority:</b>	Physical environment
<b>Key decision:</b>	Yes
<b>Why:</b>	Decision(s) will incur expenditure or savings above £150,000
<b>Urgent:</b>	No
<b>Why:</b>	Not Applicable

### Executive summary

The report is about the disposal of Hemlington North, which is allocated in the Housing Local Plan (2014) and has been marketed for sale as affordable housing in accordance with the Council's Asset Disposal Process. The Executive are asked to accept an offer of £300,000 from North Star Housing Group.

The disposal of the parcel of land is recommended in order to meet the Council's requirements to generate capital receipts, increase annually recurring revenue streams and provide more affordable housing. As the value of the subject site exceeds £150,000, it is a key decision.

There are significant implications of any options that involve the Council not disposing of this site for affordable housing development. The overall integrity of the 2014 Local Plan depends upon the land supply identified within it being made available, and the Council would be open to significant challenge if it were seen to constrain land supply.

## **Purpose**

1. To seek Executive approval to dispose of the Council's freehold interest in Hemlington North for affordable housing development in accordance with the Council's Asset Disposal Process.

## **Background & relevant information**

2. There is strong continued demand for new homes in Middlesbrough and as such the town requires a significant supply of new housing development over the next decade.
3. Middlesbrough's population has grown in recent years, as the number of new developments has increased, and the wider housing offer has started to improve. Despite Middlesbrough's modest growth the housing offer in the town lacks key types of products that would allow the area to keep pace with national demographic trends.
4. There is significant demand for additional affordable housing products within Middlesbrough's housing offer and this site offers an important opportunity for more affordable housing provision.
5. The development of new housing is a key component of the Council being able to set a sustainable budget, as the capital receipts from housing sites, along with the subsequent Council Tax are the key components of the Medium-Term Financial Plan.
6. Hemlington North measures approximately 1.77 Acres [0.71 Hectares] and is close to current developments by several commercial housebuilders forming part of the Hemlington Grange urban extension.
7. The site was marketed using appropriate property development websites, an article in a local newspaper and the Council's own website/social media channels for two months. Two bids were received by the closing date of 5<sup>th</sup> May 2023.
8. Two bids were received at the same value, although based on significantly different assumptions. One bid was based on delivering just 20 units of housing, and included conditions that could potentially reduce the Council's return, whilst the bid from North Star Housing Group was based on 35 units of affordable housing (subject to planning permission) and provided greater financial certainty.
9. In assessing the bids further the 20 unit scheme was ultimately deemed non compliant due to the format of the bid, leaving the bid from North Star Housing Group as the preferred choice. As a result, the bid from North Star Housing Group is recommended for approval.
10. The site is located in Stainton and Thornton Ward and the relevant Ward Councillor has been consulted.
11. An Asset Disposal Business Case confirming the status of the subject parcel of land as surplus to operational Council service requirements is attached to Part B of this report.

### **What decision(s) are being recommended?**

12. That Executive be asked to accept the bid of £300,000 from North Star Housing Group for the Council's freehold interest in Hemlington North so that the site can be developed for affordable housing.

### **Rationale for the recommended decision(s)**

13. Disposal as proposed would generate a significant capital receipt, increase annually recurring revenue streams, and increase the supply of affordable housing.

14. Disposal of the site supports delivery of the Council's Medium Term Financial Plan.

### **Other potential decision(s) and why these have not been recommended**

#### ***Re-use for operational purposes***

15. No Council operational service requirement has been identified.

#### ***Other uses***

16. The land is allocated for affordable housing and therefore an alternative use is not proposed.

#### ***Do nothing***

17. Whilst the land would be retained for potential Council use in the future, the liability and responsibility for maintaining the land would remain with the Council in the interim.

### **Impact(s) of the recommended decision(s)**

#### ***Legal***

18. No specific Legal issues have been created as a result of the proposal to dispose of the land.

19. The land would be disposed of freehold with vacant possession in accordance with standing financial orders and asset disposal protocol.

#### ***Strategic priorities and risks***

20. The proposal does not require any change to the Council's existing policy framework.

21. The proposal to dispose of the property aligns with strategic objectives and contributes positively towards the vision for Middlesbrough.

#### ***Human rights, equality and data protection***

22. There will be no negative, differential impact on protected groups and communities.

23. A Level 1 (Initial Screening) Impact Assessment (IA) accompanies this report attached at Appendix 2. The impact assessment has identified that the proposal would have a

positive impact on the local community and does not represent any concern to equal rights, disability discrimination or the impingement of individual human rights.

24. The Council's development control planning process would also serve to ensure that any future use proposed would be appropriate for the local area

25. The proposed decision does not involve the collation and use of personal data.

### **Financial**

26. The Council would receive a capital receipt of £300,000 plus revenue fees of £10,500 without the need to incur any further marketing costs.

27. It is envisaged that the proposed development will be create a mix of Band B and Band C properties. Prudently assuming all the units will be at Band B the gross Council Tax increase would equate to £61,500 per annum upon completion of the development.

28. Assuming all units will be assessed as Band B properties the proposed development will also contribute to 2% of the net housing stock increase required in order to achieve New Homes Bonus payments, should this incentive continue.

29. The disposal of the subject property would remove the Council's liability for any future maintenance of the land, albeit these costs are minimal given the amount of maintenance the land currently requires.

### **Actions to be taken to implement the recommended decision(s)**

Action	Responsible Officer	Deadline
Subject to Executive approval, the Council moves to proceed with disposal of the property as detailed within Part B of this report.	Valuation & Estates Manager	September 2023

### **Appendices**

1	Site Plan
2	Impact Assessment Level 1 – Initial Screening Assessment

### **Background papers**

The following background papers were used in the preparation of this report:

Body	Report title	Date
Executive	Strategic Housing Site Disposals – Parts A & B	12 <sup>th</sup> July 2022


**Contact: Elizabeth Green, Principal Valuer**

**Email: [elizabeth\\_green@middlesbrough.gov.uk](mailto:elizabeth_green@middlesbrough.gov.uk)**



Site Plan



 ©Crown Copyright and database rights 2019 Ordnance Survey LA10023413	<b>Hemlington North</b>	Scale : 1:1,250
	<b>Stainton Way</b>	Date : 08.09.2022
	<b>Middlesbrough</b>	Drawn : E.S.
		Drg No : VAL 6197 A

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## Impact Assessment Level 1 – Initial Screening Assessment

<b>Subject of assessment:</b>	Disposal of the Council's freehold interest in Hemlington North			
<b>Coverage:</b>	Service specific			
<b>This is a decision relating to:</b>	<input type="checkbox"/> <b>Strategy</b>	<input type="checkbox"/> <b>Policy</b>	<input type="checkbox"/> <b>Service</b>	<input type="checkbox"/> <b>Function</b>
	<input type="checkbox"/> <b>Process/procedure</b>	<input type="checkbox"/> <b>Programme</b>	<input type="checkbox"/> <b>Project</b>	<input type="checkbox"/> <b>Review</b>
	<input type="checkbox"/> <b>Organisational change</b>	<input checked="" type="checkbox"/> <b>Other (please state)</b> Asset management		
<b>It is a:</b>	<b>New approach:</b>	<input checked="" type="checkbox"/>	<b>Revision of an existing approach:</b>	<input type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<p><b>Key aims, objectives and activities</b> To assess the impact of the proposal to dispose of Council land.</p> <p><b>Statutory drivers (set out exact reference)</b> The Local Government Act 1972 Section 123, as amended by the Local Government Planning &amp; Land Act 1980 Section 118 Schedule 23 Part V.</p> <p><b>Differences from any previous approach</b> The subject land has been declared surplus and there are no Council staff, or services that will be affected by the disposal proposed. Future use will be for the purposes of affordable housing.</p> <p><b>Key stakeholders and intended beneficiaries (internal and external as appropriate)</b> The Council, buyer and the local community.</p> <p><b>Intended outcomes</b> The proposed disposal of the subject land would:</p> <ul style="list-style-type: none"> <li>• generate a significant capital receipt for the Council</li> <li>• remove the Council's liability for future holding costs, responsibility for, and maintenance of the land, and</li> <li>• help meet demand for good quality affordable housing.</li> </ul>			
<b>Live date:</b>	18 <sup>th</sup> July 2023			
<b>Lifespan:</b>	Not applicable.			
<b>Date of next review:</b>	Not applicable.			

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<p><b>Human Rights</b></p> <p>Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>It is considered that the disposal of the subject land will not impact negatively on individual human rights. The proposal represents a significant and positive enhancement for both the locality and the wider area, far outweighing the transfer of the property from the Council's Estate holding.</p> <p>This assessment has been made taking into account:</p> <ul style="list-style-type: none"> <li>the fact that the land is surplus, and that no Council staff or services will be affected by the proposed disposal;</li> <li>the jobs that the development will support and create, and</li> <li>the potential of the proposal to stimulate further economic development within the borough.</li> </ul>
<p><b>Equality</b></p> <p>Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Council has a duty to consider the impact of the proposed decision on relevant protected characteristics, to ensure it has due regard to the public sector equality duty. Therefore, in the process of taking decisions, the duty requires the Council to have due regard to the need to:</p> <ol style="list-style-type: none"> <li>eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and</li> <li>foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ol> <p>Consideration of this duty has shaped the proposals.</p> <p>The land is surplus and fulfils no specific function, purpose or service. In accordance with this position, access to and delivery of Council services will not be affected by the proposed disposal.</p> <p>It is considered that the proposal will not have a disproportionate adverse impact on a group, or individuals, because they hold a protected characteristic.</p> <p>Evidence used to inform this assessment includes engagement to date with relevant Council departmental teams and the proposed purchaser, together with analysis of the terms and conditions that will be incorporated within the proposed sale.</p>

\*Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.

<p><b>Community Cohesion</b>          Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*</p>	☒	☐	☐	<p>There are no concerns that the proposal could have an adverse impact on community cohesion.</p> <p>Evidence used to inform this impact assessment includes the potential for bringing this land back into a far more beneficial future use than that being provided under the current ownership and management arrangement.</p>
<p><b>Sustainable Community Strategy Objectives</b>          Could the decision impact negatively on the achievement of the vision for Middlesbrough?* Does this decision impact on the statutory duties associated with these key objectives?*</p>	☒	☐	☐	<p>The proposed will provide affordable housing in an area where there is demand.</p> <p>In consideration of these outcomes, the proposal does not impact negatively upon the Council's sustainable community strategy objectives.</p> <p>This assessment has been made taking into account the new jobs that will be created in the Borough by bringing the subject land back into a far more beneficial future use.</p>
<p><b>Organisational Management / Transformation</b>          Could the decision impact negatively on organisational management or the transformation of the Council's services as set out in its Transformation Programme?*</p>	☒	☐	☐	<p>No tangible relationship between the disposal of the land and the organisational management of the Council, or the transformation of its services (as set out in its Transformation Programme), have been identified.</p>
<p><b>Next steps:</b></p> <ul style="list-style-type: none"> <li>➡ If the answer to all of the above screening questions is No then the process is completed.</li> <li>➡ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed.</li> </ul>				

<b>Assessment completed by:</b>	David Velemir	<b>Head of Service:</b>	Richard Horniman
<b>Date:</b>	08/06/2023	<b>Date:</b>	08/06/2023

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<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Executive Member for Regeneration Director of Regeneration
<b>Submitted to:</b>	Executive
<b>Date:</b>	23 August 2023
<b>Title:</b>	Nunthorpe Grange Farm – Disposal [Part A]
<b>Report for:</b>	Decision
<b>Status:</b>	Public
<b>Strategic priority:</b>	Physical environment
<b>Key decision:</b>	Yes
<b>Why:</b>	Decision(s) will incur expenditure or savings above £150,000
<b>Urgent:</b>	No
<b>Why:</b>	Not Applicable

<b>Executive summary</b>	
<p>The report seeks an Executive decision to dispose of the Council’s freehold interest in land at Nunthorpe Grange Farm to The Trustees of Thornfield Gospel Hall Trust.</p> <p>The proposal to dispose of the subject property accords with the Council’s requirements to generate capital receipts and where possible assist with regeneration by securing third party investment and development in Middlesbrough.</p> <p>The decision being sought to dispose is a key decision with the value of the surplus asset exceeding the £150,000 threshold.</p>	

## **Purpose**

1. To seek Executive approval to dispose of the Council's freehold interest in land at Nunthorpe Grange Farm in accordance with the Council's Asset Disposal Process.

## **Background & relevant information**

2. The subject parcel of land identified for disposal currently forms part of a much larger, now defunct, agricultural landholding situated at Nunthorpe Grange Farm – close to both Poole Roundabout on the junction of Guisborough Road [A1043] with Stokesley Road, and the site of the newly constructed Nunthorpe Medical Centre building.
3. Shown edged on the plan attached as Appendix 1 of this report, the subject parcel of land measures @ 4.218 Acres [1.7069 Hectares].
4. Rectangular in shape, the property comprises a vacant open area of farmland with hedgerow lining the boundaries with Guisborough Road [A1043] to the south, and Stokesley Road to the west.
5. Access to the subject parcel of land will be taken from publicly adopted highway, via the newly constructed carriageway that serves Nunthorpe Medical Centre.
6. The property is situated in the Nunthorpe Ward and the respective Ward Members have been consulted. Members will be further consulted on any subsequent proposal made as part of the normal planning process.
7. An Asset Disposal Business Case confirming the status of the property as surplus to operational Council requirements and the interest of The Trustees of Thornfield Gospel Hall Trust in purchasing the asset is attached as Appendix 3 of this report.

## **What decision(s) are being recommended?**

8. That Executive be asked to:
  - a) note the information contained within Part A of the report; and
  - b) take the decision to dispose of the subject property to The Trustees of Thornfield Gospel Hall Trust once all the financial or exempt information contained within Part B of the report has been considered.

## **Rationale for the recommended decision(s)**

9. Disposal as proposed would generate a significant capital receipt and also secure the third party investment needed to bring the property into a far more beneficial future use.
10. Disposal of the site supports delivery of the Council's Medium Term Financial Plan.

## **Other potential decision(s) and why these have not been recommended**

### ***Re-use for operational purposes***

11. No Council operational service requirement has been identified.



### ***Other uses***

12. Although the property is capable of being used for other purposes, future use of the site for the purposes of religious worship as proposed by the Buyer, is preferred.

### ***Do nothing***

13. The property would remain in its present state, unutilised.

14. Whilst the subject land would be retained for potential Council use in the future, the liability and responsibility for maintaining and holding the property would remain with the Council in the interim.

### **Impact(s) of the recommended decision(s)**

#### ***Legal***

15. No specific legal issues have been created as a result of the proposal to dispose of the property.

16. Disposal of the subject parcel of land would require the release of a covenant restricting the use of the Buyer's existing Meeting Hall site.

17. The land would be disposed of freehold with vacant possession in accordance with standing financial orders and asset disposal protocol.

#### ***Strategic priorities and risks***

18. The proposal does not require any change to the Council's existing policy framework.

19. The proposal to dispose of the property aligns with strategic objectives to facilitate private third party funded regeneration and contribute positively towards the vision for Middlesbrough – creating employment opportunities, driving enterprise and generating economic activity within the Borough.

#### ***Human rights, equality and data protection***

20. There will be no negative, differential impact on protected groups and communities. A Level 1 (Initial Screening) Impact Assessment (IA) accompanies this report attached at Appendix 2.

21. The impact assessment has identified that the proposal would have a positive impact on the local community and does not represent any concern to equal rights, disability discrimination or the impingement of individual human rights.

22. The Council's development control planning process would also serve to ensure that any future use proposed would be appropriate for the local area

23. The proposed decision does not involve the collation and use of personal data.

## Financial

24. The Council would receive a significant capital receipt plus revenue fees without the need to incur any further marketing costs.
25. Disposal of the subject property would remove the Council's liability for any future maintenance of the land, at an estimate cost of @ £300 per annum.

## Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Subject to Executive approval, the Council moves to proceed with disposal of the property as detailed within Part B of this report.	Valuation & Estates Manager	September 2023

## Appendices

1	Site Plan
2	Impact Assessment Level 1 – Initial Screening Assessment

## Background papers

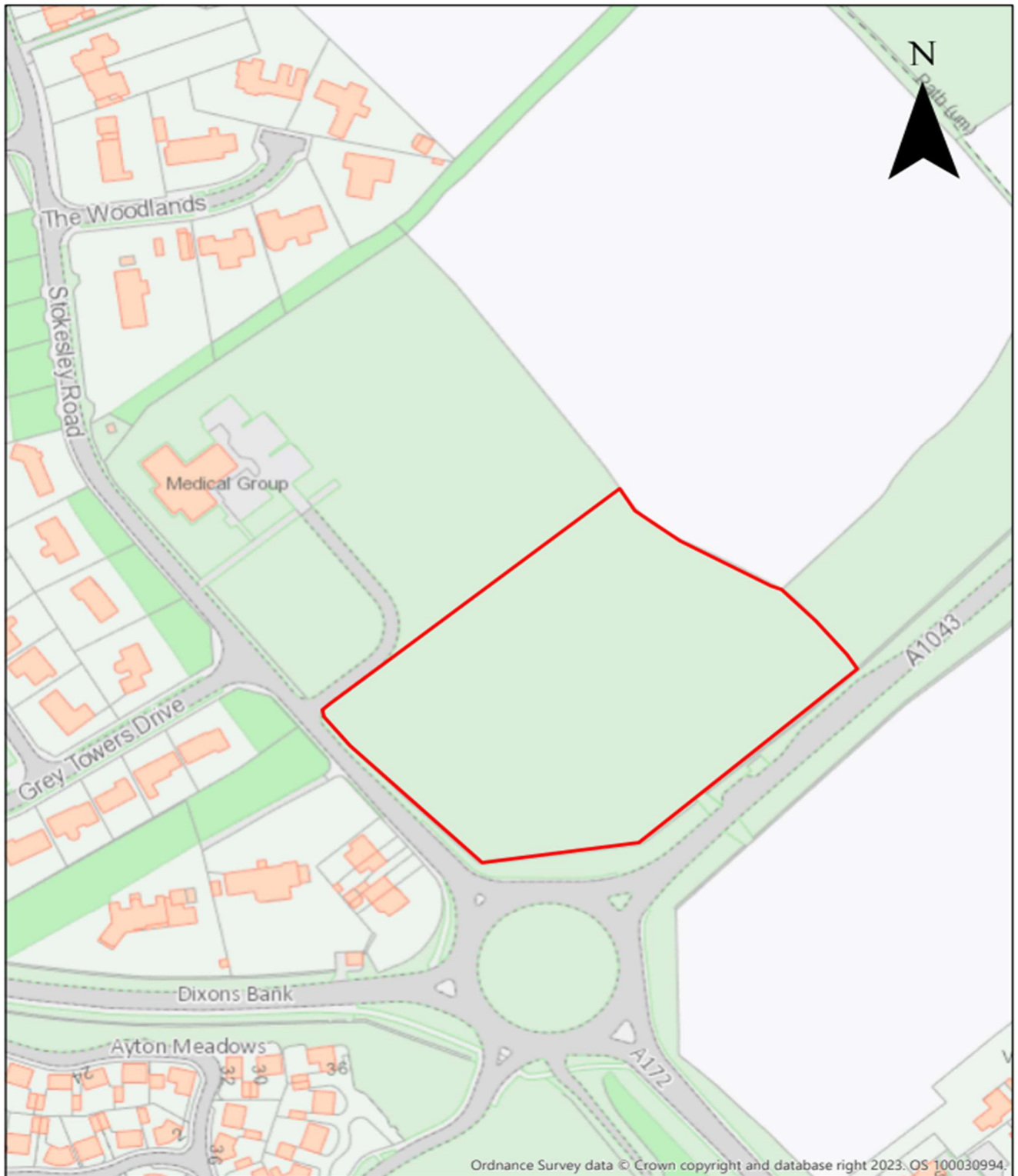
The following background papers were used in the preparation of this report:

Body	Report title	Date
Executive	Nunthorpe Grange Farm: Disposal – Church Lane [Parts A & B]	24 <sup>th</sup> November 2020

**Contact:** David Velemir, Valuation & Estates Manager

**Email:** [david\\_velemir@middlesbrough.gov.uk](mailto:david_velemir@middlesbrough.gov.uk)

Site Plan



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Ordnance Survey LA10023413

**Nunthorpe Grange farm**  
**Guisborough Road**  
**Middlesbrough**

Scale : 1:2,000
Date : 15/06/2023
Drawn : E.S
Drg No : VAL 6316

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## Impact Assessment Level 1 – Initial Screening Assessment

<b>Subject of assessment:</b>	Part disposal of the Council's freehold interest in land at Nunthorpe Grange Farm, Guisborough Rd, Nunthorpe, Middlesbrough TS7 0NB			
<b>Coverage:</b>	Service specific			
<b>This is a decision relating to:</b>	<input type="checkbox"/> <b>Strategy</b>	<input type="checkbox"/> <b>Policy</b>	<input type="checkbox"/> <b>Service</b>	<input type="checkbox"/> <b>Function</b>
	<input type="checkbox"/> <b>Process/procedure</b>	<input type="checkbox"/> <b>Programme</b>	<input type="checkbox"/> <b>Project</b>	<input type="checkbox"/> <b>Review</b>
	<input type="checkbox"/> <b>Organisational change</b>	<input checked="" type="checkbox"/> <b>Other (please state)</b> Asset management		
<b>It is a:</b>	<b>New approach:</b>	<input checked="" type="checkbox"/>	<b>Revision of an existing approach:</b>	<input type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<p><b>Key aims, objectives and activities</b> To assess the impact of the proposal to dispose of Council land.</p> <p><b>Statutory drivers (set out exact reference)</b> The Local Government Act 1972 Section 123, as amended by the Local Government Planning &amp; Land Act 1980 Section 118 Schedule 23 Part V.</p> <p><b>Differences from any previous approach</b> The subject land has been declared surplus and there are no Council staff, or services that will be affected by the disposal proposed. Future use will be for the purposes of faith &amp; religious worship.</p> <p><b>Key stakeholders and intended beneficiaries (internal and external as appropriate)</b> The Council, buyer and the local community.</p> <p><b>Intended outcomes</b> The proposed disposal of the subject land would:</p> <ul style="list-style-type: none"> <li>• generate a significant capital receipt for the Council</li> <li>• remove the Council's liability for future holding costs, responsibility for, and maintenance of the land, and</li> <li>• help stimulate further development in the local area, bringing the subject site back into a more positive future use.</li> </ul>			
<b>Live date:</b>	18 <sup>th</sup> July 2023			
<b>Lifespan:</b>	Not applicable.			
<b>Date of next review:</b>	Not applicable.			

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<p><b>Human Rights</b></p> <p>Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>It is considered that the disposal of the subject land will not impact negatively on individual human rights. The proposal represents a significant and positive enhancement for both the locality and the wider area, far outweighing the transfer of the property from the Council's Estate holding.</p> <p>This assessment has been made taking into account:</p> <ul style="list-style-type: none"> <li>the fact that the land is surplus, and that no Council staff or services will be affected by the proposed disposal;</li> <li>the jobs that the development will support and create, and</li> <li>the potential of the proposal to stimulate further economic development within the borough.</li> </ul>
<p><b>Equality</b></p> <p>Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Council has a duty to consider the impact of the proposed decision on relevant protected characteristics, to ensure it has due regard to the public sector equality duty. Therefore, in the process of taking decisions, the duty requires the Council to have due regard to the need to:</p> <ol style="list-style-type: none"> <li>eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and</li> <li>foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ol> <p>Consideration of this duty has shaped the proposals.</p> <p>The land is surplus and fulfils no specific function, purpose or service. In accordance with this position, access to and delivery of Council services will not be affected by the proposed disposal.</p> <p>It is considered that the proposal will not have a disproportionate adverse impact on a group, or individuals, because they hold a protected characteristic.</p> <p>Evidence used to inform this assessment includes engagement to date with relevant Council departmental teams and the proposed purchaser, together with analysis of the terms and conditions that will be incorporated within the proposed sale.</p>

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<p><b>Community Cohesion</b></p> <p>Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*</p>	☒	☐	☐	<p>There are no concerns that the proposal could have an adverse impact on community cohesion.</p> <p>Evidence used to inform this impact assessment includes the potential for bringing this land back into a far more beneficial future use than that being provided under the current ownership and management arrangement.</p>
<p><b>Sustainable Community Strategy Objectives</b></p> <p>Could the decision impact negatively on the achievement of the vision for Middlesbrough? * Does this decision impact on the statutory duties associated with these key objectives?*</p>	☒	☐	☐	<p>The proposal will enable the development of a vacant parcel of surplus land to take place.</p> <p>In consideration of these outcomes, the proposal does not impact negatively upon the Council's sustainable community strategy objectives.</p> <p>This assessment has been made taking into account the new jobs that will be created in the Borough by bringing the subject land back into a far more beneficial future use.</p>
<p><b>Organisational Management / Transformation</b></p> <p>Could the decision impact negatively on organisational management or the transformation of the Council's services as set out in its Transformation Programme?*</p>	☒	☐	☐	<p>No tangible relationship between the disposal of the land and the organisational management of the Council, or the transformation of its services (as set out in its Transformation Programme), have been identified.</p>
<p><b>Next steps:</b></p> <p>➡ If the answer to all of the above screening questions is No then the process is completed.</p> <p>➡ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed.</p>				

<b>Assessment completed by:</b>	David Velemir	<b>Head of Service:</b>	Richard Horniman
<b>Date:</b>	15/06/2023	<b>Date:</b>	15/06/2023

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