

Date: 31<sup>st</sup> August 2018

The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

Dear Sir or Madam,

You are hereby summoned to attend a meeting of the Executive of Bolsover District Council to be held in the Council Chamber, The Arc, High Street, Clowne on **Monday 10<sup>th</sup> September 2018 at 1000 hours**.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on pages 2, 3 and 4.


Yours faithfully



Joint Head of Corporate Governance & Monitoring Officer  
To: Chair & Members of the Executive

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**Tel** 01246 242424    **Fax** 01246 242423  
**Email** [enquiries@bolsover.gov.uk](mailto:enquiries@bolsover.gov.uk)    **Web** [www.bolsover.gov.uk](http://www.bolsover.gov.uk)

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## EXECUTIVE AGENDA

**Monday 10<sup>th</sup> September 2018 at 1000 hours in the  
Council Chamber, The Arc, Clowne**

| <b>Item No.</b> | <b>PART 1 – OPEN ITEMS</b>  | <b>Page No.(s)</b> |
|-----------------|---|--------------------|
| 1               | <b>Apologies for absence</b>  |                    |
| 2               | <b>Urgent Items of Business</b><br><br>To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.  |                    |
| 3               | <b>Declarations of Interest</b><br><br>Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:<br><br>a) any business on the agenda<br>b) any urgent additional items to be considered<br>c) any matters arising out of those items<br><br>and if appropriate, withdraw from the meeting at the relevant time. |                    |
| 4               | <b>Minutes</b><br><br>To approve the Minutes of a meeting of the Executive held on 16 <sup>th</sup> July 2018.  | 5 to 10            |
| 5               | <b>Items recommended by Scrutiny Committees</b><br><br>Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.<br><br><u>Recommendation on Page 15</u>  | 11 to 74           |
| 6               | <b>Policy and Budget Framework Items</b><br><br>(A) Review of Joint RIPA Policy.<br><br><u>Recommendation on Page 77</u>  | 75 to 108          |
| 7               | <b>Non Key Decisions</b><br><br>(A) Local Plan Update   | Presentation       |

- (B) Annual Letter from the Local Government & Social Care Ombudsman 2017/18. 109 to 117

Recommendation on Page 111

- (C) Customer Service Standards and CCC Report 2017/18 – 1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018 and Annual Summary 118 to 128

Recommendation on Page 123

- (D) Business Rates Pilot. 129 to 132

Recommendation on Pages 131 and 132

- (E) Draft Local Enforcement Plan for Planning. 133 to 169

Recommendation on Page 137

- (F) Corporate Plan Targets Performance Update Quarter 1 – April to June 2018. 170 to 185

Recommendation on Page 171

**8 Key Decisions**

- (A) Vehicle Replacements - Streetscene Waste Services Team. 186 to 191

Recommendation on Page 190

- (B) Safe and Warm Upgrade Scheme - Orchard Close and Sandhills Road, Bolsover. 192 to 195

Recommendation on Page 194

- (C) Renewal of roofs, soffits and fascias and asbestos removal at Hides Green and The Paddock, Bolsover. 196 to 199

Recommendation on Page 198

- (D) Medium Term Financial Plan - Budget Monitoring Report Quarter 1 – April to June 2018 200 to 219

Recommendation on Page 206

**9 Exclusion of Public**

To move:-

That the public be excluded from the meeting during the discussion of the following items of business to avoid the disclosure to them of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation)

Order 2006). *[The category of exempt information is stated above each item].*

10      **Non Key Decision**

*Paragraphs 1 and 3*

- |     |  |            |
|-----|--|------------|
| (A) | Proposed Restructure of the Communications, Marketing and Design Team. | 220 to 226 |
|-----|--|------------|

*Recommendation on Page 223*

11      **Key Decision**

*Paragraphs 1 and 3*

- |     |                            |            |
|-----|----------------------------|------------|
| (A) | Contact Centre Restructure | 227 to 232 |
|-----|----------------------------|------------|

*Recommendation on Page 231*

*Paragraph 3*

- |     |                         |           |
|-----|-------------------------|-----------|
| (B) | Alder House, Shirebrook | To Follow |
|-----|-------------------------|-----------|

*Recommendation on Page \**



## **EXECUTIVE**

Minutes of a meeting of the Executive of Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Monday 16<sup>th</sup> July 2018 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor A.M. Syrett in the Chair

Councillors M.J. Dooley, S.W. Fritchley, H.J. Gilmour, D. McGregor, B.R. Murray-Carr, M.J. Ritchie and B. Watson.

Officers:-

D. Swaine (Chief Executive Officer), K. Hanson (Strategic Director – Place), L. Hickin (Strategic Director – People), G. Galloway (Joint Head of Property and Commercial Services), P. Campbell (Joint Head of Housing and Community Safety), D. Clarke (Joint Head of Finance and Resources), V. Dawson (Team Leader (Contentious) Solicitor, N. Etches (Business Centres Manager) (until Minute No. 00156), B. Woodward (Engineering Technician), (until Minute No. 00156), A. Bedford (Customer Standards and Complaints Officer) (until Minute No. 00154), C. Smith (Work Experience) (Observing) and A. Brownsword (Senior Governance Officer)

### **0148. APOLOGIES**

There were no apologies for absence.

### **0149. URGENT ITEMS OF BUSINESS**

There were no urgent items of business.

### **0150. DECLARATIONS OF INTEREST**

The Following Declaration was received:

| Member       | Minute No/Title                             | Type of Interest/Reason  |
|--------------|---|--|
| M.J. Ritchie | 00160 - Capital Investment in Joint Venture | Significant Other Interest due to being a Board Member of Dragonfly Development Ltd. |

### **0151. MINUTES – 18<sup>TH</sup> JUNE 2018**

Moved by Councillor D. McGregor and seconded by Councillor M.J. Ritchie

**RESOLVED** that the minutes of a meeting of the Executive held on 18<sup>th</sup> June 2018 be approved as a true and correct record.

## EXECUTIVE

### **0152. ITEMS RECOMMENDED BY SCRUTINY COMMITTEES**

There were no items recommended by Scrutiny Committee.

### **0153. POLICY AND BUDGET FRAMEWORK ITEMS**

There were no Policy and Budget Framework Items.

### **0154. NON KEY DECISION REVIEW OF THE COMPLIMENTS, COMMENTS AND COMPLAINTS POLICY**

The Strategic Director – People presented the report which detailed the review that had taken place into the Compliments, Comments and Complaints Policy. It was noted that the Citizens Panel had indicated that they would prefer a response time of 10 working days, but officers felt that the current response time of 15 working days should be kept for the forthcoming year whilst a monitoring exercise took place.

Members noted that the statistics demonstrated that the Council's procedure was good and there was no reason to change the response time at this stage.

Moved by Councillor D. McGregor and seconded by Councillor M. Dooley

**RESOLVED** that (1) the timescale for straightforward complaints continue to be monitored to see if it can be reduced from 15 working days to 10 working days,

(2) the Executive approves the revised Joint Compliments, Comments and Complaints Policy for adoption.

**REASON FOR DECISION:** (1) The policy meets amended external drivers and compliance requirements.

(2) Support will be given to officers dealing with compliments, comments and complaints and training is delivered more widely to all new appointees to both Councils within the mandatory Customer Services training.

(3) Publicity will be carried out at both Councils to raise awareness that the Policy has been reviewed.

**OTHER OPTIONS CONSIDERED:** In reviewing the policy, consideration has been given to how best the required actions can be achieved within existing resources.

(Customer Standards and Complaints Officer)

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### **0155. NON KEY DECISION RESURFACING WORKS AT PLEASLEY VALE BUSINESS PARK**

The Business Centres Manager presented the report which sought permission for capital works to undertake extensive repairs to the road surface in areas through Pleasley Vale Business Park. The road through the site had been damaged as a result of bad weather and heavy snow as well as the volume of vehicles and HGV's to the site.

It was noted that the road through the site was a private road, but also a bridle path and public right of way. The current condition of the surface posed a risk to the safety of riders/walkers and forklift operatives.

Moved by Councillor M.J. Ritchie and seconded by Councillor A.M. Syrett

**RESOLVED** that (1) the Executive agrees to allocate the additional sum of £95,100 from the transformation reserve to the current asset management capital programme budget to enable the completion of these works,

(2) the Executive agrees to delegate authority to the Head of Property and Commercial Services to appoint the contractors to undertake the works.

**REASON FOR DECISION:** (1) Following the site survey, it is evident that there are areas of the road through the site which are in a poor state of repair, made worse by the freezing conditions on a number of different occasions through the recent winters.

(2) Because the road through the site is a Bridle path for walkers and visitors, there is an increased likelihood of personal injury to those unfamiliar with the site and underfoot conditions, especially in the rain. This leaves the Council open to an increased risk of personal injury claims.

(3) The uneven road surface in areas where forklift trucks operate also presents an increased risk of injury / accident, as the forklifts carrying a load are more likely to have an accident on an uneven road surface. Whilst this risk should be assessed and mitigated by the employer, the Council has a role to play in the maintenance of common areas.

(4) Unfortunately, alternative routes are not available for vehicles, forklifts, and footfall across the site. The low bridge at Mansfield Woodhouse also restricts HGV's to only using Outgang Lane.

(5) We can undertake short term fills of the repairs on site, but due to the number of pot holes the time and cost to undertake these repairs would be more expensive in the long term than undertaking the comprehensive repairs now. In addition, this type of repair in a heavy use area is unlikely to last through the winter period

**OTHER OPTIONS CONSIDERED:** (1) By not undertaking the works, the site would continue its operation and the roads would be passable. However this would continue to deteriorate and worsen in time requiring further works and cost at a later date. Whilst ever the repairs are not undertaken the risk of injury/claim remain.

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(2) There are some works which can be carried out without undertaking the full schedule. The pricing schedule is broken down in to 5no. different 'lots' across the site. This has been discounted, as undertaking the works in stages will result in increased contractor mobilisation costs as there will be multiple site set up costs resultant in an overall cost increase to the Council.

(Business Centre Manager)

### **0156. NON KEY DECISION THE ARC CAR PARKING**

The Joint Head of Property and Commercial Services submitted a report which sought permission to undertake alterations to the car park at The Arc, Clowne to reduce health and safety risks to pedestrians and drivers.

There were a number of ongoing safety issues to be addressed including bus parking, vehicular access to the rear of the building via the installation of an access controlled barrier and the possibility of the installation of electric vehicle charging points.

Moved by Councillor M.J. Ritchie and seconded by Councillor B.R. Murray-Carr  
**RESOLVED** that Members approve the work as outlined within the report and approve a budget of £45,000 financed from the transformation reserve.

**REASONS FOR DECISION:** To address health and safety concerns for both vehicular and pedestrian users of The Arc.

**OTHER OPTIONS CONSIDERED:** Take no action, or introduce a parking order with parking fines. Taking no action was rejected as it would not deal with the health and safety issues. Introducing a parking order would result in fines being issued which may have a negative impact on leisure centre users with the potential outcome resulting in a reduction in members and income.

(Joint Head of Property and Commercial Services)

### **0157. KEY DECISION SAFE AND WARM DESIGN WORK**

The Joint Head of Housing and Community Safety presented the report which sought to agree HLP as lead design consultants for the Safe and Warm Scheme for sheltered accommodation. It was noted that the Safe and Warm Scheme was a refurbishment project for the Council's sheltered accommodation (with the exception of Alder House, Shirebrook). Works had already been completed at Victoria House, Creswell. The work would be extensive and would address concerns regarding fire risks, legionella and asbestos.

The Council would need extensive architectural support and were part of the Efficiency East Midlands Architectural Framework which allowed direct award of work to any contractors on the framework. The Council had previously worked with HLP who had

## EXECUTIVE

a good record. Once the designs were completed a further report would be submitted to the Executive.

Moved by Councillor H.J. Gilmour and seconded by Councillor M.J. Ritchie

**RESOLVED** that (1) HLP be appointed as lead consultants on the Safe and Warm project, up to the stage of preparing tender documents,

(2) HLP's suggestions for the appointment of Quantity Surveyor and Structural Engineers be agreed to,

(3) Any further work is subject Member's approval in a future report.

**REASON FOR DECISION:** (1) To appoint HLP as lead consultant for the Safe and Warm project, using the EEM framework.

(2) The complexity of the Safe and Warm project requires additional specialist skills that are not available from within the Council

**OTHER OPTIONS CONSIDERED:** (1) To manage the project using existing Council resources - this has been rejected as the specialist skills are not available internally.

(2) To tender for this work – this has been rejected as EEM has a pre-tendered framework for this purpose and it is unlikely that a project specific tender would offer comparable rates.

(Joint Head of Housing and Community Safety)

### **0158. THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Moved by Councillor D. McGregor and seconded by Councillor A.M. Syrett

**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the stated Paragraph 3 of Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.

### **0159. NON KEY DECISIONS**

There were no private non key decisions.

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Councillor M.J. Ritchie, having previously declared his Significant Other interest in the following item of business, as a Board Member of Dragonfly Development Ltd stayed for the presentation of the item, but left and took no part in the discussion or voting thereon.

### **0160. KEY DECISION CAPITAL INVESTMENT IN JOINT VENTURE**

The Joint Head of Property and Commercial Services presented the report which sought Executive approval to invest £150,000 into Dragonfly Development Ltd (match funded by Woodhead Regeneration Ltd) which would increase the working capital in the company to enable the Joint Venture Company to accelerate development across the District.

*Councillor M.J. Ritchie left the meeting at this point.*

A discussion took place.

Moved by Councillor S.W. Fritchley and seconded by Councillor B. Watson

**RESOLVED** that for the reasons outlined in the report and to match the £150,000 WRL have approval to invest, that Executive approve the investment of £150,000 into Dragonfly from the transformation reserve

**REASON FOR DECISION:** In order for Dragonfly to continue to take a direct and active lead in the development of residential properties across the district, an injection of working capital will need to be invested by both of the partner organisations.

**OTHER OPTIONS CONSIDERED:** That Executive choose not to invest more capital into the Joint Venture Company and that prior to proceeding with additional sites, Dragonfly wait until the working capital is topped up through sales. However, this would limit the effectiveness of Dragonfly and would mean that there would be a pause in production while planning permission was obtained for a further site(s).

(Joint Head of Property and Commercial Services)

The meeting concluded at 1035 hours.

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

**Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.**

**Report of the Chair of Healthy, Safe, Clean & Green Communities Scrutiny Committee**

This report is public.

**Purpose of the Report**

- To present to Executive the completed report for the recent Scrutiny Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.

**1. Report Details**

- 1.1 The Healthy, Safe, Clean & Green Communities Scrutiny Committee agreed to undertake a review of Enforcement action as part of the 2017/18 work plan following consideration of a range of topics suggested at the Annual Scrutiny Conference. The review was rolled forward in to the 2018/19 municipal year to allow sufficient time to consider all the evidence gathered.
- 1.2 The aims of the review were:
  - To ensure that the Council's Enforcement Policy is being used to deal with and deter fly tipping, littering and dog fouling in the District of Bolsover and to address the perceptions of Councillors and the public.
  - To address the concerns and perceptions of Elected Members and consider the Council's existing approaches. To identify any further actions that should be taken in order to punish those responsible, reduce the number of incidents and keep the environment clean having regard to best practice, statutory guidance and policy.
- 1.3 Members' objectives were:
  - To understand the actual levels of litter, fly tipping and dog fouling and the difference in perceptions and why.
  - If there is a difference between actual levels and members' perceptions, to find a way to bridge the gap.
  - To understand current approaches and actions by Environmental Health, Streetscene and Community Safety (CAN Rangers).
  - To understand the range of enforcement actions available.

- To understand the enforcement legal tests, e.g. evidential test and public interest test.
- To understand the Council's Enforcement Policy and legal interpretation.
- To understand current practices and how closely the policy is adhered to.
- To consider the current constraints on the authority regarding enforcement and taking enforcement action
- To understand competency levels required for enforcement officers.
- To understand the current level of staff with delegated authority to undertake enforcement and its effectiveness in undertaking such.
- To understand the required staffing levels and any human resource implications.

1.4 The key issues considered were:

- Untidy land, gardens and buildings (including private owned);
- Litter;
- Fly tipping;
- Dog fouling;
- Customer expectations;
- Councillors expectations;
- Options for working with other councils nearby to increase enforcement activities.

1.5 Within its Corporate Plan 2015-2019, Bolsover District Council under the aim of Transforming Our Organisation has the following aims, priorities and targets:

Aim: Supporting Our Communities to be Healthier, Safer, Cleaner and Greener

Priorities:

- Ensuring a high standard of environmental maintenance and cleanliness
- Developing attractive neighbourhoods

Targets:

- H 10 - Sustain standards of litter cleanliness to ensure 96% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).
- H 11 - Sustain standards of dog fouling cleanliness to ensure 98% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).
- H 12 - Annually undertake 10 local environmental enforcement and educational initiatives in targeted areas to deal with dog fouling, littering or fly tipping.

1.6 The Committee used a range of methods to gather evidence:

- verbal evidence and questioning with key officers;
- document analysis to understand the legislative and policy context
- questionnaires to elected Members of Bolsover District as well as Derbyshire County Council and Parish Councils in the District;
- benchmarking exercise to establish best practice in local authorities;
- site visits;



- Bolsover District Council's performance management information within PERFORM.

## **2. Conclusions and Reasons for Recommendation**

- 2.1 The Committee have put together 18 recommendations which will hopefully assist the Council in further improving our approach to environmental despoilment and enforcement.
- 2.2 A further recommendation was discounted from the final report following additional clarification from service managers. In addition, one recommendation was reworded following receipt of Officer advice.
- 2.3 The key issues arising from the review are as follows:
  - levels of staffing resource and the subsequent impact on service delivery, effective use of resources and enforcement activity;
  - communication and awareness of enforcement activity, both internal and external;
  - communication on how to contact the Council and use of online reporting;
  - potential reputational risk, where the Authority area is seen to have high levels of littering/fly-tipping and poor street cleanliness standards;
  - ensuring our policies are compliant and support our delivery of enforcement activity; and
  - ensuring efficient and effective use of the enforcement powers available to the Authority, by all staff with designated authority.
- 2.4 Members appreciate that a range of approaches have been taken by staff to both prevention and enforcement. Where possible staff have endeavoured to maintain this despite staff vacancies, but this has not always been possible. Members hope that the recent situation will reinforce that effective resource levels (both staff and non-staff) are key to good quality service delivery even in times of austerity. It is hoped that the recommendations set out in this review report will help further embed the refreshed approach to enforcement that is being taken now the Environmental Enforcement Team is fully staffed.

## **3. Consultation and Equality Impact**

- 3.1 All Scrutiny Committees are committed to equality and diversity in undertaking their statutory responsibilities and ensure equalities are considered as part of all Reviews. The selection criteria when submitting a topic, specifically asks members to identify where the topic suggested affects particular population groups or geographies.
- 3.2 As part of the review process there has been a survey of BDC Members to ascertain their views on a range of aspects of the current approach to street cleanliness and environmental enforcement. In addition, Members have completed a telephone survey of neighbouring authorities in order to benchmark certain aspects of service delivery.
- 3.3 The Council has a statutory duty under s.149 Equality Act 2010 to have due regard to the need to advance equality of opportunity and to eliminate discrimination.

- 3.4 Within the process of the review, the Committee has taken into account the impact of equalities. Where enforcement action is taken against individuals who are vulnerable the Council's policies for Safeguarding Adults and VARM will apply. Where action is taken against an individual with specific communication needs (for example, large print or British Sign Language) the Council's Policy for Equality & Diversity in Service Delivery may apply.

#### **4. Alternative Options and Reasons for Rejection**

- 4.1 Executive could choose not to endorse the recommendations of the review, where they feel the course of action recommended is beyond the delivery capacity of the Authority.
- 4.2 Any recommendation considered outside of the current Budget and Policy Framework should be submitted to Council for consideration (section 4.5.10 of BDC Constitution).

#### **5. Implications**

##### **5.1 Finance and Risk Implications**

- 5.1.1 Members are concerned that there is potential reputational risk, where the Authority area is seen to have high levels of littering/fly-tipping and poor street cleanliness standards. Members conclude that the recommendations proposed will further improve our approach to environmental despoilment and enforcement.
- 5.1.2 Members are aware that Recommendation HSCGC17/18 1.4 could require an additional review of budgets to ascertain the long-term funding for the current temporary staffing arrangements. Should financial implications to the creation of a permanent post be established, this will require a further report to Executive.
- 5.1.3 Members acknowledge that Recommendation HSCGC17/18 1.6, may require additional resources should activity need to be increased. Members recommend that an additional report/request for resources be submitted, if and when required.
- 5.1.4 Members acknowledge that Recommendations HSCGC17/18 1.8, 1.9 and 1.11, will require creation of new and/or additional resources and publicity material, but this should be contained within existing budgets as part of a refresh of the current approach taken by the services.

##### **5.2 Legal Implications including Data Protection**

- 5.2.1 In carrying out scrutiny reviews the Council is exercising its scrutiny powers as laid out in s.21 of the Local Government Act 2000, regulations under section 32 of the Local Government Act 2000 and subsequent legislation which added to/amended these powers e.g. the Local Government and Public Involvement in Health Act 2007.
- 5.2.2 The Council has a statutory duty under s.149 Equality Act 2010 to have due regard to the need to advance equality of opportunity and to eliminate discrimination.

### 5.3 Human Resources Implications

- 5.3.1 Recommendation HSCGC17/18 1.4 suggests that Executive/SAMT consider the current staffing resource and training within the legal team to ensure existing expertise is maintained, thereby enabling the Authority to have sufficient capacity to move forward with its approach to enforcement.
- 5.3.2 Members acknowledge that following further investigation, Recommendation HSCGC17/18 1.13 may require an additional report from the service should additional staffing resource be deemed necessary.
- 5.3.3 Members acknowledge that, Recommendation HSCGC17/18 1.16 may require an additional report from the service should a change to staffing be required.

### 6. Recommendations

- 6.1 That the Executive considers and approves the recommendations of the review outlined in section 2 of the attached report, and submits their response to Committee.

### 7. Decision Information

|  |  |
|--|--|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><i>BDC: Revenue - £75,000</i> <input type="checkbox"/><br><i>Capital - £150,000</i> <input type="checkbox"/><br><i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/><br><i>Capital - £250,000</i> <input type="checkbox"/><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No   |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | No   |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes  |
| <b>District Wards Affected</b>   | All  |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | <p>Aim: Supporting Our Communities to be Healthier, Safer, Cleaner and Greener</p> <p>Priorities:</p> <ul style="list-style-type: none"><li>• Ensuring a high standard of environmental maintenance and cleanliness</li><li>• Developing attractive neighbourhoods</li></ul> |

## 8. Document Information

| Appendix No  | Title   |
|--|---|
| 5.1  | Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District. |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)   |   |
| <p>See Appendix 4 within the attached document. Documents stored in:<br/>S:\Governance and Monitoring\Scrutiny BDC\RES\Healthy, Safe Clean and Green Communities Scrutiny Communities\2017-18\Environmental Enforcement\Report</p> <p>Please contact Scrutiny &amp; Elections Officer where further information is required.</p> |   |
| Report Author  | Contact Number  |
| Joanne Wilson, Scrutiny & Elections Officer  | 01246 242385  |

Report Reference –



**Review of  
Enforcement action undertaken by  
Bolsover District Council to improve the  
quality of the environment across the  
District.**

**May 2018**

**HEALTHY, SAFE, CLEAN & GREEN COMMUNITIES  
SCRUTINY COMMITTEE**

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## Chair's Foreword

On behalf of the Healthy, Safe, Clean and Green Communities Committee, it is a pleasure to present this report.

At the beginning of the year the Committee was particularly concerned about enforcement, especially in areas that the general public find really annoying and a danger to public health and well-being. The Committee started by looking at dog fouling, litter and fly tipping but as the review progressed the Committee realised that it needed a more in depth investigation into all enforcement activities.

The Committee gathered evidence by producing a 'Member's Questionnaire' about their concerns in their own Wards. We made comparisons with other Local Authorities and also accompanied the Dog Warden and Enforcement Officer for a full day which was an eye opening experience.

The following report is produced from an analysis of our findings and contains appropriate recommendations.

The Committee and I would like to thank Lynne Cheong (Scrutiny Officer (Acting)), Jo Wilson (Scrutiny & Elections Officer) and not forgetting the part Alison Bluff (Governance Officer) has played in this review.

My thanks to all members of this Committee for their commitment, support and attendance to produce this report. I have also been ably supported by the outgoing Vice-Chair Hilary and make special thanks to her.

**Cllr Sandra Peake**

**Chair of the Healthy, Safe, Clean & Green Communities Scrutiny Committee**

## 1. Introduction

While this particular service area has been subject to review by Scrutiny on a number of occasions, a key difference within the scope this time was to address Member perceptions of the service in comparison to both public perception and what is being delivered in practice on the ground by staff.

This service area is a fully joint, shared service across the Strategic Alliance, with staff working across both main office sites and remotely out in the Districts as and when required due to service enquiries.

A key element of this review was the issue of staffing, as at the time of the review the Environmental Enforcement Team were understaffed due to long-term vacancy/sickness absence. This had led to capacity issues for the team in continuing to deliver an effective service, due to the time constraints on staff.

A wide range of evidence was gathered as part of the review, both internally via Officers and directly via Members through site visits and benchmarking surveys. The site visits in particular highlighted a variety of issues that the team faced when attending service calls.

Nevertheless, Members were keen to praise the improvements that came about during the review including recruitment to vacant posts and the appointment of a new Team Manager.

Members can see that the service is aiming to improve processes and procedures, now that they are fully staffed, but feel that close monitoring of the delivery of the recommendations will be paramount to ensure that there is continued improvement in both preventative and enforcement activity.



## 2. Recommendations

| PERFORM Code                       | Recommendation   | Desired Outcome   | Target Date     | Lead Officer                             | Resources   | Service Response  |
|------------------------------------|--|---|-----------------|--|-------------|---|
| HSCGC17/18 1.1<br><br>Ref. pp24-25 | That the emerging Corporate Enforcement Policy is presented to Committee as part of the 2018/19 Work Programme, for approval and referral to Strategic Alliance Joint Committee (if required) and Executive for full adoption. | That Council ensures effective policy is in place and adhered to. | September 2018. | Team Manager (Solicitor)<br>Contentious. | Staff time. | The draft Corporate Enforcement Policy is close to completion. We are awaiting confirmation from Strategic Alliance Management Team as to whether this will be a joint policy with North East Derbyshire District Council (NEDDC), or a standalone Bolsover District Council (BDC) policy.<br>The draft policy is programmed to be put before the committee for consideration in September 2018. This is to be an overarching policy which covers the whole of the Council's enforcement activities. The policy will ensure we act in a consistent manner with regards to |

| <b>PERFORM Code</b>                | <b>Recommendation</b>  | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>                   | <b>Resources</b> | <b>Service Response</b>  |
|------------------------------------|--|---|--------------------|---------------------------------------|------------------|--|
|                                    |  |   |                    |                                       |                  | regulatory enforcement. Individual service areas will require specific enforcement policies and procedures which reflect the principles set out in the corporate policy.   |
| HSCGC17/18 1.2<br><br>Ref. pp24-25 | That all subsequent departmental enforcement policies, as and when reviewed, are brought to the relevant Scrutiny Committee. | That Council ensures effective policy is in place and adhered to. | January 2019.      | Team Manager (Solicitor) Contentious. | Staff time.      | The Corporate Enforcement Policy (CEP) is an overarching policy that applies to all the Council's services. Specific service areas may have additional and more tailored policies or procedures for enforcement and these should be read in conjunction with the CEP. It is intended that a list of the current policies will be uploaded to the Council website and a link contained within the CEP. This webpage will be reviewed annually<br>Any new policies, or reviews to the existing |

| PERFORM Code                              | Recommendation  | Desired Outcome   | Target Date | Lead Officer                              | Resources   | Service Response   |
|---|---|---|-------------|---|-------------|--|
|   |   |   |             |   |             | <p>polices will be brought to the relevant Scrutiny Committee.</p> <p>The revised Anti-Social Behaviour Policy is one such policy and is scheduled for scrutiny review in September 2018.</p>  |
| <p>HSCGC17/18 1.3</p> <p>Ref. pp32-33</p> | That greater use of environmental enforcement powers is implemented by both Bolsover CAN Rangers and the wider team of Environmental Health Officers, to ensure full use of the Authority's enforcement capacity. | To ensure effective use of training and staffing resources, to deliver environmental improvements | March 2019. | Joint Head of Housing & Community Safety. | Staff time. | <p>Agreed. A review of legislative powers has been completed, resulting in additional provisions to be utilised by the Environmental Enforcement Team. However, appropriate powers are being utilised by the wider teams.</p> <p>The delegated powers of officers are kept under constant review (2-3 times per year) and updated on a regular basis, especially in response to changes in law, case law and changes to the structure. This will continue.</p> |

| <b>PERFORM Code</b>                | <b>Recommendation</b>  | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>                                     | <b>Resources</b>                                   | <b>Service Response</b>   |
|------------------------------------|--|---|--------------------|---|--|---|
| HSCGC17/18 1.4<br><br>Ref. pp24-25 | That Executive/Strategic Alliance Management Team consider the current staffing resource and training within the legal team to ensure existing expertise is maintained, thereby enabling the Authority to have sufficient capacity to move forward with its approach to enforcement. | Sufficient legal staffing resource in place to deliver required enforcement activity. | January 2019       | Joint Head of Corporate Governance & Monitoring Officer | Existing staffing budget, with review if required. | Legal – Legal currently has a temporary lawyer in post, who has considerable expertise as a former Crown Prosecution Service lawyer which they are passing on. They are also an experienced trainer, which we are making use of. Legal (and Environmental Health) wish to keep and exploit this expertise. It is also the situation that the number of cases the Contentious Team is dealing with has increased substantially and the additional resource is needed. To make this happen, a report has to be agreed with the Head of Paid Service and sent to Executive to authorise the additional spending. A recruitment exercise may be needed. |

| PERFORM Code                       | Recommendation   | Desired Outcome   | Target Date | Lead Officer                          | Resources   | Service Response   |
|------------------------------------|--|---|-------------|---------------------------------------|-------------|--|
|                                    |  |   |             |                                       |             | EH – We strongly support this recommendation and already feel the benefits of training that staff have been given recently. Due to current resourcing we can now progress cases quickly.   |
| HSCGC17/18 1.5<br><br>Ref. pp24-25 | That a full assessment is carried out to establish if there is sufficient evidence to establish a Bolsover District-wide Public Space Protection Order (PSPO) for dog fouling and dog control. | Effective dog control enforcement in place District-wide. | June 2019.  | Team Manager (Solicitor) Contentious. | Staff time. | Legal – A small working group will be established by legal and environmental health to collate and review this matter to see if there is sufficient evidence in support of a Public Space Protection Order for dog fouling and dog control. We can only seek to use a Public Space Protection Order where the evidential test is met.<br><br>EH – As a joint service any assessment and subsequent new Order agreed, would need to |

| <b>PERFORM Code</b>               | <b>Recommendation</b>  | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>        | <b>Resources</b>  | <b>Service Response</b>   |
|-----------------------------------|--|---|--------------------|----------------------------|---|---|
|                                   |  |   |                    |                            |   | be replicated across both Districts.  |
| HSCGC17/18 1.6<br><br>Ref. p29-31 | That Indicators SS 03 and SS 04 are kept under review to ensure that performance levels improve over the next 12 months. | Improved delivery against service performance targets for street cleanliness. | June 2019.         | Joint Head of Streetscene. | Existing staffing/service resources. Should the service deem additional resource is required a further report should be brought to Executive. | <p>Streetscene undertake regular performance monitoring of SS03 and SS04 by way of Local Environmental Quality Survey of England (LEQSE) carried out monthly and reported quarterly to ensure pre-determined targets are met and actions put in place to address low performance. This is reported at quarterly Directorate Performance Meetings.</p> <p>Arising from housing growth pressures on operational resource, Streetscene have recently increased frontline Street Cleansing resource levels by 2FTE (approx.) equating to 3,800 (approx.) hours of staff time on the ground in order to maintain</p> |

| <b>PERFORM Code</b>   | <b>Recommendation</b>   | <b>Desired Outcome</b>   | <b>Target Date</b>                   | <b>Lead Officer</b>  | <b>Resources</b>   | <b>Service Response</b>   |
|---|---|--|--------------------------------------|--|--|---|
|   |   |  |                                      |  |  | cleansing performance/standards.  |
| HSCGC17/18 1.7<br><br>Ref. p29-31                             | That the commentary for cleanliness indicators (both Corporate Plan and service level) in PERFORM includes details of areas surveyed and a clear list of areas not achieving Grade B, including planned intervention. | Greater clarity for Members as to areas surveyed, hot spots identified and intervention planned. | October 2018 onwards.                | Joint Head of Streetscene.   | Staff time.  | LEQSE surveys (streets) change annually and represent a proportionate sample of the district. The quarterly inspection\survey file may be provided to illustrate how overall % site cleanliness is assessed; however, Members should be aware that cleanliness ratings A, B, C & D may be affected by environmental (i.e. wind\rain) conditions and timings between cleansing frequency occurrences and inspections taking place. |
| HSCGC17/18 1.8<br><br>Ref. pp29-31; pp40-41; pp44-45; pp46-49 | That a programme of regular publicity is in place on how to contact the Council and log incidents in relation to street cleanliness and fly-tipping,  | Improved local awareness of both how to contact the Authority and increased knowledge of         | Programme in place by December 2018. | Joint Head of Streetscene/ Environmental Health Manager/ Communications, Marketing and Design Manager. | Staff time; printing internal/external literature; distribution costs; website/social media coverage | EH – Existing programme in place will now include ‘How to contact the Council’ and reporting of incidents.<br><br>Streetscene – Streetscene currently   |

| <b>PERFORM Code</b> | <b>Recommendation</b>   | <b>Desired Outcome</b>                              | <b>Target Date</b>               | <b>Lead Officer</b>                           | <b>Resources</b>                                   | <b>Service Response</b>  |
|---------------------|---|---|----------------------------------|---|--|--|
|                     | using a range of communication channels including InTouch and social media. | action taken by the Authority.                      |                                  |   |  | <p>place articles in 'InTouch' and utilise the Council's website and social media streams to relay educational messages to residents. These may also be influenced by national campaigns (i.e. Keep Britain Tidy Group) and/or working with other partners (i.e. Environmental Health/County Council) or attending events (i.e. Bolsover Food Fayre).</p> <p>Comms – Regular updates/information is required for any publicity to be undertaken. This could be included in InTouch, District/Parish Gazettes, website, Twitter and specific marketing campaigns in target areas.</p> |
| HSCGC17/18 1.9      | That a standard process is adopted to ensure maximum publicity of           | Regular and consistent publicity of our enforcement | Process agreed by December 2018. | Solicitor (Corporate Enforcement Group Lead)/ | Staff time; printing internal/external literature; | EH – Process now established.  |



| <b>PERFORM Code</b>                              | <b>Recommendation</b>  | <b>Desired Outcome</b>   | <b>Target Date</b> | <b>Lead Officer</b>                           | <b>Resources</b>                                   | <b>Service Response</b>   |
|--|--|--|--------------------|---|--|---|
| Ref. pp32-33; pp40-41; pp41-44; pp44-45; pp46-49 | environmental enforcement activity taking place across the District. | activity across all service areas covered via the Corporate Enforcement Group. |                    | Communications, Marketing and Design Manager. | distribution costs; website/social media coverage. | <p>Legal – Now that the Environmental Enforcement team is fully staffed, more robust processes are in place with the Communications team to identify the most appropriate methods of publicity for the action that has been taken. Comments from the Portfolio Holder and Legal are incorporated in to the publicity.</p> <p>Enforcing departments (most notably Housing/Community Safety) have different requirements, so a standard procedure isn't necessarily appropriate across all service areas.</p> <p>Comms – Regular updates/information is required for any publicity to be undertaken. This could be included in InTouch, District/Parish</p> |

| PERFORM Code                        | Recommendation  | Desired Outcome  | Target Date  | Lead Officer                  | Resources                                 | Service Response  |
|-------------------------------------|---|--|--|-------------------------------|---|---|
|                                     |   |  |  |                               |   | Gazettes, website, Twitter and specific marketing campaigns in target areas.  |
| HSCGC17/18 1.10<br><br>Ref. pp32-33 | That the regular use of CCTV (mobile where available) is continued and measures are taken to ensure staff absence does not impact the ongoing use of the equipment, which is vital for enforcement. | Maximum use of all resources available to ensure effective enforcement levels, regardless of staffing resource.<br><br>A clear monitoring report which evidences usage of camera equipment to demonstrate both value for money and if required the need for additional resource. | Continued regular use from July 2018 onwards.<br><br>Monitoring report of usage by September 2019. | Environmental Health Manager. | Staff time;<br>Existing camera resources. | EH – Agreed. We acknowledge that use of the system has been impacted by staff absence previously. Use of CCTV is a proactive enforcement measure which is overseen by the Information Commissioner to protect human rights and ensure data protection. Only specific EH staff have been trained in privacy impact assessments and are experienced in the deployment of CCTV in order to minimise risks to the Council.<br><br>Housing & Community Safety Service are also in the process of procuring Body Worn Video. There will be 10 cameras available for |

| PERFORM Code  | Recommendation   | Desired Outcome   | Target Date | Lead Officer  | Resources  | Service Response  |
|---|--|---|-------------|---|--|---|
|   |  |   |             |   |  | <p>use across EH teams when out on patch. A number are also being purchased for Officers in Housing and Community Safety. A Privacy Impact Assessment is complete and roll-out of the equipment is imminent.</p> <p>Streetscene – Streetscene Team support enforcement arrangements by deployment of mobile CCTV equipment to aid detection of fly-tipping and wider environmental despoilment.</p> |
| <p>HSCGC17/18 1.11</p> <p>Ref. pp34-35; pp44-45</p> | That a formal programme of educational initiatives is maintained as a combined approach by Streetscene and Environmental Enforcement, with greater consideration given | <p>Improved local knowledge and greater awareness of environmental responsibility.</p> <p>Inclusion in Corporate/ Service Plans</p> | April 2019. | Joint Streetscene & Waste Services Manager/ Environmental Health Manager. | Staff time; printing external literature and distribution costs where required; website/social media coverage. | EH – This is ongoing as part of mainstream delivery. The development of this proactive measure will be considered at the Environmental Enforcement Cleansing and Education group and via engagement with the Youth Council. Specific  |

| <b>PERFORM Code</b> | <b>Recommendation</b>  | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b> | <b>Resources</b> | <b>Service Response</b>  |
|---------------------|--|---|--------------------|---------------------|------------------|--|
|                     | <p>to coverage across the whole of Bolsover District.</p> <p>The programme should be adapted to be age specific to suit the school/group as required and cover primary/secondary and community events.</p> | <p>beyond March 2019.</p> <p>Programme is enhanced further to cover whole District, with increased number of events/initiatives .</p> |                    |                     |                  | <p>work is underway looking at environmental education in secondary schools to ensure the programme content is appropriate.</p> <p>Streetscene Team have established schools education arrangements with an environmental despoilment and waste recycling focus. This is jointly delivered with Environmental Health and is open to Primary and Secondary schools and is subject to them requesting the programme within their curriculum activity. Streetscene\ Environmental Health attend\participate in community events to deliver these programs (i.e. Bolsover Food Fayre).</p> |

| PERFORM Code                        | Recommendation   | Desired Outcome   | Target Date    | Lead Officer                  | Resources                                    | Service Response  |
|-------------------------------------|--|---|----------------|-------------------------------|--|---|
|                                     |  |   |                |                               |  | Public events are chosen based on the size of the event and potential footfall/audience. Streetscene approach all schools but take up by the schools is voluntary. The response from those who have taken up the programme is very positive, with a number of requests for return visits by staff.  |
| HSCGC17/18 1.12<br><br>Ref. pp35-39 | That additional staff training take place to ensure there is adequate staffing resource with the ability to support access to the DVLA system and create resilience within the team. | Improved service resilience and effective delivery of service whilst operating 'mobile' across the Districts. | December 2019. | Environmental Health Manager. | Existing staff training budgets; staff time. | We appreciate that this was an issue raised during the course of the review. This is in progress. Another user has now been trained to ensure flexibility, with a further additional Officer in the team identified to receive the training.<br><br>The abandoned vehicle process is under review with input from Internal Audit. This should ensure that the correct checks and balances are |

| <b>PERFORM Code</b>                 | <b>Recommendation</b>  | <b>Desired Outcome</b>   | <b>Target Date</b> | <b>Lead Officer</b>                                     | <b>Resources</b>   | <b>Service Response</b>  |
|-------------------------------------|--|--|--------------------|---|--|--|
|                                     |  |  |                    |   |  | in place for access to the DVLA system so as to meet compliance with the DVLA Guidance.                                  |
| HSCGC17/18 1.13<br><br>Ref. pp41-42 | That subsequent to the benchmarking exercise undertaken by Members (Appendix 3), further analysis is completed by the Head of Housing and Community Safety in to staffing levels of the Environmental Enforcement Team to assess if resources adequately meet service demand, with a report back to Committee on the findings. | Adequate staffing resource is available to manage the level of service demand.       | September 2019.    | Joint Head of Housing & Community Safety.               | Staff time; any additional staffing resource identified would require a further report to Executive. | It is my intention to carry out a wider review of Environmental Health staffing not restricted to the one team.          |
| HSCGC17/18 1.14<br><br>Ref. pp41-42 | That the 'Report It' system on the website is fully reviewed, with 'user' testing, alongside the wider   | An improved, simple, user-friendly online system to aide prompt reporting of service | December 2018.     | Environmental Health Manager/ Customer Service Manager. | Staff time; Customer/ Member input for testing of system.  | EH – This is in progress.<br><br>Comms – The corporate website is due to be completely revamped during the latter stages |

| <b>PERFORM Code</b>                        | <b>Recommendation</b>   | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>  | <b>Resources</b>   | <b>Service Response</b>  |
|--|---|---|--------------------|--|--|--|
|  | recommendation to improve publicity on communication channels and how to report incidents.  | requests/ incidents to the Authority.   |                    |  |  | <p>of 2018 to make it more user and mobile friendly.</p> <p>Customer Services – Passed to Team Innovate to review script and set up a user testing meeting with an Elected Member, Customer Service Manager, Team Innovate, Customer Information System (CIS) developer and Environmental Enforcement Team Leader.</p> |
| <p>HSCGC17/18 1.15</p> <p>Ref. pp37-39</p> | That all Environmental Enforcement Technical Officers (EETOs) have access to mobile technology to ensure they can work off site/make calls etc. while travelling around both Districts. | Better communications provision for mobile staff, with particular emphasis on hands-free equipment. | March 2019.        | Joint Head of Housing & Community Safety/<br>Environmental Health Manager. | IT/service budgets for equipment i.e. mobile phones/iPads/ mobile equipment. | Complete. While we are aware of issues raised during the course of the review, all EETOs and Dog Wardens have mobile smart phones and laptops to enable new work to be allocated whilst out on the District.   |

| <b>PERFORM Code</b>                 | <b>Recommendation</b>   | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>  | <b>Resources</b>  | <b>Service Response</b>   |
|-------------------------------------|---|---|--------------------|--|---|---|
| HSCGC17/18 1.16<br><br>Ref. pp37-39 | That as per the staffing provision prior to merger via the Strategic Alliance, each District should have a designated Dog Warden and Environmental Enforcement Technical Officer (EETO), to reduce time spent travelling across both Districts. These designated staff should rotate on a bi-monthly basis to maintain local knowledge of both Districts. | Greater consistency in staff cover within the District.<br><br>Improved resilience in Team when covering both Districts due to rotation of staff. | November 2018.     | Joint Head of Housing & Community Safety/<br>Environmental Health Manager. | Staff time.   | HoS – As per 1.13 a wider review of staff is planned.<br><br>EH – This is already in place. The design of the joint service means that staff operate across designated patch areas already. Patches are designed based on service demand and ensuring maximum efficiency. A bi-monthly rotation would not be practical. Technical Support also assign work based on officer presence in the area at the time. There is also cover for staff leave. The current approach used leads to flexibility and resilience in the team. |
| HSCGC17/18 1.17<br><br>Ref. pp46-49 | That a combination of regular Member Briefings (District and Parish) and additional detail  | Improved understanding of Council activity, current trends and how  | September 2018.    | Environmental Health Manager.  | Staff time; potential contribution from Communications Team and | EH – Our intention is to work with the Communications team to develop further detailed quarterly updates. We  |



| <b>PERFORM Code</b>                 | <b>Recommendation</b>   | <b>Desired Outcome</b>  | <b>Target Date</b> | <b>Lead Officer</b>           | <b>Resources</b>                       | <b>Service Response</b>   |
|-------------------------------------|---|---|--------------------|-------------------------------|--|---|
|                                     | within quarterly performance reports is provided, outlining the level of enforcement taking place.                    | Members can engage with officers where issues arise within their Wards. A programme of briefings in place either weekly or monthly to clarify activity taking place/ enforcement in progress. |                    |                               | option of Member Development Sessions. | will consider this at Environmental Enforcement, Cleansing and Education Group.<br><br>Comms – We are producing more publications now and detail such as this can be included in the District/Parish Gazettes, InTouch and website. |
| HSCGC17/18 1.18<br><br>Ref. pp46-49 | That the trial Members' Surgery meetings be evaluated for usage/effectiveness and made permanent if demand is proven. | Improved/ additional options for Member/Officer dialogue to identify Ward issues and 'hot spots'.   | September 2018.    | Environmental Health Manager. | Staff time.                            | Agreed, this can be delivered with a report back on the outcome.  |

### 3. Scope of the review

The Healthy, Safe, Clean and Green Communities Scrutiny Committee agreed to undertake a Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.

The aims of the review were:

- To ensure that the Council's Enforcement Policy is being used to deal with and deter fly tipping, littering and dog fouling in the District of Bolsover and to address the perceptions of Councillors and the public.
- To address the concerns and perceptions of Elected Members and consider the Council's existing approaches. To identify any further actions that should be taken in order to punish those responsible, reduce the number of incidents and keep the environment clean having regard to best practice, statutory guidance and policy.

Objectives:

- To understand the actual levels of litter, fly tipping and dog fouling and the difference in perceptions and why.
- If there is a difference between actual levels and members' perceptions, to find a way to bridge the gap.
- To understand current approaches and actions by Environmental Health, StreetScene and Community Safety (CAN Rangers).
- To understand the range of enforcement actions available.
- To understand the enforcement legal tests, e.g. evidential test and public interest test.
- To understand the Council's Enforcement Policy and legal interpretation.
- To understand current practices and how closely the policy is adhered to.
- To consider the current constraints on the authority regarding enforcement and taking enforcement action
- To understand competency levels required for enforcement officers.
- To understand the current level of staff with delegated authority to undertake enforcement and its effectiveness in undertaking such.
- To understand the required staffing levels and any human resource implications.

The key issues considered were:

- Untidy land, gardens and buildings (including private owned);
- Litter;
- Fly tipping;
- Dog fouling;
- Customer expectations;
- Councillor's expectations;

- Options for working with other councils nearby to increase enforcement activities.

## **Review Membership**

Councillor S. Peake (Chair)  
Councillor P. Cooper  
Councillor C. Moesby  
Councillor T. Cannon  
Councillor D. Bullock

Councillor H. Gilmour (Vice Chair)  
Councillor T. Munro  
Councillor K. Walker  
Councillor J. Bennett  
Councillor D. Watson

Support to the Committee was provided by the Scrutiny & Elections Officer and the Governance Officer.

## **4. Method of Review**

The Committee met on ten occasions to consider the scope of the review, key issues they wanted to discuss and to carry out interviews and evidence gathering.

The Committee used a range of methods to gather evidence:

- verbal evidence and questioning with key Officers;
- document analysis to understand the legislative and policy context;
- questionnaires to elected Members of Bolsover District as well as Derbyshire County Council and Parish Councils in the District;
- benchmarking exercise to establish best practice in Local Authorities;
- site visits;
- Bolsover District Council's performance management information within PERFORM.

## **Equality and Diversity**

Within the process of the review, the Committee has taken into account the impact of equalities. Where enforcement action is taken against individuals who are vulnerable the Council's policies for Safeguarding Adults and Vulnerable Adults Risk Management (VARM) will apply. Where action is taken against an individual with specific communication needs (for example, large print or British Sign Language) the Council's Policy for Equality & Diversity in Service Delivery may apply.

## **5. Legislative and Policy Context**

### **5.1 BDC Environmental Enforcement Policy <sup>1</sup>**

This document outlines the Enforcement Policy for the Joint Environmental Health Service for Bolsover District Council (BDC) and North East Derbyshire District Council (NEDDC). It falls under the scope of the Council's Corporate Enforcement Policy which is an overarching document setting out the general approach to the Councils enforcement duties across a range of services.

This Policy covers all of the regulatory areas of the Joint Environmental Health Service including food safety, health and safety, environmental protection, housing and pollution, licensing and environmental enforcement.

The Policy also covers the activities of other authorised Officers of the Council who are involved in the regulatory duties of environmental health and/or assist with legal compliance e.g. the issue of Fixed Penalty Notices. The Policy addresses measures to ensure compliance and measures to deal with non-compliance.

The Policy supports the Councils Corporate Plan 2015-19, in particular the aim of supporting our communities to be healthier, safer, cleaner and greener.

### **5.2 BDC Corporate Enforcement Policy**

During the course of the review, Members learned that the overarching Corporate Enforcement Policy (CEP) was currently being revised and work was in its early stages. The aim was to ensure that the revised Policy was a robust Policy which takes a proactive stance with regards to enforcement, but that is not overzealous and is proportionate. Officers within the legal team have done some research, drawing on their own experience with other Authorities and feel that an umbrella document is the most appropriate option. Members were informed that when complete the document would set out the regulatory code, statutory requirements, create a general introduction and look at prioritisation of matters as well as a set of core principles to adopt.

Whilst, ideally, Officers would like to work with both Authorities to have a mirror policy, it is understandable that the political desire of both Councils may differ and that would need to be reflected in the document.

A working group has been set up to complete the Policy review consisting of Managers and Enforcement Officers from various departments across both Authorities including

- Planning
- Environmental Health
- Housing
- Empty Homes Officer
- Anti-Social Behaviour/Community Safety
- Revenues

It is anticipated that subsequent to the overarching Policy, each individual department which takes enforcement action would then need their own individual Policy that would follow and complement the principles and practices of the Corporate Policy and that those documents should be read in conjunction with the Corporate Policy.

These departmental policies would give specifics about how enforcement would be dealt with at a practical level by Officers on a day to day basis, supported by a procedure.

The Council also has a Corporate Enforcement Officer Group which meets on a six-weekly basis with representatives from Legal, Environmental Health, Planning, Housing and Anti-Social Behaviour/Community Safety. The group discusses specific cases that require all of the different departments to work together to try and resolve problems. The Group submit a written update to Joint Strategic Alliance Management Team (SAMT)/Cabinet each quarter. A group meeting can be called to consider urgent items at any time, including works in default decisions.

It was noted that recently, additional staff have been recruited to the legal team who have all come from other Authorities with different experiences in enforcement. Members were informed that they hoped that further to the wider review of our policies, SAMT and Executive would approve a District-wide Public Space Protection Order (PSPO) for dog fouling and dog control (i.e. dogs on leads).

Officers advised that to be able to put a PSPO in place a legislative test would need to be passed to say these things were occurring in public places in the District and were having a detrimental effect on the health of those in the locality. A consultation exercise would be needed and then formal approval. The Legal team were in the process of looking at how other Authorities had worded these.

Members were reassured to hear that a review was taking place which would lead to a more coherent approach to implementation of enforcement across the Authority.

### **Recommendations:**

**That the emerging Corporate Enforcement Policy is presented to Committee as part of the 2018/19 Work Programme, for approval and referral to Strategic Alliance Joint Committee (if required) and Executive for full adoption.**

**That all subsequent departmental enforcement policies, as and when reviewed, are brought to the relevant Scrutiny Committee.**

**That Executive/Strategic Alliance Management Team consider the current staffing resource and training within the legal team to ensure existing expertise is maintained, thereby enabling the Authority to have sufficient capacity to move forward with its approach to enforcement.**

**That a full assessment is carried out to establish if there is sufficient evidence to establish a Bolsover District-wide Public Space Protection Order (PSPO) for dog fouling and dog control.**

## 5.3 Assessment of street cleanliness <sup>2</sup>

The Environmental Protection Act 1990 imposes duties under section 89(1) and (2) on certain landowners and occupiers (referred to throughout as 'duty bodies' and described in detail at section 3.2) to keep specified land clear of litter and refuse, and on local authorities and the Secretary of State to keep clean public highways for which they are responsible.

Previously, the charity Keep Britain Tidy carried out a survey of environmental cleanliness across England. This Local Environmental Quality Survey of England (LEQSE), assigns a score to the local environmental quality of an area. The 2013/14 LEQSE survey assessed 7,200 sites in 45 English council areas between April 2013 and March 2014. It looked at seven indicators of cleanliness: litter, detritus, weed growth, staining, graffiti, fly-posting and recent leaf and blossom fall. The 2013/14 survey included a regional breakdown of results, which showed that there was only marginal variation between the regions.

### Code of Practice on Litter and Refuse<sup>3</sup>

Local Authorities continue to measure cleanliness according to this approach as outlined in the Code of Practice on Litter and Refuse. *Litter* is most commonly assumed to include materials, often associated with smoking, eating and drinking, that are *improperly* discarded and left by members of the public; or are spilt during business operations as well as waste management operations. The standards in the Code of Practice on Litter and Refuse do not apply to trodden-in chewing gum. Duty bodies are not required to employ special cleansing methods to remove compacted gum or gum staining over and above normal cleansing regimes. Detritus includes dust, mud, soil, grit, gravel, stones, rotted leaf and vegetable residues, and fragments of twigs, glass, plastic and other finely divided materials.

This particular measure (previously NI 195 under the national performance framework) is broken down into four elements for local measurement. Following the cessation of the national performance framework, Bolsover adopted a variation to the original indicator as follows:

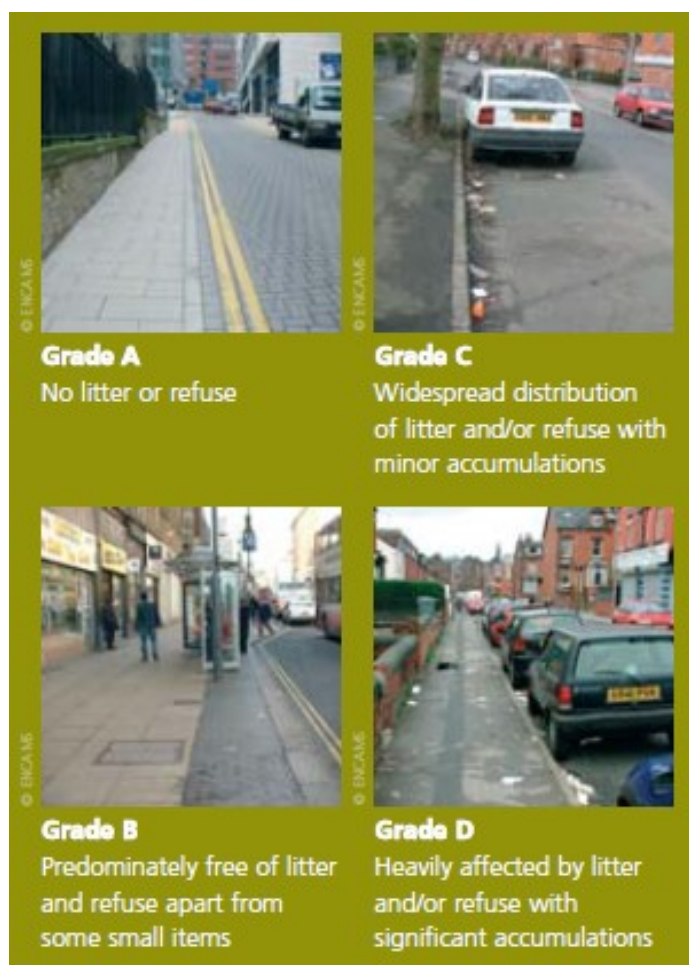
- Litter
- Detritus
- Weeds (previously NI 195c Graffiti in the original indicator)
- Dog Fouling (previously NI 195d Fly-posting in the original indicator)

A total of 900 Transects have been identified across the district and these are split into four quarter periods of 225 transects with 25 transects from each of the 10 land use/categories:

- |                               |                            |
|-------------------------------|----------------------------|
| 1. Main Retail                | 6. Low Obstruction Housing |
| 2. Other Retail               | 7. Industrial              |
| 3. Transport Facilities       | 8. Main Roads              |
| 4. High Obstruction Housing   | 9. Other Highways          |
| 5. Medium Obstruction Housing | 10. Recreation Sites       |

Each quarterly survey period is based on a selection of five 'target' Wards that, as far as reasonably possible, are representative on the range of land-uses, where they exist. The Index of Multiple Deprivation is used to determine a representative split across the District.

Sites are graded B+ (if standards fall between A & B), Grade B (if falling between B & C), Grade C (if falling between C & D) and D where conditions are very poor. The Council's target is to ensure that 96% of sites are at Grade B or above for Litter and 98% of sites are at Grade B or above for Dog Fouling. Grade B is classed as predominantly free except for some small items:





## 5.4 Fixed Penalty Notices (FPNs): issuing and enforcement <sup>4</sup>

The following table defines a range of offences and which type of Authority can enforce against such offences via FPNs:

| Authority  | Offence   |
|--|---|
| District council, London Borough council, Council of the City of London, Unitary authority | Littering, fly-tipping, graffiti, fly-posting, dog control offences, alarm noise (no nominated key holder), Noise Act offences, nuisance parking, unauthorised distribution of free literature on designated land, abandoning a vehicle, waste receptacle offences, failure to produce a waste transfer note or waste carrier's licence |
| County council   | Unauthorised distribution of free literature on designated land<br><br>Only if designated: littering, graffiti, fly-posting   |
| Parish council   | Littering, graffiti, fly-posting, dog control offences (under its own Dog Control Orders)   |
| Police Community Support Officers (on behalf of district council or unitary authority)     | Littering, dog control offences<br><br>Only if authorised: graffiti, fly-posting  |
| Environment Agency   | Failure to produce a waste transfer note or waste carrier's licence   |

## 5.5 Community Protection Notice (Anti-Social Behaviour, Crime and Policing Act 2014)

A Community Protection Notice (CPN) is aimed at preventing unreasonable behaviour that is having a negative impact on the local community's quality of life. Any person aged 16 years or over can be issued with a notice, whether it is an individual or a business, and it will require the behaviour to stop and, if necessary, reasonable steps to be taken to ensure it is not repeated in the future. These are now available to our Enforcement Officers and are also being used by the CAN Rangers.

CPNs replace current measures including litter clearing, defacement removal and street litter control notices. Below are examples of when a CPN may be issued:

- when a dog is constantly escaping through a broken fence the owner could be issued a CPN requiring that the fence be fixed to avoid further escapes;
- a notice could be issued to a local shop/supermarket who are allowing litter to be deposited outside the property; or
- to prevent anti-social behaviour such as regularly playing loud music in a public area.



Police Officers, local authorities and Police Community Support Officer (PCSOs) can issue CPNs, but before doing so they must consider two things; whether the conduct is having a detrimental effect on the community's quality of life and also, whether said conduct is considered unreasonable. The individual must be given a written warning beforehand stating that if the behaviour does not cease, the notice will be issued.

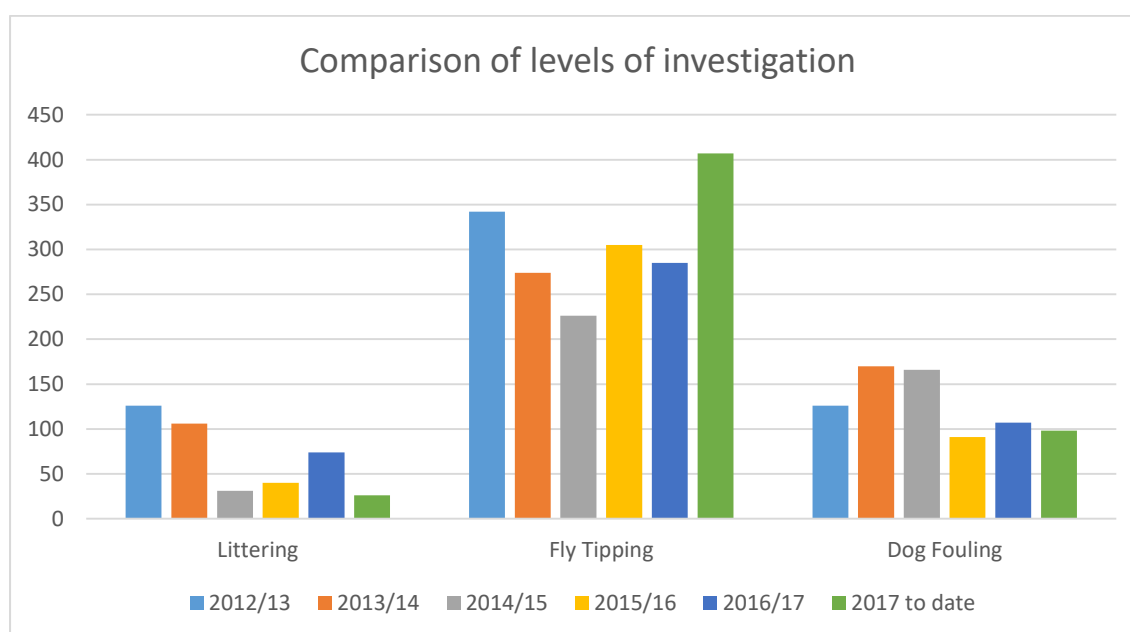
The notice can be appealed in the Magistrates' Court within 21 days. Failure to comply is an offence and may result in a fine or a fixed penalty notice. To apply for a CPN or to enquire further, you need to contact the local policing team. You can do this via the non-emergency 101 number or alternatively by visiting your local force's website.

## 6. Analysis of evidence and key findings

The Joint Environmental Health Service undertakes a diverse range of statutory duties and supports the wider public health agenda working in partnership with other stakeholders and agencies, to achieve effective and efficient outcomes for all. On a daily basis it investigates service requests and complaints from businesses and the general public and undertakes proactive interventions in business premises ensuring compliance with the law by way of a risk based approach. It also provides general advice and support on a whole range of health and environment matters, ranging from energy efficiency advice, to responsible dog ownership.

### 6.1 Current service demands and performance levels

During the course of the review, Members were presented with a range of data from Environmental Health Officers to ascertain the scale of service demands and our ability to enforce, when required. The following chart outlines the number of investigations by environmental health over the last six years:



This trend data shows that investigations for littering and dog fouling are on a downward trend, while fly-tipping is increasing.

Streetscene also receive reports directly which are not included in this graph – these would be situations where there are no witnesses to an incident or where there is no other evidence. These are scheduled for clearance and environmental health are not involved.

### **Service requests received and responded to by Environmental Health during 2016/17 and 2017/18**

In 2016/17, the team dealt with a total of 2,531 service requests across the two Districts. 1,082 incidents of fly tipping were reported to the Council and 1,078 enforcement actions were undertaken by Environmental Health, including visits, letters and warning notices.

In comparison, in 2017/18, the team dealt with a total of 2,290 service requests across the two Districts. 1,152 incidents of fly tipping dealt with by the Council and 1091 enforcement actions were undertaken, including visits, letters and warning notices. While a number of service types had seen fewer requests, demand remained high, and notably higher in Bolsover than North East Derbyshire. The table also shows that Abandoned Vehicles form a large demand of service resources alongside Domestic and Miscellaneous Accumulation (Fly-tipping), when compared against figures for Dog mess and Litter.

| <b>Type of service request</b> | <b>2016/17</b> |             |              |  | <b>2017/18</b> |             |              | <b>Trend</b> |
|--------------------------------|----------------|-------------|--------------|--|----------------|-------------|--------------|--------------|
|                                | <b>NEDDC</b>   | <b>BDC</b>  | <b>Total</b> |  | <b>NEDDC</b>   | <b>BDC</b>  | <b>Total</b> |              |
| Abandoned Vehicle              | 224            | 255         | 479          |  | 229            | 216         | 445          | ↓            |
| Accumulation - Commercial      | 21             | 22          | 43           |  | 22             | 22          | 44           | ↑            |
| Accumulation - Domestic        | 104            | 292         | 396          |  | 108            | 388         | 496          | ↑            |
| Accumulation - Litter          | 11             | 75          | 86           |  | 10             | 22          | 32           | ↓            |
| Accumulation - Miscellaneous   | 206            | 274         | 480          |  | 165            | 287         | 452          | ↓            |
| Dog - micro chipping           | 30             | 20          | 50           |  | N/A            | N/A         | N/A          | –            |
| Dog - general                  | 9              | 18          | 27           |  | 15             | 24          | 39           | ↑            |
| Dog - lost                     | 69             | 102         | 171          |  | 78             | 93          | 171          | –            |
| Dog - mess                     | 79             | 102         | 181          |  | 52             | 56          | 108          | ↓            |
| Dog - Secured                  | 106            | 186         | 292          |  | 103            | 151         | 254          | ↓            |
| Dog - signage                  | 134            | 61          | 195          |  | 60             | 60          | 120          | ↓            |
| Dog - straying                 | 52             | 79          | 131          |  | 51             | 78          | 129          | ↓            |
| <b>TOTALS</b>                  | <b>1045</b>    | <b>1486</b> | <b>2531</b>  |  | <b>893</b>     | <b>1397</b> | <b>2290</b>  | ↓            |

As a comparison, on average, 9000 service requests are received across Environmental Health. Requests come in from the public, other staff and colleagues, Elected Members, Parish and Town Councils, and other agencies and organisations.

When assessing trends in performance, Members examined data held in PERFORM, the Council's performance management software:

**% of land achieving the required standard of cleanliness (Grade B or above)**

|                                | <b>2015/16<br/>Outturn</b> | <b>2015/16<br/>Target</b> | <b>2016/17<br/>Outturn</b> | <b>2016/17<br/>Target</b> | <b>2017/18<br/>Outturn</b> | <b>2017/18<br/>Target</b> |
|--------------------------------|----------------------------|---------------------------|----------------------------|---------------------------|----------------------------|---------------------------|
| <b>Dog fouling<sup>1</sup></b> | 99.5%                      | 98%                       | 99%                        | 98%                       | 99.75%                     | 98%                       |
| <b>Litter<sup>2</sup></b>      | 96.1%                      | 96%                       | 96%                        | 96%                       | 98.7%                      | 98%                       |
| <b>Detritus<sup>3</sup></b>    | 17.0%                      | 12.0%                     | 19%                        | 12%                       | 18.0%                      | 12.0%                     |
| <b>Weeds<sup>4</sup></b>       | 16.0%                      | 14.0%                     | 13.0%                      | 14.0%                     | 19%                        | 14.0%                     |

The poor performance in relation to Detritus was as a result of severe inclement weather during the winter months with heavy snow throughout Q4, three years in a row. There were resource issues acknowledged during 2017/18 however, which also impacted performance, and as such it is recommended to keep performance against Indicator SS 03 under review to ensure that performance levels improve over the next 12 months.

In relation to level of 'Weeds', in 2015/16 a prolonged growing season and mild winter have led to continued growth throughout the period. In 2017/18 variable weather conditions (wind/rain/snow) prevented application of herbicides during the whole of Q4; further to which, Quad Bike treatments re-commenced as soon as the weather permitted. This highlights where the Council is, in some cases, very much at the mercy of weather conditions rather than resources, when maintaining street standards.

In contrast, performance in relation to Litter and Dog Fouling shows that the number of sites falling below acceptable standards is not as high as Member's perceive (see Section 6.6). While Members accept that complaints are received from residents, it is possible that not all incidents are reported and as such it may be appropriate to reinforce the communication methods for residents and Members to log an incident to ensure an accurate picture is recorded in relation to street cleanliness.

**Recommendations:**

**That Indicators SS 03 and SS 04 are kept under review to ensure that performance levels improve over the next 12 months.**

**That the commentary for cleanliness indicators (both Corporate Plan and service level) in PERFORM includes details of areas surveyed and a clear list of areas not achieving Grade B including planned intervention.**

**That a programme of regular publicity is in place on how to contact the council and log incidents in relation to street cleanliness and fly-tipping, using a range of communication channels including InTouch and social media.**

<sup>1</sup> % achieving Grade B or above (Corporate Plan Target H 11)

<sup>2</sup> % achieving Grade B or above (Corporate Plan Target H 10)

<sup>3</sup> % not achieving Grade B (Indicator SS 03)

<sup>4</sup> % not achieving Grade B (Indicator SS 04)

## 6.2 Current enforcement levels

As part of the evidence presented to Committee, Members assessed levels of enforcement and how this compared between the two Districts, to understand if there was any disparity in both resourcing and volume of actions.

### FPNs (Financial Year 2016/17)

65 FPNs were issued in total (45 issued in BDC, 20 issued in NEDDC). When looking at three of the main issues addressed by the review, the figures are as follows:

| Offence       | BDC       | NEDDC     | Total     |
|---------------|-----------|-----------|-----------|
| Litter        | 40        | 15        | 55        |
| Dog Fouling   | 2         | 3         | 5         |
| Fly Tipping   | 3         | 2         | 5         |
| <b>Totals</b> | <b>45</b> | <b>20</b> | <b>65</b> |

Most of the litter offences last year were captured on CCTV, however at the time this information was presented the equipment was not in use due to staffing absences. When in use, known 'hot spot' areas were covered to ensure quick results could be realised due to the location e.g. Tallys End at Barlborough.

The data shows a significant difference in relation to Litter Enforcement between the Districts with Bolsover seeing a significantly higher rate of enforcement. This data shows that actual delivery by the service is in contrast to Member's perceptions in relation to levels of enforcement. It also indicates that the issue is not as prevalent as Member's perceive (see section 6.6).

When examining data on Fly-tipping, regional comparison data taken from LG Inform shows that Bolsover has above average enforcement action for the region. The following table shows how this is broken down by type. As the use of CPN's is further embedded it will be pertinent for Officers to compare usage of this measure over existing measures and whether the full range of enforcement actions is being used.

**Total number of fly-tipping enforcement actions (breakdown by fly-tipping Actions) (actions) (2016/17) for Bolsover & All local authority districts in East Midlands**

| Metric breakdown  | Metric type                                 | 2016/17             |   |
|---|---|---------------------|---|
|   |   | Bolsover            | Mean for All local authority districts in East Midlands |
|   |   | Enforcement actions |   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping investigation actions           | 708                 | 358   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Duty of care fly-tipping inspection actions | 314                 | 45  |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping warning letter actions          | 52                  | 30  |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping fixed penalty notice actions    | 3                   | 8   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping statutory notice actions        | 1                   | 3   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping prosecution actions             | 0                   | 1   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Formal fly-tipping caution actions          | 0                   | 0   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping injunction actions              | 0                   | 0   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping stop and search actions         | 0                   | 0   |
| Fly-tipping enforcement actions and cost by Fly-tipping Actions (count) | Fly-tipping vehicles seized                 | 0                   | 0   |

Source:

Metric ID: 6663, Name: Total number of fly-tipping enforcement actions, <http://id.ead.org.uk/metricType/6663>

Meeting the evidential and public interest tests required for prosecution is a key factor in taking any enforcement action. A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

### **Recommendations:**

**That greater use of environmental enforcement powers is implemented by both Bolsover CAN Rangers and the wider team of Environmental Health Officers, to ensure full use of the Authority's enforcement capacity.**

**That a standard process is adopted to ensure maximum publicity of enforcement activity taking place across the District.**

**That the regular use of CCTV (mobile where available) is continued and measures are taken to ensure staff absence does not impact the ongoing use of the equipment, which is vital for enforcement.**

### **Untidy land, gardens and buildings (including private owned)**

Members were informed that the Council is taking enforcement action to address serious problems, having recently achieved two successful prosecutions of persistent offenders. Training for frontline staff on the evidential standards required for effective prosecution in line with the Crown Prosecution Service's guidance is scheduled for February 2018. This enables a clear understanding of the key tests set out in the Crown Prosecutor's Code<sup>5</sup>, that evidence must be admissible, reliable and credible leading to realistic prospect of conviction, as well as the public interest test.

### **Options for working with other councils nearby to increase enforcement activities**

During the course of the review, Members heard that the Legal team works with neighbouring Authorities, sharing information about case work, for example, 'rogue landlords' who operate across several areas.

## **6.3 Approaches to Prevention and Educational Initiatives**

As part of a multi-team approach, the Council operates an Environmental Enforcement, Cleansing and Educational Group<sup>6</sup>. The aim of the Group is to effectively coordinate the Council's actions against the incidence of dog fouling, littering and fly tipping by the use of statutory enforcement powers, cleansing, educational initiatives and publicity.

The Group consist of officers from Environmental Health, Streetscene and Community Safety. By meeting together the Group are able to share intelligence from service requests and complaints which assist in the planning of initiatives and enforcement approaches, which focus resources on the areas of greatest need. The Group will continuously review its actions and share learning and experience with the aim of ensuring both Councils within the Alliance offer the highest quality services to our customers.

Members noted that various interventions and engagement tools were used. Officers acted on intelligence received via Contact Centres and online reporting, and emphasised the need for customers to provide sufficient contact information so Officers could follow up enquiries fully. Where information is given anonymously this impedes the efficiency of the service.

Services also welcomed contact from Parish Councils, Community Groups and other organisations that we can work with on local educational initiatives. In particular, Environmental Health are working with the Recycling Team in Streetscene and going into schools to talk about litter problems.

When reviewing Corporate Plan Target H 12, Members found that while the target of 10 initiatives had always been met, not all of the District had been covered by the events:

| Year    | Number of Initiatives Completed |
|---------|---------------------------------|
| 2017/18 | 15                              |
| 2016/17 | 10                              |
| 2015/16 | 11                              |

**Recommendation:**

**That a formal programme of educational initiatives is maintained as a combined approach by Streetscene and Environmental Enforcement, with greater consideration given to coverage across the whole of Bolsover District. The programme should be adapted to be age specific to suit the school/group as required and cover primary/secondary and community events.**

## **6.4 Additional areas of enforcement**

During the review members questioned whether the scope was too narrow and should be widened to consider the wider areas of enforcement covered by the Authority. Preliminary information was sought in relation to food hygiene, water quality, abandoned vehicles and air quality but evidence secured highlighted that there was no need for further action and appropriate practices were in use by Service Managers.

### **Air Quality**

The Council currently has three Air Quality Management Areas (AQMAs) which were declared between 10 and 13 years ago, where the air quality has previously been determined as exceeding the concentration for Annual Mean Air Quality Objective for nitrogen dioxide.

The AQMAs relate to road traffic emissions from the M1 motorway, slip roads and access roads. The motorway runs in a north – south direction through the district at around Junctions 28 and 30. The data shows that, for the year covered by this report, there were no exceedances of this Objective. From the Council's monitoring, there has been no exceedance of the Annual Mean Air Quality Objective for nitrogen dioxide in any of the AQMAs since 2012.

Bolsover's Annual Status Report for air quality can be found on the website and provides further detail:

<http://www.bolsover.gov.uk/images/LIVE/A/Air-Quality-Report-2017.pdf>



## **Food Hygiene**

In relation to our Food Hygiene service, there are currently 719 food businesses in the Bolsover District and 438 of these are due for an inspection/intervention this year<sup>5</sup>. One business has had enforcement action taken against them this year so far. Currently this year, the Council has served 4 Hygiene Improvement Notices on one food business. Overall compliance is good within the Bolsover area, in that 94% of food businesses are currently broadly compliant with food law requirements.

## **Water Pollution**

Water pollution in relation to the pollution of water courses is dealt with by the Environment Agency. Water sampling is dealt with by the respective water undertaker e.g. Severn Trent Water.

The Council only monitors private water supplies such as those which are not on mains water supply i.e. properties supplied by a borehole or well, and these normally supply to an individual property or small group of properties that are not connected to the mains supply for some reason.

## **Abandoned vehicles**

Evidence gathered by Members during the course of the review, found that when attending abandoned vehicles, the Environmental Enforcement Technical Officer (EETO) has to check the vehicle details with the DVLA via computer. There is only one office based member of staff who can do this and if that Officer is not in for any reason, the EETO has to drive back to Mill Lane to look on the computer. This wastes a lot of time. If more back office staff had the authority to check details with the DVLA, the EETO could serve a notice on the vehicle straight away following a phone call.

There is strict guidance and criteria for accessing the DVLA database system. Members were informed that as an Authority, we have put in place our own checks and balances to ensure that the system is only used in accordance with this guidance as we are audited by the DVLA on a regular basis and any improper use could result in our access being terminated.

Officers advised Members that there are currently two officers who can access the desk top link and one of these is mainly office based. Site visits carried out by Members highlighted that this arrangement has caused some service delivery issues.

Data provided to Committee also highlighted that the volume of calls for abandoned vehicles was on the increase. As such, Members feel that it is unsustainable to continue with such a limited staffing resource for this area. Members requested further training to take place to ensure that there is always staff cover, given the recent prolonged staffing issues.

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<sup>5</sup> As at January 2018.



**Recommendation:**

**That additional staff training take place to ensure there is adequate staffing resource with the ability to support access to the DVLA system and create resilience within the team.**

## **6.5 Evidence gathered via Member site visits**

As part of the Review, the Chair and Vice-Chair carried out site visits with the existing Enforcement team. Due to staff vacancies at the time this was more difficult to schedule but the Officers were very amenable to working with Members.

It was noted that when Bolsover District Council had its own Environmental Health service, there were 3 FTEs looking at Enforcement for dog fouling and dog control i.e. strays. They also dealt with the following issues:

- Abandoned car enforcement
- Untidy gardens
- Housing pollution
- Graffiti
- Stray animals (i.e. sheep in road)
- Litter enforcement
- Fly tipping investigations
- Nuisance vehicles
- Vehicle sales
- Calls – wherever these would take them

One of the 3 FTEs carried out all of the roving camera duties. This was very useful in relation to catching offenders regarding litter and fly-tipping.

When the service joined up with NEDDC, the team of 3 became 5 FTEs. This then reduced to 4, when the Environmental Enforcement Technical Officer (EETO) who gathered CCTV data retired. All 4 officers work for both BDC and NEDDC and cover the whole of both Districts. However, they can no longer use the mobile cameras due to lack of staff and this causes delay for fly-tipping prosecutions

It transpired during the review that one of the four remaining Officers was currently absent and would soon be leaving. This resulted in extra pressure on the remaining EETO to cover all of the work of the Officer who was absent.

Two of the 4 FTE are Dog Wardens and two are Environmental Enforcement Technical Officers. All four Officers cover all aspects of the role, but Dog Wardens do the additional work of caring for dogs including taking them to the vets, making sure they are fed and then homed at Duckmanton. It was noted that dogs are never destroyed unless they are dangerous.

On a daily basis all four are called out to different areas across both Districts, for example, a typical day could involve being called out to Shirebrook, then over to Hollingswood, then to Ashover and then back to Shirebrook.

On one site visit attended, 3 abandoned cars were reported, all in Shirebrook. Within 24 hours of a report of an abandoned vehicle, the EETO has to:

- Find the abandoned vehicle;
- Check details with DVLA; and
- Serve a Notice.

The public can report abandoned vehicles anonymously, but it makes it difficult because if the EETO cannot find where the abandoned vehicle is sited and registration numbers are not always given, the EETO cannot ring back for further information.

The EETO has to check the vehicle details with the DVLA via computer; there is only one office based member of staff who can do this and if that Officer is not in for any reason, the EETO has to drive back to Mill Lane to look on the computer. This wastes a lot of time. If more 'back office' staff had the authority to check details with the DVLA, the EETO could serve a notice on the vehicle straight away following a phone call.

A further observation was related to the impact of branding/logos on vehicles and staff uniform and how this was subsequently perceived by the public. Members were concerned that the presence of a branded/logoed vehicle was causing the public to act in a different manner due to the presence of the 'known' vehicle. They felt that the Council's ability to enforce against regular offenders was inhibited, particularly in relation to the Dog Wardens who use branded/logoed vehicles. While all staff wear appropriate uniform and have an identification badge, Members were aware that staff within the Team used a variety of vehicles, including personal transport, but only the Dog Wardens used specific vehicles. Members appreciated that there were positive influences that the vehicles could have on an individual's actions and that the team also actively promoted when they were patrolling in an area, raising the profile of areas that were being monitored. This had all aided in prevention/education. However, Members were concerned that there would still be those that would offend, when the presence of Officers was less obvious, resulting in a missed opportunity for enforcement and subsequent publicity of our 'no-tolerance' approach.

Members sought clarification from Officers on the possibility of removing branding/logos. Advice received from Legal was that overt surveillance allows the Council to monitor and carry out checks into various activities e.g., patrolling areas to ensure compliance with legislation. This type of overt surveillance is normal Council business and is not regulated by RIPA (Regulation of Investigatory Powers Act 2000). Covert surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Directed covert surveillance can be approved in certain circumstance internally by the monitoring office but also by court to approve the use. It would be important to ensure that any removals of logos and branding of vehicles would not amount to covert surveillance

Officers from Environmental Health advised that while options could be considered, the use of Body Worn Video uniforms (due to roll out in 2018) may need to include information that a camera may be operating.

The Communications team advised that while they appreciated the reasoning for removing the logo, this would affect the kudos the Council would receive as people would not know who was responsible for the enforcement.

Having considered all of the advice, the Committee chose not to move forward with a recommendation on the removal of branding/logos on vehicles and staff uniform.

**Recommendations:**

**That additional staff training take place to ensure there is adequate staffing resource with the ability to support access to the DVLA system and create resilience within the team.**

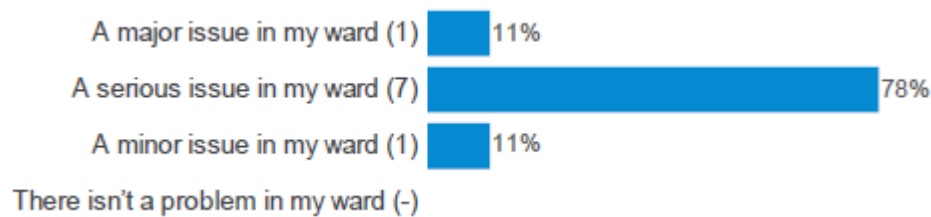
**That all Environmental Enforcement Technical Officers (EETOs) have access to mobile technology to ensure they can work off site/make calls etc. while travelling around both Districts.**

**That as per the staffing provision prior to merger via the Strategic Alliance, each District should have a designated Dog Warden and Environmental Enforcement Technical Officer (EETO), to reduce time spent travelling across both Districts. These designated staff should rotate on a bi-monthly basis to maintain local knowledge of both Districts.**

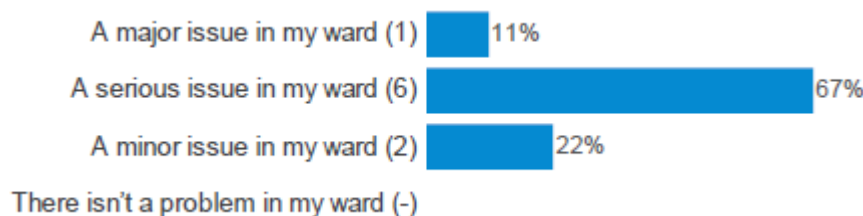
## 6.6 BDC Member Survey on Perceptions of Environmental Enforcement

All 37 of BDC Members were surveyed to establish what their current perceptions were in relation to the levels of litter, fly tipping and dog fouling within their Wards. A total of 10 responses were received, with the results as follows:

### Dog Fouling



### Fly-tipping



### Litter



Some Members reported community litter picks taking place, alongside educational days; others felt that they could not keep up with the levels of litter/fly-tipping regardless of cleansing activity taking place.

Some Members acknowledged that the Authority were doing their best given the resources available, but others questioned if enough enforcement was taking place. Members questioned if enough use was made of covert cameras and whether sufficient powers were available to both Environmental Enforcement Technical Officers and CAN Rangers to take action.

Members felt more publicity around the enforcement that was taking place was required, including the costs associated and how this could be better spent i.e. park/leisure facilities.

### **Recommendations:**

**That a programme of regular publicity is in place on how to contact the council and log incidents in relation to street cleanliness and fly-tipping, using a range of communication channels including InTouch and social media.**

**That a standard process is adopted to ensure maximum publicity of enforcement activity taking place across the District.**

## **6.7 Benchmarking Exercise with Neighbouring Authorities**

### **Member Telephone Survey**

This part of the investigation had two elements to it. The first was a telephone survey via Committee Members. The survey covered the following authorities:

- Chesterfield Borough Council
- Erewash Borough Council
- Mansfield District Council
- Bassetlaw District Council
- Amber Valley District Council
- Derbyshire Dales District Council

Members queried the staffing resource allocated to enforcement, methods of publicising enforcement and methods for customer reporting of incidents/service requests. The full table of results is listed at Appendix 3.

Our initial data gathering indicates a potential disparity in staffing levels (Appendix 3, Table 1). When comparing staffing resource, Bolsover has five staff within the enforcement team, with the levels across the Authorities surveyed ranging from 4 to 10. When considering the fact that the service is shared across two Districts and the six Authorities surveyed are sole Authority teams, five of the six Authorities have a greater staffing resource of designated Enforcement Officers with a remit for littering, dog-fouling and fly-tipping.

It could be argued however, that as Bolsover operates the team of CAN Rangers we have a resource of five within the team (operating across both Districts) plus the team of Rangers giving us a much larger resource of trained officers with designated powers to enforce.

Members were also informed that all 30 Officers in environmental health are authorised to use enforcement powers including the issue of fixed penalty notices, however in practice, these are rarely used by Officers outside the Environmental Enforcement Team. Furthermore, while all CAN Rangers are also authorised to issue FPNs, in practice this is not part of their core duties and as a consequence this could be an under-utilised resource.

As a result of the Member site visits, Members were concerned about the levels of staffing due to absence and the impact that this was having on the Environmental Enforcement Team in particular. The Committee were pleased to note that during the

course of the review the team became fully staffed with an existing member of staff taking on the Team Leader role. Further discussions with the new Team Leader indicate a refreshed approach to education and prevention and the use of all tools/technology available, including CCTV. Members are pleased to see this.

As a result of the Team now being fully staffed, Members no longer feel the need for a formal recommendation to urgently recruit to the vacant posts. They are however, still concerned that due to the geographic area covered by the team, there is potentially insufficient staffing resource for Enforcement. While Members appreciate that the necessary enforcement powers have been designated to a wide number of Officers, in practice it is rare for an Officer outside of the Enforcement Team to use the powers.

In contrast to staffing levels, Tables 2 and 3 shows that in terms of publicity methods and mechanisms for reporting, only Chesterfield uses the same wide range of methods adopted by Bolsover and NEDDC. Members conclude therefore that we are endeavouring to use all mechanisms possible.

While Members appreciated that the range of services covered via online reporting was wide ranging, Members who had used the process recently felt that the online system was not user-friendly. As part of the wider recommendations related to publicity and how we communicate internally and externally, Members felt it was pertinent to review the current online process, including some testing of the system, to ensure it remained fit for purpose.

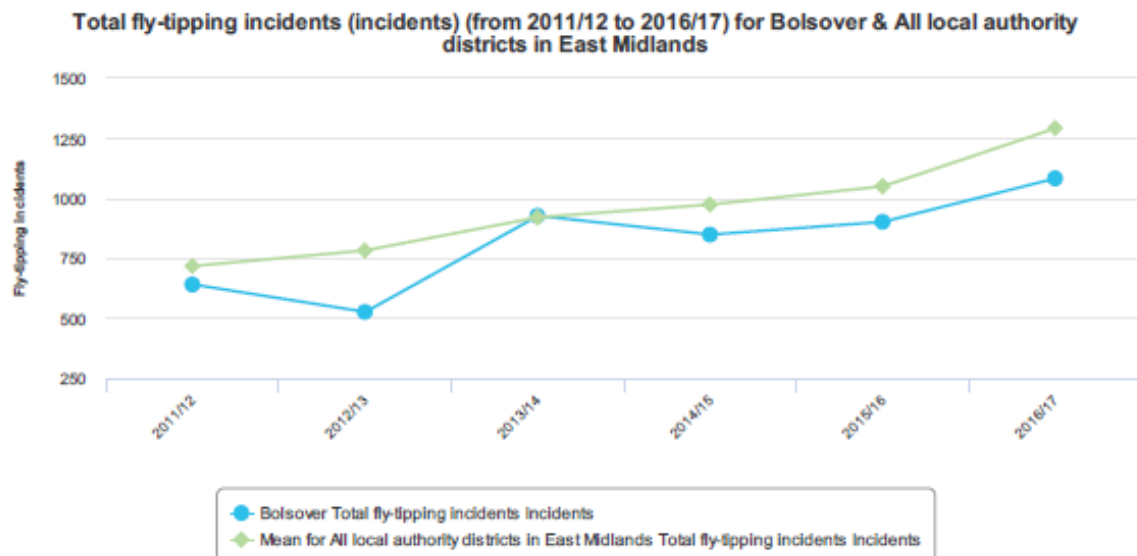
#### **Recommendations:**

**That subsequent to the benchmarking exercise undertaken by Members (Appendix 3), further analysis is completed by the Head of Housing and Community Safety in to staffing levels of the Environmental Enforcement Team to assess if resources adequately meet service demand, with a report back to Committee on the findings.**

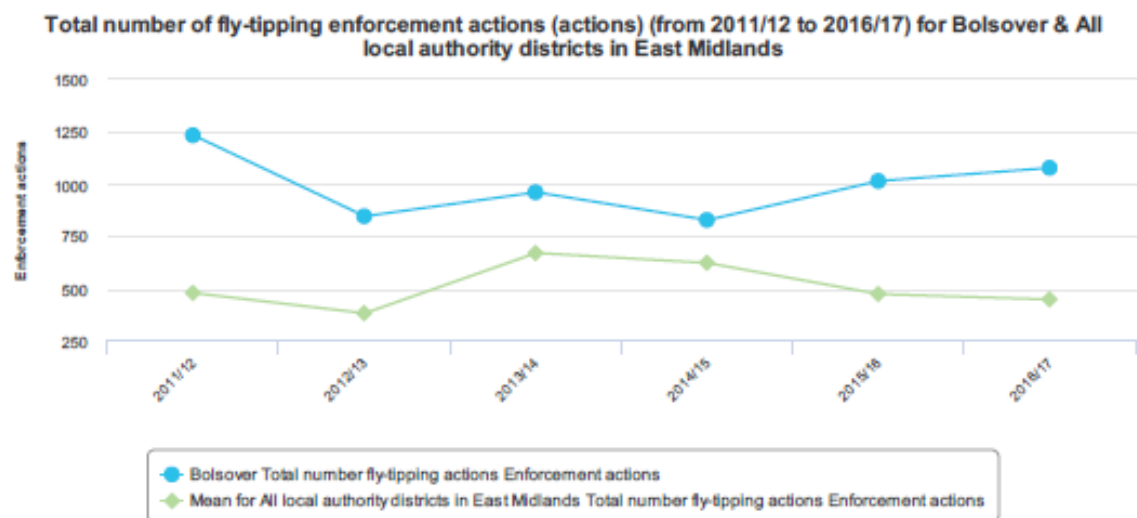
**That the 'Report It' system on the website is fully reviewed, with 'user' testing, alongside the wider recommendation to improve publicity on communication channels and how to report incidents.**

#### **LG Inform Comparison**

The second element was analysis via the data held in LG Inform in relation to Fly-tipping<sup>7</sup>. This data showed that over the last five years, Bolsover compared well against neighbouring East Midlands authorities both for levels of incidents and enforcement but also on cost.

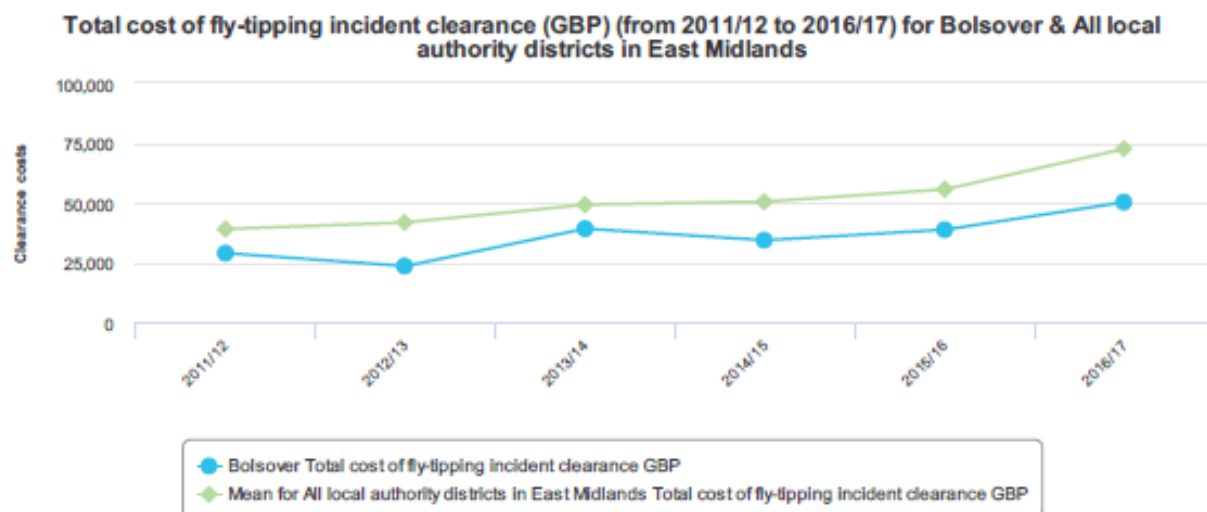


The previous chart clearly shows that the number of incidents in Bolsover is lower than the mean regional average. The data reported indicates that Bolsover's greatest areas of concern are fly-tipping on highways and private/residential land. Particularly in relation to fly-tipping on highways, we are significantly above the regional average for local authority districts.



In contrast to the number of incidents, when considering levels of enforcement this chart shows the District significantly outperforms the regional average level of enforcement action. This suggests the service is good value for money, and operates in contrast to Members perceptions that the levels of enforcement are insufficient. This is further supported when comparing the data from the service which shows higher levels of enforcement activity in Bolsover compared to North East Derbyshire. The type of enforcement actions used predominantly were fly-tipping investigations, duty of care fly-tipping inspections and fly-tipping warning letters, all of which were above

average when compared to local authority districts across the East Midlands. This data shows that contrary to Members' perceptions, enforcement action within the District is greater than in neighbouring areas.



Source:

Metric ID: 6700, Name: Total cost of fly-tipping incident clearance, <http://fd.ead.org.uk/metricType/6700>

Again, the chart shows that the average cost for clearance in the district is consistently below the regional average showing the service aims to maintain a best value approach to delivery.

The type of incidents resulting in higher costs were from small van loads (less than average); transit van loads (less than average) and car boot loads (higher than average). Interestingly, Bolsover reported higher clearance costs for single item clearance, compared to the mean for all local authority districts in the East Midlands.

### Recommendations:

**That a programme of regular publicity is in place on how to contact the council and log incidents in relation to street cleanliness and fly-tipping, using a range of communication channels including InTouch and social media.**

**That a standard process is adopted to ensure maximum publicity of enforcement activity taking place across the District.**

## 6.8 Review of Environmental Despoilment (North-East Derbyshire District Council, April 2016)<sup>8</sup>

As the service is jointly delivered across the Strategic Alliance area, Members felt it pertinent to assess how NEDDC have reviewed this area of service delivery. A scrutiny review during 2015/16 made the following recommendations:

- 1.1 That dog wardens consider participating in the Member walkabouts undertaken in the communities if able to be there.



- 1.2 That the Environmental Team considers, jointly with the Street Scene Service, undertaking more educational activities at schools within the District.
- 1.3 That the Council considers how it can be more proactive in the enforcement of fly tipping and also provide better feedback to all parties involved on the outcomes of incidents.
- 1.4 That the Council considers how it can take a more forceful approach on littering at supermarkets and businesses, including consistent contact with the organisations.
- 1.5 That the Council considers how it can make the publicity of Environmental Despoilment more targeted and consistent, including producing a rolling programme of events, news articles and initiatives.

Recommendations 2, 3 and 5 mirror the sentiments of BDC Members as they have undertaken this review, and show that there is a common desire for greater education/awareness raising and increased publicity around enforcement and the action being undertaken by the Authority.

The NEDDC Committee's core findings were that from the evidence heard, from various stakeholders, on the whole the service was working well and that there were many examples of the efforts being made by staff involved to reduce or prevent environmental despoilment within the District.

They did however identify some areas for improvement, centred on increased publicity and education, improving the liaison between the teams and maximising prosecutions where possible.

Given that this review is two years subsequent to this piece of work, it adds further weight to our recommendations around educational activity and publicity.

### **Recommendations:**

**That a programme of regular publicity is in place on how to contact the council and log incidents in relation to street cleanliness and fly-tipping, using a range of communication channels including InTouch and social media.**

**That a standard process is adopted to ensure maximum publicity of enforcement activity taking place across the District.**

**That a formal programme of educational initiatives is maintained as a combined approach by Streetscene and Environmental Enforcement, with greater consideration given to coverage across the whole of Bolsover District. The programme should be adapted to be age specific to suit the school/group as required and cover primary/secondary and community events.**

## 6.9 Listening Bolsover – Bolsover District Citizen’s Panel Survey November 2017<sup>9</sup>

In November 2017 Bolsover District Council conducted a survey with Bolsover Citizens Panel to identify people’s views on:

- Customer Service Standards
- Streetscene Services

In total 667 questionnaires were sent out on 3rd November 2017 and respondents were given 3 weeks, until Friday 24<sup>th</sup> November 2017, to return their responses. Each survey was accompanied by a covering letter and a newsletter. A total of 330 replies were received making the response rate to this survey of 49%.

Where relevant, results have been compared against the data from the November 2015 and 2013 Citizen’s Panel.

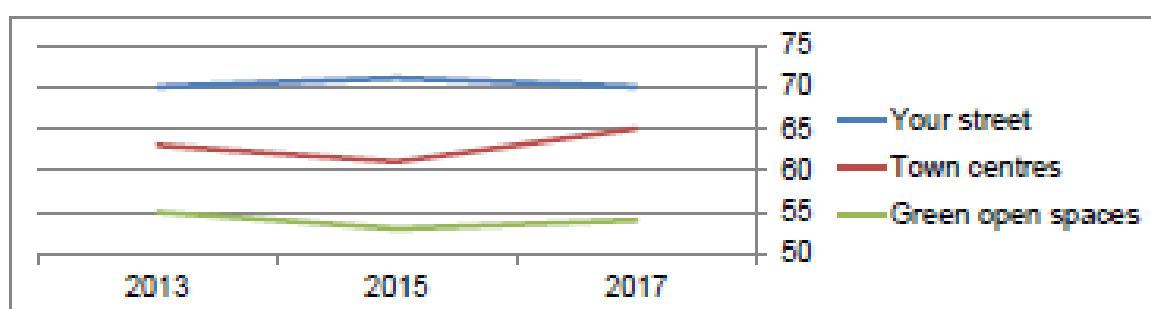
### Prioritisation of Services

The top three areas of importance were **litter pickers (68%)**, **dog waste bins (49%)** and **litter / environmental wardens (40%)**. This follows a similar trend from 2015 and 2013.

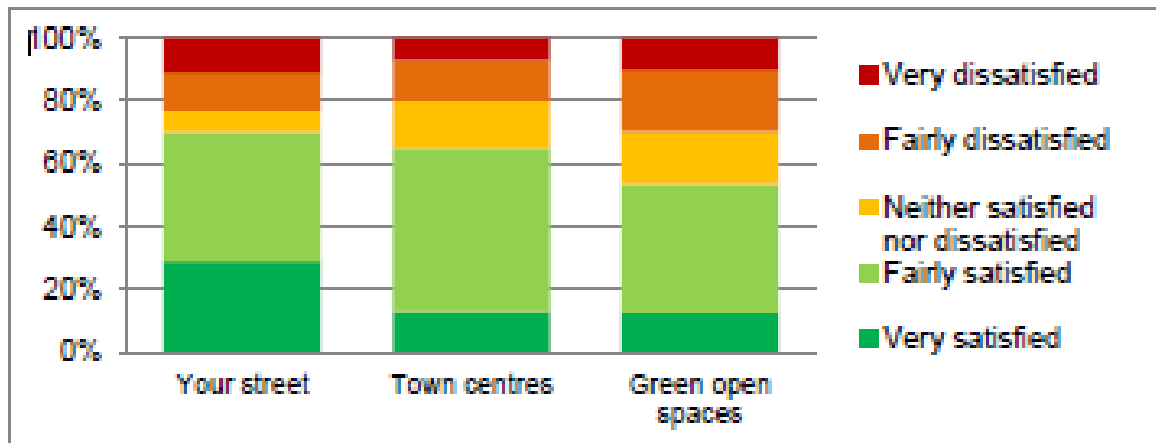
### Litter

Respondents believe the main sources of litter are **takeaways (77%)**, followed by **pedestrians (67%)** and **thrown from vehicles (66%)**. This mirrors the results found in 2015.

Satisfaction trends for **litter control** have generally improved since 2015 returning to levels similar to those found in 2013.



70% of respondents indicated that they were either very or fairly satisfied with **litter control** in their street. 65% were either very or fairly satisfied with litter control in town centres, and 54% were either very or fairly satisfied with litter control in green and open spaces.



## Litter Bins

Satisfaction with the **number of litter bins** are showing uplifts in each area however satisfaction is still below 50% overall:

- 36% satisfaction with the number of litter bins in **their street**.
- 50% satisfaction with the number of litter bins in **town centres**
- 43% satisfaction with the number of litter bins in **green and open spaces**

58% of respondents indicated they were very or fairly satisfied with the **emptying of litter bins** in their area. Very satisfied responses are the highest of the last three surveys (21%), with overall satisfaction improving by 6 percentage points since 2015.

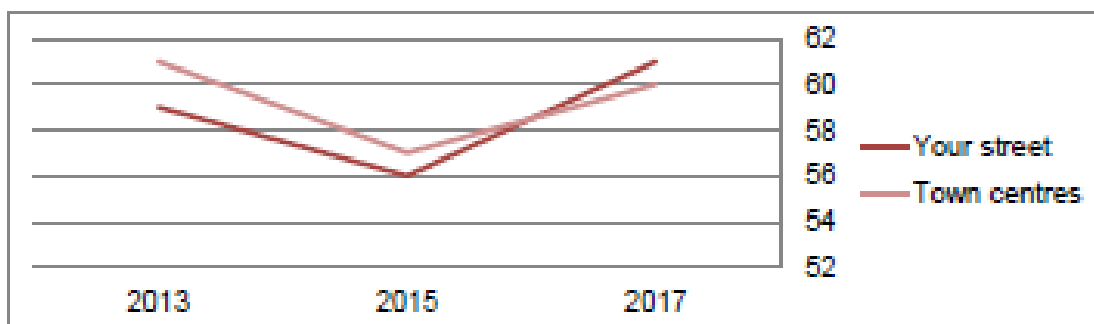
58% of respondents indicated they were very or fairly satisfied that their area is **kept free from litter**. Overall satisfaction is at the highest since 2013 with results improving since the last time the survey was conducted in 2015.

53% of respondents indicated that the amount of **litter on footpaths and verges** has stayed about the same, with 41% indicating that it has increased or significantly increased.

People overwhelmingly support **enforcement** against individuals and business for littering offences (94% in support of action against people and 97% support action against business).

## Sweeping of streets

61% of respondents indicated that they were either very or fairly satisfied with sweeping of streets in their street and 60% indicated that they were either very or fairly satisfied with sweeping of streets in town centres.



### Dog fouling

38% of respondents indicated satisfaction with the **number of dog waste bins** on their street. 37% were very or fairly satisfied with the number of dog waste bins in town centres and 41% were very or fairly satisfied with the number of dog waste bins in green open spaces. Satisfaction trends have improved since 2015 returning to levels similar to those found in 2013.

47% of respondents indicated they were very or fairly satisfied with the **emptying of dog waste bins** in their local area, with 25% of respondents indicating they were fairly or very dissatisfied. 38% of respondents believed there has been an increase the amount of dog fouling on footpaths and verges. The majority however (44%) believe it has stayed the same. 33% of respondents indicated that they were very or fairly satisfied with the **control of dog fouling** which is an 8 percentage point (pp) increase from 2015.

When comparing citizen's perception to that of Members, it is clear that there is an imbalance with residents not perceiving litter and dog fouling as serious an issue as Members. It is also important to note that the way the questions were phrased for both surveys could have led to different responses as the Citizen's Panel was aimed at establishing satisfaction (a positive line of questioning) and the Members' Survey aimed to identify the seriousness of service issues at a local level (a negative line of questioning).

|                 | Residents Satisfaction Levels   | % of Member's perceiving an issue   |
|-----------------|---|---|
| Litter Control  | 70% (own street); 65% (town centre); 54% (green open space); 58% (emptying of bins); 58% (area kept free from litter)<br><br>>50% (number of litter bins) | 34% (minor or not an issue – indicates lower satisfaction than residents)<br><br>66% (major or serious issue) |
| Street sweeping | 61% (streets); 60% (town centres)   | Not directly surveyed but links to Litter perception as above.  |

|             | <b>Residents Satisfaction Levels</b>  | <b>% of Member's perceiving an issue</b>   |
|-------------|---|--|
| Dog Fouling | 38% (dog waste bins in street); 37% (dog waste bins in town centres); 41% (dog waste bins in green open spaces); 47% (emptying of bins); 33% (control of dog fouling); 44% (levels of fouling static) | 11% (minor or not an issue – indicates lower satisfaction than residents)<br><br>89% ( <i>major or serious issue</i> ) |

What may help here is clearer publicity around what action the Council does regularly take in relation to street cleansing and enforcement. In addition, it may be that Members would benefit from more regular updates on action taken and 'hot spots' being targeted. Members also acknowledge that while there is a disparity between their perceptions and public satisfaction, they appreciate that it is impossible to account for incidents which are not reported by the public, yet could still influence their satisfaction levels.

During the latter stages of the review, a Members' Surgery has been trialled to endeavour to meet more regularly with Members and to ensure a staff presence at The Arc at set regular times. Members welcome this approach and hope that an evaluation of the trial will prove that the Surgery is of value and worth maintaining.

### **Recommendations:**

**That a programme of regular publicity is in place on how to contact the council and log incidents in relation to street cleanliness and fly-tipping, using a range of communication channels including InTouch and social media.**

**That a standard process is adopted to ensure maximum publicity of enforcement activity taking place across the District.**

**That a combination of regular Member Briefing's (District and Parish) and additional detail within quarterly performance reports is provided, outlining level of enforcement taking place.**

**That the trial Members' Surgery meetings be evaluated for usage/effectiveness and made permanent if demand is proven.**

## 7. Conclusions

The Committee have put together 18 recommendations which will hopefully assist the Council in further improving our approach to environmental despoilment and enforcement.

The key issues arising from the review are as follows:

- levels of staffing resource and the subsequent impact on service delivery, effective use of resources and enforcement activity;
- communication and awareness of enforcement activity, both internal and external;
- communication on how to contact the Council and use of online reporting;
- potential reputational risk, where the Authority area is seen to have high levels of littering/fly-tipping and poor street cleanliness standards;
- ensuring our policies are compliant and support our delivery of enforcement activity; and
- ensuring efficient and effective use of the enforcement powers available to the Authority, by all staff with designated authority.

Members appreciate that a range of approaches have been taken by staff to both prevention and enforcement activity. It is clear that where possible, staff have endeavoured to maintain this despite staff vacancies, but that this has not always been possible. Members hope that the recent situation will reinforce that effective resource levels (both staff and non-staff) are key to good quality service delivery even in times of austerity. It is hoped that the recommendations set out in this review report will help further embed the refreshed approach to enforcement that is being taken now that the Environmental Enforcement Team is fully staffed.

## Appendix 1: Stakeholders

Stakeholders engaged during the review:

- Cabinet Member for Community Safety & Street Services, Cllr Murray-Carr
- Peter Campbell, Joint Head of Housing & Community Safety
- Steve Brunt, Joint Head of Streetscene
- Steve Jowett, Streetscene & Waste Services Manager
- Sharon Gillott, Environmental Health Manager
- Sam Bentley, Environmental Health Manager
- Tommy Rush, Environmental Health Enforcement Team Leader
- Anne Young, Environmental Enforcement Technical Officer
- Andrew Green, Dog Warden
- Stephen Jacques, Dog Warden
- Victoria Dawson, Solicitor, Team Manager (Contentious)
- Deborah Cartwright, Solicitor (Contentious)
- Kevin Shillitto, Solicitor (Contentious)

Stakeholders impacted by the review

- BDC residents
- NEDDC residents
- BDC Members
- NEDDC Members
- Streetscene Service
- Joint Environmental Health Service
- Legal Service

## Appendix 2: BDC Member Survey



### Healthy, Safe, Clean and Green Communities Scrutiny Committee

#### Review of Environmental Enforcement

##### Members' perceptions on environmental enforcement

The Healthy, Safe, Clean and Green Communities Scrutiny Committee at Bolsover District Council is undertaking a review of environmental enforcement and would like to understand Members' perceptions of the levels of fly tipping, litter and dog fouling.

If you have any queries or require any further information, please contact the acting Scrutiny Officer (ext 2407) or speak to the Chair or any member of the Healthy, Safe, Clean and Green Communities Scrutiny Committee.

Q1 **Are you a Member of ... ?**

Bolsover District Council ..... ☐ Derbyshire County Council ..... ☐  
A Parish Council ..... ☐

Q2 **Which ward do you represent?**

Q3 **Which statements best describe your perceptions of the levels of litter, fly tipping and dog fouling within your ward? (please mark one box for each issue)**

|                  | A major issue<br>in my ward | A serious<br>issue in my<br>ward | A minor issue<br>in my ward | There isn't a<br>problem in<br>my ward |
|------------------|-----------------------------|----------------------------------|-----------------------------|--|
| Dog fouling is.. | <input type="checkbox"/>    | <input type="checkbox"/>         | <input type="checkbox"/>    | <input type="checkbox"/>               |
| Fly tipping is.. | <input type="checkbox"/>    | <input type="checkbox"/>         | <input type="checkbox"/>    | <input type="checkbox"/>               |
| Litter is..      | <input type="checkbox"/>    | <input type="checkbox"/>         | <input type="checkbox"/>    | <input type="checkbox"/>               |



**Q4 Please list any places within your ward where there is a particular problem. If would be helpful if you would also state what the problem is.**

**Q5 What is being done to tackle the environmental issues within your ward?**

**Q6 Do you feel that the Authority is doing all it can to tackle these environmental issues?**

**Q7 Is there anything else that you would like to be considered that is relevant to this review?**

**Q8 Can you identify any 'hot spot' areas in Bolsover District? If so, please list them:**

Thank you for taking the time to complete this survey. Your responses will help us to understand the issues within our communities and to suggest changes and improvements for the benefit of our residents.

Please return your completed form by Wednesday 11 October and send to:

Lynne Cheong  
Scrutiny Officer  
The Arc  
Clowne  
S43 4JY

## Appendix 3: Authority Benchmarking – Summary of responses

### 1. How many officers with enforcement powers do you have and in which roles / services are they deployed?

| Authority                                | No. of Enforcement staff | Role / Service  |
|--|--------------------------|---|
| Chesterfield Borough                     | 6                        | Environmental Protection - litter, dog fouling & fly tipping  |
| Erewash Borough                          | 9                        | Neighbourhood Wardens – FPN & prosecutions; Env Health for air pollution, noise nuisance etc  |
| Mansfield District                       | 10                       | 2x teams, 1x team leader + 4x FTE staff – Environmental Protection & Public Protection. Community Safety Hub – PCSOs enforce  |
| Amber Valley Borough                     | 4                        | 3x Community Wardens, enforcement, 1x manager, prosecutions – PCSO / dog fouling, post for investigations, Pest Control   |
| Derbyshire Dales District                | 10                       | 6x Principal Officers, 1x Technician, 1x Env Health, 2x Public Health - all enforcement except dog fouling, which is a separate service   |
| Bassetlaw District                       | 6-7                      | 6-7 Officers – all enforcement  |
| Bolsover/ North East Derbyshire District | 5                        | In addition, 10FTE CAN Rangers (Community Action Network – Bolsover ONLY) and the wider team of Environmental Health Officers (30 inc. Environmental Enforcement Team) have delegated authority to use the enforcement powers available to the Authorities. |

### 2. How does your Council publicise successful enforcement? For example: number of Fixed Penalty Notices issued, number of reports made?

| Authority                                | Local press | Council newsletter | Residents newsletter | Council website / Social media | Comments  |
|--|-------------|--------------------|----------------------|--------------------------------|---|
| Chesterfield Borough                     | ✓           | ✓                  | ✓                    | ✓                              | Social media when an FPN served; successful prosecutions via all other communications.  |
| Erewash Borough                          | ✓           |                    |                      | ✓                              |   |
| Mansfield District                       | ✓           |                    |                      | ✓                              | Aim is education/raise awareness. Facebook – advertise stray dogs, provide info (all services), court cases & successful prosecutions |
| Amber Valley Borough                     | ✓           |                    |                      | ✓                              | Aim is education/raise awareness. Do not over-emphasise statistics. Publicise court cases.  |
| Derbyshire Dales District                | ✓           |                    |                      | ✓                              |   |
| Bassetlaw District                       | ✓           |                    |                      | ✓                              |   |
| Bolsover/ North East Derbyshire District | ✓           | ✓                  | ✓                    | ✓                              | Twitter is the primary social media channel.  |

**3. What reporting methods does your Council have for dog fouling, litter and fly tipping? E.g. phone, online, officer / customer reports**

| Authority                                | Phone | Online | Letter | In person | Email | Text message | Cllrs | Social media | Comments  |
|--|-------|--------|--------|-----------|-------|--------------|-------|--------------|---|
| Chesterfield Borough                     | ✓     | ✓      | ✓      | ✓         | ✓     | ✓            | ✓     | ✓            |   |
| Erewash Borough                          | ✓     | ✓      |        |           | ✓     | ✓            |       |              | Text for dog fouling reports  |
| Mansfield District                       | ✓     | ✓      |        | ✓         | ✓     |              | ✓     |              |   |
| Amber Valley Borough                     | ✓     | ✓      |        |           | ✓     |              |       |              | Do not use social media   |
| Derbyshire Dales District                | ✓     | ✓      |        |           | ✓     |              | ✓     |              | Publicise court cases   |
| Bassetlaw District                       | ✓     | ✓      |        |           |       |              |       | ✓            |   |
| Bolsover/ North East Derbyshire District | ✓     | ✓      | ✓      | ✓         | ✓     |              | ✓     |              | <p>Where an issue is raised via Twitter the resident/complainant is re-directed to the online reporting form.</p> <p>Online reporting is available for a wide range of issues where the Authority has enforcement powers. An individual online account can be set up.</p> <p>Cllrs must register issues brought to them via the online portal to ensure service requests are consistently managed and resolved.</p> |

## Appendix 4: Glossary

|             |  |
|-------------|--|
| BDC         | Bolsover District Council  |
| CAN Rangers | Community Action Network Rangers (Bolsover ONLY)   |
| CCTV        | Closed Circuit Television  |
| CEP         | Corporate Enforcement Policy   |
| CPN         | Community Protection Notice  |
| DVLA        | Driver Vehicle License Agency  |
| EETO        | Environmental Enforcement Technical Officer  |
| EH          | Environmental Health   |
| FPN         | Fixed Penalty Notice   |
| FTE         | Full Time Employee (Equivalent)  |
| LEQSE       | Local Environmental Quality Survey of England  |
| LG Inform   | LG Inform was launched by the Local Government Association (LGA) in 2011 to provide councils with a free and voluntary data service and benchmarking facility. |
| NEDDC       | North East Derbyshire District Council   |
| PCSO        | Police Community Support Officer   |
| PSPO        | Public Space Protection Order  |
| SAMT        | Strategic Alliance Management Team   |

## Appendix 5: Bibliography

- BDC Member Survey on Perceptions on Environmental Enforcement
- InTouch, Issue 38 November 2017, Bolsover District Council [http://www.bolsover.gov.uk/images/LIVE/InTouch\\_38.pdf](http://www.bolsover.gov.uk/images/LIVE/InTouch_38.pdf)
- Member Benchmarking Exercise – Telephone Survey
- Scrutiny Project Group – Report on Dog Fouling, (January 2015), Enterprise and Wellbeing Scrutiny Committee, Chesterfield Borough Council. <http://chesterfield.moderngov.co.uk/ieListDocuments.aspx?CId=141&MId=3944&Ver=4>

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1

Enforcement Policy (Joint Environmental Health Service), May 2016, Bolsover District Council.

[http://www.ne-derbyshire.gov.uk/images/Repository/E/Enforcement\\_Policy\\_Environmental\\_Health.pdf](http://www.ne-derbyshire.gov.uk/images/Repository/E/Enforcement_Policy_Environmental_Health.pdf)

2

<https://publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/607/60705.html#idTOCAAnchor-26>

3

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/221087/pb11577b-cop-litter.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221087/pb11577b-cop-litter.pdf)

4

<https://www.gov.uk/guidance/fixed-penalty-notice-issuing-and-enforcement-by-councils>

<sup>5</sup> Crown Prosecution Service, The Code for Crown Prosecutors <https://www.cps.gov.uk/publication/code-crown-prosecutors>

<sup>6</sup> Environmental Enforcement, Cleansing and Educational Group Terms of Reference (BDC & NEDDC), July 2017.

<sup>7</sup> Local Authority Reported Fly-tipping, (26 March 2018) LG Inform, Local Government Association

<sup>8</sup> Review of Environmental Despoilment (April 2016), NEDDC <http://www.ne-derbyshire.gov.uk/index.php/your-council/committee-governance-constitution>

<sup>9</sup> <http://www.askderbyshire.gov.uk/docs/Report-Bolsover-Citizens-Panel-Nov-2017-FINAL.pdf>



**We speak  
your language**

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**Polish**

**Mówimy Twoim  
językiem**

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**Slovak**

**Rozprávame  
Vaším jazykom**

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**Chinese**

**我们会说你的语言**

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**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

|                                    |
|------------------------------------|
| <b>Review of Joint RIPA Policy</b> |
|------------------------------------|

**Report of the Portfolio Holder for Corporate Governance**

This report is public

**Purpose of the Report**

- To advise Members of a review of the joint policy and procedures covering the Councils' activities under the Regulation of Investigatory Powers Act 2000 (RIPA).
- To recommend a revised Joint RIPA Corporate Policy and Procedures be approved.

**1 Report Details**

- 1.1 The Regulation of Investigatory Powers Act (RIPA) enables the Councils to use covert surveillance, covert human intelligence sources (CHIS) and the acquisition of service use or subscriber information in relation to communications data in a manner that is compatible with Article 8 of the European Convention on Human Rights governing an individual's right to respect for their private and family life, home and correspondence. There are various criteria which must be met, including a 'seriousness threshold' for the use of directed surveillance, and any requests by the Councils to use the RIPA powers must be approved by a Magistrate.
- 1.2 Local authorities are sparing users of RIPA legislation and neither Bolsover nor North East Derbyshire District Councils have used them since the last update to Committee in July 2017. The last time RIPA powers have been used by either Council was in 2012. The Council does carry out investigations and uses enforcements powers, therefore it is important that Officers are both aware of the powers for gathering information covertly but that also there is a fit for purpose and legally compliant procedure in place for any situations when it is necessary to use them.
- 1.3 The Councils have been periodically inspected by the Office of Surveillance Commissioners. The last inspection was in 2015/2016. Inspections of local authorities are scheduled for every three years so an inspection is due to take place during 2018/19.
- 1.4 The Office of Surveillance Commissioners has been superseded by the Investigatory Powers Commissioner's Office (IPCO).
- 1.5 Since the last inspection, the policy has been reviewed annually to ensure that post-holders are up to date, and to improve wording and clarity of the information.

There have been no changes in the official guidance, and no changes in legislation have yet been brought into force regarding the use of the RIPA Powers.

- 1.6 The Investigatory Powers Act 2016, however, makes many changes to the power to acquire communications data. These changes are yet to be brought into force, but in anticipation of the changes, the policy has been adapted to separate out the sections relating to the different powers. There is now a section relating to covert directed surveillance and covert human intelligence sources (covered by Part 2 of RIPA) and a separate section on the acquisition of communications data (Part 1, Chapter 2 of RIPA).
- 1.7 The main change within the new legislation is that applications for the acquisition and disclosure of communications data would be submitted to the Investigatory Powers Commissioner for approval.
- 1.8 Further changes to these provisions are expected in order to bring the rules in line with European legislation. The government has been given a deadline of 1 November 2018 to make the changes. A further review will be undertaken at this stage to implement the changes to this part of the procedure.
- 1.9 One further change expected is the creation an Office for Communications Data Authorisations (OCDA) which would oversee requests to obtain data from public bodies such as the Councils, rather than the Investigatory Powers Commissioner, separating the functions of oversight and approval of applications. The requirement for Magistrates approval would be removed (for communications data only) as this would be unnecessary in light of the new independent arrangements and the role of the OCDA. Internal approval by a senior designated officer would still be required prior to an application being submitted to the OCDA for authorisation. Local authorities will still not be permitted to authorise urgent applications internally; independent authorisation will be required in all cases.
- 1.10 Much of the public concern regarding these powers in relation to communications, is in the interception of the content of communications, i.e. listening to phone-calls and reading emails. Local authorities are only permitted to access limited data regarding service use and subscriber information (e.g. the use of a forwarding or re-direction service.) Neither Bolsover District Council nor North East Derbyshire District Council has applied for or used the powers to acquire communications data under the current regulations.

### Training

- 1.11 Previous inspections have focused on the need for regular training and refreshers for officers involved in investigations as well as senior officers appointed as authorising officers and designated persons.
- 1.12 The last training at both Councils took place in November 2015. Training was deferred in the last 12 months due to the on-going SAMT restructure and the uncertainty regarding the amendments due to the Investigatory Powers Act.
- 1.13 Training sessions for the Strategic Alliance Management Team, including those officers appointed as authorising officers and designated persons, and officers in



planning enforcement, licensing, environmental health and the benefits team will be scheduled over the next few months.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The review of the Joint RIPA Policy has been undertaken to ensure it is up to date, fit for purpose and legally compliant. The revised version amends the structure of the policy in order to create a separate section for the powers to acquire communications data. When the amendments arising from the Investigatory Powers Act are brought into force, a further review will take place focused on this section of the policy only.

## **3 Consultation and Equality Impact**

- 3.1 An Equality Impact Assessment was completed in 2017, which concluded that there were no concerns raised and no actions to take. No amendments have been proposed that require a further assessment to be carried out.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 It is recommended that the Councils review and update the RIPA policy regularly as failure to do so could result in the policy failing to comply with legislative changes and lead to unlawful investigatory actions taking place.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 Failure of the Councils to adhere to the legal requirements of RIPA could lead to unlawful investigatory activity being undertaken, making the Councils vulnerable to complaints, legal challenge and reputational damage and costs. It is important therefore that the policy is regularly reviewed and that officers receive sufficient training which will mitigate the likelihood of this risk occurring.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 The legal implications are addressed within the policy.

### **5.3 Human Resources Implications**

- 5.3.1 None arising from this policy.

## **6 Recommendations**

- 6.1 That Executive:

- (1) approve the revised Joint RIPA Policy and Procedure document.
- (2) note that a further review will take place once the provisions of the Investigatory Powers Act 2016 relating to the acquisition and disclosure of communications data are brought into force

## 7 Decision Information

|  |                               |
|--|-------------------------------|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br>BDC:      Revenue - £75,000 <input type="checkbox"/><br>Capital - £150,000 <input type="checkbox"/><br>NEDDC: Revenue - £100,000 <input type="checkbox"/><br>Capital - £250,000 <input type="checkbox"/><br><input checked="" type="checkbox"/> Please indicate which threshold applies | No                            |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | No                            |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes                           |
| <b>District Wards Affected</b>   | None Directly                 |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Demonstrating Good Governance |

## 8 Document Information

| Appendix No  | Title   |
|--|---|
| Appendix 1   | Revised Joint RIPA policy and procedures document |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |   |
|  |   |
| Report Author  | Contact Number                                    |
| Nicola Calver, Governance Manager  | 01246 217045                                      |

# **REGULATION OF INVESTIGATORY POWERS ACT 2000 (“RIPA”)**

## **CORPORATE POLICY AND PROCEDURES**

## Section: Introduction

### CONTROL SHEET FOR REGULATION OF INVESTIGATORY POWERS ACT 2000 ("RIPA") – CORPORATE POLICY AND PROCEDURES

| Policy Details  | Comments / Confirmation<br>(To be updated as the document progresses) |
|---|---|
| Policy title  | RIPA Corporate Policy and Procedures                                  |
| Current status – i.e. first draft, version 2 or final version   | First draft   |
| Policy author   | Governance Manager  |
| Location of policy – i.e. L-drive, shared drive   | S Drive   |
| Member route for approval   | Strategic Alliance Joint Committee and Standards                      |
| Cabinet Member (if applicable)  | Cllr D McGregor (BDC) and Cllr R Smith (NEDDC)                        |
| Equality Impact Assessment approval date  | July 2017   |
| Partnership involvement (if applicable)   | N/A   |
| Final policy approval route i.e. Executive/ Council /Planning Committee   | Cabinet / Executive   |
| Date policy approved  |   |
| Date policy due for review (maximum three years)  | Autumn 2018   |
| Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public) |   |

**Section: Introduction**

**Contents**

*TO BE COMPLETED*

## Section: Introduction

### Abbreviations

|         |   |
|---------|---|
| CCTV    | Closed Circuit Television   |
| CSP     | Communications service provider   |
| Council | Bolsover/North East Derbyshire District Council   |
| CHIS    | Covert Human Intelligence Sources   |
| ECHR    | European Convention for the Protection of Human Rights and Fundamental Freedoms agreed on 2 November 1950 |
| HRA     | Human Rights Act 1998   |
| ICCO    | The Interception of Communications Commissioner's Office  |
| NAFN    | The National Anti Fraud Network   |
| OSC     | Office of Surveillance Commissioners  |
| PFA     | Protection of Freedoms Act 2012   |
| RIPA    | Regulation of Investigatory Powers Act 2000   |
| SPoC's  | Single Points of Contact for Acquisition and Disclosure of Communications Data                            |

### 1.1 Introduction

- 1.1.1 This Corporate Policy and Procedures document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 and the Home Office's Codes of Practice on Covert Surveillance and Property Interference, Covert Human Intelligence Sources and Acquisition and Disclosure of Communications Data.
- 1.1.2 The use of covert surveillance, covert human intelligence sources and the acquisition of service use or subscriber information in relation to communications data is sometimes necessary to ensure effective investigation and enforcement of the law. However, they should be used only rarely and in exceptional circumstances. RIPA requires that public authorities follow a clear authorisation process prior to using these powers. Authorisations granted under Part II of RIPA are subject to all the existing safeguards considered necessary by Parliament to ensure that investigatory powers are exercised compatibly with the ECHR.
- 1.1.3 **Any potential use of RIPA should be referred to the Monitoring Officer, Sarah Sternberg, for preliminary advice at the earliest possible opportunity. Her telephone number is 01246 242414. In her absence, advice should be sought from the Governance Team on 01246 217753.**

### Consequences of Failing to Comply with this Policy

- 1.1.4 Where there is interference with Article 8 of the ECHR, and where there is no other source of lawful authority for the interference, the consequences of not following the correct authorisation procedure set out under RIPA and this Policy may result in the Council's actions being deemed unlawful by the Courts under Section 6 of the HRA or by the Investigatory Powers Tribunal, opening up the Council to claims for compensation and loss of reputation. Additionally, any information obtained that could be of help in a prosecution will be inadmissible.

## **Section: Introduction**

### **1.2 Background**

1.2.1 On 2 October 2000 the Human Rights Act 1998 (“HRA”) made it unlawful for a local authority to breach any article of the ECHR. An allegation that the Council or someone acting on behalf of the Council has infringed the ECHR is dealt with by the domestic courts rather than the European Court of Justice.

1.2.2 The ECHR states:-

- (a) individuals have the right to respect for their private and family life, home and correspondence (Article 8 ECHR); and
- (b) there shall be no interference by a public authority with the exercise of this right unless that interference is:-

- **in accordance with the law;**
- **necessary; and**
- **proportionate**

1.2.3 RIPA, which came into force on 25 September 2000, provides a lawful basis for three types of covert investigatory activity to be carried out by local authorities which might otherwise breach the ECHR. These activities are:-

- covert directed surveillance;
- covert human intelligence sources (“CHIS”); and
- acquisition and disclosure of communications data

1.2.4 RIPA sets out procedures that must be followed to ensure the investigatory activity is lawful. Where properly authorised under RIPA the activity will be a justifiable interference with an individual’s rights under the ECHR. If the interference is not properly authorised an action for breach of the HRA could be taken against the Council, a complaint of maladministration made to the Local Government Ombudsman or a complaint made to the Investigatory Powers Tribunal. In addition, if the procedures are not followed any evidence collected may be disallowed by the courts. RIPA seeks to balance the rights of individuals against the public interest in the Council being able to carry out its statutory duties.

1.2.5 A flow chart attached at Appendix A to this policy sets out the process for covert directed surveillance and cover human intelligence sources (CHIS) in pictorial form.

#### **What RIPA Does and Does Not Do**

1.2.6 RIPA does:-

- require prior authorisation of covert directed surveillance;
- prohibit the Council from carrying out intrusive surveillance;
- compel disclosure of communications data from telecom and postal service providers;
- permit the Council to obtain communications records from communications service providers;
- require authorisation of the conduct and use of CHIS;

## **Section: Introduction**

- require safeguards for the conduct of the use of a CHIS.

### **1.2.7 RIPA does not:-**

- make unlawful conduct which is otherwise lawful;
- prejudice any existing power to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information via the DVLA or to obtain information from the Land Registry as to the owner of a property;
- apply to activities outside the scope of Part II of RIPA. A public authority will only engage RIPA when in performance of its "core functions" – i.e. the functions specific to that authority as distinct from all public authorities.
- cover overt surveillance activity.

### **1.2.8 Under no circumstances can local authorities be authorised to obtain communications traffic data under RIPA. Local authorities are not permitted to intercept the content of any person's communications and it is an offence to do so without lawful authority.**

## **1.3 Policy Statement**

### **1.3.1 The Council is determined to act responsibly and in accordance with the law. To ensure that the Council's RIPA activity is carried out lawfully and subject to the appropriate safeguards against abuse, Bolsover and North East Derbyshire District Council adopted separate RIPA Policies in 2013, which have subsequently been combined into a single Corporate Policy and Procedures document as detailed below.**

### **1.3.2 All staff who are considering undertaking RIPA activity should be aware that where that activity may involve handling confidential information or the use of vulnerable or juvenile persons as sources of information, a higher level of authorisation is required. Please see paragraphs 2.7 (in respect of handling confidential information) and 2.9 (in respect of using information sources who are vulnerable or juvenile persons) below.**

### **1.3.3 The following documents are available on the Council's intranet:-**

- 2014/15 Home Office Statutory Codes of Practice on:-
  - Covert Surveillance and Property Interference
  - Covert Human Intelligence Sources
  - Acquisition and Disclosure of Communications Data
- Office of the Surveillance Commissioners' Guidance Procedures
- Home Office Guidance on Protection of Freedoms Act 2012 – changes to RIPA;
- RIPA forms for covert surveillance; CHIS and acquisition and disclosure of communications data;
- Application for Judicial approval and Order made for Judicial approval;
- Surveillance camera training;
- Corporate RIPA Training.



## **Section: Introduction**

1.3.4 The Monitoring Officer is the Council's Senior Responsible Officer (SRO) and is responsible for the following roles:-

- Appointing Authorising Officers (see 2.11);
- Appointing Designated Persons (see 3.4);
- Maintaining a central record for all RIPA authorisations;
- Arranging training to individuals appointed as Authorising Officers and Designated Persons, and
- Carrying out an overall monitoring function as the SRO for the Council's use of RIPA powers.

1.3.5 Any officers who are unsure about any RIPA activity should contact the Monitoring Officer for advice and assistance.

### **1.4 Social Media**

1.4.1 The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever a public authority intends to use the internet as part of an investigation, they must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights, including the effect of any collateral intrusion. Advice should be sought.

1.4.2 Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case. Where it is considered that private information is likely to be obtained, an authorisation (combined or separate) must be sought as set out elsewhere in this code. Where an investigator may need to communicate covertly online, for example, contacting individuals using social media websites, a CHIS authorisation should be considered.

### **1.5 Training & Advice and Departmental Policies, Procedures and Codes of Conduct**

1.5.1 The Monitoring Officer will arrange regular training on RIPA. All authorising officers, designated persons and investigating officers should attend at least one session every two years and further sessions as and when required.

1.5.2 Training can be arranged on request and requests should be made to the Governance Team. In particular training should be requested for new starters within the Council who may be involved in relevant activities.

1.5.3 If officers have any concerns, they should seek advice about RIPA from the Monitoring Officer.

1.5.4 Where in practice, departments have any policy, procedures or codes of practice in relation to RIPA that are different from or in addition to this Code, they must immediately seek advice from the Monitoring Officer.

## **Section: Introduction**

### **1.6 Complaints**

1.6.1 Any person who believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the authority.

1.6.2 They may also complain to the Investigatory Powers Tribunal at:-

Investigatory Powers Tribunal  
PO Box 33220  
London  
SW1H 9ZQ

### **1.7 Monitoring of Authorisations**

1.7.1 The Monitoring Officer, Sarah Sternberg, is the senior responsible officer in relation to RIPA and is responsible for:-

- The integrity of the process in place to authorise directed surveillance, the use of CHIS and the acquisition and disclosure of communications data;
- Compliance with Part II of RIPA and this Policy;
- Engagement with the Commissioners of the OSC and ICCO when they conduct inspections; and
- Where necessary, overseeing the implementation of any post-inspection plans recommended or approved by a Commissioner.

1.7.2 The Monitoring Officer is also required by law to ensure that the Council does not act unlawfully and will undertake audits of files to ensure that RIPA is being complied with and will provide feedback to the authorising officer/designated person where deficiencies in the RIPA process are noted.

1.7.3 The Monitoring Officer will invite the Standards Committee to review the Council's RIPA Policy on an annual basis and to recommend any changes to the Council's Policy or Procedures and will also provide members with an annual update on use.

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

### RIPA PART 2

#### COVERT SURVEILLANCE AND THE USE OF COVERT HUMAN INTELLIGENCE SOURCES

##### 2.1 Types of Surveillance

###### 2.1.1 Surveillance can be overt or covert and includes:-

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- Recording anything monitored, observed or listened to in the course of surveillance; and
- Surveillance by or with the assistance of a device.

##### 2.2 Overt Surveillance

###### 2.2.1 The majority of the Council's surveillance activity will be overt surveillance, i.e. will be carried out openly. For example (i) where the Council performs regulatory checks on licensees to ensure they are complying with the terms of any licence granted; and (ii) where the Council advises a tenant that their activities will be monitored as a result of neighbour nuisance allegations. This type of overt surveillance is normal Council business and is not regulated by RIPA.

##### 2.3 Covert Surveillance

###### 2.3.1 This is where surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Covert surveillance can be intrusive or directed. **The Council is not permitted to carry out covert intrusive surveillance.** Para 2.4 below explains when covert surveillance is intrusive and therefore not permitted. The Council is permitted to carry out covert directed surveillance subject to strict compliance with RIPA. Paragraph 2.5 below explains when covert surveillance is directed.

##### 2.4 Covert Intrusive Surveillance

###### 2.4.1 Covert intrusive surveillance takes place when covert surveillance is carried out in relation to anything taking place on residential premises or in a private vehicle and which involves the presence of an individual or surveillance device on the premises or in the vehicle, or which uses a device placed outside the premises or vehicle which consistently provides information of the same quality and detail as expected of a device placed inside. Additionally, the Regulation of Investigatory Powers (Extension of Authorisations Provisions: Legal Consultations) Order 2010 states that covert surveillance carried out in relation to anything taking place in certain specified premises is intrusive when they are being used for legal consultation.

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

### 2.5 Covert Directed Surveillance

#### 2.5.1 This is surveillance that is:-

- Covert;
- Not intrusive;
- For the purposes of a specific investigation or operation;
- Likely to obtain private information\* about a person (whether or not that person was the target of the investigation or operation); and
- Not carried out as an immediate response to events or circumstances which could not have been foreseen prior to the surveillance taking place.

\* Private information includes any information relating to a person's private and family life, home and correspondence (whether at home, in a public place or in the work place).

### 2.6 Directed Surveillance Crime Threshold

2.6.1 Following the changes to RIPA introduced by the Protection of Freedoms Act 2012, a crime threshold applies to the authorisation of covert directed surveillance by local authorities. (*Article 7A of Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010*)

2.6.2 Local Authority Authorising Officers may not authorise covert directed surveillance unless it is for the purpose of preventing or detecting a criminal offence **and** meets the following test:-

- The criminal offence is punishable by a maximum term **of at least six months imprisonment**, or
- It would constitute an offence under Sections 146, 147A of the Licensing Act 2003 or Section 7 of the Children and Young Persons Act 1993 (**offences involving sale of tobacco and alcohol to underage children**) regardless of length of prison term.

2.6.3 The crime threshold **only** applies to covert directed surveillance, not to CHIS or Communications Data.

2.6.4 The Home Office Statutory Covert Surveillance and Property Interference Code of Practice can be found on the Home Office website and on the intranet.

### 2.7 Confidential Information

2.7.1 A higher level of authorisation to apply to the Magistrates Court is required in relation to RIPA activity when the subject of the investigation might reasonably expect a high degree of privacy, or where "confidential information" might be obtained. For the purpose of RIPA this includes:-

- Communications subject to legal privilege (see below);
- Communications between a member of parliament and another person on constituency matters;

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

- Confidential personal information (see below); and
- Confidential journalistic material (see below).

2.7.2 The authorising officer and the person carrying out the surveillance must understand that such information is confidential and is subject to a stringent authorisation procedure. **Authorisation can only be granted by the Chief Executive or in their absence by an officer acting as Head of Paid Service.**

2.7.3 **Legal privilege** is defined in Section 98 of the Police Act 1997 as:-

- communications between a professional legal adviser and his client, or any person representing his client which are made in connection with the giving of legal advice to the client.
- communications between a professional legal adviser and his client or any person representing his client, or between a professional legal adviser or his client or any such representative and any other person which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- items enclosed with or referred to in communications of the kind mentioned above and made in connection with the giving of legal advice, or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.

2.7.4 Communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

2.7.5 If advice is required on this point, officers should contact the Monitoring Officer.

2.7.6 **Confidential personal information** is described at paragraph 4.28 of the Home Office Covert Surveillance and Property Interference Code of Practice.

2.7.7 **Confidential journalistic material** is described at paragraph 3.40 of the Home Office Covert Surveillance and Property Interference Code of Practice.

2.7.8 **Any officer contemplating RIPA activity where the above circumstances may apply must seek advice from the Monitoring Officer prior to making any application.**

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

### 2.8 Covert Human Intelligence Sources (“CHIS”)

2.8.1 The Council is permitted to use CHIS subject to strict compliance with RIPA.

A CHIS is a person who establishes or maintains a personal or other relationship with a person for the covert purposes of facilitating:-

- (a) covertly using the relationship to obtain information or provide access to information to another person, or
- (b) covertly disclosing information obtained by the use of the relationship or as a consequence of the existence of such a relationship.

2.8.2 A RIPA authorisation and order from a magistrate is required for the above activity and should be obtained whether the CHIS is a Council officer or another person who is asked to be a CHIS on the Council’s behalf. Authorisation for CHIS can only be granted if it is for the purposes of “preventing or detecting crime or of preventing disorder”.

2.8.3 Members of the public who volunteer information to the Council and those engaged by the Council to carry out test purchases in the ordinary course of business (i.e. they do not develop a relationship with the shop attendance and do not use covert recording devices) are not CHIS and do not require RIPA authorisation.

2.8.4 However, by virtue of Section 26(8) of RIPA, there may be instances where an individual, covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship. In such circumstances where a member of the public, though not asked to do so, gives information (or repeated information) about a suspect, then serious consideration should be given to designating the individual as a CHIS, particularly if the Council intends to act upon the information received. It is recommended that legal advice is sought in any such circumstances.

### 2.9 Vulnerable Individuals/Juvenile CHIS

2.9.1 A vulnerable individual is a person who by reason of mental disorder or vulnerability, other disability, age or illness, is or may be unable to take care of themselves or protect themselves against significant harm or exploitation.

2.9.2 Additional requirements apply to the use of a vulnerable adult or a person under the age of 18 as a CHIS. In both cases **authorisation for an application to the Magistrates Court can only be granted by the Chief Executive or in their absence by an officer acting as Head of Paid Service. Any officer contemplating the use of a juvenile or a vulnerable person as a CHIS must seek advice from the Monitoring Officer prior to making the application.**

2.9.3 The use or conduct of a CHIS under 16 years of age **must not** be authorised to give information against their parents or any person who has parental responsibility for them. In other cases authorisations should not be granted unless the special provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 are satisfied. This set out rules about parental consent, meetings, risk assessments and the duration of the authorisation.

## **Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources**

### **2.10 CCTV**

- 2.10.1 The installation and use of unconcealed CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance requiring RIPA authorisation. There are specific provisions relating the use of CCTV cameras in public places and buildings. However, if CCTV cameras are being used in such a way that the definition of covert directed surveillance is satisfied, RIPA authorisation should be obtained.
- 2.10.2 For instance the use of town centre CCTV systems to identify those responsible for a criminal act immediately after it happens will not require RIPA authorisation. However, the use of the same CCTV system to conduct planned surveillance of an individual and record their movements is likely to require authorisation.
- 2.10.3 Protocols should be agreed with any external agencies requesting the use of the Council's CCTV system. The protocols should ensure that the Council is satisfied that authorisations have been validly granted prior to agreeing that the CCTV system may be used for directed surveillance.
- 2.10.4 CCTV systems cannot be used without prior production of an authorisation and such authorisations must be retained.

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

### 2.11 Authorisation Procedures

**Authorisations given by Authorising Officers are subject to approval by the Magistrates Court (See para 2.15 below)**

2.11.1 Authorising Officers are responsible for assessing and authorising covert directed surveillance and the use of a CHIS.

**2.11.2 It is the responsibility of Authorising Officers to ensure that when applying for authorisation the principles of necessity and proportionality (see 2.13 below) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (2.20 – 2.22 below).**

2.11.3 Lists of authorising officers are set out below. Any requests for amendments to the lists must be sent to the Monitoring Officer.

2.11.4 The authorising officers for Bolsover and North East Derbyshire District Councils are as follows:

Chief Executive – Dan Swaine (01246 242401/217155)

Strategic Director – Lee Hickin (01246 217218)

Strategic Director – Karen Hanson (01246 217053)

Head of Finance and Resources – Dawn Clarke (01246 217658)

2.11.5 Schedule 1 of statutory instrument No 521 (2010) prescribes the rank or position of authorising officers for the purposes of Section 30(1) of RIPA (covert surveillance and CHIS). For Local Authorities they prescribe a “Director, Head of Service, Service Manager or equivalent”.

2.11.6 The Monitoring Officer designates which officers can be authorising officers. Only these officers can authorise directed surveillance and the use of CHIS. **All authorisations must follow the procedures set out in the Policy.** Authorising officers are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

### 2.12 **Authorisation Of Covert Directed Surveillance And Use Of A Chis**

2.12.1 RIPA applies to all covert directed surveillance and the use of CHIS whether by Council employees or external agencies engaged by the Council. Council officers wishing to undertake covert directed surveillance or use of a CHIS must complete the relevant application form and forward it to the relevant (para 2.11.4) authorising officer.

**2.12.2 Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice.**

### 2.13 **Criteria For The Authorisation Of The Use Of RIPA Powers**



## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

2.13.1 Covert directed surveillance and/or the use of a CHIS can only be authorised if the authorising officer is satisfied that the activity is:-

- (a) **in accordance with the law** i.e. it must be in relation to matters that are statutory or administrative functions of the Council. As such the Council is unable to access communications data for disciplinary matters.
- (b) **necessary** for the purpose of preventing or detecting crime or preventing disorder. This is the only ground available to the Council for authorising RIPA activity and for directed surveillance only, there is a crime threshold as described in paragraph 2.6 above;
- (c) **proportionate** to what it seeks to achieve. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person as may be affected) against the need for the activity in investigative operational terms. Any conduct that is excessive as to the interference and the aim of the conduct, or is in any way arbitrary will not be proportionate. Serious consideration must be given to identifying the least intrusive method of obtaining the information required.

2.13.2 Applicants should ask the following types of questions to help determine whether the use of RIPA is necessary and proportionate:-

- why it is believed the proposed conduct and use is necessary for the prevention of crime or the prevention of disorder (as appropriate);
- how the activity to be authorised is expected to bring a benefit to the investigation;
- how and why the proposed conduct and use is proportionate to the intelligence dividend it hopes to achieve, having regard to the gravity and extent of the activity under investigation;
- how and why the methods to be adopted will cause the least possible intrusion to the subject/s i.e. interfere with their rights under the ECHR;
- what other reasonable methods of obtaining information have been considered and why they have been discounted.

2.13.3 Authorising officers should not be responsible for authorising their own activities, i.e. those operations/investigations in which they are directly involved. However, it is recognised that in exceptional circumstances this may sometimes be unavoidable. The Monitoring Officer should be informed in such cases.

2.13.4 Particular consideration should be given to **collateral intrusion on or interference with the privacy of persons who are not the subject(s) of the investigation**. Collateral intrusion occurs when an officer undertaking covert surveillance on a subject observes or gains information relating to a person who is not the subject of the investigation. An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference and measures must be taken to avoid or minimise it. This must be taken into account by the authorising officer, particularly when considering the proportionality of the surveillance.

2.13.5 Particular care must be taken in cases where **confidential information** is involved e.g. matters subject legal privilege, confidential personal information, confidential

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

journalistic material, confidential medical information, and matters relating to religious leaders and their followers. In cases where it is likely that confidential information will be acquired, officers must specifically refer this to the Monitoring Officer for advice.

### 2.14 Processing the authorisation

- 2.14.1 At the time of authorisation the authorising officer must set a date for review of the authorisation and review it on that date (see 2.19), prior to authorisation lapsing as it must not be allowed to lapse
- 2.14.2 The original completed application and authorisation form must be forwarded to the Monitoring Officer as soon as possible. The Monitoring Officer will maintain a central register of the Council's RIPA activity and a unique reference number will be allocated to each application.

### 2.15 Approval by Magistrates Court

- 2.15.1 Under the Protection of Freedoms Act 2012, there is an additional stage in the process for investigatory activities (covert directed surveillance and CHIS). After the authorisation form has been countersigned by the authorising officer, the Council is required to obtain judicial approval for either the authorisation or a renewal of an authorisation.
- 2.15.2 The Council has a protocol for the Magistrates' approval process, including out of hours procedures, which is held by the Governance Team.
- 2.15.3 The magistrate will have to decide whether the Council's application to grant or renew an authorisation to use RIPA should be approved and it will not come into effect unless and until it is approved by the Magistrates Court.
- 2.15.4 *A separate application should be completed when the Council is requesting judicial approval for the use of more than one of the surveillance techniques (i.e. Directed Surveillance, CHIS and Communications Data) at the same time.*
- 2.15.5 It should be noted that only the initial application and any renewal of the application require magistrates' approval.
- 2.15.6 There is no requirement for officers presenting authorisations to the Magistrates Court to be legally qualified but they do need to be authorised by the Council to represent it in court. **Generally the applicant should be accompanied to Court by the authorising officer and a member of the legal team.**

### 2.16 The Role of the Magistrates Court

- 2.16.1 The role of the Magistrates Court is set out in Section 32A RIPA (for directed surveillance and CHIS).
- 2.16.2 This section provide that the authorisation shall not take effect until the Magistrates Court has made an order approving such authorisation. The matters on which the Magistrates Court needs to be satisfied before giving judicial approval are that:-

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

- There were reasonable grounds for the local authority to believe that the authorisation or notice was necessary and proportionate;
- In the case of a CHIS authorisation, that there were reasonable grounds for the local authority to believe that:
  - arrangements exist for the safety and welfare of the source that satisfy Section 29(5) RIPA;
  - the requirements imposed by Regulation of Investigatory Powers (Juveniles) Order 2000 were satisfied;
- The local authority application has been authorised by an authorising officer;
- The grant of the authorisation was not in breach of any restriction imposed by virtue of an order made under the following sections of RIPA:
  - 29(7)(a) (for CHIS),
  - 30(3) (for directed surveillance and CHIS).

### Summary of procedure for applying for covert directed surveillance or use of a CHIS is:

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant completes an application;
- Monitoring Officer quality checks the completed application before organising it to go to the Authorising Officer;
- Approval is sought from the Authorising Officer;
- Authorising Officer completes authorisation form in long-hand;
- Monitoring Officer organises paperwork for court and the applicant, the Authorising Officer proceeds to court, accompanied by a member of the legal team wherever possible;
- If approval given, applicant organises the covert directed surveillance or use of a CHIS to take place;
- Original copy of application lodged with Governance Team.

### Additional Requirements for Authorisation of a CHIS

A CHIS must only be authorised if the following arrangements are in place:-

- There is a Council officer with day-to-day responsibility for dealing with the CHIS and a senior Council officer with oversight of the use made of the CHIS;
- A risk assessment has been undertaken to take account of the CHIS security and welfare;
- A Council officer is responsible for maintaining a record of the use made of the CHIS;
- Any adverse impact on community confidence or safety regarding the use of a CHIS has been considered taking account of any particular sensitivities in the local community where the CHIS is operating; and
- Records containing the identity of the CHIS will be maintained in such a way as to preserve the confidentiality or prevent disclosure of the identity of the CHIS.

## 2.17 Urgent Authorisations

- 2.17.1 By virtue of the fact that an authorisation under RIPA is not approved until signed off by a Magistrates Court, urgent oral authorisations are not available.

## **Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources**

### **2.18 Application Forms**

2.18.1 Only the RIPA Forms listed below can be used by officers applying for RIPA authorisation.

#### **(a) Directed Surveillance**

- Application for Authority for Directed Surveillance
- Review of Directed Surveillance Authority
- Cancellation of Directed Surveillance
- Renewal of Directed Surveillance Authority

#### **(b) CHIS**

- Application for Authority for Conduct and Use of a CHIS
- Review of Conduct and Use of a CHIS
- Cancellation of Conduct and Use of a CHIS
- Renewal of Conduct and Use of a CHS

### **2.19 Duration of the Authorisation**

2.19.1 Authorisation/notice durations are:-

- for covert directed surveillance the authorisation remains valid for three months after the date of authorisation;
- for a CHIS the authorisation remains value for 12 months after the date of authorisation (or after one month if a juvenile CHIS is issued);

2.19.2 Authorisations should not be permitted to expire, they must be either renewed or cancelled when the activity authorised has been completed or is no longer necessary or proportionate in achieving the aim for which it was originally authorised. This is a statutory requirement which means that all authorisations must be reviewed to decide whether to cancel or renew them.

### **2.20 Review of Authorisations**

2.20.1 As referred to at 2.11.2 and 2.14.1 authorising officers must make arrangements to periodically review any authorised RIPA activity. Officers carrying out RIPA activity, or external agencies engaged by the Council to carry out RIPA activity, must periodically review it and report back to the authorising officer if there is any doubt as to whether it should continue. Reviews should be recorded on the appropriate Home Office Form (see 2.18).

2.20.2 A copy of the Council's notice of review of an authorisation must be sent to the Monitoring Officer as soon as possible to enable the central record on RIPA to be authorised.

### **2.21 Renewal of Authorisations**

2.21.1 If the authorising officer considers it necessary for an authorisation to continue they may renew it for a further period, beginning with the day when the authorisation

## **Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources**

would have expired but for the renewal. They must consider the matter again taking into account the content and value of the investigation and the information so far obtained. Renewed authorisations will normally be for a period of up to three months for covert directed surveillance or 12 months in the case of CHIS, one month in the case of juvenile CHIS. Authorisations may be renewed more than once, provided they are considered again and continue to meet the criteria for authorisation. Applications for the renewal of an authorisation for covert directed surveillance or CHIS authorisation must be made on the appropriate form (see 2.18).

### **2.21.2 All renewals will require an order of the Magistrates Court in accordance with the requirements in para 8.2 above.**

2.21.3 A copy of the Council's notice of renewal of an authorisation must be considered by the Monitoring Officer before it is made and all original copies lodged with the Governance Team together with a copy of the Magistrates Court order renewing the authorisation to enable the central record on RIPA to be updated.

## **2.22 Cancellation of Authorisations**

2.22.1 The person who granted or last renewed the authorisation must cancel it when they are satisfied that the covert directed surveillance or CHIS no longer meets the criteria for authorisation. Cancellations must be made on the appropriate Home Office Form (see 2.18).

2.22.2 A copy of the Council's notice of cancellation of an authorisation must be sent to the Monitoring Officer within one week of the cancellation to enable the central record on RIPA to be updated.

## **2.23 What happens if the surveillance has unexpected results?**

2.23.1 Those carrying out the covert surveillance should inform authorising officer if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation. In some cases the original authorisation may not be sufficient to cover the activity required or information likely to be gathered and in such cases, consideration should be given as to whether a separate authorisation is required.

## **2.24 Records and Documentation**

### **Departmental Records**

2.24.1 Applications, renewals, cancellations, reviews and copies of notices must be retained by the Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. These records will be confidential and should be retained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future court proceedings, they should be retained and then destroyed five years after last use.

### **Central Record of Authorisations, Renewals, Reviews and Cancellations**

## **Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources**

2.24.2 A joint central record of directed surveillance and CHIS is maintained by the Monitoring Officer at the District Council Offices, Mill Lane, Wingerworth for both Bolsover and North East Derbyshire District Councils.

2.24.3 The central record is maintained in accordance with the requirements set out in the Home Office Codes of Practice. In order to keep the central record up-to-date authorising officers must, in addition to sending through the Home Office application, authorisation form and Magistrates Court order as soon as possible following the authorisation being approved by the Magistrates Court (see 2.15) send notification of every renewal, cancellation and review on the Council's notification forms (see 2.19 – 2.22).

2.24.4 Using the information on the central record the Monitoring Officer will:-

- remind authorising officers in advance of the expiry of authorisations;
- remind authorising officers of the need to ensure surveillance does not continue beyond the authorised period;
- remind authorising officers to regularly review current authorisations;
- on the anniversary of each authorisation, remind authorising officers/delegated persons to consider the destruction of the results of surveillance operations.

### **2.25 Surveillance products**

2.25.1 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.

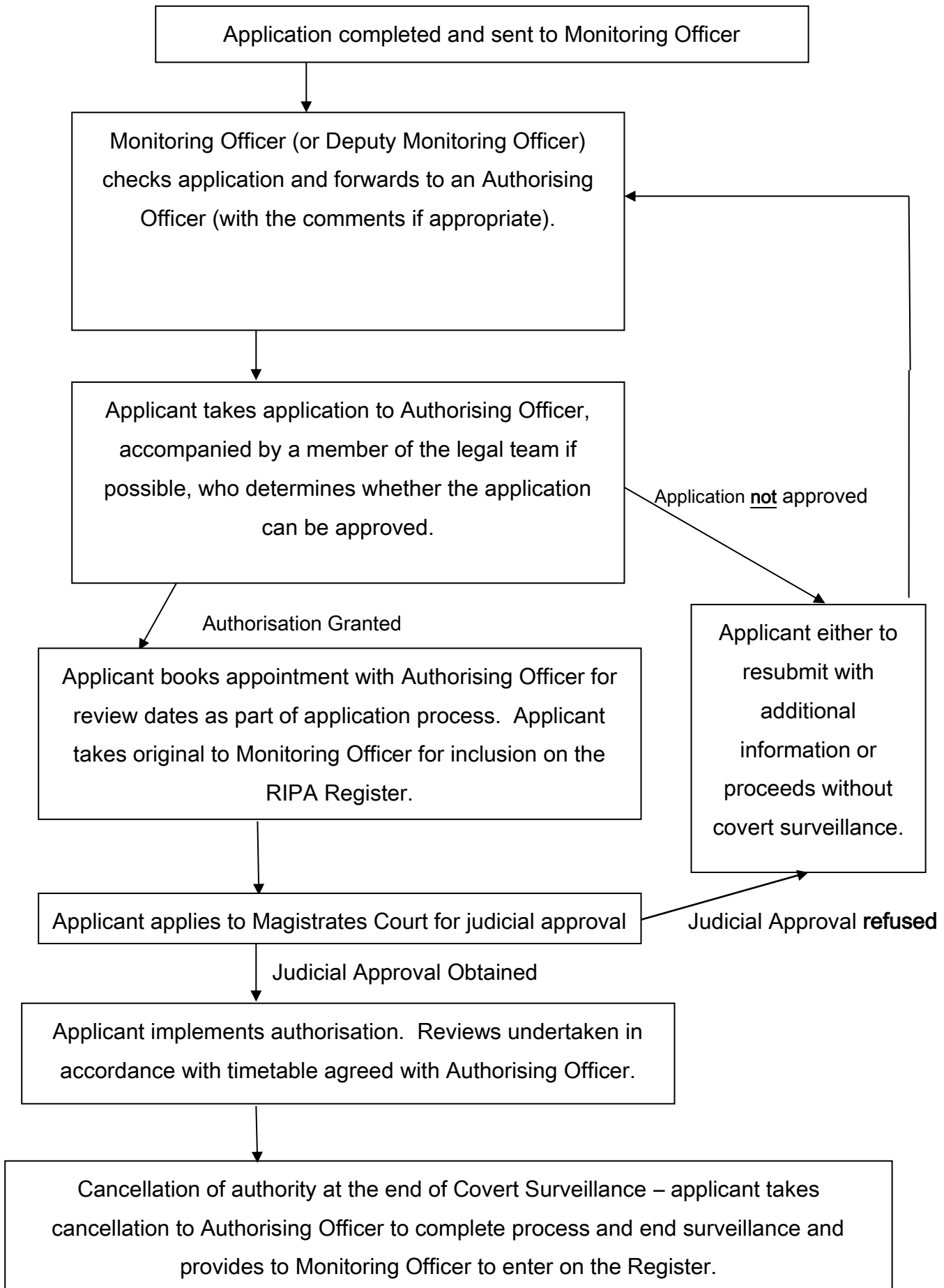
2.25.2 Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996. This requires that material which is obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

2.25.3 There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. The Council will ensure that adequate arrangements are in place for the handling and storage of material obtained through the use of covert surveillance to facilitate its use in other investigations.

2.25.4 Material obtained through the use of directed surveillance or CHIS containing personal information will be protected by the Data Protection Act 1998 (DPA) and in addition to the considerations above must be used, stored and destroyed in compliance with the appropriate requirements of the DPA and the Council's Data Protection, Information Security and Records Management Policies.

## Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

### APPENDIX A - RIPA PROCESS



## Section: Acquisition and Disclosure of Communications Data

### RIPA PART 1 – CHAPTER 2 ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

#### 3.1 Communication Service Providers (“CSPs”)

- 3.1.1 CSPs are organisations that are involved in the provision, delivery and maintenance of communications such as postal, telecommunication and internet service providers but also, for example, hotel or library staff involved in providing and maintaining email access to customers. The Council must obtain communications data from CSPs in strict compliance with RIPA.

#### 3.2 Types of Communications Data

- 3.2.1 Communications data is the “who”, “where”, “when” and “how” of a communication such as a letter, phone call or email but not the content, not what was said or written. The Council is not able to use RIPA to authorise the interception or acquisition of the content of communications. There are three types of communication data:-

##### Service Use Information

- 3.2.2 This is data relating to the use made by any person of a postal or telecommunications, internet service, or any part of it. For example itemised telephone call records, itemised records of connection to internet services, itemised timing and duration of calls, connection/disconnection/reconnection data, use of forwarding or re-direction services, additional telecom services and records of postal items.

##### Subscriber information

- 3.2.3 This is information held or obtained by the CSP about persons to whom the CSP provides or has provided a communications service. For instance, subscribers of email and telephone accounts, account information including payment details, address for installing and billing, abstract personal records and sign up data.

##### Traffic Information

- 3.2.4 This is data that is comprised in or attached to a communication for the purpose of transmitting it and which identifies a person or location to or from which it is transmitted. **The Council is not permitted to access traffic data.**

#### 3.3 Authorisation and Notices

- 3.3.1 RIPA provides for acquisition and disclosure of communications data by two alternative means:-
- authorisation of a person within the Council to engage in specific conduct, in order to obtain communications data (a section 22(3) RIPA authorisation); and
  - a notice issued to a CSP requiring them to collect or retrieve and then provide the communications data (a section 22(4) RIPA notice).



## Section: Acquisition and Disclosure of Communications Data

- 3.3.2 A Section 22(3) RIPA authorisation is appropriate where (for instance) there is an agreement in place between the Council and the relevant CSP regarding the disclosure of communications data which means a notice is not necessary (currently the Council does not have any such agreements in place); or the Council needs to identify an individual to whom communication services are provided but the relevant CSP is not yet known to the Council, making it impossible to issue a notice.
- 3.3.3 A Section 22(4) RIPA notice is appropriate where the Council receives specific communications data from a known CSP. A notice may require a CSP to obtain any communications data, if that data is not already in its possession. However, a notice must not place a CSP under a duty to do anything which is not reasonably practicable for the CSP to do.
- 3.3.4 As a local authority the Council must fulfil two additional requirements when acquiring communications data. Firstly, the request must be made through a SPoC at NAFA (see more about NAFA at [3.5](#) and [3.9](#)). Secondly, the request must receive prior judicial approval.
- 3.3.5 Under Sections 23A and 23B of RIPA the Council must also obtain judicial approval for all requests for communications data. Judicial approval must be requested once all the Council's internal authorisation processes have been completed, including consultation with a NAFN SPoC, but before the SPoC requests the data from the CSP. The authorisation must be provided by a magistrate.
- 3.3.6 The Home Office Acquisition and Disclosure of Communications Data Code of Practice can be found on the Home Office website and on the intranet.

### 3.4 Authorisation Procedures

**Authorisations given by Designated Persons are subject to approval by the Magistrates Court (See para 3.10 below)**

- 3.4.1 Designated Persons are responsible for considering applications for obtaining communications data, assessing and approving authorisations and notices.
- 3.4.2 **It is the responsibility of Designated Persons to ensure that when applying for authorisation the principles of necessity and proportionality (see 3.8.2 and 2.13 below) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (3.14 – 3.17 below).**
- 3.4.3 The list of designated persons is set out below. Any requests for amendments to the lists must be sent to the Monitoring Officer.
- 3.4.4 The designated persons for Bolsover and North East Derbyshire District Councils are as follows:

Joint Chief Executive Officer – Dan Swaine (01246 242401/217155)  
Joint Strategic Director – Lee Hickin (01246 217218)

## Section: Acquisition and Disclosure of Communications Data

Joint Strategic Director – Karen Hanson (01246 217053)

Joint Head of Finance and Resources – Dawn Clarke(01246 217658)

- 3.4.5 Schedule 2 of statutory instrument No 480 (2010) prescribes the rank or position of designated person for the purposes of Section 25(2) of RIPA (access to communications data). For Local Authorities they prescribe a “Director, Head of Service, Service Manager or equivalent”.
- 3.4.6 The Monitoring Officer designates which officers can be designated persons. Only these officers can authorise the acquisition and disclosure of Communications data. **All authorisations must follow the procedures set out in the Policy.** Designated persons are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

### 3.5 Single Point of Contact (SPoC)

- 3.5.1 SPoCs are responsible for advising officers within the Council on how best to go about obtaining communications data, for liaising with CSPs, and advising whether applications and notices are lawful. As required under the latest Acquisition and Disclosure of Communications Data Code of Practice, the Council has engaged the National Anti-Fraud Network (NAFN). NAFN's SPoC services relate only to communications data. For information on using NAFA, see 3.9 below.

### 3.6 Authorisation of Acquisition and Disclosure of Communications Data

- 3.6.1 RIPA applies to all acquisition and disclosure of communications data whether by Council employees or external agencies engaged by the Council. Authorisations or notices in relation to communications data should be referred to NAFN.
- 3.6.2 **Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice.**
- 3.6.3 The rules on the granting of authorisations for the acquisition of communications data are slightly different from directed surveillance and CHIS authorisations and involve three roles within the Council. The roles are:-
- Applicant
  - Designated Person
  - Single Point of Contact

### 3.7 Applicant

- 3.7.1 This is the officer involved in conducting an investigation or operation who makes an application in writing for the acquisition of communications data. The application form must:-

## Section: Acquisition and Disclosure of Communications Data

- Set out the legislation under the operation or investigation is being conducted. This must be a statutory function of the Council for the prevention or detection of crime or preventing disorder;
- Describe the communications data required i.e. the telephone number, email address, the specific date or period of the data and the type of data required. If the data will or may be generated in the future, the future period is restricted to no more than one month from the date on which the authorisation is granted.
- Explain why the conduct is necessary and proportionate.
- Consider and describe any meaningful collateral intrusion. For example, where access is for “outgoing calls” from a “home telephone” collateral intrusion may be applicable to calls made by family members who are outside the scope of the investigation. The applicant therefore needs to consider what the impact is on third parties and try to minimise it.

### 3.8 Designated Person

- 3.8.1 This is the person who considers the application. A designated person’s role is the same as an authorising officer’s role in relation to directed surveillance and CHIS authorisations. The designated person assesses the necessity for any conduct to obtain communications data taking account of any advice provided by the single point of contact (SPoC). If the designated person believes it is necessary and proportionate in the specific circumstances, an authorisation is granted or a notice is given.
- 3.8.2 **The Designated Person must refer the criteria set out at paragraph 2.13, as the same principles of necessity and proportionality apply to the use of cover directed surveillance and CHIS.**
- 3.8.3 Designated persons should not be responsible for authorising their own activities, i.e. those operations/investigations in which they are directly involved. However, it is recognised that in exceptional circumstances this may sometimes be unavoidable. The Monitoring Officer should be informed in such cases.
- 3.8.4 Particular consideration should be given to **collateral intrusion on or interference with the privacy of persons who are not the subject(s) of the investigation**. Collateral intrusion occurs when an officer gains information relating to a person who is not the subject of the investigation. An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference and measures must be taken to avoid or minimise it. This must be taken into account by the designated person, particularly when considering the proportionality of the surveillance.
- 3.8.5 Particular care must be taken in cases where **confidential information** is involved e.g. matters subject legal privilege, confidential personal information, confidential journalistic material, confidential medical information, and matters relating to religious leaders and their followers. In cases where it is likely that confidential information will be acquired, officers must specifically refer this to the Monitoring Officer for advice.

## Section: Acquisition and Disclosure of Communications Data

3.8.6 At the time of authorisation the designated person must set a date for review of the authorisation and review it on that date (see 3.14), prior to authorisation lapsing as it must not be allowed to lapse.

3.8.7 The original completed application and authorisation form must be forwarded to the Monitoring Officer as soon as possible. In the case of a section 22(4) RIPA notice requiring disclosure of communications data a copy of the notice must be attached to the application form. The Monitoring Officer will maintain a central register of the Council's RIPA activity and a unique reference number will be allocated to each application.

### 3.9 Single Point of Contract (SPoC)

3.9.1 The accredited SPoCs at NAFN scrutinise the applications independently, and provide advice to applicant officers and designated persons ensuring the Council acts in an informed and lawful manner.

### 3.10 Approval by Magistrates Court

3.10.1 Under the Protection of Freedoms Act 2012, there is an additional stage in the process for the acquisition of communications data. After the authorisation form has been countersigned by the designated person, the Council is required to obtain judicial approval for either the authorisation or a renewal of an authorisation.

3.10.2 The Council has a protocol for the Magistrates' approval process, including out of hours procedures, which is held by the Governance Team.

3.10.3 The magistrate will have to decide whether the Council's application to grant or renew an authorisation to use RIPA should be approved and it will not come into effect unless and until it is approved by the Magistrates Court.

3.10.4 *A separate application should be completed when the Council is requesting judicial approval for the use of more than one of the surveillance techniques (i.e. Directed Surveillance, CHIS and Communications Data) at the same time.*

3.10.5 It should be noted that only the initial application and any renewal of the application require magistrates' approval.

3.10.6 There is no requirement for officers presenting authorisations to the Magistrates Court to be legally qualified but they do need to be authorised by the Council to represent it in court. **Generally the applicant should be accompanied to Court by the designated person and a member of the legal team.**

### 3.11 The Role of the Magistrates Court

3.11.1 The role of the Magistrates Court is set out in Section 23A RIPA (for communications data).

## **Section: Acquisition and Disclosure of Communications Data**

3.11.2 These sections provide that the notice, shall not take effect until the Magistrates Court has made an order approving such notice. The matters on which the Magistrates Court needs to be satisfied before giving judicial approval are that:-

- There were reasonable grounds for the local authority to believe that the authorisation or notice was necessary and proportionate;
- The local authority application has been authorised by a designated person;
- The grant of the notice was not in breach of any restriction imposed by virtue of an order made under sections 25(3) (for communications data) of RIPA:

### **Summary of procedure for applying for acquisition of communications data:**

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant officer creates an application using the Cycomms Web Viewer on the NAFN website;
- SPoC Officer at NAFA triages and accepts the application into the Cyclops system;
- SPoC Officer uses Cyclops to update the application details and completes the SPoC report;
- Approval is sought from the Designated Person (DP);
- If approval given, Monitoring Officer organises paperwork for court and the applicant and the DP proceeds to court, accompanied by a member of the legal team wherever possible;
- SPoC receives signed court documents and sends requests to Communications Service Provider (CSP);
- SPoC receives results back from CSP and returns results to Applicant;
- Applicant accesses the Web Viewer and downloads results;
- Original copy of application lodged with Governance Team.

## **3.12 Urgent Authorisations**

3.12.1 By virtue of the fact that an authorisation under RIPA is not approved until signed off by a Magistrates Court, urgent oral authorisations are not available.

## **3.13 Application Forms – Acquisition and Disclosure of Communications Data**

3.13.1 Only the RIPA Forms listed below can be used by officers applying for RIPA authorisation.

- Application for a Section 22(4) RIPA Notice
- Notice under Section 22(4) RIPA requiring Communications Data to be Obtained and Disclosed

## **3.14 Duration of the Authorisation**

3.14.1 A communications data notice remains valid for a **maximum of one month**.

## **Section: Acquisition and Disclosure of Communications Data**

- 3.14.2 Notices should not be permitted to expire, they must be either renewed or cancelled when the activity authorised has been completed or is no longer necessary or proportionate in achieving the aim for which it was originally authorised. This is a statutory requirement which means that all notices must be reviewed to decide whether to cancel or renew them.

### **3.15 Review of Authorisations**

- 3.15.1 As referred to at 3.8.6, designated persons must make arrangements to periodically review any authorised RIPA activity. Officers carrying out RIPA activity, or external agencies engaged by the Council to carry out RIPA activity, must periodically review it and report back to the designated person if there is any doubt as to whether it should continue. Reviews should be recorded on the appropriate Home Office Form (see 3.13).
- 3.15.2 A copy of the Council's notice of review of an authorisation must be sent to the Monitoring Officer as soon as possible to enable the central record on RIPA to be authorised.

### **3.16 Renewal of Authorisations**

- 3.16.1 If the designated person considers it necessary for an authorisation to continue they may renew it for a further period, beginning with the day when the authorisation would have expired but for the renewal. They must consider the matter again taking into account the content and value of the investigation and the information so far obtained. Renewed authorisations will normally be for a period one month in the case of a communications data authorisation or notice. Authorisations may be renewed more than once, provided they are considered again and continue to meet the criteria for authorisation. The reasoning for seeking renewal of a communications data authorisation or RIPA notice should be set out by the applicant in an addendum to the application form which granted the initial authorisation.
- 3.16.2 All renewals will require an order of the Magistrates Court in accordance with the requirements in para 3.10 above.**
- 3.16.3 A copy of the Council's notice of renewal of an authorisation must be considered by the Monitoring Officer before it is made and all original copies lodged with the Governance Team together with a copy of the Magistrates Court order renewing the authorisation to enable the central record on RIPA to be updated.

### **3.17 Cancellation of Authorisations**

- 3.17.1 The person who granted or last renewed the authorisation must cancel it when they are satisfied that the communications data authorisation or notice no longer meets the criteria for authorisation. Cancellations must be made on the appropriate Home Office Form (see 8.6). In relation to a Section 22(4) notice to a CSP, the cancellation must be reported to the CSP by the designated person directly or by the SPoC on that person's behalf.

## **Section: Acquisition and Disclosure of Communications Data**

- 3.17.2 A copy of the Council's notice of cancellation of an authorisation must be sent to the Monitoring Officer within one week of the cancellation to enable the central record on RIPA to be updated.

### **3.18 What happens if the acquisition of communications data has unexpected results?**

- 3.18.1 Those involved in the acquisition of communications data should inform the designated person if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation. In some cases the original authorisation may not be sufficient to cover the activity required or information likely to be gathered and in such cases, consideration should be given as to whether a separate authorisation is required.

### **3.19 Records and Documentation**

#### **Departmental Records**

- 3.19.1 Applications, renewals, cancellations, reviews and copies of notices must be retained by the Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. These records will be confidential and should be retained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future court proceedings, they should be retained and then destroyed five years after last use.
- 3.19.2 In relation to communications data, records must be held centrally by the SPoC. These records must be available for inspection by ICCP and retained to allow the Investigatory Powers Tribunal, established under Part IV of the Act, to carry out its functions.

#### **Central Record of Authorisations, Renewals, Reviews and Cancellations**

- 3.19.3 A joint central record of access to communications data authorisations is maintained by the Monitoring Officer at the District Council Offices, Mill Lane, Wingerworth for both Bolsover and North East Derbyshire District Councils.
- 3.19.4 See paragraph 2.24 for more information on the central records, which also applies relation to covert surveillance and CHIS.

### **3.20 Communications data related to pending of future proceedings**

- 3.20.1 Where the communications data acquired could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.
- 3.20.2 Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996. This requires that material which is obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

## **Section: Acquisition and Disclosure of Communications Data**

- 3.20.3 There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. The Council will ensure that adequate arrangements are in place for the handling and storage of material obtained through the use RIPA to facilitate its use in other investigations.
- 3.20.4 Material obtained through acquisition of communications data containing personal information will be protected by the Data Protection Act 1998 (DPA) and in addition to the considerations above must be used, stored and destroyed in compliance with the appropriate requirements of the DPA and the Council's Data Protection, Information Security and Records Management Policies.



**Bolsover District Council****Executive****10<sup>th</sup> September 2018**

Annual Letter from the Local Government &amp; Social Care Ombudsman 2017/18

**Report of Councillor D. McGregor – Portfolio Holder for Corporate Governance**

This report is public.

**Purpose of the Report**

- To provide information contained within the Annual Letter from the Local Government & Social Care Ombudsman (LGSCO) 2017/18.

**1. Report Details**

- 1.1 The document contains an annual summary of statistics on the complaints made about the Authority for the financial year ending 31<sup>st</sup> March 2018. Please note that the data provided by the LGSCO may not align with the data this Council holds. This is because their numbers include enquiries from people who have been signposted by the LGSCO back to the Council, but who may then choose not to pursue their complaint.
- 1.2 The Annual Letter 2017/18 has been appended (Appendix 1) and supporting information Complaints Decided (Appendix 2) and Complaints Received (Appendix 3) for your information.

Key points from the letter, specifically in relation to Bolsover District Council:

- The LGSCO received 5 enquiries and complaints during 2017/18, only 1 of which was subject to a detailed investigation.
- The LGSCO decided 5 complaints, 1 was referred back to the Council, 2 were closed after initial enquiries, advice was given in 1 case and the remaining 1 was not upheld.

**Benchmarking information - CIPFA Nearest Neighbour**

When looking at close neighbouring authorities, the following is noted:

|                                  | Detailed investigations | Upheld complaints | Total complaints received |
|----------------------------------|-------------------------|-------------------|---------------------------|
| Ashfield District Council        | 5                       | 1                 | 16                        |
| Bassetlaw District Council       | 6                       | 3                 | 18                        |
| <b>Bolsover District Council</b> | <b>1</b>                | <b>0</b>          | <b>5</b>                  |
| Chesterfield District Council    | 2                       | 0                 | 16                        |
| Erewash District Council         | 2                       | 1                 | 4                         |

|                                |   |   |    |
|--------------------------------|---|---|----|
| Mansfield District Council     | 5 | 3 | 17 |
| NE Derbyshire District Council | 2 | 0 | 11 |

Whilst Bolsover District Council received 5 complaints against its services, only 1 was the subject of a detailed investigation.

- 1.3 The LGSCO notes that the volume of complaints does not in itself indicate the quality of the Council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not receptive to user feedback, rather than always being an indicator that all is well.
- 1.4 The LGSCO would like councils to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics is the number of **upheld** complaints. This shows the number of times the LGSCO found fault with a council when they have investigated.

The LGSCO has also started to record 'complaints remedied by the LGSCO' and 'complaints remedied satisfactorily by the authority before the involvement of the LGSCO'. The latter indicates that, while the LGSCO found it had been at fault, a Council has followed the right steps to put things right in its complaint response.

Although this report is regarding complaints directed to the LGSCO, the Council received 2 complaints via the Housing Ombudsman (HO) for the same period, 1 of which had a decision made of 'No maladministration' and we are providing further information relating to the remaining 1.

It is pleasing to report that against a background of the LGSCO upholding 57% of complaints submitted to them neither the LGSCO, nor the HO, has upheld a complaint against this Council during the financial year 2017/18.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The report is to keep Elected Members informed of volumes and trends regarding LGSCO/ HO complaints.

## **3 Consultation and Equality Impact**

- 3.1 The report is to keep Elected Members regularly informed of volumes and trends regarding LGSCO/ HO complaints. No consultation or equality impact assessment is required.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Not applicable as the report is keep Elected Members informed rather than to aid decision making.

## **5 Implications**

## **5.1 Finance and Risk Implications**

- 5.1.1 Whilst there are no direct financial implications with regard to the report, the Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman and the Housing Ombudsman if complaints are not handled well.

In cases of maladministration, financial penalties can be imposed by the Local Government & Social Care Ombudsman or the Housing Ombudsman.

## **5.2 Legal Implications including Data Protection**

- 5.2.1 The Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman or the Housing Ombudsman. There are no Data Protection implications.

## **5.3 Human Resources Implications**

- 5.3 Not applicable as the report is to keep Elected Members informed.

## **6 Recommendation**

- 6.1 That the Executive receive the report and the Annual Letter from the Local Government & Social Care Ombudsman 2017/18.

## **7 Decision Information**

|  |  |
|--|--|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><i>BDC: Revenue - £75,000</i> <input type="checkbox"/><br><i>Capital - £150,000</i> <input type="checkbox"/><br><i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/><br><i>Capital - £250,000</i> <input type="checkbox"/><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No   |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | No   |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes  |
| <b>District Wards Affected</b>   | All  |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Providing Our Customers with Excellent Service – retain Customer Service Excellence accreditation year on year |

|  |  |
|--|--|
|  | Transforming Our Organisation – good governance. |
|--|--|

## 8 Document Information

| Appendix No  | Title   |
|--|---|
| 1:   | Annual Letter from the Local Government & Social Care Ombudsman 2017/18 |
| 2:   | Complaints Decided  |
| 3:   | Complaints Received   |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |   |
|  |   |
| Report Author  | Contact Number  |
| Customer Standards and Complaints Officer  | Ext: 2353   |

# Local Government & Social Care OMBUDSMAN

18 July 2018

*By email*

Daniel Swaine  
Chief Executive  
Bolsover District Council

Dear Daniel Swaine,

## **Annual Review letter 2018**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

### **Complaint statistics**

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

**Future development of annual review letters**

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

**Supporting local scrutiny**

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at [www.lgo.org.uk/scrutiny](http://www.lgo.org.uk/scrutiny). I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

**Learning from complaints to improve services**

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

**Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,



Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

**Local Authority Report:** Bolsover District Council  
**For the Period Ending:** 31/03/2018

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

| Adult Care Services | Benefits and Tax | Corporate and Other Services | Education and Children's Services | Environment Services | Highways and Transport | Housing | Planning and Development | Other | Total |
|---------------------|------------------|------------------------------|-----------------------------------|----------------------|------------------------|---------|--------------------------|-------|-------|
| 0                   | 1                | 0                            | 0                                 | 0                    | 0                      | 2       | 2                        | 0     | 5     |

## Decisions made

|                       |              |                                    |                                | Detailed Investigations |        |             |       |
|-----------------------|--------------|------------------------------------|--------------------------------|-------------------------|--------|-------------|-------|
| Incomplete or Invalid | Advice Given | Referred back for Local Resolution | Closed After Initial Enquiries | Not Upheld              | Upheld | Uphold Rate | Total |
| 0                     | 1            | 1                                  | 2                              | 1                       | 0      | 0%          | 5     |

### Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.  
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

### Complaints Remedied

| by LGO | Satisfactorily by Authority before LGO Involvement |
|--------|--|
| 0      | 0  |





Appendix 2

| Reference | Authority                 | Category               | Decided    | Decision                           | Remedy |
|-----------|---------------------------|------------------------|------------|------------------------------------|--------|
| 16015978  | Bolsover District Council | Planning & Development | 13/11/2017 | Closed after initial enquiries     | Null   |
| 17004118  | Bolsover District Council | Housing                | 30/01/2018 | Not Upheld                         | Null   |
| 17009150  | Bolsover District Council | Planning & Development | 09/10/2017 | Closed after initial enquiries     | Null   |
| 17010332  | Bolsover District Council | Housing                | 25/09/2017 | Advice given                       | Null   |
| 17016786  | Bolsover District Council | Benefits & Tax         | 25/01/2018 | Referred back for local resolution | Null   |

Appendix 3

| Reference | Authority                 | Category               | Received   |
|-----------|---------------------------|------------------------|------------|
| 16015978  | Bolsover District Council | Planning & Development | 10/10/2017 |
| 17004118  | Bolsover District Council | Housing                | 08/09/2017 |
| 17009150  | Bolsover District Council | Planning & Development | 05/09/2017 |
| 17010332  | Bolsover District Council | Housing                | 25/09/2017 |
| 17016786  | Bolsover District Council | Benefits & Tax         | 25/01/2018 |

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

Customer Service Standards and CCC Report 2017/18 –  
1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018 and Annual Summary

**Report of Councillor D. McGregor – Portfolio Holder for Corporate Governance**

This report is public.

**Purpose of the Report**

- To provide information on the Council's performance in relation to its customer service standards.
- To provide information on the effective management of complaints and customer requests which is central to excellent customer service and the Council can use to improve its services.
- To provide information on the number of compliments, comments and complaints for the period 1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018
- To provide an Annual Summary on the above.

**1 Report Details**

- 1.1 The purpose of this report is to make Elected Members aware of performance in relation to its Customer Service Standards across the organisation and provides supporting evidence for Customer Service Excellence. Elected Members will note that Customer Service Excellence is compliance checked annually to ensure that the organisation still meets the standard.

**1.2 Customer Service Standards**

- 1.2.1 Appendix 1 provides a breakdown of the key customer service standards by quarterly period, together with the target and the cumulative performance for each standard.

**1.3 Telephones**

**Target - 93% to be answered within 20 seconds (5 rings)**

- 1.3.1 Appendix 2 shows the corporate performance between 1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018 by quarterly period. The report identifies 97% (96% achieved for Q3 and 98% for Q4) of incoming calls are being answered corporately within 20 seconds cumulatively. Those departments not achieving the key customer service standard of 93% for these periods were:

**Quarter 3**

- Customer Service (& Improvement) 85%
- Planning 91%

1. There were no exceptions in Quarter 4.

1.3.4 A new reporting system has been introduced which requires further development work to ensure all telephone extensions are captured. Whilst all the extensions may not have been captured in Quarter 4, the percentage has been recorded. This development work will be completed by the Customer Standards and Complaints Officer for the next reporting period along with work to align departments to the restructure.

1.3.5 Cumulatively, corporate performance over the year is 95%, which exceeds the target.

#### 1.4 Contact Centres

##### **Target - 80% of incoming calls to be answered within 20 seconds**

1.4.1 Contact Centres achieved 80% and 70% for quarters 3 & 4 respectively.

1.4.2 Cumulatively, this brings Contact Centre performance over the year to 78%, which is slightly below the target.

#### 1.5 Revenues & Benefits

##### **Target - 60% of incoming calls to be answered within 20 seconds**

1.5.1 Revenues & Benefits 'direct dial' achieved 83% for quarter 3 & 76% for quarter 4.

1.5.2 Cumulatively, Revenues & Benefits 'direct dial' performance over the year is 79%, which exceeds their target and is an improvement on last year (77% in 2016-17).

#### 1.6 E-mails

##### **Target 1 - 100% to be acknowledged within 1 working day**

##### **Target 2 - 100% to be replied to within 8 working days**

1.6.1 For this reporting period, 1<sup>st</sup> October 2017 to 31<sup>st</sup> March 2018:

- 5,326 email enquiries (2,173 in Q3 and 3,153 in Q4) from the public were received through [enquiries@bolsover.gov.uk](mailto:enquiries@bolsover.gov.uk)
- All were acknowledged within one working day
- 99% were replied to in full within 8 working days

1.6.2 This electronic form of communication is still a popular method of contact with the Council, with an annual total of 10,172 e-mail communications. This was slightly lower than the 11,043 in 2016-17, but the introduction of 'webchat' may well have had an impact on this service.

1.6.3 Cumulatively, performance over the year is 99%.

#### 1.7 Face to face monitoring

##### **Target – 99% not kept waiting longer than 20 minutes at a Contact Centre**

1.7.1 Waiting times were monitored during two periods of monitoring in May and November 2017. During these weeks 2,528 (1,349 in May and 1,179 in November) customers called into the Contact Centres 99.8% of which waited

less than 20 minutes to be served. This exceeds the target and demonstrates excellent service.

## **1.8 Compliments, Comments and Complaints**

### **1.8.1 Compliments**

Appendix 3 (A) shows the number of written compliments received for the period by department. In total 135 written compliments were received. A good cross section of compliments was received from customers appreciating excellent service, including 41 for Streetscene Services, 23 for the Housing Department, 21 for Customer Services and 19 for the Planning Department. As there are some compliments which cross cut departments, the total does not correspond with the total above when viewed in this way.

### **1.8.2 Comments**

Appendix 3 (B) shows the number of written comments received for the period. All 36 were acknowledged and passed to the respective department within the target time of 3 working days, for consideration when reviewing their service. As there are some comments which cross cut departments, the total does not correspond with the total above when viewed in this way.

### **1.8.3 Complaints**

#### **1.8.3.1 Frontline resolution (stage one)**

Appendix 3 (C) shows the number of Frontline Resolution complaints received by the Contact Centre service and recorded on the Customer Information System (Firmstep) by department. The customer service standard for responding to these complaints is 3 working days.

#### **1.8.3.2 Formal Investigation (stage two)**

Appendix 3 (D) shows the number of Formal Investigation complaints by department. 89 complaints were received during this period, 88 of which were responded to within our customer service standard of 15 working days.

As some complaints cross cut multiple departments, the total does not correspond with the total above when viewed in this way.

#### **1.8.3.3 Internal Review (stage three)**

Appendix 3 (E) shows the number of stage three complaints received for the period by date order. These are complainants who have already made a stage two complaint and still feel dissatisfied. During this period 23 stage three complaints were received, 22 of which were responded to within the standard of 20 working days. A holding letter was sent to the remaining complaint, as a visit was planned to assess the resident's concerns.

### **1.8.4 Ombudsman**

Appendix 3 (F) shows the status of Ombudsman complaints for 2017/18 as at 31st March 2018. During this period, the Ombudsman (Local Government & Social Care) made three decisions, one of 'Not upheld: no maladministration' and two of 'Closed after

initial enquiries'. The Housing Ombudsman made a decision of 'No maladministration' and we are awaiting further direction for one remaining Housing Ombudsman complaint.

### 1.8.5 Summary for 2017/18

The following tables provide a summary of performance for compliments, comments and complaints for 2017/18.

#### 1.8.6 Volume and Performance

| <b>Volume by type</b>  | <b>Q1</b>   | <b>Q2</b>   | <b>Q3</b>   | <b>Q4</b>   | <b>2017/18<br/>Total</b> | <b>2016/17<br/>Total</b> | <b>2015/16<br/>Total</b> | <b>2014/15<br/>Total</b> |
|--|-------------|-------------|-------------|-------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Compliments  | 65          | 66          | 79          | 56          | 266                      | 264                      | 324                      | 167                      |
| Comments   | 8           | 14          | 20          | 16          | 58                       | 70                       | 50                       | 48                       |
| <b>% Comments<br/>acknowledged<br/>within standard<br/>(target 3 working<br/>days)</b> | <b>100%</b> | <b>100%</b> | <b>100%</b> | <b>100%</b> | <b>100%</b>              | <b>100%</b>              | <b>100%</b>              | <b>100%</b>              |
| Stage 1 Complaints   | 85          | 60          | 41          | 62          | 248                      | 224                      | 273                      | 310                      |
| Formal Investigation<br>Complaints (S2)  | 50          | 40          | 31          | 58          | 179                      | 176                      | 127                      | 121                      |
| <b>%age Stage 2<br/>responded to<br/>within standard<br/>(target 95%)</b>              | <b>98%</b>  | <b>100%</b> | <b>97%</b>  | <b>98%</b>  | <b>98%</b>               | <b>99%</b>               | <b>99%</b>               | <b>96%</b>               |
| Average response<br>in days (target 15<br>working days)                                | <b>9</b>    | <b>9</b>    | <b>9</b>    | <b>12</b>   | <b>10</b>                | <b>10</b>                | <b>10</b>                | <b>12</b>                |
| Internal Review<br>Complaints (S3)   | 12          | 11          | 8           | 15          | 46                       | 35                       | 39                       | 20                       |
| <b>%age Stage 3<br/>responded to<br/>within standard<br/>(target 100%)</b>             | <b>100%</b> | <b>100%</b> | <b>88%</b>  | <b>100%</b> | <b>98%</b>               | <b>100%</b>              | <b>100%</b>              | <b>100%</b>              |
| Average response<br>in days (target 20<br>working days)                                | <b>13</b>   | <b>14</b>   | <b>15</b>   | <b>15</b>   | <b>14</b>                | <b>14</b>                | <b>14</b>                | <b>16</b>                |

1.8.7 When comparing 2017/18 to the previous year of 2016/17, the following is noted:

- There was a similar volume of compliments
- We have received slightly fewer comments
- We have received slightly more frontline resolution complaints
- Received a similar volume of formal investigation complaints
- Received slightly more internal review complaints

The above would appear to indicate that the Council has an easy to access complaints system, as recommended by the Local Government & Social Care Ombudsman.

#### **1.8.8 Complaints Feedback**

There were no trends and because very few complaints were justified, either partially or fully, no further actions were necessary.

### **2 Conclusions and Reasons for Recommendation**

2.1 The report is to keep Elected Members informed of volumes and trends regarding customer service standards and compliments, comments, complaints and to remain compliant with the Customer Service Excellence standard.

### **3 Consultation and Equality Impact**

3.1 The report is to keep Elected Members regularly informed of volumes and trends regarding customer service standards and compliments, comments and complaints. No consultation or equality impact assessment is required.

### **4 Alternative Options and Reasons for Rejection**

4.1 Not applicable as the report is to keep Elected Members informed rather than to aid decision making.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

5.1.1 Whilst there are no direct financial implications with regard to the report, the Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman and the Housing Ombudsman if complaints are not handled well.

5.1.2 In cases of maladministration, financial penalties can be imposed by the Local Government & Social Care Ombudsman or the Housing Ombudsman.

5.1.3 In the case of complaints about Freedom of Information, Data Protection and Environmental Information requests, the Information Commissioner's Office can issue decision notices and impose significant fines.

#### **5.2 Legal Implications including Data Protection**

5.2.1 The Council is at risk of recommendations or decisions by the Local Government & Social Care Ombudsman and the Housing Ombudsman and, in the case of complaints about Freedom of Information, Data Protection and Environmental Information requests, the Information Commissioner's Office can issue decision notices and impose significant fines. There are no Data Protection implications.

#### **5.3 Human Resources Implications**

5.3.1 Not applicable as the report is to keep Elected Members informed.

## 6 Recommendations

6.1 That the Executive note the overall performance on customer service standards and compliments/comments and complaints.

## 7 Decision Information

|  |  |
|--|--|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/><br><i>Capital - £150,000</i> <input type="checkbox"/><br><i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/><br><i>Capital - £250,000</i> <input type="checkbox"/><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No   |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | No   |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes  |
| <b>District Wards Affected</b>   | All  |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Providing Our Customers with Excellent Service – retain Customer Service Excellence accreditation year on year<br>Transforming Our Organisation – good governance. |

## 8 Document Information

| Appendix No  | Title  |
|--|--|
| Appendix 1   | Customer Service Standards performance by quarterly period 2017/18 |
| Appendix 2   | Telephony performance by quarterly period 1/10/17 – 31/3/18        |
| Appendix 3:  | Compliments, Comments and Complaints information                   |
| A:   | Compliments by department 1/10/17 – 31/3/18                        |
| B:   | Comments by department 1/10/17 – 31/3/18                           |
| C:   | Frontline resolution complaints by department 1/10/17 – 31/3/18    |
| D:   | Formal Investigation complaints by department 1/10/17 – 31/3/18    |
| E:   | Internal Review complaints by department 1/10/17 – 31/3/18         |
| F:   | Ombudsman complaints summary for 2017/18                           |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |  |
|  |  |
| Report Author  | Contact Number   |
| Customer Standards and Complaints Officer  | Ext: 2353  |



## Appendix 1

| Key Customer Service Standards - Performance Monitoring - 2017/18 |                       |                                       |   |   |   |   |                  |                                     |                                    |                           |  |  |                                       |
|---|-----------------------|---------------------------------------|---|---|---|---|------------------|-------------------------------------|------------------------------------|---------------------------|--|--|---------------------------------------|
| Period  | Telephone Standards   |                                       |   |   |   |   | E-mail Standards |                                     |                                    | Face to Face Standards    |  | Written Complaints                     |                                       |
|   | No. of Incoming Calls | % of Calls Answered within 20 Seconds | No. of Incoming Calls - Contact Centres | % of Calls Answered within 20 Seconds - Contact Centres | No. of Incoming Calls - Revenues & Benefits | % of Calls Answered within 20 Seconds - Revenues & Benefits | No. of Emails    | % Acknowledged within 1 Working Day | % Replied to within 8 Working Days | No. of Customers (Sample) | % Served at the Enquiry Desk in less than 20 minutes | No. of Complaints Received (Stage Two) | % Responded to within 15 Working Days |
| Target  |                       | 93%                                   |   | 80%   |   | 60%   |                  | 100%                                | 100%                               |                           | 99.0%  |  | 97%                                   |
| April to June   | 20732                 | 93%                                   | 17938                                   | 79%   | 12438                                       | 77%   | 2,157            | 100%                                | 98%                                | 1,349                     | 99.5%  | 50                                     | 98%                                   |
| Quarter 1 Cumulative  | 20,732                | 93%                                   | 17,938                                  | 79%   | 12,438                                      | 77%   | 2,157            | 100%                                | 98%                                | 1,349                     | 99.5%  | 50                                     | 98%                                   |
| July to September   | 17,851                | 94%                                   | 19,497                                  | 84%   | 13,016                                      | 80%   | 2,689            | 100%                                | 98%                                | No monitoring undertaken  |  | 40                                     | 100%                                  |
| Quarter 2 Cumulative  | 38,583                | 93%                                   | 37,435                                  | 82%   | 25,454                                      | 79%   | 4,846            | 100%                                | 98%                                |                           |  | 90                                     | 99%                                   |
| October to December   | 11,505                | 96%                                   | 19,090                                  | 80%   | 11,277                                      | 83%   | 2,173            | 100%                                | 100%                               | 1,179                     | 100.0%   | 31                                     | 97%                                   |
| Quarter 3 Cumulative  | 50,088                | 94%                                   | 56,525                                  | 81%   | 36,731                                      | 80%   | 7,019            | 100%                                | 99%                                | 2,528                     | 99.8%  | 121                                    | 98%                                   |
| January to March  | 2624                  | 98%                                   | 23,096                                  | 70%   | 13,581                                      | 76%   | 3,153            | 100%                                | 98%                                | No monitoring undertaken  |  | 58                                     | 98%                                   |
| Quarter 4 Cumulative  | 52,712                | 95%                                   | 79,621                                  | 78%   | 50,312                                      | 79%   | 10,172           | 100%                                | 99%                                |                           |  | 179                                    | 98%                                   |

## Appendix 2 - Telephony Figures 1/10/17 – 31/3/18

| Corporate target 93%   | Q3           |                   |                     | Q4           |                   |                     |
|--|--------------|-------------------|---------------------|--------------|-------------------|---------------------|
|  | Total        | Total in standard | %age                | Total        | Total in standard | %age                |
| <b>Department (by directorate)</b>   |              |                   |                     |              |                   |                     |
| <b>Growth Directorate</b>  |              |                   |                     |              |                   |                     |
| CEO/CEPT   | 517          | 517               | 100%                |              |                   | 100%                |
| Planning   | 708          | 645               | 91%                 |              |                   | 93%                 |
| Economic Growth  | 76           | 75                | 99%                 |              |                   | 100%                |
| Legal, Governance & Elections  | 495          | 488               | 99%                 |              |                   | 99%                 |
|  | 1796         | 1725              | 96%                 |              |                   | 98%                 |
| <b>Operations Directorate</b>  |              |                   |                     |              |                   |                     |
| Revenue & Benefits   | 916          | 875               | 95%                 |              |                   | 95%                 |
| Property & Estates   | 582          | 569               | 98%                 |              |                   | 95%                 |
| Financial Services   | 575          | 571               | 99%                 |              |                   | 100%                |
| Housing  | 3754         | 3592              | 96%                 |              |                   | 93%                 |
| Streetscene Services   | 1751         | 1691              | 97%                 |              |                   | 93%                 |
|  | 7578         | 7298              | 96%                 |              |                   | 96%                 |
| <b>Transformation Directorate</b>  |              |                   |                     |              |                   |                     |
| Customer Service (& Improvement)   | 206          | 175               | 85%                 |              |                   | 95%                 |
| Leisure  | 1165         | 1125              | 97%                 |              |                   | 100%                |
| HR & Payroll   | 455          | 446               | 98%                 |              |                   | 100%                |
| (Customer Service) & Improvement   | 305          | 305               | 100%                |              |                   | 99%                 |
|  | 2131         | 2051              | 96%                 |              |                   | 99%                 |
| <b>Total</b>   | <b>11505</b> | <b>11074</b>      | <b>96%</b>          |              |                   | <b>98%</b>          |
| <b>Contact Centres Target 80%</b>  |              |                   |                     |              |                   |                     |
| Contact Centres  | 19090        | 15180             | 80%                 | 23096        | 15989             | 70%                 |
| <b>Revenues &amp; Benefits Target 60%</b>  |              |                   |                     |              |                   |                     |
| Benefits   | 3909         | 3620              | 93%                 | 4419         | 4086              | 92%                 |
| Billing  | 4128         | 3059              | 74%                 | 5474         | 3254              | 59%                 |
| Business Rates   | 264          | 208               | 79%                 | 384          | 250               | 65%                 |
| Recovery   | 2976         | 2463              | 83%                 | 3304         | 2753              | 83%                 |
| <b>Total</b>   | <b>11277</b> | <b>9350</b>       | <b>83%</b>          | <b>13581</b> | <b>10343</b>      | <b>76%</b>          |
| <b>Abandonage</b>  |              |                   |                     |              |                   |                     |
|  | <b>Total</b> | <b>Answered</b>   | <b>Abandon %age</b> | <b>Total</b> | <b>Answered</b>   | <b>Abandon %age</b> |
| <b>Contact Centres Abandoned</b>   | 19,494       | 19,090            | 2%                  | 24384        | 23096             | 6%                  |
| <b>Revenues &amp; Benefits Abandoned</b>   |              |                   |                     |              |                   |                     |
| Benefits   | 3924         | 3909              | 0%                  | 4442         | 4419              | 1%                  |
| Billing  | 4303         | 4128              | 4%                  | 6073         | 5474              | 10%                 |
| Business Rates   | 277          | 264               | 5%                  | 417          | 384               | 8%                  |
| Recovery   | 3171         | 2976              | 6%                  | 3591         | 3304              | 8%                  |
| <b>Revenues &amp; Benefits Abandoned</b>   | <b>11675</b> | <b>11277</b>      | <b>3%</b>           | <b>14523</b> | <b>13581</b>      | <b>6%</b>           |
| Total in standard includes all incoming calls between Monday to Friday 9.00 a.m. until 17.00 p.m.:<br>Answered on the original extension within 20 seconds<br>Transferred to another extension on divert within 20 seconds<br>Picked up by a group pick up within 20 seconds<br>Which ring off within 20 seconds |              |                   |                     |              |                   |                     |
| Does not meet target   |              |                   |                     |              |                   |                     |

## Appendix 3

| <b>A- Compliments 1/10/17 - 31/3/18</b> |                                  | <b>Number</b> |
|---|----------------------------------|---------------|
| <b>Growth</b>                           | CEO/CEPT                         | 3             |
|   | Environmental Health             | 5             |
|   | Planning                         | 19            |
|   |                                  | <b>27</b>     |
| <b>Operations</b>                       | Housing                          | 23            |
|   | Finance                          | 1             |
|   | Revenues & Benefits              | 17            |
|   | Streetscene Services             | 41            |
|   |                                  | <b>82</b>     |
| <b>Transformation</b>                   | Customer Service (& Improvement) | 21            |
|   | (Customer Service &) Improvement | 2             |
|   | Leisure                          | 17            |
|   |                                  | <b>40</b>     |
| <b>Total</b>                            |                                  | <b>149</b>    |

| <b>B - Comments 1/10/17 - 31/3/18</b> |                      | <b>Number</b> |
|---------------------------------------|----------------------|---------------|
| <b>Growth</b>                         | Partnership Team     | 1             |
|                                       | Environmental Health | 4             |
|                                       | Planning             | 2             |
|                                       |                      | <b>7</b>      |
| <b>Operations</b>                     | Housing              | 17            |
|                                       | Property & Estates   | 4             |
|                                       | Revenues & Benefits  | 2             |
|                                       | Streetscene Services | 10            |
|                                       |                      | <b>33</b>     |
| <b>Transformation</b>                 | Leisure              | 2             |
|                                       |                      | <b>2</b>      |
| <b>Total</b>                          |                      | <b>42</b>     |

| <b>C – Number of Frontline Resolution (Stage 1) complaints via Contact Centre 1/10/17 - 31/3/18</b> |                                  | <b>Number</b> | <b>Percentage outside of timescale of 3 working days</b> |
|---|----------------------------------|---------------|--|
| <b>Growth</b>   | Environmental Health             | 1             | 0%   |
|   |                                  | <b>1</b>      |  |
| <b>Operations</b>   | Housing (repairs)                | 21            | 25%  |
|   | Housing (other)                  | 2             | 50%  |
|   | Revenues & Benefits              | 5             | 20%  |
|   | Streetscene Services             | 70            | 16%  |
|   |                                  | <b>98</b>     |  |
| <b>Transformation</b>   | Customer Service (& Improvement) | 4             | 0%   |
|   |                                  | <b>4</b>      |  |
| <b>Total</b>  |                                  | <b>103</b>    | <b>18%</b>   |

| <b>D – Number of Formal Investigation<br/>(Stage 2) complaints 1/10/17 - 31/3/18</b> |                                  | <b>Number</b> | <b>Within<br/>timescale<br/>of 15<br/>working<br/>days</b> | <b>Out of<br/>timescale</b> |
|--|----------------------------------|---------------|--|-----------------------------|
| <b>Growth</b>  | CEO/CEPT                         | 1             | 1  |                             |
|  | Environmental Health             | 11            | 11   |                             |
|  | Legal, Governance & Elections    | 7             | 7  |                             |
|  | Planning                         | 19            | 19   |                             |
|  | Economic Growth                  | 1             | 1  |                             |
|  |                                  | <b>39</b>     | <b>39</b>  |                             |
| <b>Operations</b>  | Finance                          | 1             | 1  |                             |
|  | Housing                          | 29            | 29   |                             |
|  | Property & Estates               | 2             | 2  |                             |
|  | Revenues & Benefits              | 9             | 9  |                             |
|  | Community Safety                 | 1             | 1  |                             |
|  | Streetscene Services             | 24            | 23   | 1                           |
|  |                                  | <b>66</b>     | <b>65</b>  |                             |
| <b>Transformation</b>  | Customer Service (& Improvement) | 14            | 14   |                             |
|  | Leisure                          | 5             | 5  |                             |
|  | H R & Payroll                    | 1             | 1  |                             |
|  | I C T                            | 1             | 1  |                             |
|  | (Customer Service & Improvement) | 6             | 6  |                             |
|  |                                  | <b>27</b>     | <b>27</b>  |                             |
| <b>Total</b>   |                                  | <b>134</b>    | <b>133</b>   | <b>1</b>                    |

| <b>E – Number of Internal Review (S3) complaints<br/>1/10/17 - 31/3/18</b> |                                  | <b>Number</b> | <b>Within<br/>timescale<br/>of 20<br/>working<br/>days</b> | <b>Out of<br/>timescale</b> |
|--|----------------------------------|---------------|--|-----------------------------|
| <b>Growth</b>  | Environmental Health             | 3             | 3  |                             |
|  | Planning                         | 7             | 7  |                             |
|  | Legal, Governance & Elections    | 2             | 2  |                             |
|  |                                  | <b>12</b>     | <b>12</b>  |                             |
| <b>Operations</b>  | Housing                          | 5             | 5  |                             |
|  | Revenues & Benefits              | 3             | 3  |                             |
|  | Streetscene Services             | 6             | 5  | 1                           |
|  |                                  | <b>14</b>     | <b>13</b>  | <b>1</b>                    |
| <b>Transformation</b>  | Customer Service (& Improvement) | 1             | 1  |                             |
|  | (Customer Service & Improvement) | 7             | 7  |                             |
|  |                                  | <b>8</b>      | <b>8</b>   |                             |
| <b>Total</b>   |                                  | <b>34</b>     | <b>33</b>  | <b>1</b>                    |

# Appendix 3

|          | <b>F - Ombudsman's Summary</b>  | <b>Departments Involved</b>                          | <b>Date Decision Letter Received</b> | <b>Ombudsman Decision</b>  |
|----------|---|--|--------------------------------------|--|
| 09/10/17 | <b>LGSCO Initial enquiries</b> Complains the Council failed to consult him on his neighbour's planning application. He also complains the Council disclosed personal information about him to his neighbour | Planning   | 09/10/17                             | <b>Closed after initial enquiries</b> - The Ombudsman will not investigate this complaint as it has not caused significant injustice. With regard to the alleged data protection breach, this would be better directed to the ICO.   |
| 01/11/17 | <b>LGSCO Initial enquiries</b> The Council granted permission to change a skate park from metal ramps to concrete and is concerned that previous antisocial behaviour will resume                           | Community Safety<br>Environmental Health<br>Planning | 15/11/17                             | <b>Closed after initial enquiries - no further action</b> - The Ombudsman will not investigate this complaint because there is no evidence of fault by the Council.  |
| 01/11/17 | <b>HO Initial enquiries</b> Tenant is experiencing antisocial behaviour from a previous tenant who has dementia and still believes they live at the property  | Housing  |                                      | <b>Awaiting further correspondence from HO</b>   |
| 29/11/17 | <b>LGSCO</b> Complaint that the Council will not replace or repair the through floor lift for her disabled son  | Housing  | 30/01/18                             | <b>Not upheld: no maladministration</b> - The Council considered the housing needs of a vulnerable adult and his family without fault.   |
| 12/02/18 | <b>HO Initial enquiries</b> Tenant complains that a leak was not repaired in time causing damage to her flooring  | Housing  | 09/03/18                             | <b>No maladministration</b> by the council in the way it handled the escape of water in the property. This is because it was reasonable for it to assume that the leak was not uncontrollable and ongoing at the time based on the report and that the tenant had access to the communal facilities. |

LGSCO\* Local Government & Social Care Ombudsman

**HO\* Housing Ombudsman**

**Bolsover District Council**

**Executive**

**10th September 2018**

|                             |
|-----------------------------|
| <b>Business Rates Pilot</b> |
|-----------------------------|

**Report of Councillor B Watson, Portfolio Holder with Responsibility for Finance & Resources**

This Report is Public

**Purpose of the Report**

- To seek approval of Executive that delegated powers be granted to the Head of Finance & Resources in consultation with the Leader of the Council to submit an expression of interest to enter into a Derbyshire Business Rates Pilot arrangement for 2019/20.

**1 Report Details**

- 1.1 Under the Business Rates Retention Scheme, local authorities are able to come together, on a voluntary basis, to pool their business rates, giving them scope to generate additional business rates growth through collaborative effort, and to smooth the impact of volatility in rates income across a wider economic area. The Council have been part of a very successful Derbyshire Business Rates Pool that has been in operation since April 2015 which has helped to secure approximately £0.5m additional income per annum.
- 1.2 The Government has previously announced the expansion of the pilot programme for 100% business rates retention for 2018-19. The Derbyshire Business Rates Pool was accepted by the Government as one of ten pilot pools for 2018/19. As previously reported, forecasts show that the one year benefit to the Council will be in the region of £1.547m. Additionally, there is a County wide benefit, estimated at around £8m which has been allocated to the Derby and Derbyshire Joint Committee for Economic Prosperity via its Accountable Body, Derbyshire County Council, to support new business and business growth across the county. The pilots are deemed as an opportunity for the Government to test more technical aspects of the 100% business rates retention system, such as tier-splits. It will provide the opportunity to evaluate how collaboration between local authorities works in practice.
- 1.3 The Government have recently announced their proposals for 2019/20 which seeks invitations for Business Rate Pilots but will only retain 75% of local rates, reducing the local share from 100% to 75%.

- 1.4 We assume that the reduction in local share from 100% has been done for two reasons: firstly, it makes sure that the pilots align with the 75% local share that will be in place nationally in 2020/21 and secondly, it helps to reduce the cost of the pilots, which in the current financial year could easily exceed £750m.
- 1.5 Not all authorities with pilots in 2018-19 will necessarily continue them into 2019/20. All the pilots who were successful in 2018/19 will have to re-apply for 2019/20. There is also a suggestion that the number of pilots in 2019/20 will be fewer than in 2018/19. Again this suggests an attempt to manage the cost of the pilot programme.
- 1.6 The Government is interested in further exploring how rates retention can operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas. A proposal for a pool must be in the form of a business case with supporting analysis, which must set out the following:
- **Membership details** – including an explanation of relevance to the economic geography of the area, that each member fully supports the application and confirmation of the lead authority;
  - **Governance arrangements** – details of how the additional business rates income will be utilised, how risk is managed, proposals for sharing additional growth and how the pool will work together in the longer term;
  - **Additional supporting evidence** – benefits to the area of participation in the pilot and proposals for the tier-split;
  - **Membership** – the identity of all local authorities in the pool;
  - **Benefits** – details on how participation in the pilot scheme will benefit the area;
  - **Lead Authority** – the pool must nominate a lead authority who will be responsible for receiving payments from and to Government on behalf of the entire pool;
  - **Governance agreement** – setting out how the pooling arrangements will work in terms of financial distribution and service provision, evidencing how business rates income growth will be shared.
- 1.7 All proposals will need to be submitted to Government by 25 September 2018 and must be signed off by the S.151 officer of each authority in the pilot. Successful pilots will be announced in December 2018 and launched in April 2019. Between these dates the Government will support authorities in preparing for implementation.
- 1.8 The Council has had preliminary discussions with the current members of the Derbyshire Pilot, who have, expressed an interest in forming a 75% pilot for 2019/20 subject to financial projections. It is anticipated that a similar arrangement would be adopted, therefore generating further retained



income for each authority as well as wider economic prosperity options for the county as a whole.

- 1.9 Given the technical and complex nature of submitting a proposal in a short timeframe, Derbyshire County Council has engaged specialist support to draft the business case. The Council will be expected to make a contribution towards this but it is anticipated that this can be met from existing resources.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The report considers the case for entering into a Business Rates Pilot across a two tier area that should bring additional financial advantages through the retention of a higher proportion of business rates income and to gain additional benefits from any further growth. The pooling arrangement in operation since April 2015 and more recently the pilot have been a success, and we are looking to build upon these successes by participating further in a two tier pilot.

## **3 Consultation and Equality Impact**

- 3.1 The proposals within this report are concerned with increasing the level of funding from business rates. This is largely a technical issue which is considered to be unlikely to have any requirement for external or partner consultation. There is likewise no direct impact upon equality issues.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 The alternative option is not to join and to remain outside a Derbyshire Business Rates Pilot. The reasons for rejecting the option of remaining outside the Business Rates Pilot is that we would be potentially losing out on additional income for the Council and potentially jeopardise and piloting possibilities for other authorities within Derbyshire.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 These are covered throughout the report.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 Legal issues are covered in the body of the report where appropriate. There are no Data Protection issues arising directly from this report.

### **5.3 Human Resources Implications**

- 5.3.1 There are none arising directly from this report

## **6 Recommendations**

- 6.1 That Executive notes the contents and requirements of the invitation to pilot 75% Business Rates Retention in 2019/20.

- 6.2 That Executive grants approval for the Head of Finance & Resources, in her capacity as the Council's S.151 Officer and in consultation with the Leader of the Council to submit an expression of interest to enter into 75% Business Rates Pool Pilot in 2019/20.

## 7 Decision Information

|   |   |
|---|---|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br>BDC: Revenue - £75,000 <input type="checkbox"/><br>Capital - £150,000 <input type="checkbox"/><br>NEDDC: Revenue - £100,000 <input type="checkbox"/><br>Capital - £250,000 <input type="checkbox"/><br><input checked="" type="checkbox"/> Please indicate which threshold applies | No  |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)   | No  |
| <b>Has the relevant Portfolio Holder been informed</b>  | Yes   |
| <b>District Wards Affected</b>  | None directly   |
| <b>Links to Corporate Plan priorities or Policy Framework</b>   | Transforming our organisation.<br>Providing our customers with excellent service. |

## 8 Document Information

| Appendix No  | Title |                       |
|--|-------|-----------------------|
| N/A  |       |                       |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |       |                       |
| Invitation to Local Authorities in England to pilot 75% Business Rates Retention in 2019/20 - MHCLG  |       |                       |
| <b>Report Author</b>   |       | <b>Contact Number</b> |
| Dawn Clarke – Head of Finance & Resources  |       | 01246 217658          |

**Bolsover District Council**

**Executive**

**10th September 2018**

**Draft Local Enforcement Plan for Planning**

**Report of the Chair of the Planning Committee**

This report is public

**Purpose of the Report**

- To inform Executive of the planning department's proposals to publish a Local Enforcement Plan.

**1 Report Details**

**Background**

- 1.1 Paragraph 58 of the revised National Planning Policy Framework (published July 2018) says: effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 1.2 This paragraph goes on to say: local planning authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.
- 1.3 Therefore, a Local Enforcement Plan is not a statutory requirement and would not form part of the Local Plan. However, publication of Local Enforcement Plan would be consistent with Government guidance on best practice in respects of planning enforcement. This report provides further analysis of the additional benefits arising from the Council publishing a Local Enforcement Plan.
- 1.4 A draft version of a Local Enforcement Plan for Bolsover District is included as Appendix A to this report.

**Assessment**

- 1.5 Firstly, it is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place) and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control including taking no further action because planning enforcement is discretionary.

- 1.6 The Government also says that the Council should act in a proportionate way when tackling breaches of planning control. This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control and formal enforcement action should be used as a last resort in most cases.
- 1.7 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means cases will be dealt differently depending on the individual circumstances of the case but the Council still needs to demonstrate it takes a consistent approach to planning enforcement.
- 1.8 Therefore, the preparation and adoption of a Local Enforcement Plan is important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
  - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
  - provides greater transparency and accountability about how the Council will decide if it is expedient to exercise its discretionary powers;
  - provides greater certainty for all parties engaged in the development process.
- 1.9 By achieving these objectives, a Local Enforcement Plan will also promote effective planning enforcement, which is important to:
- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
  - maintain the integrity of the decision-making process; and
  - help ensure that public acceptance of the decision-making process is maintained.
- 1.10 Consequently, officers consider the publication of a Local Enforcement Plan is not only best practice from a planning perspective; publication of a Local Enforcement Plan is also closely aligned with the Council's priorities including promoting sustainable development and growth, transforming our organisation, promoting healthy and safe communities and delivering excellent customer service.

#### Service Standards

- 1.11 The draft Local Enforcement Plan sets out -
- how we will prioritise suspected breaches of planning controls;

- how to report a suspected breach of planning controls;
  - how we will deal with suspected breaches of planning controls;
  - who is responsible for implementing these policies; and
  - how we will monitor planning enforcement.
- 1.12 The Local Enforcement Plan also introduces service standards even though the nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal.
- 1.13 It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning controls or how many breaches occur within the District at any particular time although it is hoped publication of the Local Enforcement Plan will help reduce both.
- 1.14 However, the draft Local Enforcement Plan sets out the following service standards that officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited in the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within 24 hours of that site visit.
  - A site visit will be undertaken within two weeks of identifying a suspected breach of planning controls that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
  - A site visit will be undertaken within four weeks of identifying a suspected breach of planning controls that is likely to be a low priority case. A decision on what further action to take will be made within eight weeks of that site visit.
- 1.15 These service standards have been designed to facilitate prompt investigation of suspected breaches of control and encourage making timely decisions on how to progress individual cases.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Planning enforcement is carried out across the District and is a front-line service that can have an impact on the reputation of the Council and public confidence in the planning system. It is therefore important that the wider Council is kept informed of proposals that directly affect how planning enforcement will be carried out within the District.
- 2.2 In these respects, oversight of planning enforcement falls most directly to members of the Planning Committee and it is considered publication of a Local

Enforcement Plan will provide the Planning Committee with greater certainty of how officers will carry out this function within the District.

- 2.3 Finally, the publication of a Local Enforcement Plan is consistent with Government guidance on best practice and carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District.

### **3 Consultation and Equality Impact**

- 3.1 The draft Local Enforcement Plan has been developed by senior officers in this Council's Planning Department in liaison with the Planning Manager and Principal Enforcement Planner at North East Derbyshire to ensure that it is fit for purpose. Feedback from SAMT has also fed into the draft and the draft has been taken to the Growth Scrutiny Committee at Bolsover District Council. Following consideration of the draft Local Enforcement Plan attached to this report as Appendix A by the Council's Planning Committee, it is intended to carry out public consultation.
- 3.2 A formal Equality Impact Assessment on the Local Enforcement Plan is not considered to be necessary as it is legislation and national guidance led. Nonetheless, it is not considered that the publication of a Local Enforcement Plan would have any direct impacts on any person with a protected characteristic or any group of people that share a protected characteristic.
- 3.3 However, the Local Enforcement Plan is written in plain English to make our processes more accessible. The Local Enforcement Plan also explains how we will deal with enforcement cases fairly and consistently and how we will fulfil the public sector equality duty and comply with human rights legislation when we carry out planning enforcement. In these respects, officers have assessed the supporting procedures to ensure that there are no barriers to the service and support will be given to any person affected by enforcement issues if it is requested.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Members of the Planning Committee have oversight of planning enforcement and it is considered publication of a Local Enforcement Plan will provide the Planning Committee with greater certainty of how officers will carry out this function within the District. The publication of a Local Enforcement Plan is also consistent with Government guidance on best practice and carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District. Therefore, no alternative options were considered.

### **5 Implications**

#### **Finance and Risk Implications**

- 5.1 There are no significant cost implications involved with publication of a Local Enforcement Plan not least because it is intended to be a web-based resource.

- 5.2 Publication of a Local Enforcement Plan should also reduce the risk of complaints about planning enforcement and the risk of abortive action because it sets out clearly how we intend to carry out planning enforcement fairly and consistently across the District.

#### Legal Implications including Data Protection

- 5.3 The Local Enforcement Plan would not contain any personal data and therefore does not raise any issues in respects of the GDPR. There are no particular legal implications in respects of a decision not to publish a Local Enforcement Plan because publication is discretionary. However, a publication version of a Local Enforcement Plan will need to be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation.

#### Human Resources Implications

- 5.4 Publication of a Local Enforcement Plan does not give rise to any additional staffing costs but adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within.

## **6 Recommendations**

- 6.1 To note the proposals to publish a Local Enforcement Plan and provide feedback on the current draft; and
- 6.2 To refer the proposals to publish a Local Enforcement Plan to the Council's Planning Committee for further consideration.
- 6.3 That a report on the implementation of the Local Enforcement Plan be submitted to the Executive in 6 – 12 months.

## **7 Decision Information**

|  |    |
|--|----|
| <p><b>Is the decision a Key Decision?</b><br/> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br/> <i>BDC:</i>        <i>Revenue - £75,000</i>   <input type="checkbox"/><br/>                      <i>Capital - £150,000</i>   <input type="checkbox"/><br/> <i>NEDDC:</i>   <i>Revenue - £100,000</i> <input type="checkbox"/><br/>                      <i>Capital - £250,000</i>   <input type="checkbox"/><br/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p> | No |
| <p><b>Is the decision subject to Call-In?</b><br/> (Only Key Decisions are subject to Call-In)</p>   | No |

|   |  |
|---|--|
| <b>District Wards Affected</b>                                | All  |
| <b>Links to Corporate Plan priorities or Policy Framework</b> | Links to growth, transformation, customer service and healthy communities. |

## 8 **Document Information**

| <b>Appendix No</b>   | <b>Title</b>                 |
|--|------------------------------|
| A  | Draft Local Enforcement Plan |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                              |
| N/A  |                              |
| <b>Report Author</b>   | <b>Contact Number</b>        |
| Chris Fridlington (Planning Manager)   | EXT: 2265                    |

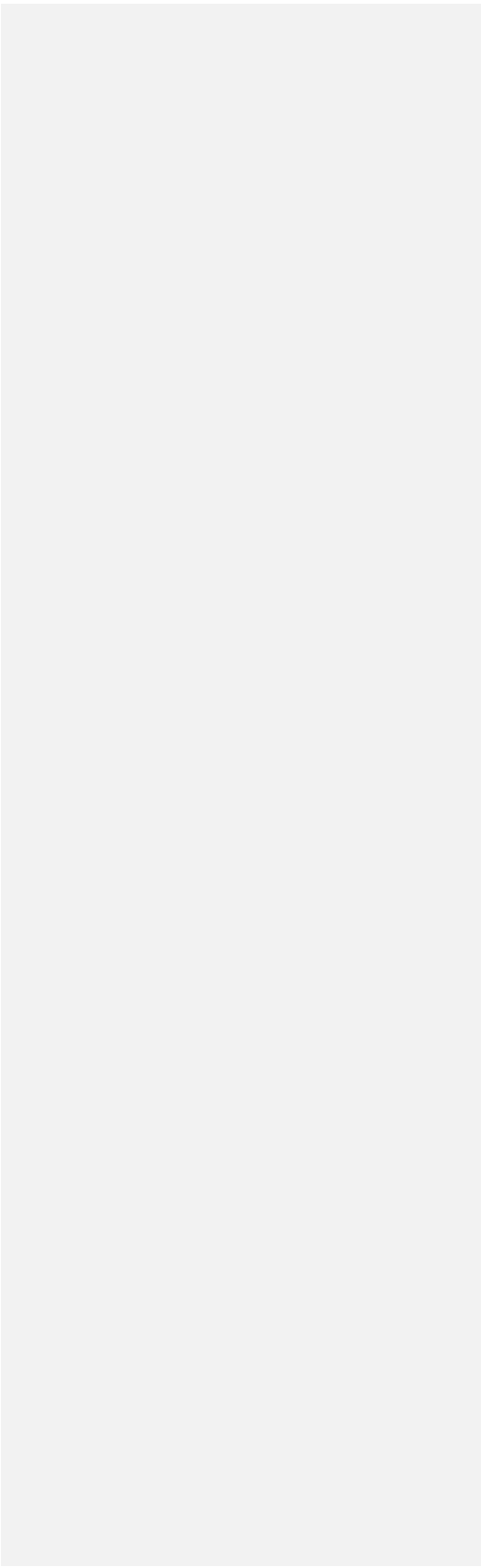
Report Reference –





# **Local Enforcement Plan (Planning)**

July 2018





**We speak your language**

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**Polish**

**Mówimy Twoim językiem**

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**Slovak**

**Rozprávame Vaším jazykom**

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**Chinese**

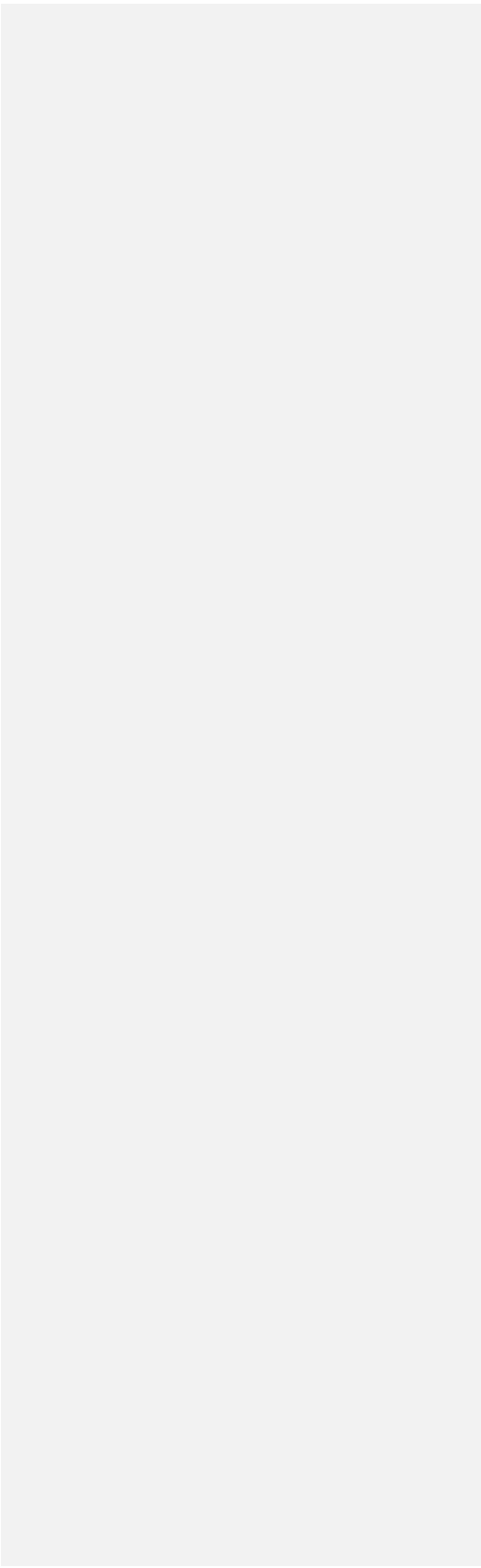
**我们会说你的语言**

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**CONTROL SHEET FOR [policy title here]**

| <b>Policy Details</b>  | <b>Comments / Confirmation<br/>(To be updated as the document progresses)</b> |
|--|---|
| Policy title   | Planning Enforcement Plan   |
| Current status – i.e. first draft, version 2 or final version  |   |
| Policy author (post title only)  | Chris Fridlington   |
| Location of policy (whilst in development) – i.e. L-drive, shared drive                                |   |
| Relevant Cabinet Member (if applicable)  |   |
| Equality Impact Assessment approval date   |   |
| Partnership involvement (if applicable)  |   |
| Final policy approval route i.e. Executive/ Council  |   |
| Date policy approved   |   |
| Date policy due for review (maximum three years)   | Three years   |
| Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public) |   |



## 1.0 INTRODUCTION

### What is a local enforcement plan?

- 1.1 A local enforcement plan should provide information on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments, and monitor the implementation of planning permissions.

### What is a breach of planning control?

- 1.2 There are many different types of breaches of planning control, including:

- ~~where planning permission is required,~~ the development of a building without the correct planning permission;
- ~~where planning permission is required,~~ changes to the external appearance of a building without the correct planning permission;
- ~~where planning permission is required,~~ changes of the use of the land or buildings without the correct planning permission;
- ~~where planning permission is required,~~ engineering operations that change the existing levels of land or create new land forms that are carried out without the correct planning permission; and,

the demolition of a non-listed building within a Conservation Area.

- 

- 1.3 We normally refer to these types of breaches of planning control as 'unauthorised development' because they are dealt with under powers in the Town and Country Planning Act 1990, as amended ('the 1990 Act').

- 1.4 The 1990 Act also covers other breaches of planning control, including:

- non-compliance with conditions attached to a planning permission, which is normally referred to as a 'breach of condition';
- non-compliance with a planning obligation contained in a s.106 legal agreement attached to a planning permission; and
- untidy land or buildings that has an unacceptable impact on the character and appearance of the local area.

- 1.5 In addition to unauthorised developments, there are other types of breaches of planning control that are normally dealt with under powers in different legislation, including:

- unauthorised alterations to a listed building or demolition of a listed building;

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- unauthorised works to trees in a designated Conservation Area
- 
- unauthorised works to or removal of a tree protected by a Tree Preservation Order, or trees located in a conservation area; and
- unauthorised removal of important hedgerows.

### Why is a local enforcement plan important?

- 1.6 It is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place), and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control. The National Planning Policy Framework also states that the Council should act in a proportionate way when tackling breaches of planning control and formal enforcement action should be used as a last resort.
- 1.7 This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control. Formal enforcement action should be used as a last resort. In some cases, but in other cases the Council may take formal enforcement action to resolve a breach of planning control. In some cases, ~~The~~ Council may seek a retrospective planning application to resolve a breach of planning control, instead of taking action whilst in others the Council might determine not to take any further action.
- 1.8 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means that ~~Whilst demonstrating we will take~~ a consistent approach to planning enforcement, different cases will may well be dealt with differently depending on the individual circumstances of the case.
- 1.9 Therefore, the preparation and adoption of a local enforcement plan is important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
  - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
  - provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; and,
  - provides greater certainty for all parties engaged in the development process.

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## What is the scope of this Local Enforcement Plan?

1.10 The following sections of this document will set out:

- how we will prioritise suspected breaches of planning control;
- how to report a suspected breach of planning control;
- how we will investigate suspected breaches of planning control;

~~how we will investigate suspected breaches of planning control;~~

- how we will take formal enforcement action against suspected breaches of planning control; and,
- who is responsible for implementing and monitoring these policies.

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## 2. PRIORITIES

### How will the Council prioritise planning enforcement?

- 2.1 For planning enforcement to work effectively and efficiently it is important to prioritise cases so we have sufficient resources available to tackle the most serious cases quickly. It is also important that we have sufficient resources to properly investigate suspected breaches of planning control to make sure we take the most appropriate action in the most reasonable amount of time.
- 2.2 Therefore, the first thing we will normally do when we identify a breach of planning control is decide whether the case is classed as high, medium or low priority to make sure planning enforcement is carried out effectively within the District.

### Why is effective planning enforcement important?

- 2.3 Effective planning enforcement is important to:
- tackle breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area, or have an unacceptable adverse impact on the living conditions of local residents;
  - maintain the integrity of the decision-making process by tackling unauthorised development that would not normally be granted planning approval; and
  - maintain public confidence in the Council's decision-making processes by ensuring planning conditions and planning obligations needed to make development acceptable in planning terms are complied with.

### What is a high priority case?

- 2.4 High priority cases are cases of severe importance. We will aim to investigate these cases on the same day that they are reported to the Council. We will then decide what further action to take, if any, within 24 hours. Examples of high priority cases are as follows:

- [Demolition in a Conservation Area;](#)
- [Destruction of an important hedgerow;](#)
- [Hazardous substances;](#)
- [Demolition in a Conservation Area;](#)
- [Destruction of an important hedgerow;](#)
- [Hazardous substances;](#)
- Unauthorised works to protected trees; and,
  - [Unauthorised works to listed buildings.](#)

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- [Unauthorised works to listed buildings.](#)
- [Unauthorised development in Green Belt](#)

### What is a medium priority case?

- 2.5 Medium priority cases will not normally require immediate action to prevent serious harm. They will include suspected breaches of planning control that would not normally get planning permission because they are contrary to local planning policies, and have a harmful impact on the amenity of the area.
- 2.6 We will aim to start investigating cases that are likely to be a medium priority by visiting the site within two weeks of receiving a complaint. We will then decide what further action to take, if any, within four weeks of the site visit. Examples of medium priority cases are as follows:

- [Unauthorised development that contravenes local planning policy;](#)
- [Unauthorised development that significantly impacts on local amenity and public safety;](#)
- [Unauthorised development that results in harm to the character of a Conservation Area; and](#)
- ~~Unauthorised development that contravenes local planning policy;~~
- ~~Unauthorised development that significantly impacts on local amenity and public safety;~~
- ~~Unauthorised development that results in harm to the character of a Conservation Area; and~~
- Unauthorised development that results in harm to the setting of a listed building.

### What is a low priority case?

- 2.7 Low priority cases will be minor breaches of planning control. We will aim to start investigating cases that are likely to be a ~~medium-low~~ priority by visiting the site within four weeks of receiving a complaint. We will then decide what further action to take, if any, within eight weeks of the site visit. Examples of low priority cases are as follows:

- [Running a small business from a residential property;](#)
- [Unauthorised advertisements;](#)
- [Unauthorised fences and walls;](#)
- [Unauthorised householder developments; and,](#)

~~Unless falling within priorities 1 and 2 above:~~

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- ~~Running a business from a residential property;~~
- ~~Unauthorised advertisements;~~
- ~~Unauthorised fences and walls;~~
- ~~Unauthorised householder developments; and,~~
- Untidy land and buildings.
- 

## How will we monitor implementation of planning permissions?

- 2.8 The Council does not have sufficient resources to monitor every planning permission that is implemented across the District. Some ad-hoc monitoring of development by case officers may take place but we will normally need to rely on reports of suspected breaches of planning conditions to be able to identify problems~~investigate these types of planning control or ad-hoc monitoring of development by case officers.~~
- 2.9 When we receive a report of a suspected breach of planning conditions or we identify a breach of planning conditions on a development site, we will approach the case in the same way as other breaches of planning control depending on whether the breach of condition is considered to be a high, medium or low priority case.
- 2.10 However, we will monitor sites where permission has been granted subject to a s.106 legal agreement. Typically, these types of legal agreements will have a 'trigger point' when payments are required to be made or when affordable housing or other infrastructure should be delivered.
- 2.11 In many cases, a trigger point will be related to the number of new houses that have been built and/or occupied. Planning officers are responsible for monitoring the trigger points for obligations including payments of commuted sums.
- 2.12

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### 3. REPORTING A SUSPECTED BREACH OF PLANNING CONTROL

#### How should a suspected breach of planning control be reported?

- 3.1 We publish a form on the Council's website that asks for all the information we need to allow us to investigate a suspected breach of planning control. We have also included a copy of this form in this document (see appendix A), which can also be used to report a suspected breach of planning control. If the form is incomplete or missing some information this may delay our investigation.
- 3.2 To report a suspected breach of planning control the form should be completed and e-mailed to [dev.control@bolsover.gov.uk](mailto:dev.control@bolsover.gov.uk) or posted to the Planning Department at Bolsover District Council, The Arc, High Street, Clowne S43 3JY.
- 3.3 Once we have received a completed form we will send an acknowledgement. At the conclusion of our investigations we will let the person who has reported a suspected breach know what action we have taken. We will not normally provide any other updates on our investigations but we will aim to work to the timescales we have set out in Section 2 of this document for high, medium and low priority cases.
- 3.4 We do not normally need photographs to be submitted with a completed form because we cannot use these photographs as evidence. However, we do need the address of the person reporting a suspected breach of planning control and that person's contact details. We do not accept anonymous complaints and we may need to discuss the case with the person who has reported it as part of our investigations.

#### How will we use personal data included on a completed form?

- 3.5 We will only share the address and private contact details of a person reporting a suspected breach of planning control with officers dealing with the case, unless the case involves a matter that cannot be dealt with by planning enforcement.
- 3.6 If a case should be dealt with by another department in the Council, we will share the details of the case with relevant officers in that department so they can take appropriate action. However, the Council will not share personal contact details with any external third parties without that person's consent.
- 3.7 We do not publish your personal contact details and we treat these details in confidence because we recognise many people will not have the confidence to report a suspected breach of planning control if their identity were to be made public.
- 3.8 For these reasons, the Council would not normally provide information about the details of a person who has reported a suspected breach of planning control if we receive a request for this information made under

the freedom of information act or the environmental information regulations.

- 3.9 However, we may have to share your personal details with the police or the courts if, in very exceptional circumstances, the suspected breach of planning control actually amounted to a criminal offence subject to prosecution.

#### **What types of complaints cannot be dealt with by planning enforcement?**

- 3.10 Before reporting a suspected breach of planning control, ~~to avoid any unnecessary work or delay in taking the most appropriate action~~ it is important to check that the matter is for the Council's Planning Department to deal with ~~so we can avoid any unnecessary work or delay in taking the most appropriate action~~. The most common issues that are incorrectly reported to the Council's Planning Department are listed below:

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#### **Approved development or works**

- 3.11 In some cases, we receive reports of suspected breaches of planning control about development or works that have been granted planning permission. We publish details of most planning applications on the Council's website including details of approved plans, planning conditions and planning obligations.
- 3.12 If it is found that works or a development has already got consent and is being carried out in accordance with the permission, then we will not take planning enforcement action. However, a complaint can still be made to the Council's Complaints Department about the way we dealt with an application for planning permission ~~but not about the decision itself, for the works or development. Please note that this complaint cannot change the decision made.~~

#### **Boundary disputes**

- 3.13 The planning department cannot deal with boundary disputes. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter.

#### **Damage to private property**

- 3.14 Similar to the above, the planning department cannot deal with reports about damage to private property. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or ~~reporting~~ the matter may need to be reported to the police.

#### **Dangerous Structures**

- 3.15 The Planning Department cannot deal with reports of dangerous structures, which should be reported to Derbyshire Building Control Partnership who can be contacted on 0333 880 2000 or by email at [info@dbcp.co.uk](mailto:info@dbcp.co.uk)

#### **Empty Properties**

- 3.16 The Planning Department cannot deal with empty properties, which should normally be reported to the Council's Empty Property Officer by telephoning 01246 242424.

#### **Fly-tipping**

- 3.17 The planning department cannot deal with reports of fly-tipping, which should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

#### **Fracking**

- 3.18 All issues related to [Fracking-fracking](#) should be discussed with Derbyshire County Council who can be contacted on 01629 580000.

#### **Highways Land**

- 3.19 The planning department cannot deal with complaints about any structures, advertisements, A-boards or any other operations, such as cars sales for example, that have taken place on land within the boundaries of a highway, which will normally include grass verges, footpaths and pavements and other highway infrastructure like barriers, lampposts and bridges, as well as the road itself.
- 3.20 Complaints about activities taking place on highways land that is connected to the local road network should be reported to the Highways Department at Derbyshire County Council by telephoning 01629 580000. Complaints about activities taking place on highways land connected to the strategic road network should be reported to Highways England by telephoning 0300 123 5000.

#### **Invasive non-native plants and harmful weeds**

- 3.21 Unless a breach of a planning condition has been identified, complaints about non-native invasive species or harmful weeds cannot be dealt with by the Planning Department and should be reported to [the Council's Streetscene Department on 01246 242424 if the land belongs to the Council. In all other cases, complaints about non-native invasive species or harmful weeds should be referred to the Environment Agency, and more information can be found on their website at \[www.gov.uk/government/organisations/environment-agency\]\(http://www.gov.uk/government/organisations/environment-agency\)](#)

### **Light Pollution**

- 3.22 Unless a breach of a planning condition has been identified, complaints about light pollution cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Noise Nuisance**

- 3.23 Unless a breach of a planning condition has been identified, complaints about noise nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Odour Nuisance**

- 3.24 Unless a breach of a planning condition has been identified, complaints about odour nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Quarry Sites and active Mineral Extraction**

- 3.25 All issues related to quarrying or mineral extraction should be discussed with Derbyshire County Council who can be contacted on 01629 580000.

### **Trespass**

- 3.26 Reports about private individuals trespassing cannot be dealt with by the Planning Department and these types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or reporting the matter to the police.

### **Vermin**

- 3.27 The planning department cannot deal with reports of vermin or other types of infestation, which should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Waste sites.**

- 3.28 Any complaints about the operation of a waste transfer site including public amenity waste disposal sites and scrapyards should be directed to Derbyshire County Council who can be contacted on 01629 580000.

## 4. Investigating suspected breaches of Planning Control

### How will we investigate suspected breaches of planning control?

- 4.1 Effective enforcement action relies on the Council having accurate information about a suspected breach of planning control. This means that the first part of our investigation is arranging a site visit. This can often involve contacting the owner of the land where the suspected breach of planning control has taken place and/or the person that appears to be responsible for the breach to arrange a site ~~visit~~meeting.
- 4.2 We prefer to organise a ~~site visit in this way~~site meeting because this gives us the opportunity to discuss the case with the people involved and it will help us with our investigations if we have a better understanding of what has happened and why. In addition, a breach of planning control may be the result of a genuine mistake where, once the breach is identified, the person responsible may take immediate action to remedy it.
- 4.3 However, we will not delay starting our investigations if we are not able to arrange a site visit or are refused entry to a site. If we are unable to arrange a site visit or are refused entry to the site then we will consider using our rights of entry. If we use our rights of entry, we will inform anybody on site who we are and the purpose of our visit. Our officers will also be carrying their staff cards as proof of identity.

### Rights of Entry

- 4.4 The Council can authorise named officers to enter land specifically for enforcement purposes (sections 196A, 196B and section 196C of the Town and Country Planning 1990 Act). This right of entry is limited to what is regarded as essential, in the particular circumstances, for effective enforcement of planning control. The Act specifies the purposes for which entry to land may be authorised (section 196A(1) of the 1990 Act), namely:
- to ascertain whether there is or has been any breach of planning control on the land or any other land;
  - to determine whether any of the local planning authority's enforcement powers should be exercised in relation to the land, or any other land;
  - to determine how any such power should be exercised; and
  - to ascertain whether there has been compliance with any requirement arising from earlier enforcement action in relation to the land, or any other land.
- 4.5 The phrase "or any other land" means that, if necessary, neighboring land can be entered, whether or not it is in the same ownership or is being occupied by the person whose land is being investigated.



- 4.6 Section 196A of the 1990 Act state there must be reasonable grounds for entering the land for the purpose in question. This is interpreted to mean that entering the land is the logical means of obtaining the information required by the local planning authority when investigating a suspected breach of planning control. It is also an offence to willfully obstruct an authorised person acting in exercise of a right of entry under section 196C(2) of the 1990 Act.
- 4.7 Where there are reasonable grounds for entering land for enforcement purposes, and a right of entry is refused or is reasonably likely to be refused, or there is a need for urgency, then it is possible for a Justice of the Peace to issue a warrant to allow entry (section 196B(1) of the 1990 Act). However, entry to a building used as a dwelling house cannot be demanded as of right unless 24 hours advanced notice of intended entry has been given to the occupier.

### **Assessing the Evidence**

- 4.8 In many cases, we can collect enough relevant information from our historic records of the site, as well as information collected on a site visit and other publicly available information to be able to properly assess whether an actual breach of planning control has taken place and what further action we need to take.
- 4.9 On some occasions we might need to obtain further information to make an assessment of whether there are any legal grounds that mean we cannot take formal enforcement action. In these circumstances, a planning contravention notice may be issued under section 171C of the 1990 Act and can be used to do the following:
- allow officers to request any information they need for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land; and
  - invite its recipient to provide officers with constructive suggestions about how any suspected breach of planning control may be remedied satisfactorily.
- 4.10 A proportionate way to tackle suspected breaches of planning control is to negotiate an acceptable solution with interested parties. Issuing a planning contravention notice can be one way to achieve this, allowing officers to collect the information they need to help progress a case. However, it is an offence not to return a planning contravention notice within the time specified for its return and it is an offence for a recipient to provide false information when completing a planning contravention notice.

#### When might the Council ~~be unable~~ be able to take formal enforcement action?

- 4.11 One reason the Council may not be able to take formal enforcement action is when an investigation of a suspected breach of planning control reveals that a breach of planning control has not actually taken place.
- 4.12 For example, we will not take any further action if we find that development or works taking place or completed on a site already has the appropriate planning permission and is being carried out or has been completed in accordance with the permission
- 4.13 We will also not take any further action if we find that development or works taking place or completed on a site benefits from 'deemed consent' because it is permitted development under the Town and Country (General Permitted Development)(England) Order 2015, as amended, or when we find that a sign or advertisement has 'deemed consent' under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 4.14 In addition, the 1990 Act and Town and Country Planning (Use Classes) Order 1987 (as amended) set out various activities and operations that cannot be considered to be development ~~that and does not requires~~ planning require planning permission as a matter of law. We will not take any further action if we find that a suspected breach of planning control falls within these statutory provisions and is not development that requires planning permission ~~within these statutory provisions~~.

#### Time limits for enforcement

- 4.15 In most cases, development becomes immune from enforcement if no action is taken:
- within 4 years of substantial completion for a breach of planning control consisting of operational development;
  - within 4 years for an unauthorised change of use to a single dwellinghouse;
  - within 10 years for any other breach of planning control (essentially other changes of use or breaches).
- 4.16 These time limits are set out in section 171B of the 1990 Act and we will not normally take any further action if we find out that an unauthorised development is immune from enforcement because we are too late to take action.
- 4.17 However, these statutory time limits do not prevent enforcement action after the relevant dates where there has been deliberate concealment of a breach of planning control.
- 4.18 Deliberate concealment may be considered to have occurred when deliberate attempts have been made to hide or disguise a breach of

planning control to prevent its discovery, or deliberately misleading statements or information have been provided to the Council to prevent a breach of planning control being discovered.

- 4.19 In cases of deliberate concealment, officers may decide to proceed with formal enforcement action that would normally be considered 'out of time' or apply for a planning enforcement order to gain more time to consider whether formal enforcement action should be taken.

#### **When might formal enforcement action not be appropriate?**

- 4.20 Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of planning control may be the result of a genuine mistake where, once the breach is identified, the person responsible will take immediate action to remedy it.
- 4.21 We will generally not take further formal enforcement action when action is taken to remedy a breach of planning control within 3-6 months of that action being agreed. The amount of time needed to put things right will depend on what actions are required to remedy the identified breach of planning control, but officers will not normally agree to a period longer than 6 months unless there are exceptional circumstances.
- 4.22 In deciding, in each case, what is the most appropriate way forward, the Council should also usually avoid taking formal enforcement action where:
- there is a trivial or technical breach of planning control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
  - development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
  - [the submission of in their assessment, the local planning authority consider that a formal planning application is the appropriate way forward to regularise the situation, for example where planning conditions may need to be imposed to make an unauthorised development acceptable in planning terms.-](#)
- 4.23 In most cases, only a minor breach of planning control will fall within the above criteria and these types of breaches will normally be low priority cases. However, if the Council decides not to take further action when it has completed its investigation of a low priority case this should not be taken as condoning a willful breach of planning law.
- 4.24 A decision to take no further action will be a proportionate response when the retention of an unauthorised development or works will not result in any demonstrable harm. Nonetheless, it is in the landowner's own best interests to regularise unauthorised development even when the Council decides not to take any further action.

- 4.25 We will always invite the submission of a retrospective application for low priority cases and other minor breaches of planning control because it is likely these types of applications will be granted permission. The right planning permission will normally be needed by the landowner when it comes to selling the property to reduce any conveyancing and legal issues.
- 4.26 We will also normally invite a retrospective planning application for some medium priority cases where planning conditions could be used to make the unauthorised development or works acceptable in planning terms and the person responsible for the breach of planning control has expressed a willingness to submit a retrospective application within 3 months of the breach being identified.
- 4.27 However, it is highly unlikely that we will invite an application if the breach of planning control we are investigating is significantly contrary to planning policies and/or has resulted in or continues to significantly detract from the living conditions of local residents or the character and appearance of the local area in a way that cannot be dealt with satisfactorily by planning conditions or amendments to the development.
- 4.28 In these circumstances, we will consider taking further action and this will normally involve commencing formal enforcement action to tackle some medium priority cases and all high priority cases.

## **5. Formal Enforcement Action**

### **When will we start formal enforcement action?**

- 5.1 Formal enforcement action should only be taken where the Council is satisfied that there has been a breach of planning control and it is expedient to take enforcement action, taking into account the provisions of the development plan and any other material considerations. Formal enforcement action should only be taken as a last resort.
- 5.2 Therefore, we will normally only start formal enforcement proceedings when we have thoroughly investigated the suspected breach of planning control and explored and exhausted every opportunity to agree a timely resolution to a breach of planning control with the person responsible for that breach and/or the landowner if they are not the person who has carried out the breach of planning control.
- 5.3 However, we cannot defer enforcement action indefinitely and some breaches of planning control require immediate action. So, we will consider taking formal enforcement action without giving further notice when we are tackling the most serious breaches of planning control, when the time limits for enforcement are close to running out, or when we cannot negotiate an acceptable solution or actions to remedy a breach of planning control have not been carried out in an agreed timescale.
- 5.4 It is therefore important that any person contacted by the Council about a suspected breach of planning control that they are responsible for, or that has been carried out on their land gets in contact with officers to discuss the case as a matter of urgency. It is also important that if a way to put things right has been agreed with officers to prevent further enforcement action being taken by the Council then it is important the actions needed to put things right are completed within the agreed timescale.

### **What types of formal enforcement action can the Council take?**

- 5.5 There is a range of ways of tackling breaches of planning control available to the Council through formal enforcement action. In each case officers not only have to determine which of the options would be the most effective way of dealing with the breach but also which would be the most proportionate way of securing a resolution.
- 5.6 In these terms, in most medium priority cases and in some high priority cases, issuing an enforcement notice will normally be the right approach for officers to take when it appears to them that there has been a breach of planning control and it is expedient to take formal enforcement action when taking into account the provisions of the development plan and any other material considerations (including the guidance in this document).

### **Enforcement Notices**

- 5.7 An enforcement notice should enable every person who receives a copy to

know:

- exactly what, in the local planning authority's view, constitutes the breach of planning control; and
- what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach of planning control.

5.8 There is a right of appeal against an enforcement notice, however it is an offence not to comply with an enforcement notice once the period for compliance has lapsed.

5.9 Therefore, it is important that the recipient of an enforcement notice takes immediate action to lodge an appeal against the notice if they think there are good grounds to do so or take immediate steps to comply with the notice.

### Stop Notices

5.10 A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in a related enforcement notice, ahead of the deadline for compliance in that enforcement notice. Therefore, a stop notice might be issued shortly after an enforcement notice because it is important to prevent a development from continuing before the enforcement notice comes into effect.

5.11 ~~Because of~~ there are very strict limitations on the use of a stop notice, so it is unlikely officers will consider issuing a stop notice unless there are very serious risks of irreparable harm from on-going development. For example, a stop notice may be considered where an unauthorised development involves the demolition of an unlisted building in a designated Conservation Area and an agreement to stop demolition with immediate effect has not been reached.

### Temporary Stop Notices

5.12 A temporary stop notice requires that an activity which is a breach of planning control should stop immediately. A temporary stop notice must state the date the temporary stop notice has been served, the activity that has to cease, and that any person contravening it may be prosecuted for an offence.

5.13 The Council does not need to have served an enforcement notice before it issues a temporary stop notice and officers may consider issuing a temporary stop notices in some high and medium priority cases when it is essential to take immediate action to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.

5.14 A temporary stop notice expires after 28 days, so officers will consider what further action is required within this period if an alternative way of dealing with the breach which would overcome the objections to it in an environmentally and legally acceptable way cannot be agreed with the recipient of the

temporary stop notice.

### **Breach of Condition Notice**

- 5.15 A breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of condition. Officers will consider issuing a breach of condition in addition to an enforcement notice, as an alternative to a stop notice, where officers consider it is expedient to stop the breach of conditions quickly and before any appeal against the enforcement notice is determined.
- 5.16 A breach of condition notice is therefore most likely to be used in some high or medium priority cases when immediate action is required to stop a continuing breach of conditions in the interests of safeguarding amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area. There is no right of appeal to the Planning Inspectorate against a breach of condition notice.

### **Injunction**

- 5.17 The Council can apply for an injunction whether or not it has exercised, or proposes to exercise, any of their other powers to enforce planning control. However, starting proceedings for an injunction ~~are-is one of~~ the most serious types of enforcement action that the Council can take because if a person fails to comply with an injunction (once it has been granted) they may be committed to prison for contempt of court. Additionally, once an injunction has been granted, it cannot be discharged except where there has been a significant change of circumstances since the order was made.
- 5.18 ~~In these circumstances~~ Therefore, officers will only consider applying for an injunction ~~as a last resort and only~~ if there have been persistent breaches of planning control such as failure to comply with the requirements of an enforcement notice over a long period and/or other enforcement options have been, or would be, ineffective in the event of a serious breach of planning control that would cause substantial and/or immediate harm to the local area.

### **Prosecution**

- 5.19 When officers are dealing with high priority cases, many of the breaches of planning control may constitute a criminal offence subject to prosecution including unauthorised works to protected trees, removal of important hedgerows, unauthorised works to listed buildings and where hazardous substances are involved.
- 5.20 Officers will take further legal advice in these cases with a view to pursuing a prosecution in the event of a serious breach of planning control that has resulted in substantial harm to the local area. It is therefore important that a person that is contacted by officers about a high priority case makes every effort to stop any unauthorised works or activities on site immediately.
- 5.21 Officers will also take further legal advice with a view to pursuing a

prosecution in the event of non-compliance with the requirements of an enforcement notice, breach of conditions notice, stop notice, temporary stop notice, listed building notice, community protection order or a section 215 notice.

### **Listed Building Enforcement Notice**

- 5.22 Although broadly similar, there are a number of important differences between planning enforcement notices and listed building enforcement notices including the fact that there are no time-limits for issuing listed building enforcement notices.
- 5.23 Officers will consider issuing a listed building enforcement notice in medium and high priority cases where works have been carried out without the necessary listed building consent, or a condition attached to that consent has not been complied with when such works materially detract from the historic or architectural significance of the building and there is no agreement to put those works right in any other way.

### **Community Protection Notices**

- 5.24 Officers have the power to issue a Community Protection Notice under the Anti-Social Behaviour, Crime and Policing Act 2014 and these Notices can be used to tackle a wide range of issues including:
- untidy land / buildings;
  - unauthorised use of land; and
  - unauthorised buildings / structures.
- 5.25 Where any of the above problems are causing ongoing detrimental effects to the living conditions of the local community, a Community Protection Notice can contain reasonable requirements:
- to stop doing specified things;
  - to do specified things; or,
  - to take reasonable steps to achieve specified results.
- 5.26 Officers will consider issuing a Community Protection Notice if an earlier written warning that a Notice may be issued has been ignored and may be used as an alternative to a section 215 Notice.

### **Section 215 Notices (Requiring proper maintenance of land)**

- 5.27 Section 215 of the 1990 Act provides the Council with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears to officers that



the public amenity of part of the District is being adversely affected by the condition of neighbouring land and buildings, they may consider serving a section 215 notice on the owner requiring that the situation be remedied.

- 5.28 These notices will set out the steps that need to be taken, and the time within which they must be carried out. The Council also have powers under s219 of the 1990 Act to undertake the clean-up works itself and to recover the costs from the landowner.

#### **Other default powers**

- 5.29 The Council can prosecute for a failure to comply with an enforcement notice but it can also consider using its default powers under s.178 of the 1990 Act to enter enforcement notice land and carry out the requirements of the notice itself.
- 5.30 It is an offence to willfully obstruct anyone who is exercising those powers on the Council's behalf and Council can recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work.
- 5.31 Officers will only consider using these default powers when all other methods to persuade the owner or occupier of land to carry out any steps required by an enforcement notice have failed.

#### **Advertisements and fly-posting**

- 5.32 The Council will not take action against any adverts or fly-postings on the local road network, which would normally be dealt with by the local highway authority (Derbyshire County Council). Highways England would be expected to deal with adverts and fly-posting on the strategic road network.
- 5.33 In other cases, where signs, adverts or fly-posting are unauthorised and is damaging the character and appearance of the local area, officers will normally serve advance written notice to anyone who can be identified as the person responsible, that:
- in the Council's opinion the advert or sign is displayed illegally; and
  - the Council intends to remove it after the expiry of a period specified in the notice.

Officers can then remove the sign or adverts 2 clear days after the notice was served.

- 5.34 However, the Council need not give any notice to remove fly-posters where a placard or poster does not give the address of the person displaying it and officers do not know that address and are unable to ascertain the relevant address after making reasonable enquiries.

#### **How will human rights be taken into account in planning enforcement?**

- 5.35 The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action should be taken, officers, where relevant, will have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.
- 5.36 When considering commencing formal enforcement action, officers must be satisfied that there has been a breach of planning control and that the activity which amounts to the breach must be stopped within the time limits set for compliance or by action to be taken through the courts in the wider public interest. In compliance with Article 6 of the Human Rights Act 1998, a recipient of a formal enforcement notice will also have the right of appeal or the right to a fair trial in the event of non-compliance with a formal enforcement notice or on receipt of a summons.

**How will the public sector equality duty be taken into account in planning enforcement?**

- 5.37 In deciding whether enforcement action should be taken, officers, when the relevant information is publically available or has been made available to officers, will have regard to the potential impact on any person with a protected characteristic or group of persons that share a protected characteristic that are either likely to be affected by the proposed action or likely to be affected by a breach of planning control.
- 5.38 Officers will also make any reasonable adjustments that have been requested and in particular, will make the process of planning enforcement as accessible as possible by ensuring all written communication is in plain English, can be produced in bigger text or different languages if appropriate, and where necessary, by visiting people at their home to discuss any breach of planning control that directly affects their living conditions or any action that will have a material effect on their quality of life.

**Unauthorised Encampments**

- 5.39 An absence of authorised sites does not mean that the Council cannot take enforcement action against unauthorised encampments. There are also extensive powers available to help the Council deal with illegal and unauthorised sites.
- 5.40 However, officers will only proceed with action against unauthorised encampments following liaison with the Council's Corporate Enforcement Officer Group, the equalities officer, other interested parties including the police, particularly because of the need to balance the potential of taking urgent action to remedy a serious breach of planning control whilst dealing with sensitive issues around human rights and compliance with public sector equality policy.

## **6. Implementation and Monitoring**

### **Who will be responsible for implementing the Local Enforcement Plan?**

- 6.1 The Joint Head of Planning, the Planning Manager and the Principal Enforcement Officer will be responsible for implementing the plan and ensuring the guidelines in this document are followed by officers.
- 6.2 The Principal Enforcement Officer, Enforcement Officers and Planning Officers, where appropriate, will be responsible for a pro-active approach to reporting suspected breaches of planning control, investigating suspected breaches of planning control, and monitoring large housing sites.
- 6.3 The Joint Head of Planning, the Planning Manager and the Principal Enforcement Officer will assist, where appropriate, with deciding what action should be taken when an investigation into a suspected breach of planning control has been completed, and the Council's solicitors will be consulted before any formal enforcement action is commenced.
- 6.4 The Council's solicitors will also be consulted before any legal action is commenced and the Council's solicitors will assist with any legal proceedings including instructing a QC to represent the Council in any court proceedings.
- 6.5 The Planning Manager and/or the Principal Enforcement Officer will normally be expected to prepare a statement of cases and/or represent the Council at an informal hearing or public enquiry in the event of an appeal to the Planning Inspectorate where an enforcement notice has been served in particularly complex or high profile enforcement cases
- 6.6 The Planning Manager and the Principal Enforcement Officer will assist the Enforcement Officer or other Planning Officers to prepare a statement of case in other more straightforward cases.
- 6.7 The Council's Corporate Enforcement Officer Group will also have a role to play in planning enforcement if a case requires joint working across Council departments. Unauthorised encampments will therefore always be referred to this Group before any decisions are made on how to progress these cases.

### **How will District Councilors be involved?**

- 6.8 Ward Councilors will normally be informed before officers take formal action in respects of any suspected breach of planning control in their local area where the case is sensitive or contentious.
- 6.9 On a quarterly basis, District Councilors will also receive a list of suspected breaches of planning control that have been reported to the Council or that

have been identified by officers over the last three months so they have the opportunity to discuss these cases or check progress with officers if necessary. A half yearly report will also be produced, giving reference to performance standards associated with the varying case priority levels (see section 6.13).

#### **What service standards will be monitored?**

- 6.10 The nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal.
- 6.11 It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning control or how many breaches occur within the District at any particular time, although it is hoped this document will help reduce both.
- 6.12 However, as previously highlighted, this document sets out the following service standards that officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited in the same day the suspected breach of planning control has been clearly identified. Wherever possible, a decision on what further action is required will be taken within 24 hours of that site visit. Investigations will not take place over the weekends or Bank Holidays
  - A site visit will be undertaken within two weeks of identifying a suspected breach of planning control that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
  - A site visit will be undertaken within four weeks of identifying a suspected breach of planning control that is likely to be a low priority case. A decision on what further action to take will be made within eight weeks of that site visit.
- 6.13 We will monitor our performance against these standards and publish the results on a half-yearly basis. These results will be assessed to see whether this Plan is working or needs to be reviewed. Achieving a culture of compliance would be one key measure of whether the Plan has been successful.
- 6.14 The Local Enforcement Plan will also be reviewed if there are any substantial changes to relevant legislation, national policy or national guidance or within three years after publication depending on whichever is the sooner.
- 6.15 Planning officers will attend regular training events to ensure that their continuing professional development is appropriate to endorse the principles of this Enforcement Plan.

Appendix A:

**Planning Enforcement Enquiry Form**

Please note that Bolsover District Council does not normally accept anonymous complaints. Therefore, all fields of the Enquiry Form should be completed. If insufficient details are provided the information will be placed on file and the matter will not be investigated.

Your details are kept confidential at all times and are protected by the Data Protection Act 1998. This information is required so that we can contact you if we need further information and to let you know what progress we are making with your enquiry. We will not use your personal information for any other purpose.

Once you have completed the form please send it to us via email; you can also print off the form and post it to us or put it in an envelope addressed to ‘Planning Department’ and hand it in at one of our contact centres.

**Contact details:**

|                           |                                     |
|---------------------------|-------------------------------------|
| Planning Enforcement      | Telephone: 01246 242424             |
| Bolsover District Council | E-mail: dev.control@bolsover.gov.uk |
| The Arc                   |                                     |
| High Street               |                                     |
| Clowne                    |                                     |
| Chesterfield              |                                     |
| Derbyshire                |                                     |
| S43 4JY                   |                                     |

**Your details:**

Name:

Address:

Postcode:

Telephone Number (Day):

Telephone Number (Mobile):

E-mail address:

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### Details of the alleged breach

Please give full details of the development you are reporting. The more information you provide at this stage the sooner we can investigate and take any necessary action.

Address/location of site:

Name of the owner or occupier (if known) or any other useful contact:

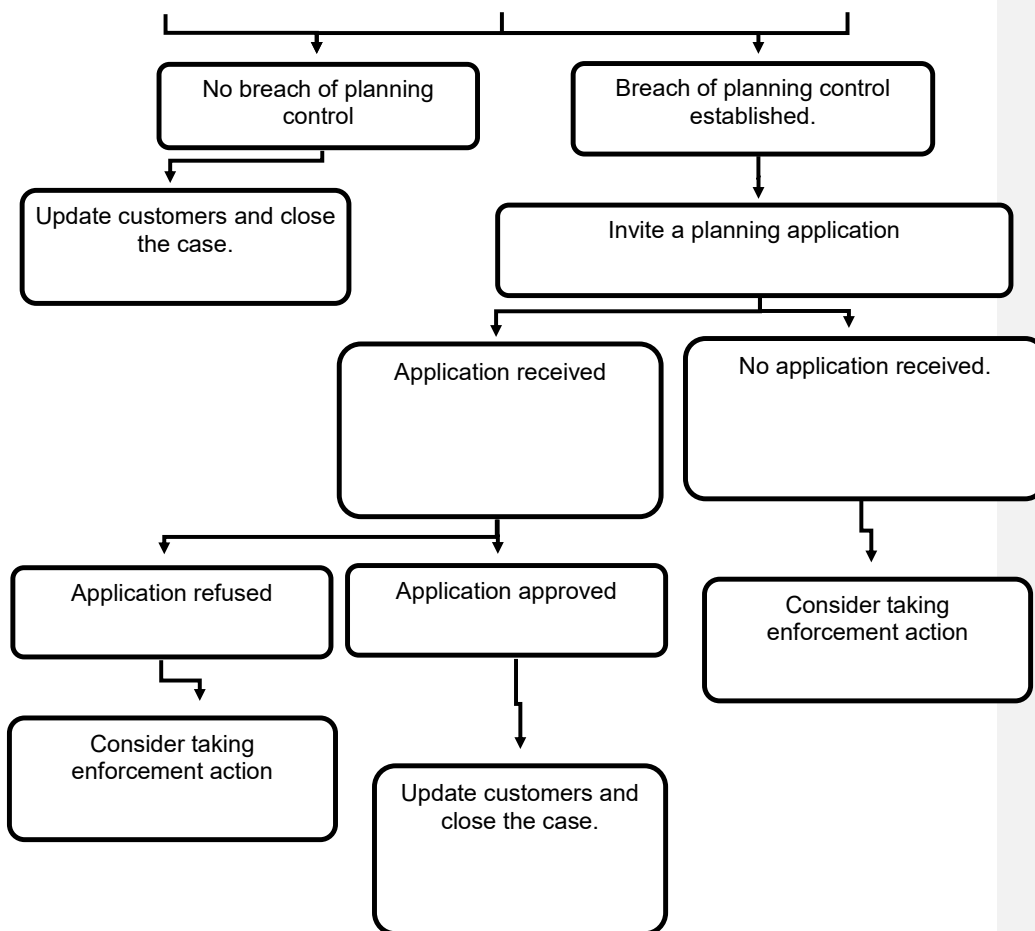
Please describe in as much detail as possible the nature of the development being carried out, including approximate dimensions, dates and times of activity and when development began.

Please explain what problem this is causing you.



All personal information provided to Bolsover District Council will be held and treated in confidence in accordance with the Data Protection Act 1998. It will only be used for the purpose for which it was given and may be shared with other council departments or third party organisations

which also have a role in dealing with the complaint or which have powers to deal with aspects of the complaint



**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

**Corporate Plan Targets Performance Update – April - June 2018  
(Q1 – 2018/19)**

**Report of Councillor D. McGregor, Portfolio Holder for Corporate Governance**

This report is public

**Purpose of the Report**

- To report the quarter 1 outturns for the Corporate Plan 2015-2019 targets.

**1 Report Details**

1.1 The attached contains the performance outturn as of 30<sup>th</sup> June 2018.  
(Information compiled on 22/08/18)

1.2 A summary by corporate plan aim is provided below:

**1.2 Unlocking our Growth Potential**

- 14 targets in total (3 targets achieved previously – G02, G04 and G14)
- 9 targets on track including 1 extended previously
- 1 target has been achieved:
  - **G06** - *Undertake statutory public consultation on the Local Plan (Strategic Policies and Site Allocations) in line with the adopted Local Development Scheme timetable by July 2017 (extended to June 2018). Consultation undertaken.*

**1.4 Providing our Customers with Excellent Service**

- 16 targets in total (2 target previously withdrawn – C16 – C04)
- 14 targets on track

**1.5 Supporting our Communities to be Healthier, Safer, Cleaner and Greener**

- 17 targets in total (5 target previously achieved – H06, H08, H13, H14, H16, 1 target previously withdrawn – H15)
- 10 targets on track
- 1 target signed off as completed (following a period of monitoring for information only):



**H05** - *Support 417 inactive 16+ individuals per year & increase their activity levels to more than 30 minutes of moderate intensity physical activity per week.* This project has ended. See appendix for outturn.

## **1.6 Transforming our Organisation**

- 14 targets in total (6 targets achieved previously – T02, T03,T04,T05,T07 & T12 and 2 withdrawn previously - T01, T14)
- 5 targets on track
- 1 target has been flagged as an ‘alert’ as it has not shown any improvement:
  - **T10** – *Reduce the level of former tenants’ arrears by 10% through early intervention and effective monitoring by March 2019.* This target has struggled to show any % improvement throughout the corporate plan period to date.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Out of the 61 targets 38 (62%) are on track, 16 (26%) have been achieved (14 previously), 5 (8%) have been withdrawn (previously), 1 (2%) is on alert and 1 (2%) extended previously.
- 2.2 This is an information report to keep Members informed of progress against the corporate plan targets noting achievements and any areas of concern.

## **3 Consultation and Equality Impact**

- 3.1 Not applicable to this report as consultation was carried out on the original Corporate Plan.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Not applicable to this report as providing an overview of performance against agreed targets.

## **5 Implications**

### **5.1 Finance and Risk Implications**

No finance or risk implications within this performance report.

### **5.2 Legal Implications including Data Protection**

No legal implications within this performance report.

### **5.3 Human Resources Implications**

No human resource implications within this performance report.

## **6 Recommendations**

- 6.1 That progress against the Corporate Plan 2015-2019 targets to be noted.

## 7 Decision Information

|  |   |
|--|---|
| <b>Is the decision a Key Decision?</b><br>(A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards) | No  |
| <b>District Wards Affected</b>   | Not applicable  |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Links to all Corporate Plan 2015-2019 aims and priorities |

## 8 Document Information

| Appendix No  | Title   |
|--|---|
| 1.   | Corporate Plan Performance Update – Q1 April to June 2018 |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |   |
| All details on PERFORM system  |   |
| Report Author  | Contact Number  |
| Kath Drury, Information, Engagement and Performance Manager  | 01246 242280  |

Report Reference –

**Bolsover District Council**  
**Corporate Plan Targets Update – Q1 – April – June 2018**

**Status key**

|  |          |  |
|--|----------|--|
|  | On Track | The target is progressing well against the intended outcomes and intended date.  |
|  | Achieved | The target has been successfully completed within the target date.   |
|  | Overdue  | The target has passed its due date for completion.   |
|  | Alert    | The target is six months off the intended completion date and the required outcome may not be achieved. Also to flag annual indicators within a corporate plan target that may not be met. |
|  | Extended | The date for completion of this target has been formally extended by SAMT and/or Members.  |

**Aim – Unlocking our Growth Potential**

| Key Corporate Target   | Directorate       | Status     |            | Progress   |  |  |  |  | Target Date    |          |          |            |          |         |            |            |            |       |         |            |            |            |       |               |
|--|-------------------|------------|------------|--|--|--|--|--|----------------|----------|----------|------------|----------|---------|------------|------------|------------|-------|---------|------------|------------|------------|-------|---------------|
| G 01 - Through the use of Key Account Management develop a relationship with a minimum of 50 local businesses by March 2019. | Growth            | On track   |            | Q1. 129 Business engaged to date. The team has worked with an increasingly varied type of business this Quarter (Chameleon School of Construction, J K Powell, Penny Hydraulics, F G Architecture, Prospect Garage, Ethos, Raven House Farm, Vaughan Hallam), and has seen an increase in the number of businesses enquiring about premises, land and developments. We responded to 33 business enquiries, including 20 Business Growth Fund/LEADER grant enquiries. The regular joint LEP Crossover Advisor Forum was attended, and officers were updated on current financial assistance for businesses. |  |  |  |  | Sun-31-Mar-19  |          |          |            |          |         |            |            |            |       |         |            |            |            |       |               |
| G 03 - Optimise business growth (as measured by gross NNDR) by £2.5m by March 2019   | Growth Operations | On track   |            | Accumulatively for the corporate plan period we have optimised business growth by £4,728,976 (as measured by gross NNDR)<br><table><tr><td>Financial Year</td><td>Baseline</td><td>Out-turn</td><td>Difference</td><td>% Change</td></tr><tr><td>2017/18</td><td>62,345,477</td><td>63,528,906</td><td>+1,183,429</td><td>+1.8%</td></tr><tr><td>2016/17</td><td>54,800,120</td><td>58,345,667</td><td>+3,545,547</td><td>+6.5%</td></tr></table>  |  |  |  |  | Financial Year | Baseline | Out-turn | Difference | % Change | 2017/18 | 62,345,477 | 63,528,906 | +1,183,429 | +1.8% | 2016/17 | 54,800,120 | 58,345,667 | +3,545,547 | +6.5% | Sun-31-Mar-19 |
| Financial Year   | Baseline          | Out-turn   | Difference | % Change   |  |  |  |  |                |          |          |            |          |         |            |            |            |       |         |            |            |            |       |               |
| 2017/18  | 62,345,477        | 63,528,906 | +1,183,429 | +1.8%  |  |  |  |  |                |          |          |            |          |         |            |            |            |       |         |            |            |            |       |               |
| 2016/17  | 54,800,120        | 58,345,667 | +3,545,547 | +6.5%  |  |  |  |  |                |          |          |            |          |         |            |            |            |       |         |            |            |            |       |               |

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
|  |             |          |  | 2015/16 54,800,120 55,349,581 +549,461 +1.0%<br>31/03/15 54,800,120  |               |
| G 05 - Through the Bolsover North East Derbyshire LEADER Approach collectively support the creation of 65 sustainable jobs in the combined programme area by December 2020.          | Growth      | On track |  | <p>Q1: The current programme total (subject to exchange rate) is £1,123,728. 15 projects are now contracted for £609,884.35 grant, £1,016,520.04 match funding and to create 44.5FTE jobs. 8 projects were approved in the quarter: Glapwell Football Ground, Speetley Equestrian, Stainsby Festival Renewal, Lime Tree Care Ltd, Carlton Woodmill Ltd (all BDC area), W Halford &amp; Son, Deer Park Play Area and J E Seals &amp; Son (all NED). 7 full applications totalling £266,179 (aiming to create 20.37 jobs) are undergoing pre-appraisal checks and a further 8 endorsed Expressions of Interest are currently being developed into full bids, seeking £339,612 and anticipating 8.28 jobs.</p> <p>Based on the contracted job creation (contractual obligation) of 44.5FTE jobs, plus the 20.37FTE identified in full applications pre-approval plus the 8.28FTE at Expression of interest stage, we expect to create 73.15FTE jobs, although this is all subject to thorough appraisal/approval.</p> | Thu-31-Dec-20 |
| G 06 - Undertake statutory public consultation on the Local Plan (Strategic Policies and Site Allocations) in line with the adopted Local Development Scheme timetable by July 2017. | Place       | Achieved |  | Q1: Local Plan consultation undertaken between May - June 2018<br>Submission programmed by end July 2018   | Mon-30-Jun-18 |
| G 07 - Submit Local Plan (Strategic Policies and Site Allocations) for   | Place       | Extended |  | Q1: On track to submit the Plan by end of July 2018 in line with adopted timetable.  | Thu-31-Jul-18 |

| Key Corporate Target  | Directorate | Status   |  | Progress   | Target Date   |
|---|-------------|----------|--|--|---------------|
| examination by the Planning Inspectorate by November 2017.  |             |          |  |  |               |
| G 08 - Process all major planning applications 10% better than the minimum for special measures per annum.    | Place       | On track |  | Q1 - 100% (6 out of 6 applications for major development determined within statutory deadline or agreed extension of time)   | Sun-31-Mar-19 |
| G 09 - Deliver a minimum of 100 new Council properties by March 2019.   | Place       | On track |  | <p>Q1 2018: Fir Close Shirebrook (8 units) work completed. Derwent Drive, Tibshelf work completed (12 units) and Hilltop Avenue Shirebrook (37 units) work approaching completion. Phase 2 properties, mainly new sites around Pinxton and South Normanton started March 2018. Agreed to purchase 13 properties in Bolsover from a developer.</p> <p>Blackwell Hotel site (6 units) and Rogers Avenue (7 units) completed previously.</p> <p>Total B @ Home properties in progress is 92 plus purchased one former RTB property. Also considering purchasing S.106 Units from developer. Outline plans for Stage 2 have been reported to Members. To date - 33 units completed</p> | Sun-31-Mar-19 |
| G 10 - Enable the development of at least 1,000 new residential properties within the district by March 2019. | Place       | On track |  | <p>Q1 – 2018/19 outturn figure to be reported at financial year-end. On course to achieve.</p> <p>2015/16 – 326<br/>2016/17 – 293<br/>2017/18 = 252</p> <p>Corporate plan period to date = 871 residential properties</p>  | Sun-31-Mar-19 |

| Key Corporate Target   | Directorate | Status   | Progress  | Target Date   |
|--|-------------|----------|---|---------------|
| G 11 - Through a programme of targeted refurbishment bring 15 empty private sector properties back into use per annum. | Place       | On track | <p>Q1 - 0 empty properties purchased and 0 properties converted back into habitable dwellings.</p> <p>10 of the 15 flats at The Station Hotel have now been occupied, the remaining 5 are in the process of being rented out by Action Housing. Action Housing are in the process of renovating the Miners Welfare in Creswell into 11 flats, these should be ready to let out by December 2018.</p> <p>The Empty Property Officer has promoted the reduced rate VAT scheme that is available to owners of empty properties, this has resulted in 1 property being brought back into use.</p> <p>Partnership work between the Empty Property Officer and the Planning Enforcement Team has resulted in a long term problematic empty property being sold at auction, this will hopefully see the property brought back into use within the next year.</p> <p>A Landlord event was held in May, which was attended by over 60 Landlords. A number of presentations were given including advice on bringing empty properties back into use. A further event is being arranged for September in partnership with the DWP to give advice to Landlords in relation to Universal Credit, to try and help Landlords help tenants to sustain their tenancies, to avoid properties becoming empty.</p> <p>To review target status at Q2.</p> | Sun-31-Mar-19 |
| G 12 - Achieve an increase of £850,000 in additional New Homes Bonus from the government by March 2019.                | Place       | On track | <p>Q1. £256,857 is the additional amount of New Homes Bonus being received in 2018/19.</p> <p>2015/16 = £227,154<br/>2016/17 = £265,993<br/>2017/18 = £191,202</p>  | Sun-31-Mar-19 |

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
|  |             |          |  | Corporate plan total = £991,206. Target to be signed off as 'achieved' at Q4.<br><br>Additional information - The joint Enforcement Procedure has been agreed by Executive and this will be used to target nuisance empty properties which will support NHB. |               |
| G 13 - Work with partners to deliver an average of 20 units of affordable homes each year. | Place       | On track |  | Q1 - No affordable units have been delivered in quarter 1. An annual figure will be provided at the end of the year 2018/19.<br><br>To review target at Q2.  | Sun-31-Mar-19 |

#### Aim – Providing our Customers with Excellent Service

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| C 01 - Retain Customer Service excellence accreditation year on year.  | People      | On track |  | Q1: Customer Service Excellence accreditation successfully retained following assessment in April 2018. No action plan required this year due to the small number of partial compliances (2) and improvements embedded. Achievement and feedback communicated on website, ERIC, press release etc. | Sun-31-Mar-19 |
| C 02 - Achieve an overall biennial external satisfaction rate of 85% or above for services provided by the Contact Centres.      | People      | On track |  | Overall CSI (Customer Satisfaction Index) of 93.8%<br><br>Biennial survey, next one scheduled February 2020  | Sun-31-Mar-19 |
| C 03 - Achieve an overall annual satisfaction rate of 80% or above for leisure, recreation and cultural activities and services. | People      | On track |  | A full customer satisfaction survey of the Go Active facility was undertaken during the latter part of October, running for 3 weeks into November. The Customer Satisfaction Index (CSI) for the Go!Active facility in November 2017 is 80.77%.  | Sun-31-Mar-19 |

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| C 05 - Implement the new EU Regulations on Data Protection within the timescales stipulated by the Information Commissioners Office. | People      | On track |  | Q1 - Key aspects of General Data Protection Regulation (GDPR) in place on 25/05/18 (when legislation came into effect) - council wide privacy statement and some service specific ones published, revised contract clauses where needed, updated customer and employee information on website and intranet, information provided to staff and Members, council wide review of systems which process personal data undertaken and recommendations largely implemented. Some corporate GDPR work is still required (revised policy, establish a compliance programme and arrangements for data protection refresh training) and DPO continues to be busy supporting service areas with privacy statements and notices, and providing advice. | Sun-31-Mar-19 |
| C 06 - Prevent homelessness for more than 50% of people who are facing homelessness each year.                                       | Place       | On track |  | Q1 - 54 approaches for people seeking assistance, of which 33 cases were prevented from becoming homeless. 61%   | Sun-31-Mar-19 |
| C 07 - Install 150 new lifelines within the community each year.   | Place       | On track |  | Q1 - 49 units of careline equipment installed.   | Sun-31-Mar-19 |
| C 08 - Process all new Housing Benefit and Council Tax Support claims within an average of 20 days.                                  | People      | On track |  | Q1 = 20.93 days<br>Annual 2017/18 = 18.39 days   | Sun-31-Mar-19 |
| C 09 - Process changes to Housing Benefit and Council Tax Support within an average of 10 days.                                      | People      | On track |  | Q1 = 7.01 days<br>Annual 2017/18 = 6.35 days   | Sun-31-Mar-19 |
| C 10 - Carry out 300 disability adaptations to Council houses each year.   | Place       | On track |  | Q1 - 59 completed adaptations  | Sun-31-Mar-19 |



| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| C 11 - Fully deliver the equality objectives identified in the Single Equality Scheme by March 2019.                             | People      | On track |  | Q1. Work progressing on the Single Equality Scheme action plan - notable actions this quarter: Tailored training session delivered to BDC Planning service, with positive feedback. Equality Panel consulted on new Licensing policies relating to accessible taxis and licensing of taxi drivers. Hate incident reporting cards distributed to Contact Centres & Community Safety. Website information refreshed and updated.   | Sun-31-Mar-19 |
| C 12 - Ensure a minimum of 50% of clients experiencing Domestic Violence each year are satisfied with the support they received. | Place       | On track |  | Q1: 45 new referrals were received during Q1, 16 of which were high risk.<br>A total of 5 did not engage with the service and a total of 3 have not yet completed the feedback form.<br>Positive responses were received from 37 service users (100%) who were asked:<br><ul style="list-style-type: none"> <li>• Did the service meet your needs?</li> <li>• Did the service make a difference?</li> <li>• How satisfied are you with the service you have been given?</li> </ul> | Sun-31-Mar-19 |
| C 13 - Reduce average relet times of Council properties (not including sheltered accommodation) to 20 days by March 2019.        | Place       | On track |  | Q1- The average relet time for the Quarter is 37 days. Including sheltered housing the overall average was 62 days.<br><br>As in previous quarters, the figures are skewed by a small number of properties that have been difficult to let. There are a number of measures coming from the void review to address this.<br><br>To review target status at Q2   | Sun-31-Mar-19 |
| C 14 - Attend 99% of repair emergencies within 6 working hours   | Place       | On track |  | Q1 - 97.00% of Emergency call outs attended to within 6hrs   | Sun-31-Mar-19 |

| Key Corporate Target  | Directorate | Status   |  | Progress   | Target Date   |
|---|-------------|----------|--|--|---------------|
| C 15 - Ensure a minimum of 50% of clients receiving parenting support each year express a positive outcome. | Place       | On track |  | Q1 - 1 courses has been completed and out of the 5 parents attending, 4 completed the course evaluation and gave positive feedback (100%). | Sun-31-Mar-19 |

### **Aim – Supporting our Communities to be Healthier, Safer, Cleaner and Greener**

| Key Corporate Target  | Directorate | Status   |  | Progress  | Target Date   |
|---|-------------|----------|--|---|---------------|
| H 01 - Deliver a minimum of 8000 hours of positive activity through community based culture and leisure engagement per year.                            | People      | On track |  | Q1 - The target figure for the year is 8000 hours, actual performance to date is 2245 on track to meet the annual target figure.  | Sun-31-Mar-19 |
| H 02 - Increase participation/attendances in leisure, sport, recreation, health, physical and cultural activity by 3,000 per year.                      | People      | On track |  | Q1 - Year end target is 300,000 attendances. Actual to date is 90,092 on track to exceed annual target.   | Sun-31-Mar-19 |
| H 03 - Deliver a health intervention programme which provides 900 adults per year with a personal exercise plan via the exercise referral scheme.       | People      | On track |  | Q1 - Bolsover District Council is commissioned by Bolsover Partnership and County Public Health to deliver a Health Intervention programme, the combined number of people starting this programme in the first quarter is 221.        | Sun-31-Mar-19 |
| H 04 - Tackle childhood obesity through the delivery of a child focused health intervention programme to all Key Stage 2 year groups by the end of each | People      | On track |  | Q1- The new financial year sees the Five:60 programme's final term of the current academic year and the programme will have been delivered to all key stage 2 pupils within the 28 schools in the Bolsover Schools Sports Partnership | Sun-31-Mar-19 |

| Key Corporate Target  | Directorate | Status                              |  | Progress  | Target Date   |
|---|-------------|-------------------------------------|--|---|---------------|
| academic year.  |             |                                     |  |   |               |
| H 05 - Support 417 inactive 16+ individuals per year & increase their activity levels to more than 30 minutes of moderate intensity physical activity per week. | People      | Project completed – monitoring only |  | <p><u>For information</u></p> <p>Q1. The Active 4 Life Project was completed at the end of March 2018.</p> <p>1098 individuals engaged during the project period (Dec 2014 to March 2018).</p> <p>The work carried out in Bolsover District over the last 3 years has provided a large amount of learning and developed a new approach to tackling physical inactivity. This work has resulted in further investment from Sport England which will build on the learning and successes of Active 4 Life. The last 3 years have been crucial to this process in demonstrating the impact of working at community level and building upon what is strong.</p> | Sun-31-Mar-19 |
| H 07 - Assist partners in reducing crime by delivering 12 Crime Cracking events in the community each year.   | Place       | On track                            |  | <p>Q1 - 1 event attended this quarter:</p> <p>24.05.18 - South Normanton SNT at South Normanton Co-op</p>   | Sun-31-Mar-19 |
| H 09 - Achieve a combined recycling and composting rate of 49% by March 2019.   | People      | On track                            |  | <p>Q1 (2018\19) Estimated based on like performance at ending March 2017 due to Waste Data Flow information not being available until September 2018. It is estimated that 4,335tonnes of recyclable\compostable waste was collected between April-June 2018, yielding a combined recycling rate of 46.9%.</p> <p>2017/18 = 40.2% Actual</p> <p>To review target status at Q2</p>   | Sun-31-Mar-19 |

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| H 10 - Sustain standards of litter cleanliness to ensure 96% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).      | People      | On track |  | Q1 - LEQS's established 2% of streets and relevant land surveyed for litter fell below grade B cleanliness standards resulting in 98% meeting the target standard.   | Sun-31-Mar-19 |
| H 11 - Sustain standards of dog fouling cleanliness to ensure 98% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS). | People      | On track |  | Q1 - LEQS's established 0% of streets and relevant land surveyed for dog fouling fell below grade B cleanliness standards resulting in 100% meeting the target standard.   | Sun-31-Mar-19 |
| H 12 - Annually undertake 10 local environmental enforcement and educational initiatives in targeted areas to deal with dog fouling, littering or fly tipping.           | Place       | On track |  | Q1<br>1. South Normanton - educational initiative dog ownership/micro chipping<br>2. Shirebrook - educational initiative dog ownership/micro chipping  | Sun-31-Mar-19 |
| H 17 - To deliver the Building Resilience Programme by September 2019  | People      | On Track |  | Q1: The Building Resilience programme continues to make good progress and the different strands of activity are making headway. Some outcomes achieved to date include:<br>• Excellent uptake of English lessons at Shirebrook Academy for Polish speakers<br>• Ongoing development of community events and engagement of volunteers, including a partnership with Leisure to create an Extreme Wheels Academy<br>• Condition survey of Shirebrook market square shops undertaken to help inform funding requirements<br>• Excellent response to the works undertaken at Rainbow Park including a reduction in anti-social behaviour | Sep-19        |

| Key Corporate Target | Directorate | Status |  | Progress   | Target Date |
|----------------------|-------------|--------|--|--|-------------|
|                      |             |        |  | <ul style="list-style-type: none"> <li>• List of property inspections in the NG20 area prepared</li> <li>• Reduction in the number of double appointments at the Shires GP surgery</li> <li>• Healthy Workplace Adviser in place to work with businesses in the NG20 area</li> </ul> <p>Members of the Partnership recently attended the Migration Conference hosted by the Ministry for Housing, Communities and Local Government and delivered a workshop session on evaluation.</p> <p>The mid-term evaluation is underway, and the results will be available next quarter.</p> |             |

#### Aim – Transforming our Organisation

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| T 06 - Introduce alternative uses to 20% of garage sites owned by the Council by March 2019.   | Place       | On track |  | <p>Q1 - Additional garage sites for being used for B@Home schemes around Pinxton and South Normanton other site form part of pipeline B@Home developments.<br/>(Baseline data - 152 sites of which 20% = 30 sites)</p> <p>To review status at Q2</p> | Sun-31-Mar-19 |
| T 08 - Fully deliver the electoral changes to District and Parish wards as a result of the Local Government Boundary Commission for England's electoral review by 1 December 2018. | People      | On track |  | <p>Q1 - A report is due to go to Council in September to request approval for changes to polling districts and places and progress is on track to implement all changes in advance of the publication of the 1st of December Electoral Register.</p> | Sat-1-Dec-18  |
| T 09 - Reduce the percentage of rent arrears by 10% through early intervention   | Place       | On track |  | <p>Q1 - The baseline figure (April 2015) is £562,328 (2.7% of the annual rent roll) and a reduction in Council Housing</p>   | Sun-31-Mar-19 |

| Key Corporate Target  | Directorate | Status   |  | Progress   | Target Date   |
|---|-------------|----------|--|--|---------------|
| and effective monitoring by 2019.   |             |          |  | <p>Tenants arrears by 10% by March 2019. At the end of Quarter 1 2018 the figure stands at 2.7% (£570,104) which is neither an increase nor a decrease, the corporate plan target was met at the year end 2018 and 2017. To continue to monitor this target until March 2019.</p> <p>Members should be aware that rent arrears are likely to rise in the first nine months of the year, but reduce in the last quarter which has been the pattern for several years.</p> <p>(Note: this target is a reduction in the percentage rather than the monetary value - this is common in measuring rent arrears and allows comparisons with other, and over time. A reduction from 2.8% to 2.6% is measured as <math>((2.8 - 2.6) / 2.8) \times 100 = 8\%</math>).</p> |               |
| T 10 - Reduce the level of Former Tenants Arrears by 10% through early intervention and effective monitoring by 2019. | Place       | Alert    |  | <p>Q1 - The baseline figure is £570,254 and a reduction in former Council housing tenants' arrears by 10% by March 2019 if 10% is collected then that will be £513,227.</p> <p>At the end of Quarter 1 the figure was £655,650 which is an increase of 14% - the majority of these are newly arising (i.e. people being evicted or leaving their tenancy with debt).</p> <p>Since the start of the Corporate Target £170,563.75 former tenancy arrears has been collected and £290,435.39 written off which has been a reduction of £460,999.14.</p>   | Sun-31-Mar-19 |
| T 11 - Through successful delivery of projects within the Transformation programme achieve total income/savings       | People      | On track |  | The current Transformation Programme has achieved a total of £515k across both Councils, with £260k attributable to Bolsover and £255k attributable to NEDDC.  | Sun-31-Mar-19 |

| Key Corporate Target   | Directorate | Status   |  | Progress   | Target Date   |
|--|-------------|----------|--|--|---------------|
| of £600,000 by March 2019.   |             |          |  | Items within the plan that have potential for budget savings have been completed and these savings built into base budgets. A review of the plan is taking place by the Strategic Director - People. |               |
| T 13 - Increase on-line self-service transactions dealt with by the Contact Centre by 20% each year. | People      | On track |  | Q1 2018/19 - On line transactions = 656 transactions and 194 new SELF accounts created.<br><br>(Target 2018/18 – 2672)   | Sun-31-Mar-19 |

**BOLSOVER DISTRICT COUNCIL****EXECUTIVE****10<sup>TH</sup> SEPTEMBER 2018****Vehicle Replacements - Streetscene Waste Services Team****Report of Councillor B.R. Murray-Carr, Portfolio Holder for Streetscene****Purpose of the Report**

- To seek Executive's approval in the purchase of 2No refuse collection vehicles operated by the Council's Streetscene Waste Services Team.

**1 Report Details**

- 1.1 Streetscene Waste Services Team operate a fleet of heavy commercial vehicles, two of which fall due for replacement in the 2018/19 financial period.
- 1.2 Utilisation of 8x4 (32tonne) vehicles in 2013 increased waste collection productivity and was central to the business case of the 2016 Waste Services review which reduced prime domestic refuse operating vehicles from 7 (26tonne) to 6 (32tonne) yielding efficiencies to re-invest elsewhere in the service and offer wider savings to the Council.
- 1.3 Refuse collection vehicles (RCV's) are procured via the Nottinghamshire Procurement Partnership framework contract which meets European procurement requirements. The Council's refuse vehicle fleet currently consist of:

| Quantity | Chassis Type                  | Utilisation   |
|----------|-------------------------------|---|
| 6No      | 8x4 (32tonne)                 | Urban domestic waste collection arrangements  |
| 2No      | 6x4 (26tonne)                 | 1No Commercial waste collection arrangements.<br>1No relief vehicle with part domestic collection |
| 1No      | 6x2 (26tonne)<br>Rear-Steer   | Rural domestic waste collection arrangements  |
| 1No      | 4x2 (18tonne)<br>Narrow Track | Rural and bulky domestic waste collection   |
| 1No      | 4x2 (7.5tonne)<br>Caged Wagon | Bulky domestic waste collection   |

- 1.4 Proposals aim to replace 2No 6x4 (26tonne) with 2No 8x4 (32tonne) vehicles to increase operational performance and meet anticipated housing growth over course of the vehicle's utilised (7years) lifespan. However, in the interim period following their replacement, only one 6x4 (26tonne) vehicle will be disposed of ensuring 2 relief vehicles are available to provide greater fleet service continuity and access versatility.

**2 Conclusions and Reasons for Recommendation**

- 2.1 Large commercial vehicles identified in this report fall due for replacement in 2018\19. It is proposed they are replaced by way of an established framework contract and financed via prudential borrowing.



- 2.2 The Council has previously relied on finance lease arrangements for vehicle acquisitions; however, over the past five years the Council has changed its approach from one of using finance leasing to one of acquiring vehicles by outright purchase. The switch in approach reflects the fact that a combination of low interest rates, the fact that modern vehicles can operate effectively beyond a 5 year period; together, with the greater flexibility afforded by ownership rather than leasing making ownership the more cost effective option.
- 2.3 The vehicle replacements will be funded by way of the Council's approved (2018\19) Capital Budget providing the Council with greater flexibility throughout the course of their depreciation period; in particular, if at some stage in the future it was considered appropriate to take vehicles out of use or if a decision made to extend their operational life then; this of which, can be accomplished in a more cost effective fashion.
- 2.4 Delivery time from the time of placing orders is 25 weeks; however, due to the Council being part of the Nottingham Procurement Consortium, lead time will be 21 weeks (approx.) resulting in the Council taking delivery March 2019.
- 2.5 Smaller payload vehicles are unable to contain increased service demand arising from housing growth and seasonal variation and increased risk of collection round non-completion and complaints. Proposed vehicle replacements mitigate this over the course of their anticipated 7years life span.

### **3 Consultation and Equality Impact**

- 3.1 Streetscene managers have consulted staff (collection teams) on suitability of vehicles proposed to help ensure they are appropriate to meet service delivery requirements. Refuse staff (prime domestic collection teams) preference is the utilisation of 8x4 (32tonne) vehicles.
- 3.2 The Council's citizen panel is periodically consulted to establish satisfaction with waste collection arrangements. The table below sets out satisfaction between 2015 and 2017 and illustrates satisfaction levels in Bolsover have improved; in particular, over the course of operational service delivery arrangements touched on within this report being introduced. Replacement of vehicles set out in this report aim to sustain and/or improve customer satisfaction levels.

| 2015 Citizen Panel Survey |       |          | 2017 Citizen Panel Survey |       |          |
|---------------------------|-------|----------|---------------------------|-------|----------|
| Black                     | Green | Burgundy | Black                     | Green | Burgundy |
| 88%                       | 85%   | 85%      | 91%                       | 87%   | 89%      |

### **4 Alternative Options and Reasons for Rejection**

- 4.1 The replacement of vehicles by way of finance lease arrangements was not considered to offer good value to the Council and reduces the scope for flexibility concerning how vehicles are managed throughout the course of their anticipated life; in particular, where vehicles may require releasing from the leasing agreement prior to their natural end date.
- 4.2 Vehicle replacement proposed in this report are diesel (combustion) engine powered; in particular, as alternative electric (EV) or ultra-low emission (ULEV) vehicle options are not available in this vehicle class and weight range. Vehicles proposed meet current Euro-VI emission standards. Vehicles are also fitted with electric bin hoist which further reduce engine emissions.

- 4.3 Currently, there is no large goods EV chassis configuration to meet the Council's refuse vehicle specification requirements; albeit, Dennis Eagle is developing a 26tonne (6x2 chassis) configuration, this will not go in to production until 2020 at the earliest. EV chassis configuration vehicles being developed at this time do not meet the Council's payload requirements and would demand increased vehicle and staffing resource as set out at 5.1.7 to 5.1.9 below.

## 5 Implications

### 5.1 Finance and Risk Implications

- 5.1.1 The cost of refuse collection vehicle replacements set out in this report is as follows:

| Vehicle   | Qty | Renewal Period | £\Per        | £\Total        |
|---|-----|----------------|--------------|----------------|
| Dennis Eagle Olympus (Euro 6) Elite 2 (8x4) 32 tonne refuse collection vehicle  | 2   | 2018/19        | £182,845     | 365,690        |
| <i>Note: In the interim period only 1No 6x4 (26tonne) vehicle will be disposed of to provide greater relief vehicle cover. Anticipated residual value of the vehicle to be disposed is £10,000 (approx.).</i> |     |                | <b>Total</b> | <b>365,690</b> |

- 5.1.4 In total 2No vehicle replacements are proposed by way of this report; prior to which, approval has previously been secured to meet costs via the approved Capital Programme, funded by prudential borrowing as agreed as part of the Council's Treasury Management Strategy.
- 5.1.5 Prudential borrowing provides the Council with greater flexibility concerning the period of utilisation of the vehicle. While the main advantage of this flexibility is the ability to extend the working life of vehicles at a relatively low cost, it can also help avoid heavy costs associated with early return of a vehicles and/or an extended lease term. Contract hire and leasing are relatively inflexible arrangements and changes during the course of the contract would clearly have potential costs for the Council
- 5.1.6 The table below summarises risks associated with management of fleet vehicles:

| Risk Type                          | Risk Detail   | Control Measure  |
|------------------------------------|---|--|
| Corporate Ambitions and Priorities | Service delivery supports Council Priorities which would be undermined by ineffective and inefficient fleet vehicles. | Vehicles and specialist bodies specified to meet service needs.<br><br>Standardised vehicle specification may facilitate wider joint working with the Council's Strategic Partner; in particular, benefits arising from fleet maintenance and procurement. |
| Staff                              | Changes in vehicle types and specification could affect the staff using them for service delivery.                    | Consult with staff and users on vehicle specifications and types to ensure fit for purpose.  |
| Reputation                         | Customer satisfaction with services has a significant impact on the Council's reputation.                             | Ensure vehicles employed meet needs of service and are maintained to high standards.   |

| Risk Type   | Risk Detail  | Control Measure   |
|-------------|--|---|
| Regulatory  | European emission standards not met.   | Specify vehicles which meet current EU emission standards including electric bin hoists.<br><br>Maintenance of vehicles meets Council's statutory Duty of Care.<br><br>Developing 'Low Carbon Strategy' will consider integration of EV & ULEV technology.  |
| Operational | Service performance and standards affected by fleet type and reliability.                            | Vehicle replacements sourced within effective utilisation period and appropriate specification.<br><br>Planned maintenance and safety inspections undertaken.<br><br>Access issues managed utilising a combination of vehicle sizes and collection times (i.e. around schools).<br><br>Streetscene continue to provide response via planning application consultation process on street design in respect of vehicle access |
| Financial   | Increased cost of vehicle replacements and maintenance place service budgets under greater pressure. | On the basis of the procurement exercise this risk is mitigated through effective purchasing.<br><br>Service specification consider fuel efficiency, maintenance costs and operational flexibility to minimise ongoing revenue costs.<br><br><i>In absence of mainstream vehicle manufactures providing (ex-stock) EV solutions, retro-build options remain cost-prohibitive at this time.</i>                              |

- 5.1.7 Fleet vehicles are an essential tool in effecting efficient service delivery. In the case of refuse collection, the Council now operate 32tonne (8x4 chassis) configurations facilitating daily (9.25hour) workload contained in two deliveries to disposal points. Prior to their introduction (2013) collection teams utilised 26tonne (6x4 chassis) vehicles incurring 3 (minimum) deliveries to tips per day and incurring increased non-productive time. Introduction of 8x4 vehicles increased productivity and was central to the business case of the 2016 Waste Services review which reduced prime domestic refuse operating vehicles from 7 (26tonne) to 6 (32tonne) yielding efficiencies to re-invest elsewhere in the service and offer savings to the Council.
- 5.1.8 Moving back to a 26tonne (6x4) chassis configuration would require increased vehicle resource and staffing at a minimum £130,000 (approx.) per annum; also, teams would not be able to contain their daily workload on 26tonne vehicles resulting in the District collections zones having to be remodelled which may also affect contractual arrangements with Ward Recycling (Burgundy Bin) collections due to zones being synchronised across the '3 bin' alternate week collection infrastructure.

5.1.9 Vehicles with larger payload potential (8x4) Therefore, orders were placed July 2018 so that delivery could be achieved late December\January to better ensure new vehicles with larger payloads were operational during the winter period when collected weight increases in solid fuel burning areas; these of which, vehicles with smaller payloads are unable to contain daily workload and increased payload within their targeted daily performance.

5.1.10 A number of 'hot spot' access locations exist within the District at which collection teams on occasion have difficulties manoeuvring vehicles, resulting in collections being delayed and complaints. Whilst it may be perceived that larger (8x4) vehicles may exasperate risk of access issues at 'hot spot' locations, access problems at these locations are long standing and have resulted when accessing with 8x4 (32tonne) 6x4 (26tonne) 6x2 (26tonne rear steer) and 4x2 (18tonne) chassis configurations; in particular, due to the nature of the road layout and extent of parking on all points of the junction head making access difficult even when using a 3.5tonne Light Commercial Vehicle (LCV). The Council's Burgundy Bin collection contractor utilises 6x4 vehicles and has experienced like access issues at 'hot spots'.

## 5.2 Legal Implications including Data Protection

5.2.1 The combined value of vehicle replacements considered by this report exceed the European Procurement thresholds for supply of goods and services (£181,302 or €221,000); hence, why procurement is proposed via Nottinghamshire Procurement Partnership Framework Contracts which meet European requirements.

## 5.3 Human Resources Implications

5.3.1 None arising directly from this report.

## 6 Recommendations

6.1 It recommended that:

- (a) Executive approves replacement of 2 No refuse collection vehicles as set out at 5.1.1 of this report, procured by way of the Nottinghamshire Procurement Partnership Framework Contract for the provision of Refuse Collection Vehicles.
- (b) Financing of the vehicles is undertaken by way of Prudential Borrowing, as previously approved within the Council's (2018\19) Capital Programme and Treasury Management Strategy.

## 7 Decision Information

|   |  |     |
|---|--|-----|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: |  | Yes |
| <i>BDC:</i>   | <i>Revenue - £75,000</i> <input type="checkbox"/><br><i>Capital - £150,000</i> <input checked="" type="checkbox"/> |     |
| <i>NEDDC:</i>   | <i>Revenue - £100,000</i> <input type="checkbox"/><br><i>Capital - £250,000</i> <input type="checkbox"/>           |     |
| <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>  |  |     |
| <b>Is the decision subject to Call-In?</b>  |  | Yes |

|   |     |
|---|-----|
| (Only Key Decisions are subject to Call-In)                   |     |
| <b>Has the relevant Portfolio Holder been informed</b>        | Yes |
| <b>District Wards Affected</b>                                | All |
| <b>Links to Corporate Plan priorities or Policy Framework</b> | All |

## 8 **Document Information**

| <b>Appendix No</b>   | <b>Title</b>          |
|--|-----------------------|
| N/a  | N/a                   |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                       |
| N/a  |                       |
| <b>Report Author</b>   | <b>Contact Number</b> |
| Joint Head of Streetscene  | Ext 7264              |

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

**Safe and Warm Upgrade Scheme  
Orchard Close and Sandhills Road Bolsover**

**Report of Councillor H. Gilmour, Portfolio Holder for Housing and Community  
Safety**

This report is public

**Purpose of the Report**

- To seek approval to appoint the contractor Matthews & Tannert Ltd to undertake the Safe and Warm Scheme as detailed, following tender evaluations of 21<sup>st</sup> August 2018 and the recommendation of the procurement team.

**1 Report Details**

- 1.1 As Members will be aware, Housing Services have identified a need to replace and upgrade dilapidated and inefficient communal heating systems which serve selected property groups (i.e. flats & bungalows) located at various sites across the district.
- 1.2 This project is concerned with the replacement of one such communal heating system which currently serves 13 blocks of two storey flats at Orchard Close and Sandhills Road Bolsover. Each block consists of 2 ground-floor and 2 first-floor flats.
- 1.3 Presently, heating and hot water is supplied to each flat on a communal system provided from a central boiler house located on the site. A gas fired combi-boiler is to be installed within each flat providing our tenants with individual control and an improved efficiency for heating and hot water services.
- 1.4 In addition to the heating element, the scope of the Safe and Warm Scheme provides for the inclusion of full wetroom conversions, fire safety and detection improvements and the identification of asbestos material and subsequent removal.
- 1.5 Existing shower areas are to be altered and a full wetroom conversion is to be undertaken to a standard design across all flats. This will involve the installation of a new shower, wash hand basin and w/c complete to substantially improve and standardise the facility for all flats.
- 1.6 To improve the fire safety aspects of the dwelling, the installation of a new multi-sensor alarm system is to be installed and fire-stopping implemented throughout

following fire compartmentation surveys which the appointed contractor is to arrange and oversee as part of the project.

## **2 Conclusions and Reasons for Recommendation**

2.1 A tender evaluation session was held on 21<sup>st</sup> August 2018 and led by the Procurement Team. The three returned tender submissions were assessed and scored as per the evaluation criteria on the basis of a 60 / 40 price versus quality basis.

2.2 The quality criteria for this tender encompassed the four key areas:

- Submitted programme and intended timescales for delivery and completion of project.
- Working in tenanted / occupied properties.
- Inclusion of two relevant case studies detailing previous works undertaken.
- Details of a dedicated tenant liaison officer / role (TLO provision).

2.3 The tender sums received were as follows;

- £566,059.52
- £804,906.43
- £818,492.48

2.4 The Price / Quality combined scores returned from the evaluation were as follows;

- 94%
- 72%
- 71%

2.5 The evaluation group were in unanimous agreement that the most competitive and impressive tender submission had been received from Matthews & Tannert Ltd who scored top on both price and quality respectively.

## **3 Consultation and Equality Impact**

3.1 There are no equality implications arising directly from this report.

## **4 Alternative Options and Reasons for Rejection**

4.1 Due to the existing condition of the communal heating system there is potential risk for failure of the boilers. It is not economically viable to replace the boilers and there is further complication due to the deteriorating condition of the existing pipe work infrastructure.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 The investment in an improved efficient heating system for the flats would eliminate the present risk of boiler failure which would incur costly and emergency temporary measures to reinstate services. The upgrade work as outlined would still then be required as outlined due to the deteriorating condition of the existing pipe work infrastructure. The financial risk carried for the duration of this scheme is minimum as the authority will only be paying for specified works upon completion.

## **5.2 Legal Implications including Data Protection**

- 5.2.1 The procurement of these works has been undertaken in compliance of standard council procedures. Industry standard contract documentation will be prepared for both parties to sign prior to commencement of works.
- 5.2.2 The issue of sensitive data such as names, addresses and contact numbers of council tenants while undertaking this project shall comply in full with council and data protection policy guidelines.

## **5.3 Human Resources Implications**

- 5.3.1 The works will result in no direct HR implications.

## **6 Recommendations**

- 6.1 That the Executive agree to award the contract to Matthews & Tannert Ltd for the tender sum of £566,059.52

## **7 Decision Information**

|  |          |
|--|----------|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><i>BDC: Revenue - £75,000    <input type="checkbox"/></i><br><i>Capital - £150,000    <input type="checkbox"/></i><br><i>NEDDC: Revenue - £100,000    <input type="checkbox"/></i><br><i>Capital - £250,000    <input type="checkbox"/></i><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | Yes      |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | Yes      |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes      |
| <b>District Wards Affected</b>   | Bolsover |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | All      |



## 8 Document Information

| Appendix No  | Title          |
|--|----------------|
|  |                |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                |
| N / A  |                |
| Report Author  | Contact Number |
| Richard Mooney   | ext. 2352      |
|  |                |

Report Reference –

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

|   |
|---|
| <p><b>Renewal of roofs, soffits and fascias and asbestos removal at Hides Green and The Paddock, Bolsover</b></p> |
|---|

**Report of Councillor H. Gilmour, Portfolio Holder for Housing and Community Safety**

This report is public

**Purpose of the Report**

- To appoint a contractor to carry out replacements of roofs, soffits and fascias and asbestos removal to council flats at Hides Green and The Paddock, Bolsover.
- Approval of recommendation to appoint following full tender evaluation.

**1 Report Details**

- 1.1 A tender exercise has been undertaken to identify and appoint a suitable contractor to carry out replacements of roofs, soffits and fascias and asbestos removal to council flats at Hides Green and The Paddock, Bolsover as required and advised by Housing Services.
- 1.2 Housing have identified that prior to the commencement of the Safe and Warm scheme, the roofs, soffits and fascias require replacement. During initial surveys it was discovered that the soffits are AIB (Asbestos Insulated Board) which must be removed by a licenced asbestos removal contractor and because of the likely substantial value of the works, a formal procurement process would need to be undertaken.
- 1.3 An open tender was advertised on Source Derbyshire. Bidders were invited to submit prices against a detailed schedule of works. The returned 4 bids were opened on Friday 17<sup>th</sup> August 2018 by Procurement Services.
- 1.4 The tender sums are based on a detailed schedule of rates which correspond to a series of detailed schedules of work specific to each property and a list of additional items which may be encountered across the project.
- 1.5 The evaluation sessions of the submitted prices and supporting information was undertaken by officers of Housing Services and Property Services on Wednesday 22<sup>nd</sup> August 2018.
- 1.6 In accordance with the published assessment criteria the tenders were evaluated on the following basis;

- PRICE 70%
- QUALITY 30%

## 1.7 PRICE

The lowest price returned was awarded the full 70% score and was set as the benchmark against all other price submissions as per the standard procedure of Procurement Services. Subsequent prices were then deducted percentage points in relation to how much they exceeded the lowest price.

## 1.8 QUALITY

| Quality Evaluation Category                  | Weighting |
|--|-----------|
| Returned References / Evidence of Competence | 6%        |
| Relevant Experience of Project Completion    | 6%        |
| Contract Management                          | 6%        |
| Tenant Liaison                               | 6%        |
| Resources (incl. sub-contracting)            | 6%        |

## 2 Conclusions and Reasons for Recommendation

2.1 The combined price and quality scores of the contractors has been calculated and of the 4 contractors that submitted a bid the lowest overall contractor based on the price and evaluation score was Avonside Roofing Ltd.

2.2 The Tender Sums received were as follows;

£416,288.24  
£460,113.00  
£530,152.84  
£605,908.96

2.3 The price/quality combined scores returned from the evaluation were as follows;

94.00  
81.33  
80.16  
69.69

2.4 The Evaluation group unanimously agreed that the overall most competitive and impressive tender was submitted by Avonside Roofing Ltd

### **3 Consultation and Equality Impact**

3.1 Not directly.

### **4 Alternative Options and Reasons for Rejection**

4.1 No alternative options to be recommended at this time.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

5.1.1 The cost for this contract is within existing HRA budgets.

#### **5.2 Legal Implications including Data Protection**

5.2.1 Using BDC's procurement team has ensured we meet our legal obligations for procurement. A formal contract (JCT Minor Works) is to be arranged by Legal Services.

#### **5.3 Human Resources Implications**

5.3.1 N/A

### **6 Recommendations**

6.1 That Members agree to award the contract to Avonside Roofing Ltd for the Tender sum of £416,288.24

6.2 That progress on this contract is reported through the Housing Stock Group.

### **7 Decision Information**

|  |          |
|--|----------|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><i>BDC: Revenue - £75,000</i> <input type="checkbox"/><br><i>Capital - £150,000</i> <input type="checkbox"/><br><i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/><br><i>Capital - £250,000</i> <input type="checkbox"/><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | Yes      |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | Yes      |
| <b>Has the relevant Portfolio Holder been informed</b>   | Yes      |
| <b>District Wards Affected</b>   | Bolsover |

|   |  |
|---|--|
| <b>Links to Corporate Plan priorities or Policy Framework</b> |  |
|---|--|

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| Appendix No  | Title          |
|--|----------------|
|  |                |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                |
|  |                |
| Report Author  | Contact Number |
| David Riley  | 01246 242319   |

Report Reference –

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

|   |
|---|
| <p><b>Medium Term Financial Plan - Budget Monitoring Report</b><br/><b>Quarter 1 – April to June 2018</b></p> |
|---|

**Report of Councillor B. Watson, Portfolio Holder for Finance and Resources and Sustainable Energy**

This report is public

**Purpose of the Report**

- To update Executive on the financial position of the Council following the first quarter's budget monitoring exercise for the General Fund, the Housing Revenue Account (HRA), Capital Programme and Treasury Management activity.

**1 Report Details**

- 1.1 Officers have continued the integrated approach to budget monitoring in the first quarter with Performance, Risk and Finance being considered together at the combined Directorate meeting held during July 2018. The scope of this report is therefore to report the current financial position following the 2018/19 quarter one monitoring exercise.

**General Fund Revenue Account**

- 1.2 The General Fund Revenue Account summary is shown in **Appendix 1**. The original budget for 2018/19 showed a funding surplus of £1.027m. The current budget now shows that this is £1.095m after the Council tax increase and other movements are included. As savings are identified and secured they are moved into the relevant cost centres within the main General Fund Directorates. Officers have reviewed the opportunities to reduce the salary budgets where savings arose in the first quarter and a further amount of £0.086m will now be removed from budgets. **Appendix 5** to this report gives a detailed break-down of the General Fund directorate budgets.
- 1.3 Within the Directorates there is the following to report:
- The People Directorate shows a favourable variance of £0.214m. This relates mainly to:
    1. Under spends due to invoices not yet paid and vacancies at the end of the quarter (£0.332m) – favourable.

2. Income received in advance of any expenditure (£0.740m) – favourable.
  3. Annual invoices were paid in quarter 1 which makes the profiled budget look overspent (£0.537m) – adverse.
  4. Expenditure has been spent but the income hadn't been received as it is claimed in arrears (£0.262m) – adverse.
  5. Over spends against quarter 1 budget due to less income received, new pressures or where expenditure is seasonal and not profiled over 4 quarters (£0.030) – adverse.
- The Place Directorate shows an adverse variance of £0.141m. This relates mainly to:
    1. Under spends due to invoices not yet being paid and vacancies at the end of the quarter (£0.217m) – favourable.
    2. Income received in advance of any expenditure (£0.093m) – favourable.
    3. Annual invoices were paid in quarter 1 which makes the profiled budget look overspent (£0.304m) – adverse.
    4. Expenditure has been spent but the income hadn't been received as it is claimed in arrears (£0.098m) – adverse.
    5. Over spends against quarter 1 budget due to less income received, new pressures or where expenditure is seasonal and not profiled over 4 quarters (£0.043) – adverse.
- 1.4 In order to improve the monitoring and control of Section 106 monies received by the Council, the sums due to be utilised in a financial year are now recorded within the General Fund directorate budgets with the expenditure recorded against these sums. The amount budgeted to be spent in 2018/19 is £1.125m. Of this £0.008m must be spent by 20<sup>th</sup> September this year or the funding may be lost. Officers are working to ensure that all of this spending is undertaken in line with the S106 legal requirements.
  - 1.5 The overall position at the end of quarter 1 shows that there is a favourable variance of £0.073m. This is partly due to £0.831m invoices or commitments being paid or placed on the E-purchasing system for the full year. This compares to £0.853m in 2017/18. This is an indication that the system is being used correctly as orders are being placed as soon as the Council is committed to the expenditure. There are no real budget pressures identified in quarter 1 but officers will continue to monitor the position during the next quarter.
  - 1.6 The table that follows illustrates that even though the savings target for 2018/19 and 2019/20 have been met, there is still a need for ongoing savings. The shortfall in future years will be addressed through the transformation programme which will include a combination of income maximisation, business redesign and business cost reduction options.
  - 1.7 Officers will begin working with budget managers during the next quarter to compile a revised budget for 2018/19. This will amend the current budgets to capture additional budget savings and reduce spending where it is anticipated that there will be a minimal impact upon service delivery. Where possible the budget in future

years will be amended to reflect savings identified to assist with projected budget shortfalls. The revised budget position will be presented to Executive in December.

|  | <b>2018/19<br/>Budget<br/>£000</b> | <b>2019/20<br/>Budget<br/>£000</b> | <b>2020/21<br/>Budget<br/>£000</b> | <b>2021/22<br/>Budget<br/>£000</b> |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| <b>Budget Shortfall</b>  | <b>(1,027)</b>                     | <b>34</b>                          | <b>550</b>                         | <b>1,184</b>                       |
| Council Tax Increase 2018/19                                       | (107)                              | (107)                              | (107)                              | (107)                              |
| <i>Options Identified:</i>   |                                    |                                    |                                    |                                    |
| NNDR Growth  | (1,547)                            | 0                                  | 0                                  | 0                                  |
| Transformation, Income Generation/Cost Reduction/Business Redesign | 39                                 | (41)                               | 0                                  | 0                                  |
| Vacancy Management   | 0                                  | 0                                  | 0                                  | 0                                  |
| Total Transformation Options                                       | (1,615)                            | (148)                              | (107)                              | (107)                              |
| <b>General Fund (surplus)/Budget Shortfall</b>                     | <b>(2,642)</b>                     | <b>(114)</b>                       | <b>443</b>                         | <b>1,077</b>                       |

## **Business Rates Retention (BRR) Pilot**

- 1.8 As reported in the Medium Term Financial Plan (MTFP), the Derbyshire Business Rates Pool was accepted by the Government as one of ten pilot pools for 2018/19.
- 1.9 At the time of approving the budget the full impact to the Council of being in the Pilot was still being finalised. This has now been completed and forecasts show that the one year benefit to the Council will be in the region of £1.547m. However, as a consequence of being a 100% pilot authority the Revenue Support Grant due will no longer be received. This is a loss of £1.558m but as it was already known about this loss was assumed in the MTFP. The BRR income forecast has been included in quarter 1 and transferred to the NNDR Growth Protection Reserve.
- 1.10 The BRR income forecast is based on an estimate of business rates growth across the County that could fluctuate during the year. This presents a risk to the MTFP as should the growth not be achieved, the allocation to the Council would decrease. The final allocation will not be known until May 2019 following submission of NNDR3 returns.
- 1.11 Income for Business Rates for 2019/20 is now subject to a potential further pilot at 75% rate retention. This is subject to a separate report on this agenda.

## **The National Funding Settlement 2020/21**

- 1.12 A number of fundamental changes to local authority funding are currently being considered by the Government for incorporation into the 2020/21 settlement. These are summarised below:



### Fair Funding Review (FFR)

- 1.13 The national funding allocations formula was last reviewed in 2013/14 and it is intended that the outcomes of the current FFR will inform the 2020/21 spending review and therefore the financial settlement. Consultation closed in March 2018 and it is still too early to say with any clarity what the impact of the FFR will be but initial modelling is showing that the recalculated Settlement Funding Assessment (SFA) is redirecting resources to those based on “need” which will impact negatively on most shire districts.
- 1.14 The risk of losses from the FFR is also much greater for district councils because of their ability to raise council tax. This puts a greater burden on the local decision making with regards council tax setting each year.

### Business Rates Reset

- 1.15 The business rates baseline funding level (BFL) calculates by formula each council’s share of overall resources and is based on each Councils’ business rates baseline, taken from the NNDR1 each year. A full reset of the BFL is planned for 2020/21 although there is some debate currently around this and consultation is due later this year with draft options early next year. Should a full reset proceed this would mean that any business rates growth accumulated since 2013/14 (the last reset) would be rolled into each Council’s BFL, effectively wiping the benefit of that growth out. This growth would then be redistributed according to need. In general terms, districts have benefited most from this growth so would therefore be the worst affected by the reset.
- 1.16 There is also a proposal to increase the local share for business rates to 75% from 2020/21. However, it is expected that county councils will benefit from this increase rather than district councils whose share is likely to stay at 40% or maybe even reduce.
- 1.17 There are still too many variables to put any huge reliance on the impact of a business rates reset or change to the local share at this stage but it is likely to affect district councils which is a risk to the current MTFP.
- 1.18 It is unlikely that any meaningful financial information will be available ahead of the 2020/21 provisional settlement in late 2019. The impact of these changes will be closely monitored and the risks presenting as a result, be considered as part of the MTFP refresh.

### **Housing Revenue Account (HRA)**

- 1.19 The Housing Revenue Account summary for the first quarter of 2018/19 is set out in **Appendix 2** to this report. At the end of quarter 1 the HRA is showing a net deficit of £0.527m.

#### **Income**

- 1.20 The quarter 1 income figures show an adverse variance of £0.506m. This is mainly due to the timing of the rent free week falling into the first quarter. The annual budget is profiled to receive 12 weeks in the first quarter when actually only 11 weeks were billed.

## **Expenditure**

- 1.21 Expenditure shows an overall adverse variance of £0.021m. The main areas to highlight are listed below:

1. Employee costs at £0.926m are £0.099m lower than forecast which is mainly due to vacancies in repair and maintenance. The budget is currently being reviewed as part of the outturn and budgets no longer required will be removed before the next quarter.
2. Supplies and services at £0.494m are £0.113m higher than budget. The main overspends are stores issues at £0.070m which is a commitment for July and Lifelines at £0.026m which is a commitment for the full year.

## **HRA – Overall Summary**

- 1.22 In light of the above and the expenditure patterns to date, there are no significant issues to report regarding the overall position for the HRA at the end of the first quarter.

## **Capital Programme**

### **Capital Expenditure**

- 1.23 The capital programme summary for the first quarter of 2018/19 is provided in **Appendix 3** to this report. The programme has been updated with carried forward budgets from 2017/18 previously approved by Executive.
- 1.24 In headline terms, the capital programme profiled budget for quarter 1 is £6.062m and the actual spend and known commitments total £5.887m, which is £0.175m behind the planned spend position. The main areas to highlight are listed below:
1. Bolsover Safe and Warm is £0.520m under spend as the current scheme is only in the early stages.
  2. New Bolsover HLF scheme is behind due to the unique nature of the scheme £0.847m.
  3. Housing ICT Scheme is fully committed for the full year resulting in an over spend of £0.336m in this quarter.
  4. Plant, Vehicles and Equipment are currently £0.158m under spent as vehicles will be purchased later in the year.
  5. Dragonfly loan and acquisition of share capital are showing as £0.366m over spent which is due to the budgets not yet being input. The budgets will be updated before the next quarter.
  6. The miscellaneous property scheme B@home is currently £0.957m over spent for the quarter due to the individual schemes progressing well.
- 1.25 Whilst there are no significant financial issues to report regarding capital expenditure at the end of the first quarter, it must be noted that the delivery of the approved capital programme is slightly behind the profiled position as at quarter 1. Officers will continue to closely monitor the delivery of the Programme.

## **Capital Resources**

- 1.26 HRA – The Council has sufficient capital resources in place to finance the HRA actual expenditure and commitments at the end of the first quarter.  
General Fund – The financing of the General Fund part of the capital programme is in line with the approved financing arrangements.

## **Treasury Management**

- 1.27 The treasury management function covers the borrowing and investment of Council money. This includes both the management of the Council's day to day cash balances and the management of its long term debt. All transactions are conducted in accordance with the Council's approved strategy and the CIPFA Code of Practice. Good treasury management plays an important role in the sound financial management of the Council's resources.
- 1.28 The Council approved the 2018/19 Treasury Management Strategy at its meeting in February 2018. **Appendix 4** identifies the Treasury Management activity undertaken during the first quarter of 2018/19 and demonstrates that this is in line with the plans agreed as part of the strategy. The income received from investments is currently higher than budgeted and we anticipate that this will continue during the remainder of the financial year. A full assessment of this will be done during the next quarter with a view to amend the budgets accordingly.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The report summarises the financial position of the Council following the first quarter's budget monitoring exercise for the General Fund, the Housing Revenue Account, Capital Programme and Treasury management activity.

## **3 Consultation and Equality Impact**

- 3.1 There are no equalities issues arising directly out of this report.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 The Budget Monitoring report for 2018/19 is primarily a factual report which details progress against previously approved budgets. Accordingly there are no alternative options to consider.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 Financial implications are covered throughout this report.
- 5.1.2 The issue of Financial Risks is covered throughout the report. In addition, however, it should be noted that the risk of not achieving a balanced budget is outlined as a key risk within the Council's Strategic Risk Register. While officers are of the view that these risks are being appropriately managed it needs to be recognised that there may be pressures on all of the Council's main budgets as these have been or are being reduced to minimum levels. These will need to be

managed carefully during the course of this financial year if we are to protect the existing levels of financial balances.

## 5.2 **Legal Implications including Data Protection**

There are no legal issues arising directly from this report.

## 5.3 **Human Resources Implications**

There are no human resource issues arising directly out of this report

## 6 **Recommendations**

- 6.1 That Executive notes the monitoring position of the General Fund at the end of the first quarter as detailed on Appendix 1 and 5 (A net favourable variance of £0.073m against the profiled budget) and the key issues highlighted within this report:
- 6.2 That Executive notes the position on the Housing Revenue Account (HRA), the Capital Programme and Treasury Management at the end of the first quarter (Appendices 2, 3 and 4).

## 7 **Decision Information**

|  |   |
|--|---|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br>BDC:      Revenue - £75,000 <input type="checkbox"/><br>Capital - £150,000 <input type="checkbox"/><br>NEDDC: Revenue - £100,000 <input type="checkbox"/><br>Capital - £250,000 <input type="checkbox"/><br><input checked="" type="checkbox"/> Please indicate which threshold applies | Yes   |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | Yes   |
| <b>Has the relevant Portfolio Holder been informed?</b>  | Yes   |
| <b>District Wards Affected</b>   | All   |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Providing Excellent customer focussed services.<br>Continually improving our organisation |

## 8 Document Information

| Appendix No  | Title                      |
|--|----------------------------|
| 1  | General Fund Summary       |
| 2  | HRA Summary                |
| 3  | Capital Programme          |
| 4  | Treasury Management Update |
| 5  | General Fund Detail        |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                            |
|  |                            |
| Report Author  | Contact Number             |
| Chief Accountant   | 2458                       |
| Head of Service – Finance and Resources  | 7658                       |

Report Reference –

# GENERAL FUND

# APPENDIX 1

| Description  | Per Exec 19/2/18    | Per FMS             | 3 months<br>Budget<br>2018/19<br>£ | 3 months<br>Actual<br>2018/19<br>£ | 3 months<br>Variance<br>2018/19<br>£ |
|--|---------------------|---------------------|------------------------------------|------------------------------------|--------------------------------------|
|  | Original            | Current             |                                    |                                    |                                      |
|  | Budget              | Budget              |                                    |                                    |                                      |
|  | 2018/19             | 2018/19             |                                    |                                    |                                      |
| Growth Directorate                                       | 3,025,107           | 0                   | 0                                  | 0                                  | 0                                    |
| Operations Directorate                                   | 6,441,352           | 0                   | 0                                  | 0                                  | 0                                    |
| Transformation Directorate                               | 2,701,817           | 0                   | 0                                  | 0                                  | 0                                    |
| People Directorate                                       | 0                   | 10,006,769          | 2,501,692                          | 2,345,354                          | (156,338)                            |
| Place Directorate  | 0                   | 3,157,249           | 789,312                            | 1,080,219                          | 290,907                              |
| Support Recharges to HRA and Capital                     | (3,578,847)         | (3,578,847)         | (894,712)                          | (894,712)                          | (0)                                  |
| Net transfer payments from People                        |                     | (293,718)           | (73,430)                           | (73,430)                           | 0                                    |
| <u>S106 Expenditure due in year</u>                      |                     |                     |                                    |                                    |                                      |
| Growth Directorate                                       | 1,116               | 0                   | 0                                  | 0                                  | 0                                    |
| Transformation Directorate                               | 125,035             | 0                   | 0                                  | 0                                  | 0                                    |
| People Directorate                                       | 0                   | 524,845             | 131,211                            | 73,477                             | (57,735)                             |
| Place Directorate  | 0                   | 600,248             | 150,062                            | 0                                  | (150,062)                            |
| <b>Total Net Expenditure</b>                             | <b>8,715,580</b>    | <b>10,416,546</b>   | <b>2,604,137</b>                   | <b>2,530,908</b>                   | <b>(73,228)</b>                      |
| Interest Paid including Minimum Revenue Provision (MRP)  | 987,025             | 987,025             | 246,756                            | 246,756                            | 0                                    |
| Investment Interest                                      | (135,729)           | (135,729)           | (33,932)                           | (33,932)                           | 0                                    |
|  | <b>9,566,876</b>    | <b>11,267,842</b>   | <b>2,816,961</b>                   | <b>2,743,732</b>                   | <b>(73,228)</b>                      |
| Contributions to Reserves                                | 226,989             | 1,774,043           | 443,511                            | 443,511                            | 0                                    |
| Contribution from Earmarked Reserves                     | (101,858)           | (581,534)           | (145,384)                          | (145,384)                          | 0                                    |
| Contribution from NNDR Growth Protection Reserve         | 0                   | 141,652             | 35,413                             | 35,413                             | 0                                    |
| Contribution (from)/to Unapplied Grants/Holding Accounts | (83,807)            | (306,770)           | (76,693)                           | (76,693)                           | 0                                    |
| Contribution from S106 Holding A/cs                      | (126,151)           | (1,125,093)         | (281,273)                          | (281,273)                          | 0                                    |
|  | <b>9,482,049</b>    | <b>11,170,140</b>   | <b>2,792,535</b>                   | <b>2,719,306</b>                   | <b>(73,228)</b>                      |
| Parish Precepts  | 2,594,840           | 2,767,252           | 691,813                            | 691,813                            | 0                                    |
| Council Tax Support Grant                                | 209,000             | 250,067             | 62,517                             | 62,517                             | 0                                    |
| <b>TOTAL NET EXPENDITURE</b>                             | <b>12,285,889</b>   | <b>14,187,459</b>   | <b>3,546,865</b>                   | <b>3,473,636</b>                   | <b>(73,228)</b>                      |
| Business Rates Retention                                 | (6,157,946)         | (7,705,000)         | (1,926,250)                        | (1,926,250)                        | 0                                    |
| New Homes Bonus Grant                                    | (991,206)           | (993,166)           | (248,292)                          | (248,292)                          | 0                                    |
| COUNCIL TAX - BDC precept                                | (3,568,899)         | (3,675,609)         | (918,902)                          | (918,902)                          | 0                                    |
| Council tax - Parish element from above                  | (2,594,840)         | (2,767,252)         | (691,813)                          | (691,813)                          | 0                                    |
| NNDR collection fund surplus                             |                     | (141,652)           | (35,413)                           | (35,413)                           | 0                                    |
| <b>TOTAL FUNDING</b>                                     | <b>(13,312,891)</b> | <b>(15,282,679)</b> | <b>(3,820,670)</b>                 | <b>(3,820,670)</b>                 | <b>0</b>                             |
| <b>Funding gap/ (surplus)</b>                            | <b>(1,027,002)</b>  | <b>(1,095,220)</b>  | <b>(273,805)</b>                   | <b>(347,034)</b>                   | <b>(73,228)</b>                      |

## APPENDIX 2

### Housing Revenue Account

| Description                              | Full Years<br>Budget<br>£ | 3 months<br>Budget<br>£ | 3 months<br>Actuals<br>£ | 3 months<br>Variance<br>£ |
|--|---------------------------|-------------------------|--------------------------|---------------------------|
| <b>Expenditure</b>                       |                           |                         |                          |                           |
| Repairs and Maintenance                  | 4,949,712                 | 1,237,428               | 1,259,557                | 22,129                    |
| Supervision and Management               | 5,188,992                 | 1,297,248               | 1,260,834                | (36,414)                  |
| Special Services                         | 587,280                   | 146,820                 | 178,780                  | 31,960                    |
| Supporting People - Wardens              | 611,401                   | 152,850                 | 134,924                  | (17,926)                  |
| Supporting People - Central Control      | 241,076                   | 60,269                  | 87,482                   | 27,213                    |
| Tenants Participation                    | 84,679                    | 21,170                  | 10,478                   | (10,692)                  |
| New Bolsover Project                     | 19,745                    | 4,936                   | 7,832                    | 2,896                     |
| Provision for Doubtful Debts             | 150,000                   | 37,500                  | 37,500                   | 0                         |
| Debt Management Expenses                 | 8,578                     | 2,145                   | 3,886                    | 1,741                     |
| <b>Total Expenditure</b>                 | <b>11,841,463</b>         | <b>2,960,366</b>        | <b>2,981,273</b>         | <b>20,907</b>             |
| <b>Income</b>                            |                           |                         |                          |                           |
| Rents                                    | (20,274,640)              | (5,068,660)             | (4,569,996)              | 498,664                   |
| Garage Rents                             | (107,859)                 | (26,965)                | (24,579)                 | 2,386                     |
| Garage Site Rents                        | (32,789)                  | (8,197)                 | (31,221)                 | (23,024)                  |
| Repairs and Maintenance                  | (10,345)                  | (2,586)                 | (4,847)                  | (2,261)                   |
| Supervision and Management               | (380)                     | (95)                    | (226)                    | (131)                     |
| Special Services                         | (191,643)                 | (47,911)                | (39,997)                 | 7,914                     |
| Supporting People - Wardens              | (459,993)                 | (114,998)               | (112,432)                | 2,566                     |
| Supporting People - Central Control      | (242,022)                 | (60,506)                | (60,549)                 | (44)                      |
| New Bolsover Project                     | (19,745)                  | (4,936)                 | 0                        | 4,936                     |
| Leasehold Flats and Shops Income         | (23,980)                  | (5,995)                 | (2,218)                  | 3,777                     |
| Other Income                             | (45,810)                  | (11,453)                | (129)                    | 11,324                    |
| <b>Total Income</b>                      | <b>(21,409,206)</b>       | <b>(5,352,302)</b>      | <b>(4,846,194)</b>       | <b>506,107</b>            |
| <b>Net Cost of Services</b>              | <b>(9,567,743)</b>        | <b>(2,391,936)</b>      | <b>(1,864,922)</b>       | <b>527,014</b>            |
| <b>Appropriations</b>                    |                           |                         |                          |                           |
| Interest Costs                           | 3,443,652                 | 860,913                 | 860,913                  | 0                         |
| Depreciation                             | 3,264,385                 | 816,096                 | 816,096                  | 0                         |
| Transfer to Major Repairs Reserve        | 1,653,184                 | 413,296                 | 413,296                  | 0                         |
| Contribution to/(from) HRA Reserves      | 1,180,000                 | 295,000                 | 295,000                  | 0                         |
| <b>Net Operating (Surplus) / Deficit</b> | <b>(26,522)</b>           | <b>(6,631)</b>          | <b>520,383</b>           | <b>527,014</b>            |

### APPENDIX 3

#### CAPITAL PROGRAMME MONITORING REPORT - 2018/19

| Description                          | Full Years<br>Budget<br>£ | 3 months<br>Budget<br>£ | 3 months<br>Actuals<br>£ | 3 months<br>Variance<br>£ |
|--------------------------------------|---------------------------|-------------------------|--------------------------|---------------------------|
| ICT Infrastructure                   | 113,200                   | 28,300                  | 61,572                   | 33,272                    |
| Disabled Facility Grants             | 600,000                   | 150,000                 | 220,775                  | 70,775                    |
| P Vale Outdoor Education Centre Ph 2 | 34,332                    | 8,583                   | 4,552                    | (4,031)                   |
| B@home                               | 8,455,003                 | 2,113,751               | 3,071,195                | 957,444                   |
| Shirebrook Contact Centre            | 206,453                   | 51,613                  | 400                      | (51,213)                  |
| Pleasley Vale Mills - Various Works  | 201,393                   | 50,348                  | 120,114                  | 69,766                    |
| Car Parking at Clowne                | 90,200                    | 22,550                  | 0                        | (22,550)                  |
| Security and CCTV at Pleasley Vale   | 34,734                    | 8,684                   | 28,270                   | 19,587                    |
| The Tangent - Phase 2                | 79,874                    | 19,969                  | 36,591                   | 16,623                    |
| Dragonfly                            | 0                         | 0                       | 366,184                  | 366,184                   |
| Open Housing ICT Upgrade             | 448,747                   | 112,187                 | 448,397                  | 336,210                   |
| New Bolsover Refurbishment           | 6,605,195                 | 1,651,299               | 804,697                  | (846,602)                 |
| HRA MRR Schemes                      | 3,020,474                 | 755,119                 | 662,411                  | (92,708)                  |
| Safe & Warm                          | 2,411,537                 | 602,884                 | 83,000                   | (519,884)                 |
| Asset Management Plan                | 288,042                   | 72,011                  | 73,100                   | 1,090                     |
| Vehicle Replacement Programme        | 959,537                   | 239,884                 | 81,119                   | (158,765)                 |
| <b>TOTAL CAPITAL EXPENDITURE</b>     | <b>23,548,721</b>         | <b>5,887,180</b>        | <b>6,062,377</b>         | <b>175,197</b>            |

#### Capital Financing

|                                |                   |                  |                  |                |
|--------------------------------|-------------------|------------------|------------------|----------------|
| Specified Capital Grant        | 600,000           | 150,000          | 220,775          | 70,775         |
| Private Sector Contributions   | 494,448           | 123,612          | 0                | (123,612)      |
| Prudential Borrowing           | 9,253,660         | 2,313,415        | 3,477,811        | 1,164,396      |
| Reserves                       | 666,162           | 166,541          | 292,186          | 125,646        |
| Capital Receipts               | 568,225           | 142,056          | 73,100           | (68,956)       |
| Major Repairs Allowance        | 11,004,581        | 2,751,145        | 1,852,220        | (898,925)      |
| External Grant                 | 961,645           | 240,411          | 146,285          | (94,127)       |
| <b>TOTAL CAPITAL FINANCING</b> | <b>23,548,721</b> | <b>5,887,180</b> | <b>6,062,377</b> | <b>175,197</b> |



**PWLB Borrowing**

The Council has not taken any new loans from the PWLB during the first three months.

As at 1 April 2018 the Authority's total outstanding PWLB debt amounted to £102,100,000. The profile of the outstanding debt is analysed as follows: -

| <b>PWLB Borrowing<br/>Term</b> | <b>Maturity Profile<br/>30-Jun-18<br/>£</b> |
|--------------------------------|---|
| 12 Months                      | 0   |
| 1-2 years                      | 3,000,000                                   |
| 2-5 years                      | 9,700,000                                   |
| 5-10 years                     | 23,400,000                                  |
| 10-15 years                    | 21,000,000                                  |
| over 15 years                  | 45,000,000                                  |
| <b>Total PWLB Debt</b>         | <b>102,100,000</b>                          |

At 30 June 2018 nothing has been repaid to the PWLB.

**PWLB Interest**

The total interest cost to the Council of the PWLB debt for 2018/19 is estimated at £3,649,450. This cost is split between the HRA and General Fund based on the level of debt outstanding. Interest paid to the PWLB in the three months was £323,188.

**Temporary Borrowing**

Cash flow monitoring and management identifies the need for short term borrowing to cover delays in the receipt of income during the year. No interest charges were incurred during the first three months on overdrawn bank balances. At 30 June 2018 the only temporary borrowing undertaken by the Council was £607,031 which is the investment balances held on behalf of Parish Councils.

**Compliance with Treasury Limits**

During the financial year the Council continued to operate within the treasury limits set out in the Council's Borrowing and Investment Strategy.

|   | <b>Actual to Date 2018/19</b> | <b>Approved Limits 2018/19</b> |
|---|-------------------------------|--------------------------------|
| Authorised Limit (Total Council external borrowing limit) | £125,243,581                  | £131,805,000                   |
| Operational Boundary                                      | £120,243,581                  | £126,805,000                   |

### Temporary Investments

#### Interest Received

The performance of the Council's investments is as follows:

|                           | <b>3 months Actual</b> | <b>3 months Budget</b> | <b>3 months Variance</b> |
|---------------------------|------------------------|------------------------|--------------------------|
| Interest generated        | 57,766                 | 45,057                 | 12,708                   |
| Average rate of interest  | 0.54%                  | 0.50%                  | 0.04%                    |
| Bank of England base rate | 0.50%                  | 0.50%                  | 0.00%                    |

The investments have been made in accordance with the Council's Treasury Management Strategy.

Interest rates offered by most institutions remain low.

The following tables show the investments and interest earned to 30 June 2018:

#### Investments on call

| <b>Counterparty</b> | <b>Balance at<br/>1/4/18<br/>£</b> | <b>Deposits<br/>£</b> | <b>Withdrawals<br/>£</b> | <b>Interest<br/>received<br/>£</b> | <b>Balance at<br/>30/06/18<br/>£</b> |
|---------------------|------------------------------------|-----------------------|--------------------------|------------------------------------|--------------------------------------|
| BNP Paribas (MMF)   | 2,000,000                          | 6,500,000             | (3,504,371)              | 4,371                              | 5,000,000                            |
| Standard Life (MMF) | 5,000,000                          | 0                     | (6,321)                  | 6,321                              | 5,000,000                            |
| SSGA (MMF)          | 0                                  | 3,500,000             | (3,500,044)              | 44                                 | 0                                    |
| Invesco (MMF)       | 0                                  | 10,000,000            | (5,001,525)              | 1,525                              | 5,000,000                            |
|                     | <b>7,000,000</b>                   | <b>20,000,000</b>     | <b>(12,012,261)</b>      | <b>12,261</b>                      | <b>15,000,000</b>                    |

## General Fund - Cost centres

## APPENDIX 5

|      | 1/4/18 - 30/6/18                       | Full Years | 3 months | 3 months | 3 months  |  |
|------|--|------------|----------|----------|-----------|--|
|      |  | Budget     | Budget   | Actuals  | Variance  |  |
|      |  | £          | £        | £        | £         |  |
| G001 | Audit Services                         | 116,690    | 29,173   | 0        | (29,173)  | Q1 invoice for consortium not yet paid   |
| G002 | I.C.T.                                 | 767,708    | 191,927  | 366,294  | 174,367   | Maintenance contracts paid for the full year.  |
| G003 | Reprographics (printing)               | 158,494    | 39,624   | 55,069   | 15,446    |  |
| G005 | Chief Executive Officer (50% People)   | 42,878     | 10,720   | 8,275    | (2,445)   |  |
| G006 | CEPT                                   | 406,884    | 101,721  | 124,543  | 22,822    | Payments made for the year - can't be 1/4ly profiled.  |
| G014 | Customer Contact Service               | 785,271    | 196,318  | 200,441  | 4,123     |  |
| G015 | Strategy + Performance                 | 124,041    | 31,010   | 32,137   | 1,127     |  |
| G024 | Street Cleansing                       | 332,987    | 83,247   | 85,401   | 2,154     |  |
| G028 | Waste Collection                       | 880,996    | 220,249  | 247,580  | 27,331    | Income currently £10k under achieving and equipment, tools and materials spent more than 1/4 budget. |
| G032 | Grounds Maintenance                    | 609,676    | 152,419  | 159,566  | 7,147     | S/debtor to DCC not yet raised for Q1 £17k.  |
| G033 | Vehicle Fleet                          | 788,179    | 197,045  | 241,011  | 43,966    | S/debtor for Q1 not yet raised £19k plus hired and contractor more than 1/4 committed on FMS.        |
| G038 | Concessionary Fares + TV Licenses      | (9,440)    | (2,360)  | (370)    | 1,990     |  |
| G040 | Corporate Management                   | 146,293    | 36,573   | 31,786   | (4,787)   |  |
| G041 | Non Distributed Costs                  | 689,808    | 172,452  | 41,786   | (130,666) | Q1 invoices for superannuation and added years not yet paid to DCC.                                  |
| G044 | Financial Services                     | 300,006    | 75,002   | 71,806   | (3,195)   |  |
| G052 | Human Resources                        | 203,026    | 50,757   | 46,745   | (4,012)   |  |
| G054 | Electoral Registration                 | 151,522    | 37,881   | 40,988   | 3,108     |  |
| G055 | Democratic Representation + Management | 529,200    | 132,300  | 143,029  | 10,729    |  |
| G056 | Land Charges                           | (5,783)    | (1,446)  | (6,359)  | (4,913)   |  |
| G057 | District Council Elections             | 31,850     | 7,963    | 0        | (7,963)   |  |

## General Fund - Cost centres

## APPENDIX 5

|      | 1/4/18 - 30/6/18                       | Full Years | 3 months | 3 months | 3 months |   |
|------|--|------------|----------|----------|----------|---|
|      |  | Budget     | Budget   | Actuals  | Variance |   |
|      |  | £          | £        | £        | £        |   |
| G058 | Democratic Services                    | 172,440    | 43,110   | 43,930   | 820      |   |
| G060 | Legal Services                         | 217,696    | 54,424   | 63,787   | 9,363    |   |
| G061 | Bolsover Wellness Programme            | 59,872     | 14,968   | 58,813   | 43,845   | Income not yet received from CEPT.  |
| G062 | Extreme Wheels                         | (3,563)    | (891)    | (2,018)  | (1,127)  |   |
| G063 | Go Football                            | 10,864     | 2,716    | 2,222    | (494)    |   |
| G064 | Bolsover Community Sports Coach Scheme | 140,200    | 35,050   | 30,903   | (4,147)  |   |
| G065 | Parks, Playgrounds + Open Spaces       | 51,469     | 12,867   | 15,412   | 2,545    |   |
| G069 | Brass Festival                         | 44,473     | 11,118   | 7,907    | (3,211)  |   |
| G070 | Outdoor Sports & Recreation Facilities | 20,844     | 5,211    | 10,010   | 4,799    |   |
| G072 | Leisure Services Mgmt & Admin          | 190,916    | 47,729   | 43,650   | (4,079)  |   |
| G086 | Alliance                               | 7,250      | 1,813    | 7,216    | 5,404    |   |
| G094 | People Director                        | 47,544     | 11,886   | 11,747   | (139)    |   |
| G097 | Groundwork + Drainage Operations       | 48,990     | 12,248   | 11,859   | (389)    |   |
| G100 | Benefits                               | 763,025    | 190,756  | 123,510  | (67,246) | Grant income received in advance £61k.  |
| G102 | Council Tax Charging Orders            | (81,546)   | (20,387) | 722      | 21,109   | Income from property not due yet.   |
| G103 | Council Tax / NNDR                     | 289,091    | 72,273   | 159,718  | 87,445   | Income not posted until year end £65k. Software invoices paid for full year £18k. |
| G104 | Sundry Debtors                         | 93,115     | 23,279   | 32,237   | 8,958    |   |
| G111 | Shared Procurement Unit                | 46,980     | 11,745   | 9,399    | (2,346)  |   |
| G116 | Parish Council Elections               | 0          | 0        | 3,579    | 3,579    |   |
| G117 | Payroll                                | 69,851     | 17,463   | 17,184   | (279)    |   |
| G122 | County Council Elections               | 0          | 0        | (25,501) | (25,501) | Income received for previous year.  |
| G123 | Riverside Depot                        | 168,235    | 42,059   | 81,015   | 38,956   | NNDR paid for full year £47k.   |
| G124 | Street Servs Mgmt + Admin              | 72,478     | 18,120   | 19,311   | 1,192    |   |

# General Fund - Cost centres

# APPENDIX 5

|      | 1/4/18 - 30/6/18                      | Full Years  | 3 months  | 3 months  | 3 months  |  |
|------|---------------------------------------|-------------|-----------|-----------|-----------|--|
|      |                                       | Budget      | Budget    | Actuals   | Variance  |  |
|      |                                       | £           | £         | £         | £         |  |
| G125 | S106 Percent for Art                  | 123,439     | 30,860    | 30,605    | (255)     | Payment made - can't be profiled 1/4ly. Earliest deadline 1/5/19 - reported to S106 group 18/7/18.         |
| G126 | S106 Formal and Informal Recreation   | 157,683     | 39,421    | 10,623    | (28,797)  | <b>Payment made - can't be 1/4ly profiled. Earliest deadline 20/9/18 - reported to S106 group 18/7/18.</b> |
| G129 | Bolsover Apprenticeship Programme     | 7,371       | 1,843     | 9,461     | 7,618     |  |
| G146 | Pleasley Vale Outdoor Activity Centre | 42,426      | 10,607    | 21,705    | 11,098    |  |
| G148 | Trade Waste                           | (77,605)    | (19,401)  | (160,434) | (141,032) | S/debtors raised for more than 1/4 £94k. Q1 invoice to DCC not paid or committed £46k.                     |
| G149 | Recycling                             | 55,975      | 13,994    | 112,358   | 98,364    | S/debtor for Q1 not yet raised £96k.   |
| G155 | Customer Services                     | 29,385      | 7,346     | 7,284     | (63)      |  |
| G157 | Controlling Migration Fund            | (40,541)    | (10,135)  | (564,236) | (554,101) | Income received in advance £585k and little expenditure incurred in Q1.                                    |
| G161 | Rent Rebates                          | 0           | 0         | (0)       | (0)       | year end entries only  |
| G162 | Rent Allowances                       | 0           | 0         | 0         | 0         | year end entries only  |
| G164 | Support Recharges                     | (3,578,847) | (894,712) | (894,712) | 0         |  |
| G168 | Multifunctional Printers              | 53,370      | 13,343    | 43,676    | 30,334    | Hardware rental committed on FMS for full year.  |
| G170 | S106 Outdoor Sports                   | 243,723     | 60,931    | 32,248    | (28,683)  | Payment made - can't be 1/4ly profiled. Earliest deadline 17/11/19 - reported to S106 group 18/7/18.       |
| G175 | Leisure Outdoor Activity Events       | 0           | 0         | 612       | 612       |  |
| G177 | Discretionary Housing Payments        | 0           | 0         | 0         | 0         | year end entries only  |
| G179 | Streets Sports                        | 0           | 0         | 0         | 0         |  |
| G180 | Special Events                        | 0           | 0         | 0         | 0         |  |
| G181 | BLACA                                 | 0           | 0         | 784       | 784       |  |
| G182 | Village Games                         | 654         | 164       | 165       | 1         |  |
| G184 | Us Girls                              | 710         | 178       | 0         | (178)     |  |

## General Fund - Cost centres

## APPENDIX 5

|      | 1/4/18 - 30/6/18                             | Full Years | 3 months | 3 months | 3 months |  |
|------|--|------------|----------|----------|----------|--|
|      |  | Budget     | Budget   | Actuals  | Variance |  |
|      |  | £          | £        | £        | £        |  |
| G186 | PL4S Satellite Programme                     | 0          | 0        | 0        | 0        |  |
| G188 | Cotton Street Contact Centre                 | 20,539     | 5,135    | 12,050   | 6,915    |  |
| G190 | Executive Director - Operations              | 0          | 0        | 77       | 77       |  |
| G192 | Scrutiny                                     | 19,566     | 4,892    | 5,153    | 261      |  |
| G195 | Assist Dir - Governance + Monitoring         | 37,104     | 9,276    | 8,882    | (394)    |  |
| G197 | Assist Dir - Finance, Revenues + Benefits    | 36,158     | 9,040    | 9,039    | (1)      |  |
| G199 | Assist Dir - Street Scene                    | 36,323     | 9,081    | 9,081    | 0        |  |
| G200 | Assist Dir - Customer Services + Improvement | 0          | 0        | 0        | 0        |  |
| G201 | Assist Dir - HR + Payroll                    | 33,912     | 8,478    | 94       | (8,384)  |  |
| G202 | Assist Dir - Leisure                         | 31,328     | 7,832    | 80       | (7,752)  |  |
| G203 | Club 1                                       | 578        | 145      | 0        | (145)    |  |
| G204 | CEPT - BIG Lottery Talent Match              | 0          | 0        | (3,592)  | (3,592)  |  |
| G206 | Street Games                                 | 0          | 0        | 697      | 697      |  |
| G207 | Cycling                                      | 400        | 100      | (15)     | (115)    |  |
| G216 | Raising Aspirations                          | 78,235     | 19,559   | 53,841   | 34,282   | Payment made - can't be 1/4ly profiled.  |
| G218 | Namibia Bound                                | 25,932     | 6,483    | 0        | (6,483)  |  |
| G220 | Locality Funding                             | 62,156     | 15,539   | (4,999)  | (20,538) | Expenditure not yet incurred.  |
| G224 | Prime Ministers Challenge Fund               | 2,540      | 635      | 0        | (635)    |  |
| G225 | Eats and Treats Events                       | 14,623     | 3,656    | 2,812    | (844)    |  |
| G228 | Go Active Clowne Leisure Centre              | (174,459)  | (43,615) | 136,975  | 180,590  | NNDR paid for full year £120k. Casual and overtime spent more than 1/4 but being reviewed £20k. Various expenditure paid more than 1/4 but still within years' budget. |
| G238 | HR Health + Safety                           | 72,401     | 18,100   | 17,216   | (884)    |  |
| G240 | Affordable Warmth Buddies                    | 3,131      | 783      | 454      | (329)    |  |

# General Fund - Cost centres

# APPENDIX 5

|      | 1/4/18 - 30/6/18                     | Full Years       | 3 months         | 3 months         | 3 months         |   |
|------|--------------------------------------|------------------|------------------|------------------|------------------|---|
|      |                                      | Budget           | Budget           | Actuals          | Variance         |   |
|      |                                      | £                | £                | £                | £                |   |
| G241 | Working Together for Older People    | 24,734           | 6,184            | (1)              | (6,184)          |   |
| G244 | Bolsover Business Growth Fund        | 129,313          | 32,328           | 9,798            | (22,530)         | Not much expenditure incurred - reserve funded. |
|      | <b>Total for: People Directorate</b> | <b>6,952,767</b> | <b>1,738,192</b> | <b>1,524,119</b> | <b>(214,073)</b> |   |
|      |                                      |                  |                  |                  |                  |   |
|      |                                      |                  |                  |                  |                  |   |
|      |                                      |                  |                  |                  |                  |   |
| G004 | Chief Executive Officer (50% Place)  | 42,877           | 10,719           | 8,275            | (2,444)          |   |
| G007 | Community Safety - Crime Reduction   | 55,085           | 13,771           | 756              | (13,016)         |   |
| G008 | Safer Stronger Communities           | 0                | 0                | 19,430           | 19,430           |   |
| G010 | Neighbourhood Management             | 87,224           | 21,806           | 21,806           | 0                |   |
| G013 | Community Action Network             | 325,426          | 81,357           | 72,839           | (8,517)          |   |
| G017 | Private Sector Housing Renewal       | 59,728           | 14,932           | 13,705           | (1,227)          |   |
| G020 | Public Health                        | (78,000)         | (19,500)         | 78,000           | 97,500           |   |
| G021 | Pollution Reduction                  | 172,739          | 43,185           | (7,515)          | (50,700)         |   |
| G022 | Health + Safety                      | 0                | 0                | (179)            | (179)            |   |
| G023 | Pest Control                         | 36,809           | 9,202            | 7,871            | (1,331)          |   |
| G025 | Food Safety                          | 124,477          | 31,119           | 31,119           | (0)              |   |
| G026 | Animal Welfare                       | 95,726           | 23,932           | 15,265           | (8,666)          |   |
| G027 | Emergency Planning                   | 16,590           | 4,148            | 0                | (4,148)          |   |
| G036 | Environmental Health Mgmt + Admin    | 188,621          | 47,155           | 47,155           | (0)              |   |
| G043 | Place Director                       | 51,952           | 12,988           | 12,988           | 0                |   |
| G046 | Homelessness                         | 143,735          | 35,934           | (6,059)          | (41,993)         |   |
| G048 | Town Centre Housing                  | (10,700)         | (2,675)          | 0                | 2,675            |   |
| G053 | Licensing                            | (2,518)          | (630)            | 1,521            | 2,150            |   |
| G073 | Planning Policy                      | 349,043          | 87,261           | 144,648          | 57,387           |   |

## General Fund - Cost centres

## APPENDIX 5

|      | 1/4/18 - 30/6/18                  | Full Years | 3 months | 3 months | 3 months |  |
|------|-----------------------------------|------------|----------|----------|----------|--|
|      |                                   | Budget     | Budget   | Actuals  | Variance |  |
|      |                                   | £          | £        | £        | £        |  |
| G074 | Planning Development Control      | (107,331)  | (26,833) | (77,911) | (51,078) |  |
| G076 | Planning Enforcement              | 98,597     | 24,649   | 19,498   | (5,151)  |  |
| G079 | Senior Urban Design Officer       | 21,538     | 5,385    | 12,748   | 7,364    |  |
| G080 | Engineering Services              | 86,909     | 21,727   | 58,577   | 36,849   |  |
| G081 | Drainage Services                 | 3,300      | 825      | 0        | (825)    |  |
| G083 | Building Control Consortium       | 55,000     | 13,750   | 9,108    | (4,642)  |  |
| G085 | Economic Development              | 29,425     | 7,356    | 25,718   | 18,361   |  |
| G088 | Derbyshire Economic Partnership   | 15,000     | 3,750    | 0        | (3,750)  |  |
| G089 | Premises Development              | (73,560)   | (18,390) | (15,820) | 2,570    |  |
| G090 | Pleasley Vale Mills               | (151,491)  | (37,873) | 89,726   | 127,599  |  |
| G091 | CISWO Duke St Building            | 14,290     | 3,573    | 4,734    | 1,161    |  |
| G092 | Pleasley Vale Electricity Trading | (78,000)   | (19,500) | 17,504   | 37,004   |  |
| G095 | Estates + Property                | 629,719    | 157,430  | 157,832  | 402      |  |
| G096 | Building Cleaning (General)       | 91,244     | 22,811   | 21,968   | (844)    |  |
| G099 | Catering                          | 5,200      | 1,300    | 1,578    | 278      |  |
| G106 | Housing Anti Social Behaviour     | 76,297     | 19,074   | 22,129   | 3,054    |  |
| G113 | Parenting Practitioner            | 33,873     | 8,468    | 11,773   | 3,305    |  |
| G132 | Planning Conservation             | 71,368     | 17,842   | 17,517   | (325)    |  |
| G133 | The Tangent Business Hub          | (43,141)   | (10,785) | 27,122   | 37,908   |  |
| G135 | Domestic Violence Worker          | 40,897     | 10,224   | 11,249   | 1,025    |  |
| G138 | Bolsover TC Regeneration Scheme   | 34,042     | 8,511    | 2,080    | (6,431)  |  |
| G142 | Community Safety - CCTV           | 9,218      | 2,305    | 0        | (2,305)  |  |



## General Fund - Cost centres

## APPENDIX 5

|      | 1/4/18 - 30/6/18                        | Full Years       | 3 months       | 3 months         | 3 months       |  |
|------|---|------------------|----------------|------------------|----------------|--|
|      |   | Budget           | Budget         | Actuals          | Variance       |  |
|      |   | £                | £              | £                | £              |  |
| G143 | Housing Strategy                        | 35,008           | 8,752          | 15,250           | 6,498          |  |
| G144 | Enabling (Housing)                      | 37,146           | 9,287          | 9,286            | (1)            |  |
| G151 | Street Lighting                         | 25,900           | 6,475          | 7,289            | 814            |  |
| G153 | Housing Advice                          | 12,647           | 3,162          | 3,159            | (2)            |  |
| G156 | The Arc                                 | 145,939          | 36,485         | 74,329           | 37,844         |  |
| G167 | Facilities Management                   | 10,328           | 2,582          | 7,595            | 5,013          |  |
| G169 | Closed Churchyards                      | 10,000           | 2,500          | 4,577            | 2,077          |  |
| G172 | S106 Affordable Housing                 | 1,116            | 279            | 0                | (279)          |  |
| G176 | Affordable Warmth                       | 35,813           | 8,953          | 8,953            | (0)            |  |
| G193 | Economic Development Management + Admin | 170,229          | 42,557         | 43,021           | 463            |  |
| G194 | Assist Dir - Economic Growth            | 36,728           | 9,182          | 9,187            | 5              |  |
| G196 | Assist Dir - Planning + Env Health      | 36,858           | 9,215          | 80               | (9,134)        |  |
| G208 | Assist Dir - Estates and Property       | 37,743           | 9,436          | 9,108            | (328)          |  |
| G226 | S106 - Highways                         | 569,000          | 142,250        | 0                | (142,250)      |  |
| G227 | S106 - Public Health                    | 30,132           | 7,533          | 0                | (7,533)        |  |
| G237 | Joint Venture (LLP)                     | 32,987           | 8,247          | 1,500            | (6,747)        |  |
| G239 | Housing + Comm Safety Fixed Pen Acc.    | 1,500            | 375            | 230              | (145)          |  |
| G242 | New Bolsover MV - CVP Worker            | 7,215            | 1,804          | 7,900            | 6,096          |  |
|      | <b>Total for: Place Directorate</b>     | <b>3,757,497</b> | <b>939,374</b> | <b>1,080,219</b> | <b>140,845</b> |  |