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Meeting	CABINET
Time/Day/Date	5.00 pm on Tuesday, 27 June 2023
Location	Abbey Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454512)

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
3. PUBLIC QUESTION AND ANSWER SESSION	
4. MINUTES	
To confirm the minutes of the meeting held on 25 April 2023.	3 - 6
5. PROVISIONAL OUTTURN 2022/23	
Report of the Director of Resources Presented by the Corporate Portfolio Holder	7 - 30
6. TREASURY MANAGEMENT STEWARDSHIP REPORT 2022/23	
Report of the Director of Resources Presented by the Corporate Portfolio Holder	31 - 46
7. MARLBOROUGH SQUARE PUBLIC REALM - TENDER PRICE UPDATE	
Report of the Director of Place Presented by the Business and Regeneration Portfolio Holder	47 - 54

8.	RECYCLE MORE UPDATE AND THE FUTURE DEVELOPMENT OF THE WASTE SERVICE	
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9.	BUSINESS RATES POOLING	
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11.	FOOD SAFETY SERVICE DELIVERY PLAN 2023/24	
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12.	GOVERNMENT CONSULTATION - INFRASTRUCTURE LEVY	
	Report of the Director of Place Presented by the Infrastructure Portfolio Holder	231 - 236
13.	QUARTER 4 PERFORMANCE REPORT	
	Report of the Chief Executive Presented by the Infrastructure Portfolio Holder	237 - 268
14.	FORMER TENANT RENT ARREARS, CURRENT TENANT RENT ARREARS, COUNCIL TAX, NON DOMESTIC RATES AND SUNDRY DEBTOR WRITE OFFS	
	Report of the Director of Resources Presented by the Corporate Portfolio Holder	269 - 272
15.	THE LEICESTERSHIRE PARTNERSHIP REVENUES AND BENEFITS JOINT COMMITTEE - APPOINTMENT OF MEMBERS	
	Report of the Director of Resources Presented by the Leader	273 - 274

Circulation:

Councillor R Blunt (Chairman)
Councillor M B Wyatt (Deputy Chairman)
Councillor T Gillard
Councillor K Merrie MBE
Councillor N J Rushton
Councillor A C Saffell
Councillor A C Woodman

MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Whitwick Road, Coalville, LE67 3FJ on TUESDAY, 25 APRIL 2023

Present: Councillor R Blunt (Chairman)

Councillors R Ashman, R D Bayliss, T Gillard, K Merrie MBE, N J Rushton and A C Woodman

In Attendance: Councillor S Sheahan

Officers: Ms A Thomas, Mr J Arnold, Mr A Barton, Miss E Warhurst, Mr G Hammons, Mr T Devonshire, Ms R Haynes and Mrs R Wallace

89. APOLOGIES FOR ABSENCE

No apologies were received.

90. DECLARATION OF INTERESTS

In accordance with the Code of Conduct, Members declared the following interests:

Councillors Ashman, Gillard, Merrie and Rushton declared a non pecuniary interest in Item 5 as members of Leicestershire County Council.

91. PUBLIC QUESTION AND ANSWER SESSION

No questions were received.

92. MINUTES

The minutes of the meeting held on the 28 March 2023 were considered.

It was moved by Councillor T Gillard, seconded by Councillor K Merrie and

RESOLVED THAT:

The minutes of the meeting held on 28 March 2023 be confirmed as an accurate record of proceedings.

Reason for decision: To comply with the constitution.

93. DRAFT RESOURCES AND WASTE STRATEGY FOR LEICESTERSHIRE 2022 - 2050

The Community Services Portfolio Holder presented the report and wished to express thanks to the Community Scrutiny Committee for their comments.

A member noted that this had been a very comprehensive piece of work and that North West Leicestershire District Council had been ahead of the curve in their approach to waste.

It was highlighted that the authority had the highest recycling rate in Leicestershire and that NWLDC is unique in the county in that it already has a Recycle More Plan which firmly aligned with best practice highlighted within both the Leicestershire and national strategies

It was moved by Councillor A Woodman, seconded by Councillor K Merrie and

RESOLVED THAT:

1. The Leicestershire Resources and Waste Strategy (Appendix One) be adopted.
2. The continuation of the waste partnership be endorsed, but it be requested that it is developed and enhanced to ensure appropriate political, strategic and organisational engagement.
3. It be requested that the partnership explores collaborative opportunities which have the potential to deliver environmental improvements, whilst helping to reduce costs across the waste-system, such that cost shunting is avoided and mutual benefits are shared across all partners.
4. Authority be delegated to the Head of Community Services in consultation with the Portfolio Holder for Community Services to sign off any further amendments to the strategy on behalf of North West Leicestershire District Council, to incorporate legislative, regulatory or national policy changes recommended by the Leicestershire Waste Partnership and any such changes be communicated in writing to all members.

Reason for decision: To seek Cabinet approval and adoption of the Leicestershire Resources and Waste Strategy (LWRS) which sets out how the Leicestershire Waste Partnership (LWP) intends to manage municipal waste up until 2050.

94. REPORTING EXEMPTION TO CONTRACT PROCEDURE RULES

The Housing, Property and Customer Services Portfolio Holder presented the report. It was noted that due to timescales and the amount of work required, along with the fact that Merrison's had been a trusted existing and local supplier, that they had been appointed by officers in order to carry out works on the Council's housing stock.

A member stated that they had been happy that officers had followed correct procedures.

Questions from Councillor S Sheahan.

Councillor Sheahan thanked the Leader for the opportunity to present his questions as the deadline for questions had passed when they were proposed.

Question	Response
What is the latest estimate of the number of cases of mould and damp identified within the Council's housing stock?	477 properties have notified NWLDC of having Damp, Mould or Condensation related issues. These are broadly self notifications unchecked and vary in size type and complexity. 291 Damp, Mould and Condensation surveys have been issued to specialist contractors. 120 properties have been referred to Merrisons to carryout works to address the cause and treat any mould.
What is the percentage, within that figure, of Housing Health and Safety Rating System category 2 serious damp and mould cases?	Unable to obtain due to time constraints, will follow .
What is the percentage of HHSRS category 1 cases, which fail the	Unable to obtain due to time constraints, will follow.

decent homes standard?	
What is the remaining percentage of notable damp and mould cases?	Unable to obtain due to time constraints, will follow.
What is the combined number of all damp and mould cases expressed as a percentage of the Council's housing stock?	11.75% - this is the 477 notifications and not the confirmed cases, as assessment work has not yet completed.
What is the current best estimate of the national average percentage of mould and damp cases in social housing, according to the Regulator of Social Housing?	While the picture is incomplete, RSH's best estimate is that less than 0.2% of social homes have the most serious damp and mould problems, 1-2% have serious damp and mould problems, and a further 3-4% have notable damp and mould. (<i>Published on 02nd February 2023</i>). No data has been issued for minor cases of which some of our 477 notifications are.
What is the Council's process for ensuring that damp and mould cases are identified and dealt with promptly and effectively?	<p>NWLDC made the decision to refer all reports of Damp, Mould, and Condensation to specialist contractors for survey to allow the root cause of the reported concerns to be diagnosed and addressed.</p> <p>All remedial works are being issues to NWLDC's support contractor Merrisons, trained to MGC (Mould Growth Consultants) standards of treatment.</p> <p>Whilst this approach, in conjunction with the vast increase in reports received following the media coverage of Awaab Ishak's death, has meant that some tenants are experiencing delays for the completion of treatment it ensures that we offer a long-term solution minimising repeat cases in the future. Cases are triaged depending of the findings of the surveys.</p>

Officers noted that the number of cases of mould and damp were reported cases as opposed to those which had been found and confirmed, however the meeting was informed that all cases would be investigated and addressed where action was required. It was confirmed that some cases would result in the need for further works, some of which may be structural, however that some could be resolved via cleaning regimes or specialist paint.

The Leader proposed that a task and finish group be formed to consider the issue of mould and damp in Council homes following the upcoming elections.

The Portfolio Holder for Housing, Property and Customer Services wished to reaffirm their commitment to identifying and dealing with such cases and confirmed their dedication to ensuring that tenants live in decent homes.

It was moved by Councillor R Bayliss, seconded by Councillor R Ashman and

RESOLVED THAT:

1. The exemption made by Statutory Officers to the Contract Procedure rules as detailed in the report be noted.
2. The award to the contractor as detailed in the report be approved and delegated to the Strategic Director with responsibility for Housing.

Reason for decision: To note the exemption as required by the Constitution.

The meeting commenced at 5.00 pm

The Chairman closed the meeting at 5.12 pm

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	PROVISIONAL FINANCIAL OUTTURN 2022/23	
Presented by	Councillor Nick Rushton Corporate Portfolio Holder	
Background Papers	Quarter 3 Performance Report 2022-23	Public Report: Yes
		Key Decision: Yes
Financial Implications	The expected final position on the General Fund is a surplus of £0.91m compared to a budgeted surplus of £1.20m, representing a £0.29m deficit on the budgeted position.	
	The expected final position on the HRA is a surplus of £0.73m, after appropriations. This compares to a budgeted surplus position of £0.06m and represents a £0.67m improvement on the budgeted position.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	There are no direct legal implications arising from the report.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are none.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To present an overview of the Council's provisional financial outturn for 2022/23.	
Reason for Decision	Requirement of Financial Procedure Rules.	
Recommendations	CABINET IS RECOMMENDED TO: <ol style="list-style-type: none"> 1. NOTE THE 2022/23 PROVISIONAL OUTTURN POSITION FOR GENERAL FUND REVENUE, SPECIAL EXPENSES AND HOUSING REVENUE ACCOUNT. 2. APPROVE THE TRANSFER OF THE UNSPENT RESERVES TO THE MEDIUM TERM FINANCIAL PLAN RESERVE AS DETAILED IN SECTION 3.7 AND APPENDIX 1 ON GENERAL FUND. 3. APPROVE THE CREATION OF THE EARMARKED RESERVES DETAILED IN APPENDIX 2 ON GENERAL FUND REVENUE AND SPECIAL EXPENSES. 4. NOTE THE 2022/23 PROVISIONAL OUTTURN POSITION FOR CAPITAL FOR GENERAL FUND AND HOUSING 	

	<p>REVENUE ACCOUNT.</p> <p>5. APPROVE THE GENERAL FUND CAPITAL PROGRAMME SAVINGS TO BE REALLOCATED, DETAILED ON TABLE 2, ARE KEPT IN THE CAPITAL PROGRAMME TO DEAL WITH INFLATIONARY PRESSURES AS REQUESTED IN SECTION 3.5.6 WITH FURTHER DETAIL IN APPENDIX 3.</p> <p>6. APPROVE THE CARRY FORWARD OF THE UNDERSPENT GENERAL FUND AND HOUSING REVENUE ACCOUNT CAPITAL PROGRAMMES TO 2023/24 AS DETAILED IN TABLE 3 AND TABLE 8 IN THE REPORT WITH FURTHER DETAIL ON APPENDIX 3.</p> <p>7. DELEGATE ANY AMENDMENTS TO RESERVE MOVEMENTS AND CAPITAL CARRY FORWARDS TO THE S151 OFFICER IN CONSULTATION WITH THE CORPORATE PORTFOLIO HOLDER FOLLOWING FINALISATION OF THE OUTTURN POSITION.</p>
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1.0 INTRODUCTION

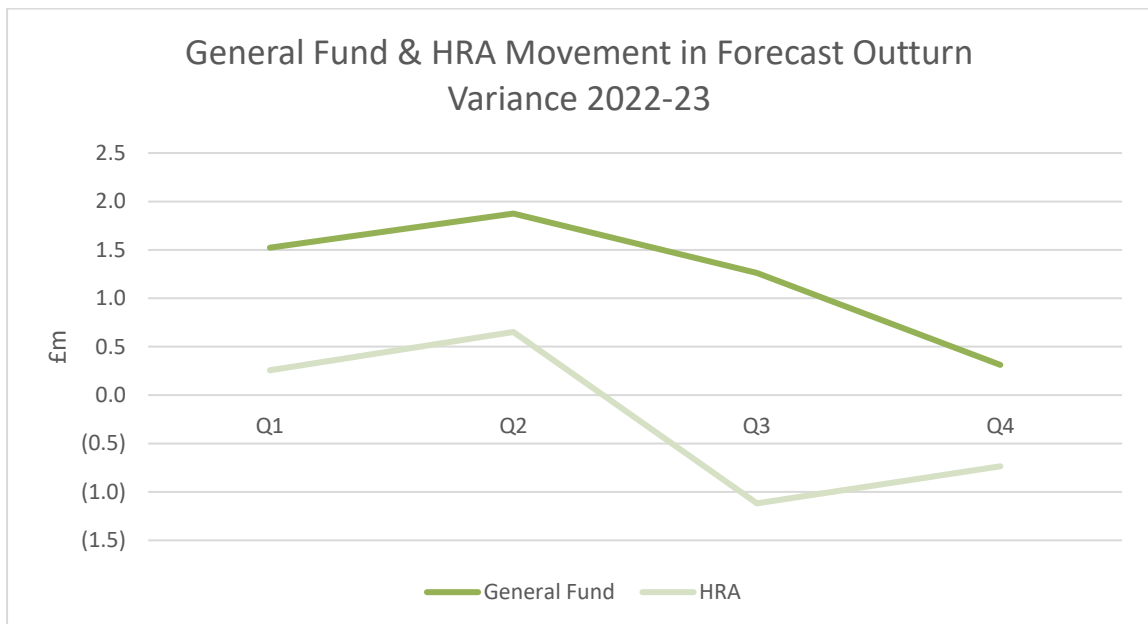
- 1.1 The Council is required to produce Financial Statements each year which 'give a true and fair view' of the financial position and transactions of the Council. The accounts have been prepared under the International Financial Reporting Standards since 2010/11.
- 1.2 This report summarises the main elements of the Council's financial performance in 2022/23 and the results are referred to as 'provisional' as the financial ledger has not yet been closed down. Some figures are based on budget or 'best estimates' and are still to be finalised after which they are subject to external audit and so may change. The major items still to be actioned which are included in the forecast in the provisional outturn are as follows:
- The Business Rates accounts have not yet been completed, therefore, the forecast of £5m retained growth is based on figures from the 31st December 2022. We have an earmarked reserve to cover the shortfall. The shortfall is mainly due to the deficits from 2020/21 and 2021/22 relating to Covid.
 - S106 income of £2.1m was received in year, of which £0.6m was used to fund expenditure with the remaining £1.5m set aside to finance expenditure in future years, this has no net impact on the Planning and Infrastructure figures in Table 1. The calculation of interest on S106 balances has not been performed for this provisional outturn.
 - The capital grants and contributions applied provisional amount for the year is £0.56m which is made up of Disabled Facilities Grant (DFG) expenditure and spend to improve air quality in the Borough.
- 1.3 The final outturn position will be reported to members later in the year after the audit has been completed, with progress updates reported through the quarterly finance reports to Cabinet during 2023/24.
- 1.4 The Council expects to publish the 2022/23 accounts in draft form on the Council's website by November 2023. The final accounts will be considered and approved by the Audit and Governance Committee in March 2024 after they have been audited.

1.5 An annual review of earmarked reserves has been undertaken. This review assessed a number of new requests and existing reserves requested to be carried forward. Further detail in respect of reserves can be found in section 3.6 on General Fund and section 5.5 on the Housing Revenue Account.

2.0 FINANCIAL PERFORMANCE

2.1 The finance service operates a 'Finance Business Partner' delivery model. A key part of this includes budget holders and finance colleagues meeting in 'finance clinics' on a quarterly basis. The key areas of focus within finance clinics is to review budgetary variances and revise in year forecasts, identify and manage the timely expenditure of earmarked reserves in order to drive value for money and in particular, reduce unexpected results in respect of the General Fund.

2.2 As in previous years, variances have occurred between both quarterly forecasts and provisional outturn. This is illustrated in the graph below:



2.3 As can be seen from the graph above, on General Fund, in quarter 2 it was identified the Council was heading for a significant overspend due to inflation/non delivery of Journey to Self Sufficiency Savings (J2SS) target. Plans were put in to place to proactively manage spend and ensuring services worked within budgets available. As part of quarter 3 financial reporting there were several financial challenge sessions held with the S151 Officer, Directors and Heads of Service along with the Finance Manager and the respective Financial Business Partner. The purpose of these challenge sessions was to ensure that any large areas of underspending still being reported to be spent had robust spend plans in place and all areas of both under and overspending were identified and reviewed. Following these sessions, quarter 3 showed an improved forecast outturn position of (£0.6m) which continued with the provisional outturn position of a further (£1.0m).

2.4 Looking at the same graph above, in quarter 2 the Housing Revenue Account budgets were forecast to be heading for a small overspend due to non-delivery of J2SS targets. For quarter 3, the Finance Business Partner, working with budget managers, challenged any large underspends during finance clinics with budget holders. This contributed to a £1.8m improvement in the forecast. For outturn the underspend was reduced by £0.4m

mainly due to an overestimation of income at Q3.

- 2.5 In recent years, services have made significant improvements in developing fit for purpose budgets and forecasting the Council's financial position in year. Going forward service areas will be required to continue to seek to better understand their variances and ensure forecasts are included during the year and reported to members, thereby reducing unanticipated results at year end.
- 2.6 The Finance team has successfully implemented a new finance system which went live on 1 April 2023. Phase 2 of this project is also now well underway which will further provide a number of benefits to the organisation including the ability for real time information to be accessed by officers across all Council services, increased engagement from users due to it being more accessible and user friendly along with the benefit of the automation of a number of processes which will allow finance resources to be redirected to more value added activities.

3.0 GENERAL FUND

3.1 General Fund Revenue Provisional Outturn

- 3.1.1 The provisional outturn position on the General Fund is set out in Table 1 of this report which shows a provisional surplus £0.91m for the year compared to a budgeted surplus of £1.20m. This represents a reduction in the budgeted contribution to reserves of £0.29m. This is largely due to the unachieved Journey to Self Sufficiency (J2SS) savings of £0.9m detailed in 2.2.1 below. Further details on the most significant variances on services for 2022/23 are explained below in 2.2.

Table 1 – 2022/23 General Fund Revenue Provisional Outturn

GENERAL FUND REVENUE 2022/23	Revised Budget £'000	Provisional Outturn £'000	Variance £'000
Chief Executives	282	289	7
Human Resources & Organisational Development	725	660	(65)
Legal & Commercial Services	1,487	1,521	34
Total Chief Executive's Department	2,494	2,470	(24)
Strategic Director of Place	348	345	(3)
Community Services	6,623	6,920	297
Planning and Infrastructure	1,032	1,066	35
Economic Development	893	823	(70)
Joint Strategic Planning	12	12	(0)
Total Director of Place	8,908	9,166	259
ICT	1,200	1,244	44
Customer Services	898	926	28
Property	214	398	184
Revenues and Benefits	886	629	(257)
Finance	1,095	1,532	438
Strategic Housing	625	521	(105)
Total Director of Housing & Customer Services	4,918	5,250	332
J2SS Savings	(895)	0	895
Corporate and Democratic Core	41	39	(1)
Non-Distributed Costs	241	225	(15)
Net Cost of Services	15,707	17,150	1,446
Net Recharges	(1,685)	(2,087)	(402)

GENERAL FUND REVENUE 2022/23	Revised Budget £'000	Provisional Outturn £'000	Variance £'000
Net Cost of Services after Recharges	14,022	15,063	1,044
Net Financing Costs	1,762	1,627	(136)
Investment Income	(5)	(624)	(619)
Localisation of Council Tax Grant	32	32	0
Debt Restructuring Premium	0	23	23
Net Revenue Expenditure	15,811	16,121	312
New Homes Bonus	2,218	2,218	0
Transfer from Collection Fund	153	153	0
Services Grant	166	166	0
Lower Tier Services Grant	201	153	(48)
Other Grants	0	52	52
Council Tax	5,642	5,642	0
Levy Account Surplus	0	20	20
National Non-Domestic Rates Baseline	2,404	2,404	0
Business Rates Growth & Renewables	6,222	5,177	(1,045)
Business Rates Reserve	0	1,045	1,045
Total Funding	17,006	17,030	24
General Fund Surplus/(Deficit)	1,195	909	(288)

3.1.2 The Council changed the management structure in May 2023. The above table is shown under the old structure in line with the reporting structure for the 2022/23 financial year.

3.2 Major Variances – 2022/23 Provisional Outturn to Revised Budget

3.2.1 **Journey to Self Sufficiency (J2SS) £895k** – the 2022/23 budget included a savings target of £895k for J2SS savings which remain unachieved. This savings target has been removed from the 2023/24 budget.

3.2.2 There was an unfunded pay award over and above the 2% originally included in the budget which led to an estimated increase in salary costs of £508k. These additional salary costs are included in the service areas and have been taken into account in the figures and variance analysis above.

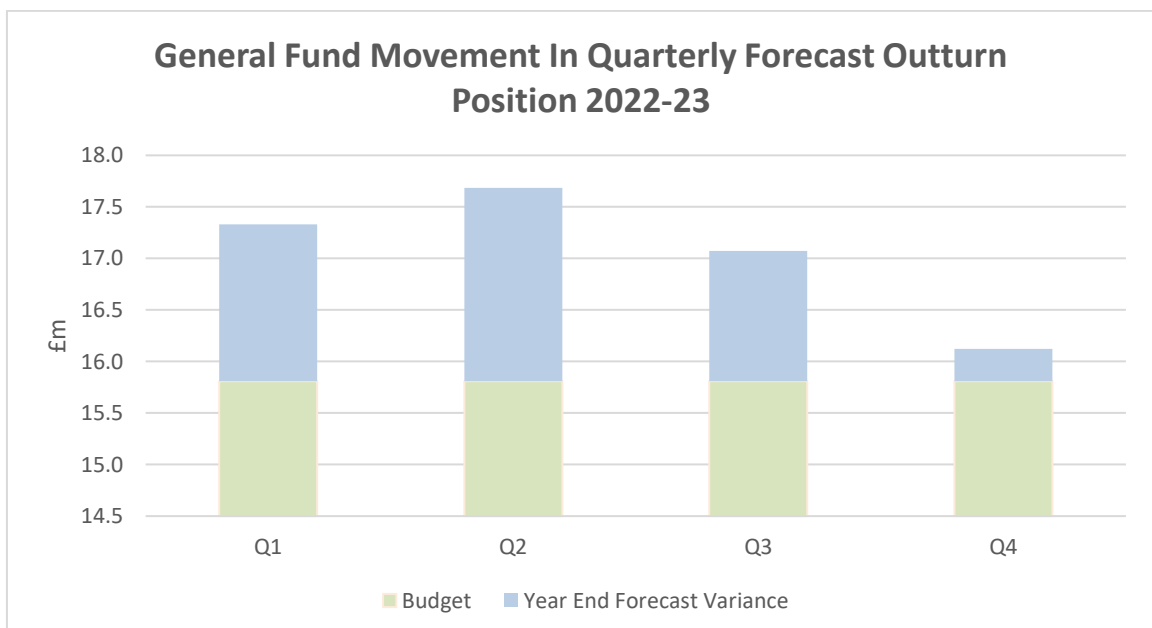
3.2.3 **Property £184k** – there were various overspends on Property, the main large areas were consultancy, general repairs, property valuations and a loss of rental income totalling £122k.

3.2.4 **Community Services £297k** – there were a large number of adverse variances across Community Services including salaries, overtime and agency staff totalling £460k along with higher fuel costs of £127k. More specifically on Waste Services there was an under recovery of income of £176k on green bins and the cost of hiring vehicles due the delay of delivery of new refuse vehicles costing £121k. There were some favourable variances on Waste Services including (£521k) increased recycling income, (£78k) on trade refuse disposal costs and a saving of (£75k) on bins and boxes now purchased through capital generating a saving on revenue. On Environmental Protection there was an overspend of £146k largely attributable to New Market £83k, caused by reduced income of £52k and increased utility costs, repairs and equipment. Leisure Services had an overall underspend of (£53k) largely due to increased income from Grounds Maintenance recharges offset by an overspend on the Sports and Leisure Management Ltd contract due to higher utility costs being claimed back.

- 3.2.5 **Revenues and Benefits (£257k)** – there has been increased income of (£69k) from summons income along with additional New Burdens grant income totalling (£198k).
- 3.2.6 **Strategic Housing (£105k)** – Unallocated grant of (£193k) has been used to offset expenditure on homeless prevention which includes an overspend on Bed and Breakfast of £144k and agency staff of £38k.
- 3.2.7 **Finance £438k** – there were large overspends on salaries and agency costs of £280k along with the new finance system of £158k (£66k salaries and £92k agency costs). These costs were largely offset by recharges to capital and the HRA of (£257k). There were further overspends on Procurement consultancy of £151k and Insurance of £68k.
- 3.2.8 **Net Financing Costs (£136k)** – Minimum Revenue Provision was £92k less than budget due to savings and delays in the completion of the 2021/22 capital programme and £44k saving on borrowing interest. At the time of setting the 2022/23 budget the Council had forecast that temporary borrowing would be required during the year, however no new borrowing was required.
- 3.2.9 **Investment Income (£619k)** – the Council has earned more income from investments due to the dramatic rise in interest rates over the last year which has seen interest rates rise from historical lows of 0.1% to 4.5%. Additionally, the Council has higher excess balances to invest than forecast due to slippages in the capital programme, grant balances being held awaiting recall from Central Government and higher income from income streams than originally forecast.

3.3 Major Variances - Quarter 3 to Provisional Outturn

- 3.3.1 The latest forecast outturn position reported to Cabinet was at quarter 3 and was an overspend of £1.27m, therefore, the variance upon outturn compared to this position is (£1.0m).
- 3.3.2 The graph below shows in more detail how the forecast outturn position improved from quarter 2 to the end of the financial year.



3.3.3 There was a considerable amount of work undertaken by the Finance team working with service managers and budget holders before reporting the quarter 3 position which showed an improved position of (£0.6m) between quarter 2 and quarter 3. Despite this there was still a further large movement between quarter 3 and the provisional outturn position of (£1.0m). The main reasons for this movement are detailed below:

- **Housing and Community Services Directorate (£353k)** – largely due to (£231k) on Revenues and Benefits from additional New Burdens grant income received (£120k) which we were not notified of until the end of March 2023 so was not included in the quarter 3 forecast outturn position. Along with this there were assumptions made that some grant income received would be fully spent but this did not materialise. Strategic Housing had a movement of (£88k) from utilising higher levels of grant income to fund expenditure than originally planned.
- **Place Directorate (£268k)** – this relates to several favourable variances, the largest being Planning (£98k) from an underspend on consultants relating to the Local Development Framework (£87k). Economic Development had a favourable movement of (£74k) from an underspend on Coalville Regeneration consultancy (£33k) and Business Focus Consultancy (£40k). Environmental Protection's favourable movement of (£49k) was largely due to an underspend on the Air Quality Strategy (AQS) (£31k). This was in part due to an assumption that monies would be transferred to an earmarked reserve in quarter 3 which was not approved and partly due to the action plan for the AQS not being as costly as originally forecast for 2022/23. This will not impact on the 2023/24 delivery as the manager has confirmed that there is sufficient funding for the day-to-day work along with additional funding available in the current ear marked reserve to cover the understanding of the new Department for Environment, Food and Rural Affairs (DEFRA) requirements in relation to air quality once they are published.
- **Investment Income (£230k)** – higher interest rates than forecast along with higher excess balances to invest than projected.

3.3.4 During the last nine months there have been a number of improvements implemented to improve financial processes, reporting and governance, including:

- A review of the financial strategy to remove savings target without any plans in place to deliver them and over reliance on business rates growth to meet on-going costs.
- A new finance system from April 2023 which going forward will provide managers the ability to access up-to-date financial information available on their dashboards with the aim of having better financial management and control and improving the forecasting of variances.
- A full and robust review of service earmarked reserves including challenge sessions to ensure adequate spend plans are in place and a timeline for when these reserves will be required/spent.
- Enhancing the capacity of internal audit to strengthen financial governance.
- Working with services to manage within their 2022/23 budgets, including finance clinics and challenge sessions.

3.5 GENERAL FUND CAPITAL PROGRAMME

3.5.1 The table below details the outturn for the year on the Council's general fund capital programme.

Table 2 – 2022/23 General Fund Capital Programme Provisional Outturn

Department	Original Budget	Prior Year C/fwd	In-year Changes	Revised Budget	Outturn	Variance	Carry-Forward to Future Years	Savings available to be reallocated
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Property	8,310	2,904	1,100	12,313	4,387	(7,926)	7,749	177
Community Services	956	1,260	289	2,506	859	(1,647)	1,633	15
ICT	256	10	212	478	451	(27)	27	
Waste Services	1,323	2,290	0	3,613	143	(3,470)	3,469	
Total	10,845	6,464	1,601	18,910	5,840	(13,070)	12,878	192

3.5.2 Total capital expenditure was £5.84m against a revised budget position of £18.91m. Savings of £0.19m was recorded from completed projects. It is proposed that the savings contribute towards budget pressures being experienced on the accommodation programme. Property services department recorded the highest spend during the year with spend on both the commercial estate and buildings used for service delivery.

3.5.3 Schemes with significant expenditure during the year included:

- **The Accommodation Programme** - This is the refurbishment of the Council offices and consists of modernisation works on Whitwick business centre, Stenson House and the new Customer Centre. Spend for the 2022/23 year was £3.48m and the project is due to complete in summer 2023.
- **Appleby Magna Caravan Site** – Redevelopment of the caravan site has been completed. Spend for the year was £0.50m with final retention fees to be paid later this year.
- **Finance System Review:** The new finance system went live in April 2023. Phase one has been launched with a few teething problems to resolve. Phase 2 implementation will take place in the second half of this year. Spend for the year was £0.33m

3.5.4 The capital programme also had significant variances during the year with most of the underspends requested to be carried forward to future years. Extensive budget review sessions have been held with departments to robustly profile carried-forward budgets to the appropriate future financial years. The below table details profiling of the carried-forward budgets on the general fund programme.

Table 3 – Reprofiled 2022/23 Budget Carry-Forwards

Department	Reprofiled to 23/24	Reprofiled to 24/25	Reprofiled to 25/26	Total
	£'000	£'000	£'000	£'000
Property	3,117	3,480	1,152	7,749

Department	Reprofiled to 23/24	Reprofiled to 24/25	Reprofiled to 25/26	Total
Community Services	521	1,112		1,633
ICT	27			27
Waste Services		3,469		3,469
Total	3,665	8,061	1,152	12,878

3.5.5 Schemes with significant carried-forward budgets include:

- **Marlborough centre renovation:** Delay in obtaining planning approval mean that £3.49m of the budget has been carried forward to future years to complete the scheme.
- **Fleet replacement programme:** Long lead times for procured vehicles as well as difficulty in sourcing appropriate green vehicles meant spend was low during the year and £3.47m of the budget carried forward to the 24/25 year to deliver the project.
- **Marlborough Square improvements:** Section 278 (Highways Act 1980) approval is required from the county council for the scheme to go ahead. Delay in this process mean that £2.38m of the budget has been carried-forward to the 23/24 year to deliver the scheme.

3.5.6 Members are asked to approve the savings available to be reallocated, detailed in Table 2, are carried forward into 2023/24 to mitigate inflationary pressures that are arising from the capital programme.

3.6 GENERAL FUND RESERVES

- 3.6.1 The Council holds reserves that are earmarked for a particular purpose and are set aside to meet known or predicted future expenditure in relation to that purpose. The reserves are monitored alongside the budget as part of monthly monitoring.
- 3.6.2 As part of the year end close down earmarked reserves are requested by various departments. Requests are either to carry forward existing reserves that remain unspent or to create new reserves from under spends within the current budget year if that underspend is from a budget area that aligns with the purpose of the reserve to be carried forward. These reserves are checked by the Finance Team for accuracy before being presented to the S151 Officer.
- 3.6.3 There has been a robust review of reserves with the aim of freeing up service earmarked reserves for transfer to the MTFP reserve. This is to provide funds for service improvement/business efficiency to enable the Council to deliver the transformation required to deliver its funding in the MTFP.
- 3.6.4 Assuming that reserves are utilised in line with the timescales agreed as part of their approval, reserves represent an effective means of utilising surpluses and underspends and ensuring delivery of projects.
- 3.6.5 Best practice indicates that reserves, if set aside for specific purposes should be spent in accordance with projections. As detailed in paragraph 1.5 above, finance clinics now focus on ensuring that earmarked reserves are expended in a timely manner in line with

the purposes in which they have been set aside.

3.6.6 The General Fund exceeds the agreed minimum level of balances.

3.6.7 Table 4 below summarises the position in respect of earmarked reserves and other reserves held by the council. Full details by service can be found in Appendix 1 and a list of newly approved reserves found in Appendix 2.

Table 4 – Usable Reserves as at 31st March 2023

Reserves	Balance at 31/03/2022 £m	In Year changes £m	No longer required £m	Balance at 31/03/2023 £m
<u>General Fund</u>				
General Fund Earmarked Reserves	9.02	(2.46)	(0.56)	6.01
General Fund General Reserves (agreed minimum balance)	1.54	0.00	0.00	1.54
Medium Term Financial Plan (MTFP) Reserve	6.16	0.63	0.56	7.36
	16.72	(1.83)	0.00	14.91
<u>Other</u>				
S106 as at 31st March 2022 (see paragraph 3.6.08)	1.97			1.97
	18.69	(1.83)	0.00	16.88

3.6.8 The S106 reserve balance shown above has not been updated for 31 March 2023. Once spending commences on a S106 agreement, the Council will count the remaining balance amongst its reserves. This is whether or not it is the Council spending the sums or (as is more usual) the sums are to be transferred to another organisation who delivers the agreed works. The calculation for this has not been performed as part of the provisional outturn process. The final outturn position will be reported to members later in the year.

3.6.9 In 2022/23, £3m of the £9m existing General Fund earmarked reserves brought forward are forecast to be spent as illustrated in Appendix 1.

3.6.10 For 2022/23, £307k of earmarked requests have been approved by the Section 151 Officer as illustrated in Appendix 2.

3.6.11 A number of existing General Fund reserves were not requested or approved, resulting in £560k to be transferred to the Medium Term Financial Plan (MTFP) reserve. Therefore, the General Fund balance level of reserves retained for expenditure is £6.01m.

3.7 Medium Term Financial Plan Reserve (MTFP)

3.7.1 The Medium Term Financial Plan reserve (previously the Journey to Self-Sufficiency reserve), is a separately maintained reserve and is now forecast to be £7.36m. This is following the transfer of £0.91m estimated surplus for 2022/23, £0.56m from the release of earmarked reserves less £0.27m transferred to earmarked reserves to fund some of the 2023/24 budgeted contribution from reserves. This will provide funds for service improvements/business efficiency to enable the Council to deliver the transformation required to deliver its funding in the MTFP.

4.0 SPECIAL EXPENSES

- 4.1 The provisional outturn on Special Expenses of £713k is a saving of £74k against a budgeted expenditure of £787k. The budgeted contribution from Special Expense reserves was £179k, with the provisional outturn as £105k.
- 4.2 This saving was largely due to reduced Planned Preventative Maintenance (PPM) expenditure of (£83k) and additional burial income of (£15k) offset by smaller areas of overspending on repairs/maintenance of £9k and Christmas Decorations of £13k. Table 5 below gives further details.

Table 5 – 2022/23 Special Expenses Revenue Provisional Outturn

	Approved Budget	Provisional Outturn	Provisional Variance
	£'000	£'000	£'000
SPECIAL EXPENSES			
Special Expenses	804	652	(152)
Net Financing Costs	(17)	(17)	0
Contribution to Earmarked Reserves	0	78	78
Expenditure Requirement	787	713	(74)
Precept	576	576	0
Localisation of Council Tax Support Grant	32	32	0
Transfer from/(to) reserves	179	105	(74)

- 4.3 As detailed in Table 6 below, the provisional opening Special Expenses Reserves are £92k and are to be increased by £44k from earmarked reserves being released back to balances but with £105k required to fund the provisional deficit the reserve now stands at £31k.

Table 6 – 2022/23 Special Expenses Reserves Provisional Outturn

	Provisional Outturn
	£'000
SPECIAL EXPENSES	
Special Expenses Reserves 01.04.22	92
Earmarked Reserves - to be returned to balances	44
Contribution towards Deficit 2022/23	(105)
Special Expenses Reserves 31.03.23	31

- 4.4 The 2022/23 financial year has seen the Special Expenses drawdown £105k from reserves which is not a sustainable position. Significant work has been undertaken as part of the

2023/24 budget process to ensure the Special Expenses work within their budget and are financially sustainable. Further work is planned for 2023/24, including a review of the Special Expenses Policy, to ensure that a minimum of 10% balances are retained for each of the ten special expense areas. As at the 31 March 2023, two accounts were in a deficit position, one was below the minimum requirement and the remaining seven had balances above the minimum requirement.

5.0 HOUSING REVENUE ACCOUNT (HRA)

5.1 HRA Revenue Outturn

- 5.1.1 The expected final position on the HRA is a surplus of £0.8m, after appropriations. This compares to a budgeted surplus position of £0.06m and represents a £0.74m improvement on the budgeted position. This is mainly due to a shortfall in charges to capital schemes offset by a reduced revenue contribution to capital. The financial performance of the HRA is summarised in Table 3.
- 5.1.2 The final surplus on the account will be added to the HRA balance which stood at £8.5m at the start of 2022/23.
- 5.1.3 Table 7 shows the provisional outturn for the HRA. A more detailed table can be found in Appendix 4.

Table 7 - 2022/23 Housing Revenue Account Provisional Outturn

HOUSING REVENUE ACCOUNT 2022/23	Revised Budget	Provisional Outturn	Variance
	£'000	£'000	£'000
Net Income from Operations	(3,615)	(2,012)	1,603
Appropriations	3,550	1,210	(2,340)
NET (SURPLUS)/DEFICIT	(65)	(802)	(737)

5.2 Major Variances – 2022/23 Provisional Outturn to Revised Budget

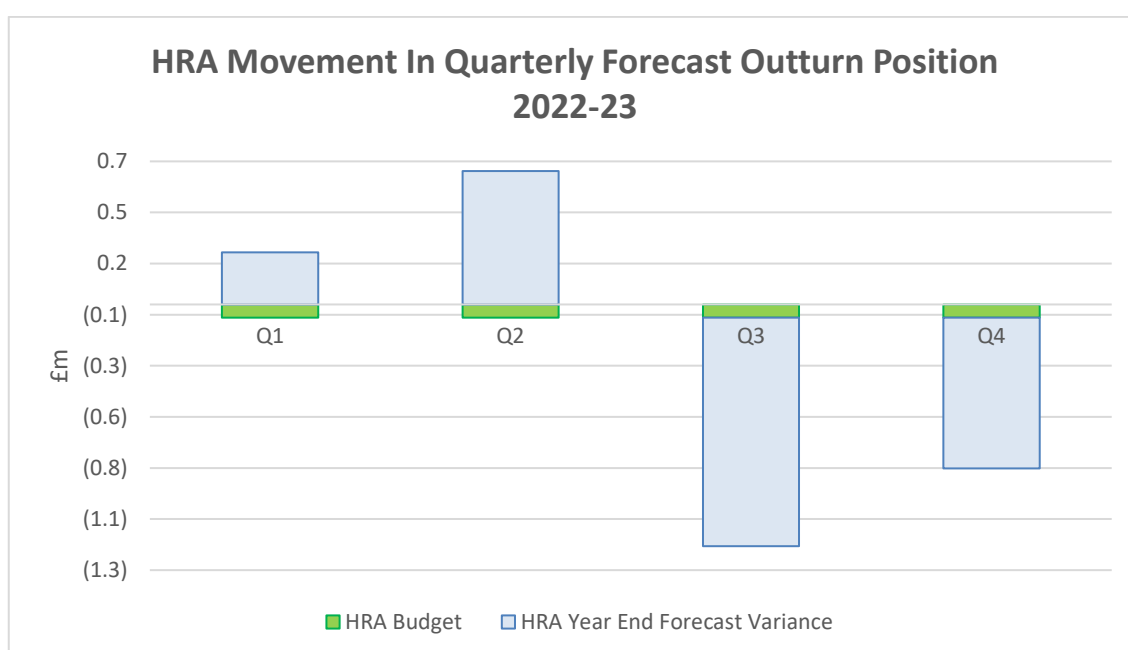
- **Repairs and Maintenance £1,098k** – This is largely due to under recovery of costs from capital schemes which stems from initial problems following the introduction of the new Housing Management System. The service has put in measures to ensure these issues do not continue in 2023/24. To compensate for this, there is proposed to be a lower contribution to capital, see below.
- **Journey to Self Sufficiency (J2SS) £325k** – the 2022/23 budget included a savings target of £325k for J2SS savings which remain unachieved. This savings target has been removed from the 2023/24 budget.
- **Depreciation £254k** – Based on the actual level of housing stock and expected lives of assets.

- **Revenue Contribution to Capital Outturn (£2,340k)** – Reduced to compensate for the reduced recharge to capital and the overall lower than budgeted expenditure on capital.

5.3 Major Variances - Quarter 3 to Provisional Outturn

5.3.1 The latest forecast outturn position for the HRA reported to Cabinet was at quarter 3 and was a surplus of £1.2m, therefore, the variance upon outturn compared to this position is £0.38m.

5.3.2 The graph below shows how the forecast outturn position has changed from quarter to quarter through the financial year. The green section shows the budget which remained constant throughout the year at £0.065m whilst the light blue shows the variance. The two portions together show the forecast outturn for each quarter.



5.3.3 Considerable work was undertaken by the Finance team working with service managers and budget holders before reporting the quarter 3 position, which showed an improved position of (£1.8m) between quarter 2 and quarter 3. There was a relatively small reduction in underspend (£0.38m) overall between quarter 3 and the provisional outturn position, however there were large movements on Repairs and Maintenance, Revenue Contribution to Capital and income, these are detailed below:

- **Repairs and Maintenance £1,800k** – This adverse movement is largely due to the under recovery of costs from capital which was expected to be resolved (£1.49m). The unrecovered costs related to the new Housing Management System not being up to date with completed jobs by the Internal Repairs Team as well insufficient records to enable staff time spent on schemes to be charged to capital. Work has been completed to address both of these issues.
- **Revenue Contribution to Capital (£2,340k)** – This was amended at quarter 4 to compensate for depreciation, unrecovered capital costs and in the context of a slippage on the capital programme.

- **Income £596k** – Income was overestimated at quarter 3. The process has been amended to improve the accuracy of the income estimate in 2023/24.

5.4 Housing Revenue Account Capital Programme

5.4.1 The table below details the outturn on the HRA capital programme.

Table 8 – 2022/23 HRA Capital Programme Provisional Outturn

Scheme	Original Budget	Prior Year C/fwd	In-year Changes	Revised Budget	Outturn	Variance	Carry-Forward to Future Years
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Improvements and Modernisation	12,064	4,730	0	16,794	4,973	(11,821)	11,821
New Build	2,965	4,737	0	7,702	1,663	(6,039)	6,039
Total	15,029	9,467	0	24,496	6,636	(17,860)	17,860

5.4.2 Total capital expenditure for the year was £6.64m and a revised budget of £24.50m. The variance and budget carried forward for the year was £17.86m.

5.4.3 Projects delivered during the year included:

- **Acquisitions and New build programme:** A total of 27 housing units were acquired across a number of sites including Newbold Coleorton, Brickworks Lane and Ravenstone.
- **Home improvement programme:** During the year, just over £0.35m was spent installing new kitchens and bathrooms in a number of properties. Work was also done to improve heating, windows, roofing as well as major fire safety works.

5.4.4 The programme however had significant variances. The budget underspends have been carried forward to future years to deliver the HRA capital programme. Extensive budget review sessions have been undertaken with departments to robustly profile the underspends to the appropriate future financial years. The table below details the profiled budgets.

Table 9 – Reprofiled 2022/23 Budget Carry-Forwards on the HRA Capital Programme

Scheme	Reprofiled to 23/24	Reprofiled to 24/25	Reprofiled to 25/26	Total
	£'000	£'000	£'000	£'000
Improvements and Modernisation	1,512	7,732	2,577	11,821
New Build	395	4,233	1,411	6,039
Total	1,907	11,965	3,988	17,860

5.4.5 The schemes with significant underspends included:

- **Acquisitions and New build programme:** Site preparation and hoarding works is

currently ongoing on Queensway, Woulds court, Cedar grove and The Oaks meaning spend across these site was low. Also, most of the new build schemes were at the design stage during the year but construction works are anticipated to get underway from the 2023/24 year for some of the sites. The programme underspend of £6.04m is being carried forward to future years to enable delivery of more new builds and acquisitions.

- **Home improvement programme:** Delays in the zero carbon programme (retro-fitting existing dwellings to make them more environmentally friendly) resulted in most of the variance experienced during the year. Challenges with resourcing the teams responsible for delivering some of the maintenance programme (such as sheltered housing improvements, electrical upgrades, off-street parking works etc.) also contributed to the low spend experienced during the year. The £11.82m underspend will be carried forward to future years to continue with the programme delivery.

5.5 HRA Reserves

- 5.5.1 The HRA currently has a balance of £9.3m. A minimum balance of £1.0m is maintained to ensure the HRA has sufficient funding to cover unforeseen revenue expenditure and the remaining £8.3m to be used for capital projects and for the repayment of debt.
- 5.5.2 There has been a review of earmarked reserves in 2022-23 and as a result, all earmarked reserves have been transferred to a Medium Term Financial Planning reserve for the HRA. This will enable reserves to be allocated corporately to achieve strategic aims.
- 5.5.3 Table 10 shows a summary of usable HRA reserves.

Table 10 – HRA Usable Reserves as at 31st March 2023

Reserves	Balance at 31/03/2022 £m	In Year changes £m	No longer required £m	Balance at 31/03/2023 £m
<u>Housing Revenue Account</u>				
Earmarked Reserves	0.53		(0.53)	0
HRA Medium Term Financial Plan Reserve	0	0.53		0.53
HRA Balance	8.50	0.80		9.3
	9.03	1.33	(0.53)	9.83
HRA Capital Receipts	8.15	3.17		11.31
	17.18	4.50	(0.53)	21.14

- 5.5.4 The balances for HRA Balance and HRA Capital Receipts are pre-capital financing for 2022/23. These balances will be used to finance the £6.6m capital outturn.

Policies and other considerations, as appropriate	
Council Priorities:	Our financial position affects all of our council priorities.
Policy Considerations:	Not applicable

Safeguarding:	Not applicable
Equalities/Diversity:	Not applicable
Customer Impact:	Not applicable
Economic and Social Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Not applicable
Risks:	<p>The report sets out that despite a surplus of £0.91m the Council actually experienced a deficit position of £0.29m against budget on the general fund, largely because of the unachieved J2SS savings target. This means the Council was unable to set aside the budgeted £1.20m surplus to reserves, which reduces the Council's ability to mitigate anticipated financial deficits in the medium term. This risk will be explored later in the year with the update to the medium-term financial plan.</p> <p>For the Housing Revenue Account, the slippage on the capital programme leads to a number of risks, both financial in increased costs and non-financial in condition of properties etc. On revenue, systems and revised processes need to be bedded in to ensure expenditure is coded correctly and forecast movements reduced to facilitate financial and service planning. These risks will be explored through the HRA business plan.</p>
Officer Contact	<p>Glenn Hammons Interim Director of Resources and S151 Officer glenn.hammons@nwleicestershire.gov.uk</p>

North West Leicestershire District Council
Provisional Reserves at 31/3/23

TEAM	Provisional balance as at 31/3/22 £	Contributions to fund 22/23 £	Contributions from fund/ commitments 22/23 £	Transfers (to)/from other reserves 22/23 £	No longer required £	Provisional balance as at 31/3/23 £
Earmarked Reserves:						
Chief Exec	334,000	0	0	141,610		475,610
Human Resources	30,000	0	0	0	0	30,000
Legal & Support Services	136,000	14,937	(3,927)	0	0	147,010
Community Services	1,734,280	58,678	(622,537)	(9,645)	(22,819)	1,137,957
Planning	804,256	132,026	(112,845)	0	(18,272)	805,165
Economic Regen	2,541,587	101,159	(229,056)	0	(118,328)	2,295,362
Joint Strategic Planning	105,299	0	(14,282)	0	0	91,017
Strategic Housing	353,786	0	0	0	(15,000)	338,786
ICT	0	0	0	5,500	0	5,500
Property	46,332	0	(15,832)	18,000	(30,500)	18,000
Revenues & Benefits	260,992	0	0	0	(109,347)	151,645
Customer Services	24,636	0	(9,599)	19,645	(18,409)	16,273
Finance	177,582	0	(96,494)	97,630	(51,450)	127,268
Other reserves	183,185	0	(6,607)	0	(176,578)	0
MTFP Reserve	6,164,869	907,575	0	(272,740)	560,704	7,360,408
Business Rates Reserve	2,290,552	0	(1,921,459)		0	369,093
Total earmarked reserves - General Fund	15,187,356	1,214,376	(3,032,637)	0	0	13,369,094
Total earmarked reserves - Special Expenses	124,817	78,305	(27,862)	0	(44,452)	130,807
TOTAL EARMARKED RESERVES	15,312,172	1,292,680	(3,060,500)	0	(44,452)	13,499,901
Other reserves General Fund:						
General Balance (minimum level of reserves)	1,544,493	0	0	0	0	1,544,493
Total other Reserves - General Fund	1,544,493	0	0	0	0	1,544,493
Other reserves Special Expenses:						
General Balance	92,000	0	(105,000)	0	44,452	31,452
Total other Reserves - Special Expenses	92,000	0	(105,000)	0	44,452	31,452
TOTAL ALL RESERVES - GENERAL FUND & SPECIAL EXPENSES	16,948,665	1,292,680	(3,165,500)	0	0	15,075,846

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North West Leicestershire District Council
Reserves approved from 22/23 budget

TEAM	Amount £	Grant (Y/N)	Ringfenced (Y/N)	Purpose of reserve
GENERAL FUND				
<u>Legal & Support Services</u>				
Voter ID	14,937	Y	N	Remaining Voter ID grant for May 23 District Election
<u>Community Services</u>				
Air Quality	6,000	Y	N	AQ final report due end Q3 2023/2024.
Border Vet Inspections	6,844	Y	N	Duplicated DEFRA income - to be returned
Border Inspection Post - Transition Software	24,000	Y	N	Implement EU import controls/ EU Transition Software
Domestic Abuse Link Worker	21,834	Y	N	Domestic abuse link worker contract
<u>Planning</u>				
Neighbourhood Plans	40,000	Y	N	Neighbourhood Referendums? Required to be set aside for development of service or to be reflected in future fee levels.
Land Charges Surplus	5,376	N	-	
Nutrient Neutrality	86,650	Y	Y	Unspent 22/23 ring fenced grant
<u>Economic Regen</u>				
UK Shared Prosperity Fund (UKSPF)	101,159	Y	Y	Unspent 22/23 ring fenced grant
Total New Ear Marked Reserves	306,801			
<u>Corporate</u>				
MTFP Reserve	907,575	N	-	Transfer to reserve of in year budget surplus
Total Earmarked Reserves - General Fund	1,214,376			
SPECIAL EXPENSES				
<u>Community Services</u>				
Hugglescote Cemetery	2,120	N		Tree works
Hugglescote Cemetery	5,300	N		Path repairs - sealing pathways
Whitwick Cemetery	2,120	N		Tree works
Scotlands Recreation	4,054	N		Repairs to potholes
Broomleys Cemetery	4,000	N		Tree works
Broomleys Cemetery	3,000	N		Path repairs - sealing pathways
Coalville in Bloom	5,000	N		Planters, plants, hanging baskets
Cropston Drive play area	33,050	N		Replacement play equipment
Sharpley Avenue play area	19,660	N		Replacement play equipment
Total earmarked reserves - Special Expenses	78,305			

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North West Leicestershire District Council Capital Programme 2022/23

Scheme	Original Budget	Prior Year C/fwd	In-year Changes	Revised Budget	Outturn	Variance	Carry- Forward to Future Years	Savings to be reallocated
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
GENERAL FUND								
Disabled Facilities Grant	670	0	0	670	547	(123)	123	
Council Offices Works	3,143	228	903	4,274	3,476	(798)	798	
IT & Software (Including Finance Review and Wi-Fi)	256	10	212	478	451	(27)	27	
Transport Account Vehicles	1,345	2,301	0	3,646	163	(3,483)	3,480	2
Car Parks	0	37	88	125	31	(94)	85	9
New Leisure Centre Coalville	0	1,157	0	1,157	45	(1,112)	1,112	
Depot Works - various	0	0	0	0	0	0	0	
Electric Vehicle Charging Points	187	47	50	284	36	(248)	248	
Commercial Property Works	3,667	181	0	3,848	206	(3,642)	3,499	144
Heritage Assets Work	0	310	0	310	0	(310)	290	20
Appleby Magna Caravan site Redevelopment	0	535	0	535	497	(38)	39	
Marlborough Square Improvements	853	1,623	0	2,477	92	(2,385)	2,385	
Bins and Recycling Containers	0	0	130	130	119	(11)		11
Hermitage Recreational Ground Building Demolition	0	0	300	300	104	(196)	196	
Coalville Regeneration	647	8	-300	355	10	(345)	345	
Other schemes	77	26	218	322	64	(258)	252	5
	10,845	6,463	1,601	18,911	5,841	(13,070)	12,879	191
HOUSING REVENUE ACCOUNT								
Improvements and Modernisation	12,064	4,730	0	16,794	4,973	(11,821)	11,821	0
New Build	2,965	4,737	0	7,702	1,663	(6,039)	6,039	0
	15,029	9,467	0	24,496	6,636	(17,860)	17,860	0
TOTAL CAPITAL PROGRAMME	25,874	15,930	1,601	43,407	12,477	(30,930)	30,739	191

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North West Leicestershire District Council
HRA Provisional Outturn 2022/23

HOUSING REVENUE ACCOUNT 2022/23	Revised Budget	Provisional Outturn	Variance
	£'000	£'000	£'000
Expenditure			
Repairs & Maintenance	5,914	7,012	1,098
Supervision & Management	2,979	2,851	(128)
Provision for Doubtful Debts	100	100	0
Depreciation	3,185	3,439	254
Capital Financing & Debt Management	3,056	3,056	0
J2SS Cost Savings	(325)	0	325
Total Expenditure	14,909	16,458	1,549
Income			
Rent & Service Charges	(18,456)	(18,423)	33
Non-Dwelling Rents	(52)	(35)	17
Other Income	(13)	(9)	4
Investment Income	(3)	(3)	0
Total Income	(18,524)	(18,470)	54
Net Operating Expenditure/-Surplus	(3,615)	(2,012)	1,603
Appropriations			
Revenue Contribution to Capital	3,550	1,210	(2,340)
Total Appropriations	3,550	1,210	(2,340)
NET (SURPLUS)/DEFICIT	(65)	(802)	(737)
Balance brought Forward	(8,499)	(8,499)	0
-Surplus/Deficit In Year	(65)	(802)	(737)
Balance Carried Forward	(8,564)	(9,301)	(737)

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	TREASURY MANAGEMENT STEWARDSHIP REPORT 2022/23	
Presented by	Councillor Nick Rushton Corporate Portfolio Holder PH Briefed <input type="checkbox"/> Yes	
Background Papers	Prudential Indicators and Treasury Strategies 2022/23 – Council 24 February 2022 Budget and Council Tax 2022/2023 – Council 24 February 2022 Treasury Management Activity Report Quarter 3 – Audit and Governance Committee 25 January 2023 Treasury Management Stewardship Report 2022/23 – Audit and Governance Committee 26 April 2023	Public Report: Yes Key Decision: No
Financial Implications	<p>During the 2022/23 financial year, £1.1 million interest was earned on cash balances. This is mainly split between the General Fund (£623,000), Housing Revenue Account (HRA) (£260,000) and S106 Fund (£137,000).</p> <p>Principal repayments of £1.2 million was paid on Public Works Loan Board (PWLB) annuity loans and a loan with Cornwall County Council of £1 million was repaid. In addition, interest on loans of £2.2m was paid on external debt, of which £1.8 million was in relation to the Housing Revenue Account (HRA) and £400,000 for the General Fund.</p> <p>The above has impacted on the available financial resources available to the Council.</p> <p>Signed off by the Section 151 Officer: Yes</p>	
Legal Implications	<p>The Council is required to report Treasury Management activity to Cabinet.</p> <p>Signed off by the Monitoring Officer: Yes</p>	
Staffing and Corporate Implications	<p>None</p> <p>Signed off by the Head of Paid Service: Yes</p>	
Purpose of Report	To inform Cabinet of the Council's Treasury Management Activity undertaken during the 2022/23 financial year.	

Reason for Decision	Informing Cabinet of the Council's Treasury Management Activity is a statutory requirement.
Recommendations	THAT CABINET: <ol style="list-style-type: none"> 1. ENDORSE THE COUNCIL'S APPROACH TO TREASURY MANAGEMENT IN 2022/23. 2. REQUESTS A FUTURE REPORT COVERING ACTIVITIES IN 2023/24.

1.0 BACKGROUND

- 1.1 Treasury Management activity is underpinned by the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management, which requires local authorities to produce Prudential Indicators and a Treasury Management Strategy Statement annually on the likely financing and investment activity.
- 1.2 This report fulfils the Council's legal obligation under the Local Government Act, 2003, to have regard to both the CIPFA Code and the Statutory Guidance on Local Government Investments.
- 1.3 Council approved its Capital Strategy and Treasury Management Strategy Statement, including the Borrowing Strategy, Debt Rescheduling Strategy, Annual Investment Policy and Strategy, Interest Apportionment Policy, Prudential Indicators and Annual Minimum Revenue Position Statement for 2022/23 at its meeting on 24 February 2022.
- 1.4 Investing or borrowing activities expose the Council to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risks are therefore central to the Council's treasury management strategy.

2.0 TREASURY MANAGEMENT ADVISORS' COMMENTARY – ARLINGCLOSE LTD

- 2.1 The commentary below has been provided by the Council's treasury management advisors:
- 2.2 The Council is currently taking a relatively low credit and liquidity risk approach to its investment strategy by investing mainly in deposits with UK central government, Money Market Funds (MMFs), UK local authorities, and a small number of UK banks, for short terms (up to 12 months). Most of these options avoid the direct bail-in risk associated with bank deposits (although indirect exposure is held via the MMFs, this is highly diversified).
- 2.3 Interest rates have been rising globally but are generally expected to be nearing their peak, albeit uncertainty remains, in particular regarding how much further UK Bank Rate may increase. The Council's investment returns have therefore increased but the level of real return (i.e. adjusting for inflation) is negative given current high inflation. The latest client investment benchmarking exercise that the Council took part in (March 2023) showed the return was slightly lower than the average for other local authorities but credit risk (as measured by credit ratings) was also lower, for internally managed investments.
- 2.4 Other investment options that may fit with the Council's current risk appetite could include secured bank deposits (up to 12 months), longer-term loans to local authorities (the Council has done this before), covered or supranational bonds and loans to Registered Providers (housing associations), which may also require a longer investment horizon (three to five years).
- 2.5 Going beyond this would be an alternative approach – investing for the long-term (five years +) in asset classes such as property, bonds and equities which fluctuate in value, and

carry a different and typically higher set of risks but offer the potential for higher long-term returns. The Council would need to identify a long-term investment horizon and/or these types of investments may need to be part of a documented strategy to manage liquidity, interest rate, exchange rate and/or inflation risks.

3.0 SUMMARY

3.1 In compliance with the requirements of the CIPFA code of practice, Appendix A provides Cabinet with a summary report of the Treasury Management activity for the period April 2022 to March 2023. A prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

Policies and other considerations, as appropriate	
Council Priorities:	Effective Treasury Managements helps the Council achieve all of its priorities: <ul style="list-style-type: none"> - Supporting Coalville to be a more vibrant, family-friendly town - Support for businesses and helping people into local jobs - Developing a clean and green district - Local people live in high quality, affordable homes - Our communities are safe, healthy and connected
Policy Considerations:	Treasury Management Strategy Statement 2022/23
Safeguarding:	Not applicable
Equalities/Diversity:	Not applicable
Customer Impact:	Not applicable
Economic and Social Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community/Tenant Engagement:	Audit and Governance Committee – 26 April 2023
Risks:	Borrowing and investment both carry an element of risk. This risk is mitigated through the adoption of the Treasury and Investment Strategies, compliance with the CIPFA code of Treasury Management and the retention of Treasury Management Advisors (Arlingclose) to proffer expert advice
Officer Contact	Anna Crouch Head of Finance (Deputy S151 Officer) anna.crouch@nwleicestershire.gov.uk

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TREASURY MANAGEMENT STEWARDSHIP REPORT 2022/23

1. Introduction

- 1.1. The Council has adopted the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice* (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports.
- 1.2. The Council's treasury management strategy for 2022/23 was approved at a meeting of full Council on 24 February 2022. The Council has borrowed and invested substantial sums of money and is, therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.
- 1.3. The Prudential Code includes a requirement for local authorities to provide a Capital Strategy, a summary document approved by full Council covering capital expenditure and financing, treasury management and non-treasury investments. The Council's Capital Strategy, complying with CIPFA's requirement, was approved by full Council on 24 February 2022.

2. External Context (provided by Arlingclose Ltd)

- 2.1. **Economic background:** The war in Ukraine continued to keep global inflation above central bank targets and the UK economic outlook remained relatively weak with the chance of a mild recession. The economic backdrop during the January to March period continued to be characterised by high energy and commodity prices, high inflation, and the associated impact on household budgets and spending.
- 2.2. Central Bank rhetoric and actions remained consistent with combatting inflation. The Bank of England, US Federal Reserve, and European Central Bank all increased interest rates over the period, even in the face of potential economic slowdowns in those regions.
- 2.3. Starting the financial year at 5.5%, the annual Consumer Price Index (CPI) measure of UK inflation rose strongly to hit 10.1% in July and then 11.1% in October. Inflation remained high in subsequent months but appeared to be past the peak, before unexpectedly rising again in February. Annual headline CPI registered 10.4% in February, up from 10.1% in January, with the largest upward contributions coming from food and housing. The Retail Price Index (RPI) followed a similar pattern during the year, hitting 14.2% in October. In February RPI measured 13.8%, up from 13.4% in the previous month.
- 2.4. Support in the form of a cap on what energy suppliers could charge household was announced in the March Budget to run from April until end June 2023. Before the announcement, typical household bills had been due to rise to £3,000 a year from April.

- 2.5. The labour market remained tight albeit with some ongoing evidence of potential loosening at the end of the period. The unemployment rate three month/year eased from 3.8% April-June to 3.6% in the following quarter, before picking up again to 3.7% between October-December. The most recent information for the period December-February showed an unemployment rate of 3.7%.
- 2.6. The inactivity rate was 21.3% in the December-February quarter, slightly down from the 21.4% in the first quarter of the financial year. Nominal earnings were robust throughout the year, with earnings growth in December-February at as 5.7% for both total pay (including bonuses) and 6.5% for regular pay. Once adjusted for inflation, however, both measures were negative for that period and have been so throughout most of the year.
- 2.7. Despite household budgets remaining under pressure, consumer confidence rose to -36 in March, following readings of -38 and -45 in the previous two months, and much improved compared to the record-low of -49 in September. Quarterly Gross Domestic Product (GDP) was soft through the year, registering a 0.1% gain in the April-June period, before contracting by (an upwardly revised) -0.1% in the subsequent quarter. For the October-December period was revised upwards to 0.1% (from 0.0%), illustrating a resilient but weak economic picture. The annual growth rate in Q4 was 0.6%.
- 2.8. The Bank of England increased the official Bank Rate to 4.25% during the financial year. From 0.75% in March 2022, the Monetary Policy Committee (MPC) pushed through rises at every subsequent meeting over the period, with recent hikes of 50bps in December and February and then 25bps in March, taking Bank Rate to 4.25%. March's rise was voted by a majority of 7-2, with two MPC members preferring to maintain Bank Rate at 4.0%. The Committee noted that inflationary pressures remain elevated with growth stronger than was expected in the February Monetary Policy Report. The February vote was also 7-2 in favour of a hike, and again with two members preferring to keep Bank Rate on hold.
- 2.9. After reaching 9.1% in June, annual US inflation slowed for eight consecutive months to 6% in February. The Federal Reserve continued raising interest rates over the period with consecutive increases at each Federal Open Market Committee meetings, taking policy rates to a range of 4.75%- 5.00% at the March meeting.
- 2.10. From the record-high of 10.6% in October, Eurozone CPI inflation fell steadily to 6.9% in March 2023. Energy prices fell, but upward pressure came from food, alcohol, and tobacco. The European Central Bank continued increasing interest rates over the period, pushing rates up by 0.50% in March, taking the deposit facility rate to 3.0% and the main refinancing rate to 3.5%.
- 2.11. **Financial markets:** Uncertainty continued to be a key driver of financial market sentiment and bond yields remained relatively volatile due to concerns over elevated inflation and higher interest rates, as well as the likelihood of the UK entering a recession and for how long the Bank of England would continue to tighten monetary policy. Towards the end of the period, fears around the health of the banking system following the collapse of Silicon Valley Bank in the US and purchase of Credit Suisse by UBS caused further volatility.

- 2.12. Over the period the five-year UK benchmark gilt yield rose from 1.41% to peak at 4.70% in September 2022 before ending the financial year at 3.36%. Over the same timeframe the 10-year gilt yield rose from 1.61% to peak at 4.51% before falling back to 3.49%, while the 20-year yield rose from 1.82% to 4.96% and then declined to 3.82%. The Sterling Overnight Rate (SONIA) averaged 2.24% over the period.
- 2.13. **Credit review:** Early in the period, Moody's affirmed the long-term rating of Guildford BC but revised the outlook to negative. The agency also downgraded Warrington BC and Transport for London.
- 2.14. In July 2022, Fitch revised the outlook on Standard Chartered and Bank of Nova Scotia from negative to stable and in the same month Moody's revised the outlook on Bayerische Landesbank to positive. In September S&P revised the outlook on the Greater London Council to stable from negative and Fitch revised the outlook on HSBC to stable from negative.
- 2.15. The following month Fitch revised the outlook on the UK sovereign to negative from stable. Moody's made the same revision to the UK sovereign, following swiftly after with a similar move for a number of local authorities and UK banks including Barclays Bank, National Westminster Bank (and related entities) and Santander.
- 2.16. During the last few months of the reporting period there were only a handful of credit changes by the rating agencies, then in March the collapse of Silicon Valley Bank (SVB) in the US quickly spilled over into worries of a wider banking crisis as Credit Suisse encountered further problems and was bought by UBS.
- 2.17. Credit Default Prices had been rising since the start of the period on the back of the invasion of Ukraine, and in the UK rose further in September/October at the time of the then-government's mini budget. After this, CDS prices had been falling, but the fallout from SVB caused a spike on the back of the heightened uncertainty. However, they had moderated somewhat by the end of the period as fears of contagion subsided, but many are still above their pre-March levels reflecting that some uncertainty remains.
- 2.18. On the back of this, Arlingclose, the Council's advisers, reduced its recommended maximum duration limit for unsecured deposits for all UK and Non-UK banks/institutions on its counterparty list to 35 days as a precautionary measure. No changes were made to the names on the list.
- 2.19. As market volatility is expected to remain a feature, at least in the near term and, as ever, the institutions and durations on the Council's counterparty list recommended by Arlingclose remains under constant review.
- 2.20. Local authorities remain under financial pressure, but Arlingclose continues to take a positive view of the sector, considering its credit strength to be high. Section 114 notices have been issued by only a handful of authorities with specific issues. While Arlingclose's advice for local authorities on its counterparty list remains unchanged, a degree caution is merited with certain authorities.

3. Local Context

- 3.1. On 31 March 2023, the Council had net borrowing of £19.5m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table 1 below.

Table 1: Balance Sheet Summary

	31.3.23 Estimate £m
General Fund CFR	39.9
Housing Revenue Account (HRA) CFR	55.3
Total CFR	95.2
External borrowing	-62.6
Internal borrowing	-32.6
Total Borrowing	95.2

- 3.2. The Council pursued its strategy of funding its borrowing requirement from internal resources, sometimes known as internal borrowing. This has the effect of reducing interest rate risk and borrowing costs.
- 3.3. The treasury management position at 31 March 2023 and the change during the year is shown in Table 2 below.

Table 2: Treasury Management Summary

	31.3.22 Balance £m	Movement £m	31.3.23 Balance £m	31.3.23 Rate %
Long-term borrowing	62.6	-2.7	59.8	3.5%
Short-term borrowing	2.2	0.5	2.7	4.2%
Total borrowing	64.8	-2.2	62.6	3.6%
Long-term investments	0	0	0	0
Short-term investments	31.0	8.0	39.0	3.5%
Cash and cash equivalents	18.0	-13.9	4.1	3.9%
Total investments	49.0	-5.9	43.1	3.5%
Net borrowing	15.8	3.7	19.5	

- 3.4. As shown above external borrowing decreased by £2.2m after repayment of a £1m loan held with another Council and two PWLB annuity loan repayments totalling £1.2m.
- 3.5. Investment balances overall reduced by £5.9m from 31 March 2022 due to capital programme delivery, use of reserves and repayment of debt.

3.6. The Council was able to more accurately predict its cashflows allowing more funds to be invested for longer while maintaining cash flow confidence. This resulted in a change in investment portfolio structure with more investments being committed to short term investments in place of cash and cash equivalents as shown in table 2.

4. Borrowing Update

4.1. CIPFA's 2021 Prudential Code is clear that local authorities must not borrow to invest primarily for financial return and that it is not prudent for local authorities to make any investment or spending decision that will increase the capital financing requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the Council. PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield unless these loans are for refinancing purposes.

4.2. The Council currently holds £13.8m in commercial property investments that were purchased prior to the change in the CIPFA Prudential Code. These investments are primarily held for local regeneration and support and not financial return and as such will not fall directly into the above category.

5. Borrowing Strategy and Activity

5.1. As outlined in the treasury strategy, the Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing lower interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Council's long-term plans change being a secondary objective. The Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio.

5.2. The cost of both long and short-term borrowing rose dramatically over the year, with rates at the end of March around 2% - 4% higher than those at the beginning of April. Rate rises have been driven primarily by inflation and the need for central banks to control this by raising interest rates. Particularly dramatic rises were seen in September after the 'mini-budget' included unfunded tax cuts and additional borrowing to fund consumer energy price subsidies: over a twenty-four-hour period some PWLB rates increased to 6%. Rates have now fallen from September peaks but remain volatile and well above recent historical norms. The PWLB 10-year maturity certainty rate stood at 4.33% at 31 March 2023, 20 years at 4.70% and 30 years at 4.66%.

5.3. A new HRA PWLB rate of gilts plus 0.4% (0.4% below the currently available certainty rate) was announced on 15 March 2023. This will be available from June 2023, initially for a period of one year.

5.4. Alongside the discounted HRA borrowing rate interest rates have increased to a level in which discounts may be available from the PWLB for the repayment of debt. This is because it becomes beneficial for the PWLB to relend the funds at higher interest rates than those held in the old-dated loans. As a result of these two factors the Council is actively investigating the possibility of restructuring its borrowing in 2023/24 to see if savings can be created. This may be particularly effective if the requirement to borrow continues to slip as has been the case for the previous two years, this is likely to be the case as many of the

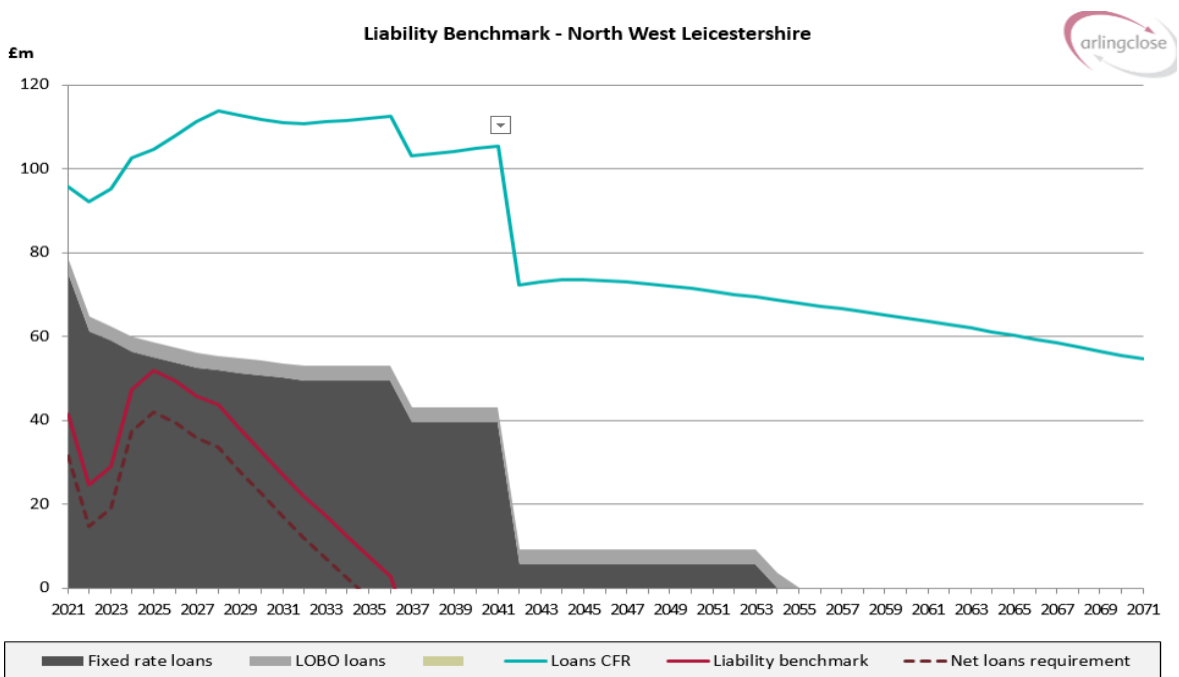
Council's cashflow and borrowing forecasts are done on a conservative basis.

- 5.5. At 31 March 2023, the Council held £62.6m of loans, a decrease of £2.2m from the 31 March 2022, as part of its strategy for funding previous and current years' capital programmes. Outstanding loans on 31 March 2023 are summarised in Table 3 below.

Table 3: Borrowing Position

	31.3.22 Balance £m	Net Movement £m	31.3.23 Balance £m	31.3.23 Weighted Average Rate %	31.3.23 Weighted Average Maturity (years)
Public Works Loan Board	56.3	-1.2	55.1	3.4%	15.8
Banks (LOBO)	3.5	0.0	3.5	4.8%	31.9
Banks (fixed-term)	3.9	0.0	3.9	4.7%	30.9
Local authorities (long-term)	0.0	0.0	0.0	0.0%	0.0
Local authorities (short-term)	1.0	-1.0	0.0	0.0%	0.0
Total borrowing	64.8	-2.2	62.6	3.6%	17.6

- 5.6. In keeping with these objectives, no new borrowing was undertaken, while £2.2m of existing loans were allowed to mature without replacement. This strategy enabled the Council to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk.
- 5.7. There remains an argument for diversifying funding sources, particularly if rates can be achieved on alternatives which are below gilt yields + 0.80%. The Council will evaluate and pursue these lower cost solutions and opportunities with its advisor Arlingclose.
- 5.8. Lender's Option Borrower's Options (LOBO) loans: The Council continues to hold £3.5m of LOBO loans where the lender has the option to propose an increase in the interest rate at set dates. Following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. The bank did not exercise its option during the year.
- 5.9. In 2022, a review of the Council's minimum revenue provision (MRP) policy was undertaken alongside the Council's treasury advisors Arlingclose. As a result, the Council has moved to the annuity method of charging MRP to create a smoother cost profile for MRP across the lifetime of repayment, this is anticipated to create a saving of £2.7m over the next ten years. Additionally, no further capital programmes will be funded by borrowing. Finally, there is a plan to review the HRA MRP policy going forward.
- 5.10. The liability benchmark graph is shown below. This shows the Council's overall forecasted borrowing requirement and anticipated underlying need to borrow. The solid red line shows the Council's external borrowing requirement, and the solid grey shading shows the current external borrowing position. Internal borrowing is represented by the gap between the grey shading and the blue line. Due to the 2021/22 accounts not having yet been completed yet this graph is based on the 20/21 accounts as a starting point and is subject to some change as a result. The graph shows that based on current projections the Council will not have a requirement to borrow externally as internal and existing external borrowing is sufficient. The graph does show that over the next few years the need to borrow is set to increase significantly before dropping again in later years.



6. Treasury Investment Activity

- 6.1. CIPFA published a revised Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes on 20 December 2021. These define treasury management investments ‘as investments that arise from the organisation’s cash flows or treasury risk management activity that ultimately represents balances that need to be invested until the cash is required for use in the course of business.
- 6.2. The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the year, the Council’s investment balances ranged between £43.3m and £70.6m due to timing differences between income and expenditure. The investment position is shown in table 4 below.

Table 4: Treasury Investment Position

	31.3.22 Balance £m	Net Movement £m	31.3.23 Balance £m	31.3.23 Income Return %	31.3.23 Weighted Average Maturity Days
Banks & building societies (unsecured)	3.0	-1.0	2.0	3.7%	94.5
Government (incl. local authorities)	29.0	8.0	37.0	3.4%	85.6
Money Market Funds	17.0	-12.9	4.1	3.9%	1.0
Total investments	49.0	-5.9	43.1	3.5%	78.0

- 6.3. Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.
- 6.4. Bank Rate has increased from 0.75% at the beginning of the year to 4.25% at the end of March 2023. Short-dated cash rates, which had ranged between 0.7% - 1.5% at the beginning of April, rose by around 3.5% for overnight/7-day maturities and 3.3% for 6-12 month maturities.
- 6.5. By end March 2023, the rates on DMADF deposits ranged between 4.05% and 4.15%. The return on the Council's sterling Low Volatility Net Asset Value (LVNAV) Money Market Funds ranged between 0.6% - 0.7% per annum in early April 2022 and between 3.8% and 3.9% at the end of March 2023.
- 6.6. Investment objectives were achieved by increasing exposure to short dated, low risk deposits with Government and decreasing exposure to both banks and Money Market Funds. This encouraged longer dated deposits with higher returns alongside increased security of funds.
- 6.7. The progression of risk and return metrics are shown in the extracts from Arlingclose's quarterly investment benchmarking in Table 5 below.

Table 5: Investment Benchmarking – Treasury investments managed in-house

	Credit Score	Credit Rating	Bail-in Exposure	Weighted Average Maturity (days)	Rate of Return %
31.03.2022	4.00	AA-	41%	71	0.39%
31.03.2023	4.07	AA-	14%	78	3.49%
Similar Las	4.74	A+	63%	56	0.73%
All Las	4.71	A+	59%	12	1.59%

- 6.8. The Council had budgeted £9,000 in interest income from investments after deductions in 2022/23. Actual income received in 2022/23 was £1.1m. This represents an average return on balances through the year of 2%.
- 6.9. Of the £1.1m received, an estimated £137,000 will be deducted for S106 balances and other minor deductions. The remaining £983,000 will be apportioned between the General Fund and HRA.
- 6.10. The allocations to the General Fund and HRA are based on the notional investment balances of both funds throughout the year. The percentage of which will be applied to the overall interest received after deductions. This approach leads to the balances being split £623,000 to the General Fund and £360,000 to the HRA. Please note these figures

are subject to change due to the final notional balance figures not yet being finalised. This will be confirmed with the completion of the year end accounts.

- 6.11. The budgeted interest received for 2022/23 in comparison to actuals is significantly different. This is largely due to the dramatic increase in interest rates by the Bank of England in response to the exceptional economic scenario detailed in section 2. These increased interest rates have boosted the interest return for the Council from 0.4% on 31 March 2022 to 3.5% on 31 March 2023 resulting in the overall increase in investment return. Additionally, Investment balances have been higher than expected due to a number of factors including delayed repayment of grants to central government, slippage in capital programmes and higher income than anticipated from sources such as business rates, rents and council tax.

7. Non-Treasury Investments

- 7.1. The definition of investments in CIPFA's revised 2021 Treasury Management Code covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. Investments that do not meet the definition of treasury management investments (i.e. management of surplus cash) are categorised as either for service purposes (made explicitly to further service objectives) and or for commercial purposes (made primarily for financial return).
- 7.2. Investment Guidance issued by the Department for Levelling Up Housing and Communities (DLUHC) and Welsh Government also broadens the definition of investments to include all such assets held partially or wholly for financial return.
- 7.3. On 31 March 2023, the Council held £13.8m of directly owned property investments which although are primarily held for local regeneration and development do also provide financial return as a secondary function.
- 7.4. A full list of the Council's non-treasury investments is available in the Council's investment strategy found [here](#).
- 7.5. These investments are budgeted to generate £195,889 of investment income for the Council after taking account of direct costs, representing a rate of return of 3.91%.

8. Treasury Performance

- 8.1. The Council measures the financial performance of its treasury management activities both in terms of its impact on the revenue budget and its relationship to benchmark interest rates.
- 8.2. Since the beginning of the reporting period the Council has paid £2.2m in interest. The overall interest rate for the financial year 2022/23 is 3.4%. For comparison purposes current one year borrowing through the PWLB upon writing this report is 5.0%.
- 8.3. No new borrowing was undertaken in the 2022/23 financial year in line with expectations.
- 8.4. The Council's interest return percentage on 31 December 2022 (the last available benchmarking data) was 3.0%. In comparison with other local authorities this was significantly better than the 1.4% average. A further comparison is the Daily Sterling Overnight Index Average (SONIA) which on December 31 2022, was 3.4%.

9. Compliance

9.1. The S151 Officer reports that all treasury management activities undertaken during the year complied fully with the CIPFA Code of Practice and the Council’s approved Treasury Management Strategy. Compliance with specific investment limits is demonstrated in table 7 below.

9.2. Compliance with the authorised limit and operational boundary for external debt is demonstrated in table 7 below.

Table 6: Debt Limits

	2022/23 Maximum	31.3.23 Actual	2022/23 Operational Boundary	2022/23 Authorised Limit	Complied?
Borrowing	64.9m	62.6m	72.9m	82.9m	Yes

9.3. Since the operational boundary is a management tool for in-year monitoring it is not significant if the operational boundary is breached on occasions due to variations in cash flow, and this is not counted as a compliance failure.

Table 7: Investment Limits

	2022/23 Maximum	31.3.23 Actual	2022/23 Limit	Complied? Yes
Any single organisation, except the UK Government	£5m	£5m	£5m	Yes
Any group of organisations under the same ownership	£5m	£5m	£5m	Yes
Any group of pooled funds under the same management	£5m	£5m	£12.5m	Yes
Negotiable instruments held in a broker’s nominee account	£5m	£5m	£12.5m	Yes
Registered providers and registered social landlords	£0m	£0m	12.5m	Yes
Unsecured investments with building societies	£0m	£0m	£5m	Yes
Money Market Funds	£23m	£4.1m	Unlimited	Yes
Real Estate Investment Trusts	£0m	£0m	£12.5m	Yes

10. Treasury Management Indicators

10.1. The Council measures and manages its exposures to treasury management risks using the following indicators.

- 10.2. **Security:** The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	31.12.23 Actual	2022/23 Target	Complied?
Portfolio average credit score	AA-	A-	Yes

- 10.3. **Liquidity:** The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling three-month period.

	31.3.22 Actual	2022/23 Lower Limit	Complied?
Total cash available within 3 months	£36.1m	£2.5m	Yes

- 10.4. **Interest Rate Exposures:** This indicator is set to control the Council's exposure to interest rate risk. The upper limits on the one-year revenue impact of a 1% rise or fall in interest rates was:

Interest rate risk indicator	31.3.23 Actual	2022/23 Limit	Complied?
Upper limit on one-year revenue impact of a 1% <u>rise</u> in interest rates	-327,459	-200,000	No
Upper limit on one-year revenue impact of a 1% <u>fall</u> in interest rates	327,459	200,000	No

- 10.5 The impact of a change in interest rates is calculated on the assumption that maturing loans and investment will be replaced at current rates. Although the indicator has not been complied with this is not a compliance failure as it reflects the fact that all of the Council's investments are due to mature this year. Longer investments would reduce the interest rate risk but would expose the Council to higher liquidity risk. This indicator has been updated for 23/24 to have an increased limit to make it more relevant for interest rate risk for the Council.

- 10.6 **Maturity Structure of Borrowing:** This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

	31.03.23 Actual £m	31.03.23 Actual %	Upper Limit	Lower Limit	Complied?
Under 12 months	2.74	4%	30%	0%	Yes
12 months and within 24 months	1.27	2%	30%	0%	Yes
24 months and within 5 years	3.20	5%	30%	0%	Yes
5 years and within 10 years	2.46	4%	30%	0%	Yes
10 years and above	52.98	85%	90%	0%	Yes

10.7 Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

10.8 **Principal Sums Invested for Periods Longer than a year:** The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end were:

	2022/23	2023/24	2024/25
Actual principal invested beyond year end	0	0	0
Limit on principal invested beyond year end	£10m	£10m	£10m
Complied?	Yes	Yes	Yes

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	MARLBOROUGH SQUARE PUBLIC REALM - TENDER PRICE UPDATE	
Presented by	Councillor Richard Blunt Leader Of The Council PH Briefed - Yes	
Background Papers	Community Scrutiny Report – 9 February 2022 Cabinet Report - 15 February 2022 General Fund Budget and Council Tax 2023/24 – 23 February 2023	Public Report: Yes Key Decision: Yes
Financial Implications	<p>Cabinet on 15 February 2022 approved construction of the Marlborough Square Public Realm at an estimated project cost of £2,711,500.</p> <p>There have been delays in awarding the construction contract for Marlborough Square due to complications with securing the necessary S278 Highways Agreement. This has led to a situation whereby the contractor has stipulated a need to revise their price.</p> <p>As a result of the recently completed re-pricing exercise it has been identified that the cost to complete the project will be in the order of £2,843,982.</p> <p>The cost of delivering the scheme is now estimated to be £99,288 more than approved Cabinet on 15 February 2022. If the project is to proceed, the Council's capital investment will need to be increased by this amount. The required additional funding is available within the Council's approved capital programme (within the Coalville Regeneration Framework budget line) and Cabinet has the power to vire the money from the Coalville Regeneration Framework line to the Marlborough Square project code if it wishes.</p> <p>The Council is using a grant of £360,000 from the LLEP to finance the total cost of the scheme.</p>	
	Signed off by the Section 151 Officer: Yes	

<p>Legal Implications</p>	<p>The project is to be delivered on Public Highway within the control of Leicestershire County Council. A Section 278 process has been followed by the Council in order to obtain permission for the works and verbal approval has been achieved. The Formal S278 agreement will be signed before works commence. The S278 Agreement will make NWLDC responsible for the Marlborough Square Highway during the completion of the approved works and until Leicestershire County Council has inspected the roads afterwards and taken a commuted sum for to cover any maintenance issues. This responsibility is likely to last for 12 months post substantial completion of works.</p> <p>Signed off by the Monitoring Officer: Yes</p>
<p>Staffing and Corporate Implications</p>	<p>The project is being managed within existing staffing resources supported by specialist consultants where necessary. Staff costs are within existing revenue budgets. Provision to meet consultant costs has been included in the project budget outlined in the paper.</p> <p>Signed off by the Head of Paid Service: Yes</p>
<p>Purpose of Report</p>	<p>1) To report the updated construction price submitted by the preferred contractor and seek a renewed approval to proceed to award the contract.</p> <p>2) To identify project management, Quantity Surveyor and Clerk of Works fees that will need to be incurred by the council to deliver the works along with other permit costs such as for drainage connections, power supplies and Traffic orders.</p> <p>3) To seek agreement to vire £99,288 from the Coalville Regeneration Framework Budget line within the council's Capital Programme Development Pool to the Marlborough Square Public Realm Project within the Council's Capital Programme Active Projects to provide the necessary funding for the project to proceed.</p>
<p>Reason for Decision</p>	<p>The decision on whether to enter into a contract of the size and nature set out in this paper is a matter for Cabinet.</p>
<p>Recommendations</p>	<p>THAT CABINET:</p> <ol style="list-style-type: none"> 1. AGREES TO PROCEED WITH THE MARLBOROUGH SQUARE PUBLIC REALM PROJECT AT AN ESTIMATED REMAINING COST OF £2,843,982 2. AGREES TO VIRE FUNDING OF £99,288 FROM THE COALVILLE REGENERATION FRAMEWORK BUDGET LINE WITHIN THE CAPITAL

	<p style="text-align: center;">PROGRAMME DEVELOPMENT POOL TO THE MARLBOROUGH SQUARE PUBLIC REALM PROJECT WITHIN THE ACTIVE CAPITAL PROGRAMME.</p> <p>3. DELEGATES AUTHORITY TO THE STRATEGIC DIRECTOR (IN CONSULTATION WITH THE PORTFOLIO HOLDER) TO AWARD THE CONSTRUCTION CONTRACT WITHIN THE AGREED BUDGET.</p> <p>4. NOTES THE INTENTION TO BRING A FURTHER REPORT TO CABINET AS SET OUT IN PARAGRAPH 2.4.</p>
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1.0 BACKGROUND

- 1.1. A full business case for the Marlborough Square Public Realm Project was presented to Cabinet on 15 February 2022. In the report presented, it was identified that the estimated cost to deliver the project would be £2,711,500. Full details of external funding contributions and the amount of funding required from the Council’s Capital Programme were set out. It was noted that the allocation of funding was a matter for Council and that Cabinet recommended to Council on 24 February 2022 that budget be allocated for the project and that the scheme proceed by awarding a construction contract. On 24 February 2022, Council agreed the requested budget and confirmed that the project should proceed to award a construction contract.
- 1.2. The Cabinet meeting on 15 February 2022 also agreed (subject to Council agreeing on 24 February 2022 the allocation of budget and giving consent to proceed to award the construction contract) that delegated authority be given to the Strategic Director Place to; enter into highway agreements, negotiate the terms of the construction contract, complete such other agreements as may be necessary to implement the project, and negotiate a reduction or waiver of commuted sums and other fees with Leicestershire County Council (as Highways Authority) .
- 1.3. At the time the decision was presented to Cabinet it was anticipated that the S278 agreement and all other things necessary to enable the scheme to proceed would be forthcoming during spring 2022, ahead of the award of contract under delegated authority and the commencement of works planned for May 2022.
- 1.4. In reality, the agreement of the S278 has taken far longer than anticipated. The Highways Authority has required the submission of significantly more information than their Guidance Notes initially indicated and there have been a number of technical changes imposed by third parties. Verbal Technical Approval of the S278 was received from Leicestershire County Council Highways Department. in February 2023 and this is now being progressed to completed legal agreements.
- 1.5. The Council’s preferred contractor (Stepnell) was originally selected in late 2021 via a two-stage mini competition using a framework agreement. Stepnell has retained its interest in undertaking the construction contract, despite almost 18 months of delay since its initial price submission.
- 1.6. Over the 18 months since Stepnell was selected as preferred contractor, the scheme of works has been subject to significant changes in specification and materials in order to meet Leicestershire County Council’s Highway requirements and achieve the

Section 278 agreement. In particular, there have been changes to the form of sub-base to be used and the depth of construction. There has also been a significant degree of construction cost inflation over the period.

- 1.7. The Quantity Surveyor employed by the Council has advised that with the current bill of quantities being significantly different to that priced in early 2022, and labour and material prices having changed, both parties would be best protected by the contractor undertaking a re-pricing exercise. The outcome of the re-pricing exercise is set out in section 2 of this report.

2. FINANCIAL IMPLICATIONS

- 2.1. Since the project was presented to Cabinet in February 2022, preparatory costs have continued to be incurred in order to reach a point, of verbal Section 278 approval. The amount spent in the 22/23 financial year was £91,814.

- 2.2. The current financial position is as follows:

- The current total project cost is remaining to be incurred is £2,843,982 (this excludes the £91,814 expended in 2022/23).
- The current available budget is £2,744,694 (2022/23 carried forward budget of £2,384,694 + £360,000 Leicester and Leicestershire Enterprise Partnership (LLEP) grant funding). £192,887 of the LLEP grant has been received to date.
- This means there's a funding shortfall of £99,288 (project costs of £2,843,982 - £2,744,694 available budget) to complete physical implementation.

The anticipated remaining costs to complete delivery are:

Expenditure Item	Amount Reported In February 2022	Amount At June 2023	Notes
Fees (Supervision, legal costs)	£55,000	£208,310	Includes NWLDC QS, Project Manager and Clerk Of Works costs which were not fully known in February 2022 but which are now calculated to take us through to the end of project implementation.
Permits, Connections and Utilities	£25,000	£35,471	Additional costs attributed to Traffic Regulation Orders (TRO), and Temporary Traffic Regulation Orders (TTRO) and other (non 278) highways permits
Construction (tender price)	£2,265,000	£2,503,076.	Price increase equates to 13% which is below construction market rate of annual inflation
Contingency	£50,000	£97,125	Based on a priced risk assessment
Total	£2,395,000 *	£2,843,982	

- 2.3. The total anticipated project cost stated in the paper to Cabinet in February 2022 was £2,711,500. Additional expenditure on Equipment (Market Stalls and Interpretation Panels) has been removed from the latest estimate as details of what is required were not available at the time of drafting this report and will therefore be included as part of the development of the 2024/25 Capital Programme.
- 2.4. Commuted Sums and Highways Authority Supervision Costs payable to Leicestershire County Council were also included in the original cost estimate reported in February 2022. These figures are not included in the current project total. The Commuted Sum will not be known until the S278 Agreement is signed. The Supervision Cost (proposed to be an hourly recharge) will only be known once works are completed and the Highways Authority have confirmed Substantial Completion. It is not expected that these costs will be more than was reported in February 2022. These figures will be reported back to Cabinet as soon as they are known and will be funded from the Coalville Regeneration Budget Line within the current approved Council Capital Programme (£2.5m available over the next five years) or external grant if available.
- 2.5. The latest project implementation cost estimate includes £2,503,076 for actual construction work. The construction price offered by Stepnell is a fixed price and remains open for acceptance until 21 July 2023.
- 2.6. The latest tendered construction cost has only increased by £238,076 over the period since February 2022, despite the Highways Authority requesting significant changes to the works specification and 18 months of construction industry inflation where headline increases of 20% per annum have been reported. It is believed that the tender price currently being offered by Stepnell is good value for money. If the current price is not accepted by the stated expiry date, then as a result of construction inflation continuing, the Council's Cost Consultant has advised that any further re-tender exercise will yield a significantly higher price along with introducing significant delay to the commencement of works.
- 2.7. The fixed price offered by Stepnell is based on the drawings and specification provided to them. Should councillors wish to amend the designs or materials during the construction period then this will be treated as a variation and the contractor will be entitled to recover any additional costs associated.
- 2.8. If Client initiated Variations to the works are required, the Council's Cost Consultant will ensure and confirm that any such costs are reasonable and appropriate. The current total estimated project cost set out in this report includes a risk-based contingency of £97,125. The contingency sum does not cover all risks and members should be aware that despite carrying out all available surveys, until the site is excavated there remain a risk from unknowns in the ground.
- 2.9. The current total estimated project cost is currently £99,288 more than the available budget. The additional funding can be found by viring funding from the Coalville Regeneration Programme Budget line within the Capital Programme Development Pool, to the Active Programme.
- 2.10. The Coalville Regeneration Programme Budget line within the Development Pool contains funding that has been allocated by Council for the development of

Regeneration projects within the town which have not yet been identified. Virement of the funds to the Marlborough Square Public Realm project will not therefore prevent any other planned scheme from proceeding.

2.11. Should Cabinet decide to increase the budget for the Marlborough Square Public Realm project as set out in this report, then it is anticipated (subject to materials lead times) that construction would be undertaken during summer 2023 through to spring 2024 with a 34 week construction programme plus a Christmas closedown of five weeks (the Christmas closedown period has been allowed in order to avoid festive celebrations being disrupted by construction work) .

2.12. Based upon the above estimated start date and construction period it is projected that most expenditure would fall within the 2023/24 financial year, but contract retention sums would not become due for release to the contractor until 12 months following “Substantial completion” and would therefore fall into the 2024/25 financial year.

2.13. An estimated (broad) profile of expenditure is set out following. This should be considered indicative, with a more detailed expenditure profile information to be provided by the contractor once appointed and the construction programme has been agreed.

2.14.

Financial Year By Quarter	Anticipated Expenditure	Notes
23/24 Q2	£45,000	
23/24 Q3	£923,413	
23/24 Q4	£710,165	Inc Christmas shutdown
24/25 Q1	£905,702	Substantial Completion of works
24/25 Q2	£100,000	
24/25 Q3	0	
24/25 Q4	0	
25/26 Q1	£159,702	Retentions released. Commuted Sum and Highways Authority inspection Fees also likely to fall due at this time
Total	£2,843,982	

2.15. Whilst the majority of the project costs are to be met from the Council’s capital programme there is a small grant of £360,000 towards the project from Leicester and Leicestershire Enterprise Partnership. This grant has been taken into account when reporting the impact of the project on the council’s own resources and will be reflected

in future Capital Programme monitoring and reporting.

- 2.16. It is recognised that the project represents a significant capital project for the Council and that regular monitoring is required. In line with the Council's enhanced governance arrangements for capital investment it is intended the Capital Strategy Group will receive regular financial reports from the Marlborough Square Public Realm Project Board detailing financial progress of the scheme and allowing clear sight of the project's financial performance.

3.0 DECISIONS REQUIRED

- 3.1 The decisions and delegated powers made and granted in February 2022 remain in place and Cabinet has already agreed to proceed with the scheme. The project is being put before Cabinet again to recognise that the cost of implementation has increased and to seek agreement that the additional cost should be met from uncommitted funding within the council's approved 2023/24 Capital Programme (Coalville Regeneration Budget Line).

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Supporting Coalville to be a more vibrant, family-friendly town - Support for businesses and helping people into local jobs - Developing a clean and green district - Our communities are safe, healthy and connected
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	The Public Realm solution shown has been designed to accommodate all user groups and has been the subject of engagement with user groups.
Customer Impact:	The project will make a positive improvement to residents and visitors experience of Coalville
Economic and Social Impact:	The project is expected to increase confidence and pride in an important part of the town centre
Environment and Climate Change:	The project aims to improve the Coalville town centre environment. The materials selected are naturally occurring and have a very long life. The contractor proposed to be appointed has demonstrated their commitment to reducing their carbon footprint and minimising construction waste.
Consultation/Community/Tenant Engagement:	The project has been the subject of significant publicity and repeated public engagement.
Risks:	Financial failure of contractor – appropriate checks of the contractor's financial standing have

	been undertaken by the Council's Finance team. Unexpected physical obstacle to delivery of works – extensive due diligence has been undertaken. The contractor is very experienced at delivering public realm projects. A contingency sum has been retained within the project budget.
Officer Contact	Paul Wheatley Head of Property and Regeneration Paul.wheatley@nwleicestershire.gov.uk 07855149240

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY 27 JUNE 2023



Title of Report	RECYCLE MORE UPDATE AND THE FUTURE DEVELOPMENT OF THE WASTE SERVICE	
Presented by	Councillor Wyatt Deputy Leader and Portfolio Holder for Community Services	
Background Papers	Recycle More – The Plan	Public Report: Yes
		Key Decision: Yes
Financial Implications	Eunomia is an independent consultancy and have been commissioned by officers (£25,543+VAT) to lead on a review of the service, supported by officers. The firm is a nationally renowned organisation that is an expert in this field and works with Defra particularly on developing policies and practical solutions in the field of local authority waste and resources services. Any future financial implications will be subject to a separate Scrutiny report and Cabinet report, detailing the financial implications for the Council.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	There are no direct legal implications arising from this report. The wider review of the waste service and a refresh of the current Recycle More Plan will be subject to a separate Scrutiny report and Cabinet report, detailing the legal implications for the Council.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no staffing and corporate implications arising from this report. The wider review of the waste service and a refresh of the current Recycle More Plan will be subject to a separate Scrutiny report and Cabinet report, detailing the staffing and corporate implications for the Council.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To confirm the progress achieved since Recycle More was adopted in 2019, and present an outline of how Recycle More will be refreshed between 2023 – 2030, allowing Cabinet to comment and provide feedback. To make Cabinet aware of a planned wider review of the Waste Service.	
Reason for Decision	To provide an update on the progress being made in	

	recycling across the district and agree to commence a review of the service.
Recommendations	<p>THAT CABINET:</p> <ol style="list-style-type: none"> 1. PROVIDES COMMENT ON THE PROGRESS ACHIEVED TO DATE BY RECYCLE MORE 2. AGREES TO SETTING UP AN ALL-MEMBER WORKSHOP. 3. REQUESTS THAT COMMUNITY SCRUTINY ADDS THE WASTE SERVICES REVIEW TO ITS PROGRAMME.

1. BACKGROUND

- 1.1 'Recycle More – The Plan' was devised, and subsequently adopted by Cabinet on 9 April 2019. It sought to encourage households to recycle more items, more often, increasing dry recycling by one hundred tonnes over the next four years and generate £500,000 by selling the dry recycling collected from households across the district. Recycle More supported and committed to the delivery of these objectives.
- 1.2 The plan's main aim was to increase the recycling rate from the 2018/19 rate of 45% to 50% over the following years - 2019/20, 2020/21, 2021/22 and 2022/23. Prior to the adoption of Recycle More, the recycling rate had plateaued for five years between 45% and 46.7%.
- 1.3 Recycle More identified six key themes which are listed below. Each of the themes were incorporated into a yearly action plan. This report will detail the progress made since the adoption of Recycle More in 2019 which covers:
1. Reducing black bin waste
 2. Food waste recycling
 3. Increasing recycling
 4. Employers and employees
 5. Changing hearts, minds, and habits
 6. Housing growth.

2. RECYCLE MORE PROGRESS ACHIEVED TO DATE

- 2.1 **Reducing black bin waste** – Recycle More has supported the reduction of black bin waste as residents have embraced the need to reduce, reuse and recycle. As a result, in 2021-22 the Council collected 24,255 tonnes of black bin waste. In contrast, 22,250 tonnes were collected in the following year of 2022-23. This is a reduction of 2,005 tonnes (8%).
- 2.2 **Food waste recycling** – a weekly food waste trial was launched for 2,000 households in October 2019. Due to Covid, the trial was paused in March 2020, however, it resumed in October 2020 and the trial area was doubled in size to 4,000 households.

In 2021, the Council asked customers on the trial to complete a survey, some of the findings can be found below.

- 95.22% of respondents said they would continue to recycle their food waste if the collections were made permanent.
- 60.87% of respondents said there was more space in the black bin after recycling their food waste.

In autumn 2022, communication was undertaken to further encourage customers to use the service. This involved writing a letter to all customers on the trial to promote use of the service along with an accompanying guide. Also, black bins were stickered with 'no food waste' stickers, encouraging customers to recycle their food waste. Since the communication, there has been a 13.7% increase in the average participation of customers using the service, and there has been a 24% increase in food waste tonnage collected.

The food waste is sent to an anaerobic digestion facility in Atherstone, Warwickshire, where it is turned into biogas, which is used to generate electricity and heat. It also produces a bio-fertiliser for use in farming.

To date, 585 tonnes of food waste has been collected, representing a carbon saving of 439 tonnes, compared to had it been sent to landfill.

- 2.3 **Increasing recycling** – 470 customers have trialled two different wheeled recycling container systems. The first trial took place in October 2019 using a system known as the Triple Stack.
- 2.4 The Council gained feedback from Conwy County Borough Council who moved from a box and bag recycling system to the Triple Stack system. They confirmed it takes 5-10 seconds longer (mainly due to stacking the system back together after emptying). However, very quickly the waste operatives become efficient in how they empty and restack the system.
- 2.5 A second wheeled recycling container system was developed and became available, called the multi-box recycling system (MBRS). The system was trialled with 250 customers, including 30 customers that trialled the Triple Stack system.
- 2.6 The Council was the first local authority to trial the MBRS. It has since been acknowledged by the manufacturer (IPL Global) that significant improvements are required to the product. These include a different design to the wheels, and the overall product needs to be more robust, as the product is comprised of too many different parts. This is supported by customer feedback for those on the trials, as 90% of customers found the design of the Triple Stack system robust enough, whereas 59% of customers found the design of the MBRS robust enough.

On this basis, discussions took place between officers and IPL Global regarding the future development and improvement of the MBRS. As IPL Global is the manufacturer of both systems, they felt the improvements required to the MBRS were not financially viable. Therefore, they will no longer manufacture the MBRS, but will continue to manufacture the Triple Stack system.

- 2.7 **Increasing recycling** – The recycling of household batteries and mobile phones at the kerbside was introduced in December 2019. Customers are able to recycle AA, AAA, watch, hearing aid, mobile phone, laptop, and power tool batteries. To date, 15 tonnes of batteries and 100 kg's of mobile phones have been collected and recycled.

The recycling of batteries and mobile phones not only diverts these items away from landfill or incineration, but also it helps to reduce the risk of fires occurring in

customer's black bins at home or in the waste collection vehicles when black bins are emptied. Batteries and mobile phones which are collected for recycling are safely stored on the recycling collection vehicles, until they reach the Council's recycling depot, where they are stored safely too. Collections then take place from an approved battery and mobile phone recycling company.

- 2.8 **Employers and employees** – Recycling facilities are provided at the Whitwick Business Centre, the Customer Centre, Linden Way Depot and the Parks Depot. More recently, all of the sites receive weekly food waste collections.
- 2.9 **Employers and employees** – Since November 2021, Personal Protective Equipment (PPE) gloves worn by the waste operatives are sent for reuse, instead of being a single-use item. The gloves are sent away for hot-washing and returned for use. To date, 756 kgs of gloves have been reused.
- 2.10 **Changing hearts, minds, and habits** – a successful competition was held with primary schools asking for children to name the six recycling collection vehicles. Over 300 entries were received, the winning names include Recyclosaurus Rex and Bindiana Jones, which appeared on the collection vehicles in February 2021.
- 2.11 **Changing hearts, minds, and habits** – a quarterly environmental e-newsletter was introduced in April 2022. It provides a round-up of news, tips and advice from the environmental teams at the Council, including updates regarding Recycling More. To date, it has 249 subscribers.
- 2.12 **Housing growth** – Waste Services continue to be a statutory consultee for planning applications received by the Council. The proposed development is reviewed ensuring recycling is easy and convenient for new residents. This includes not having an over-reliance on bin collection points, where customers have to take their recycling to, if their property is served by a private driveway.
- 2.13 **Housing growth** – The Council has submitted its own application for a development of 101 dwellings off Waterworks Road in Coalville. The Waste Service is working collaboratively with the Planning Service, ensuring the development is designed to facilitate easy and convenient recycling collections. If the development is approved, it is hoped it can be used as a blueprint for other developers to use when designing new developments.
- 2.14 **Housing growth** – The Planning Service is due to develop a Supplementary Planning Document (SPD). An SPD builds upon and provides more detailed advice or guidance on policies in an adopted local plan. Waste Services will be a key stakeholder during the development of the SPD, ensuring waste and recycling collections from new developments are convenient for customers and waste operatives.

3. RECYCLE MORE REFRESH AND A REVIEW OF THE WASTE SERVICE

- 3.1 It is an appropriate time to refresh Recycle More and plan a wider review of the waste service, as some key legislation and policies at a national, regional and Council level have been adopted, as listed below.
 - Environment Bill 2021 – key requirements, e.g. food waste recycling
 - Zero Carbon 2020
 - Zero Litter Campaign 2022

- Resources and Waste Strategy for Leicestershire 2022 to 2030 – a key strategy which aligns with Recycle More.

As well as the introduction of the legislation above, further legislation and updates are anticipated in 2023, which include:

- **Consistency in Household and Business Recycling in England** – this is designed to increase consistency and standardisation in recycling to reduce confusion in the materials that can be collected for recycling at kerbside. The government is also exploring the requirement for local authorities to collect further recyclables at the kerbside, notably plastic film and tetra paks.
- **A Deposit Return Scheme in England** – is a way of encouraging more people to recycle drinks containers, such as plastic bottles and cans. They work by charging anyone who buys a drink a small deposit for the bottle or can that it comes in. Consumers can then get this money back when returning the bottle or can to a collection point to be recycled. Any business that retails the materials confirmed in the scheme may have to act as a return point.
- **Extended Producer Responsibility** – packaging producers will be required to pay the full cost of managing packaging once it becomes waste. This will encourage producers to use less packaging and use more recyclable materials, reducing the amount of hard to recycle packaging placed on the market.

3.2 During 2023-24, it is proposed that a review will be carried out of Waste Services. The review will contain two main elements – firstly a review of the collection regime and approach (the What), and the second element (the How) regarding how collections are delivered.

As part of the review, consultation and engagement will take place with members, customers, businesses, town and parish councils, and other key external stakeholders.

The council's waste services workforce has been involved in Recycle More, and will be for emerging developments, including the review of the waste service. As part of Recycle More, members of the workforce, including union representatives sit on a project team monitoring progress, ensuring full transparency, and this will continue during the review of the waste service. The workforce will also be briefed at key stages of the review, and the union representatives involved, as appropriate.

It is proposed that an all-member workshop be set-up prior to the summer break, and that Community Scrutiny be asked to oversee the development of the proposals. Below is the proposed programme outlining the key actions and dates.

3.3 Proposed programme for Waste Service review and Recycle More refresh:

Key Milestone	Date
All-member workshop	12 July 2023
Parish and town council engagement	September 2023
Resident engagement	October - November 2023
Businesses engagement	October - November 2023
Present the future development of the Waste Service to Community Scrutiny and Cabinet	Spring 2024

Policies and other considerations	
Council Priorities:	Developing a clean and green district.
Policy Considerations:	See the background paper.
Safeguarding:	None.
Equalities/Diversity:	As part of the wider review of the waste service, a full assessment on equalities and diversity impact will be carried out.
Customer Impact:	As part of the wider review of the waste service, a full assessment of the customer impact will be carried out.
Economic and Social Impact:	None.
Environment and Climate Change:	Reducing carbon emissions featured prominently in the development of the current Recycle More Plan, and a wider review of the waste service and a refresh of the current Recycle More Plan would significantly reduce carbon emissions, notably the introduction of sperate weekly food waste collections.
Consultation/Community Engagement:	Detailed in the report – see sections two and three.
Risks:	As part of the wider review of the waste service, a full assessment of the risks will be carried out.
Officer Contact	Paul Sanders Head of Community Services Paul.Sanders@nwleicestershire.gov.uk

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	BUSINESS RATES POOLING	
Presented by	Councillor Nicholas Rushton Corporate Portfolio Holder PH Briefed <input type="checkbox"/> Y	
Background Papers	NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL – Proposal for the Pooling of Business Rates – 31 October 2013	Public Report: Yes
	NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL Delegation of Business Rates Pooling Decisions - 18 November 2014	Key Decision: Yes
Financial Implications	The report sets out the financial implications for the Council of the proposed changes to the allocation of monies from the Leicester and Leicestershire Business Rate Pool. North West Leicestershire has seen significant growth in business rates in the last decade and is the largest contributor to the Pool. Historically the Council has not been very successful in securing resource from the Business Rates Pool. The proposals provide the Council with an opportunity to secure a greater share of the Pool monies than it has previously. The monies received are planned to be used to finance the Council's capital investment programme.	
	Signed off by the Deputy Section 151 Officer: Yes	
Legal Implications	With local enterprise partnerships being abolished, the current agreement for the pooling arrangement is no longer fit for purpose and it will not be possible to operate under those provisions in the agreement in the near future. It is therefore necessary to agree an alternative mechanism and revise the agreement accordingly.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no direct staffing implications arising from the report.	
	The Leicester and Leicestershire Business Rates Pool includes all District Council's in Leicestershire as well as Leicester City Council and Leicestershire County Council. A	

	key issue when considering the recommendations is that the partnership and joint working implications are recognised.
	Signed off by the Head of Paid Service: Yes
Purpose of Report	To consider and agree the revised distribution methodology for the Leicester and Leicestershire Business Rates Pool.
Reason for Decision	To approve the revised distribution methodology for the Leicester and Leicestershire Business Rates Pool
Recommendations	<p>CABINET IS REQUESTED TO:</p> <ol style="list-style-type: none"> 1. CONFIRM THAT THE COUNCIL CONTINUES TO BE A MEMBER OF THE LEICESTER AND LEICESTERSHIRE BUSINESS RATES POOL 2. AGREE THE PROPOSED NEW DISTRIBUTION METHODOLOGY FOR THE LEICESTER AND LEICESTERSHIRE BUSINESS RATES POOL OF LEICESTER CITY COUNCIL (ONE THIRD), LEICESTERSHIRE COUNTY COUNCIL (ONE THIRD) AND ALL DISTRICT COUNCILS (ONE THIRD) FOR THE POOLING BALANCES IN 2020/21, 2021/22, 2022/23, 2023/24 AND 2024/25 3. AGREE THE PROPOSED NEW DISTRIBUTION METHODOLOGY FOR ALLOCATING THE DISTRICT COUNCIL'S SHARE OF THE BUSINESS RATES POOL AS SET OUT IN PARAGRAPHS 4.3 AND 4.4 FOR THE POOLING BALANCES IN 2020/21, 2021/22, 2022/23, 2023/24 AND 2024/25 4. ENDORSE THE PRINCIPLE THAT THE DATA UNDERPINNING THE METHODOLOGY FOR ALLOCATION THE DISTRICT SHARE IS UPDATED ON AN ANNUAL BASIS 5. AGREE FROM 2025/26 THERE WILL BE AN ANNUAL REVIEW OF THE COUNCIL'S PARTICIPATION IN THE LEICESTER AND LEICESTERSHIRE BUSINESS POOL 6. DELEGATE TO THE CHIEF EXECUTIVE, IN CONSULTATION WITH THE CHIEF FINANCE OFFICER AND LEADER OF THE COUNCIL, TO APPROVE ANY AGREEMENTS NECESSARY TO GIVE EFFECT TO THE NEW DISTRIBUTION METHODOLOGY.

1.0 BACKGROUND

- 1.1 The Council has been a member of the Leicester and Leicestershire Business Rates Pool, whilst it has operated, since its inception in 2013.
- 1.2 Up until the financial year 2019/20, the additional business rates funding retained by being a member of the Pool has been handed over to the Leicester and Leicestershire Enterprise Partnership (LLEP) and then bids made for the funding from those authorities in the Pool. This is in line with the current business rate pooling agreement.
- 1.3 To date, the Pool has provided funding of in excess of £24m for a range of LLEP projects across Leicestershire. If this funding source had not been available, it is likely that these projects would not have taken place.
- 1.4 From the financial year 2020/21, this money has no longer been distributed in this way and has been held pending agreement between Leicester City Council, Leicestershire County Council and the Leicestershire District Council's, as to how this is to be distributed both amongst the councils and then at district level.
- 1.5 Following the Chancellor's recent announcement that Local Enterprise Partnerships will be abolished, it will be necessary to amend the administration of the pool and following discussions, agreement has now been reached as to the most appropriate distribution of the funds collected to date. This report sets out the implications arising from this approach.

2.0 BUSINESS RATES POOLING – HOW IT WORKS

- 2.1 The Government introduced a new system for distributing business rates income in April 2013, enabling councils to retain a share of the net growth in business rates in their area on a 50/50 basis with the Government. The "local share" is then distributed 40% to districts, 9% to Counties and 1% to Fire and Rescue Authorities in two-tier local government areas.
- 2.2 If councils kept all of their share of business rates income collected some would have a much larger amount than they need to deliver services and others would have too little. Therefore, under the current system those with more business rates income than their baseline funding allocation calculated by the Government pay a "tariff" and those with too little income will receive a "top-up".
- 2.3 Tariffs and top-ups are inflated each year according to the retail prices index factor applied to business rate bills. As North West Leicestershire collects all the business rates for the District it is an authority liable to pay a tariff.
- 2.4 In addition to tariffs and top-ups, there is a further system of levies and safety nets which is intended to ensure that authorities with large tax bases do not benefit disproportionately and that losses due to reductions in business rates are limited by a safety net arrangement.
- 2.5 North West Leicestershire District Council pays a 50% levy on its 40% share and benefits from a safety net which stops the Council's business rates income falling by more than 7.5%.

- 2.6 The legislation allows for local authorities to form pools with other authorities in its area (the Sub-Region) for the purposes of business rate retention. In periods when Business Rates income is rising it is beneficial for the sub region to “pool” business rates as this means that the Pool overall would not pay a levy to the Government allowing these funds to be retained in the sub region.
- 2.7 This is achieved because the County Council and the City Council as “top-up” authorities do not pay levies on additional Business Rates. Pooling with these authorities creates a mutually beneficial arrangement whereby more income is retained locally. The intention of all rates pools is that for a given geographical area it is able to retain business rates income generated locally. If a pool is not in place, 50% of growth above each councils’ rates baseline would be paid to central government. However, where a pool is in place the non-pool government share is retained within the pool to fund locally agreed priorities.
- 2.8 It should be noted that pools only work if there are “top-up” councils within it; these are authorities where their funding baseline exceeds their rates baseline i.e. they generate insufficient business rates to meet their funding need. For the Leicestershire Pool there are three top-up councils, namely Leicestershire County, Leicester City and Fire. On the other hand, “tariff” councils are those where they generate more rates than their funding baseline, this is all district councils within Leicestershire.

3.0 THE EXISTING DISTRIBUTION OF THE POOL

- 3.1 In the period whilst the Pool has been operating, up to 2023/24, it has generated an estimated total of £75-80m of additional funding for the councils in Leicestershire. If the Pool had not been in operation these monies would have been returned to Government and not been available for investment locally.
- 3.2 The Pool is governed by an Agreement and sets out how the surplus monies of the Pool are distributed amongst the councils. The following text is an extract from the Agreement regarding the allocation of surplus monies:
- “the balance shall be paid to the LLEP Lead Authority. This is on the basis that all Authorities are represented, engaged and focussed within the LLEP. The balance will be managed through the LLEP to be available for priority economic projects across the LLEP area. Only Authorities within the pool would be entitled to produce bids to access these pooled funds in accordance with the LLEP’s governance or administrative arrangements. The authorities will approve a process for distribution of the balance”.*
- 3.3 In the period of the Pool’s operation up to the 2019/20 financial year the Pool generated, from all council’s, over £24m of additional monies for the local area. The Leicester and Leicestershire Enterprise Partnership (LLEP) allocated these monies to a range of projects across Leicester and Leicestershire.
- 3.4 North West Leicestershire District Council was successful in being allocated £500,000 from the LLEP for the Kegworth Public Realm Project.
- 3.5 Since the 2020/21 financial year no monies have been allocated to LLEP projects. The monies generated from the Pool have been held pending agreement on how to distribute the surplus.

4.0 THE PROPOSED NEW DISTRIBUTION OF THE POOL

4.1 During the four-year period 2020/21 to 2023/24 it is estimated that the Pool has generated an estimated surplus in excess of £50m. There have been on-going discussions in recent years regarding the distribution of these monies.

4.2 Following the outcome of these discussions it is proposed that the following distribution methodology be used:

- Monies are split on a one third basis between the councils in the Pool on the basis of Leicester City Council (one third), Leicestershire County Council (one third) and all district councils (one third).
- The district council one third share is distributed amongst the seven district council's using a hybrid model which takes into account a range of local factors.

4.3 The district council share would be distributed using a hybrid model which takes into account the following factors:

- Contributions to the Pool
- 1/7 equal shares
- Business Rates Rateable Values
- Index of Multiple Deprivation
- Population

4.4 The underlying data which drives each of the factors in the district council distribution methodology would be updated on an annual basis.

4.5 There have been a wide range of options considered for the district council distribution methodology. Each of these options have been modelled to assess the financial impact for each council. The proposed distribution methodology is considered a 'fair' and 'best fit' approach that all councils could sign up to.

5.0 FINANCIAL IMPLICATIONS

5.1 North West Leicestershire District Council has seen significant growth, the largest in Leicestershire, in its Business Rates since 2013. It has benefited from this growth with additional funding being generated from its share of business rates funding that has not gone into the Pool. These monies have been used to support on-going service provision and being invested in the Capital Programme.

5.2 In addition to the share of Business Rates funding received directly by North West Leicestershire District Council it has generated monies for the Pool. The table below summaries the position for the Pool:

Period	Estimated Contributions to the Pool from NWL Area	Monies Received by NWLDC from LLEP	Estimated Monies for NWLDC using proposed distribution
2013/14 to 2019/20	£9.8m	£0.5m	n/a
2020/21 to 2023/24	£23.9m	n/a	£4.0m
Total	£33.7m	£0.5m	£4.0m

Notes:

- The second column shows estimated contributions to the Pool are from the North West Leicestershire (NWL) area, this does not mean these monies are all due to the Council.
- The third and fourth columns shows the monies received by, or estimated to be received by the Council.

5.3 During the period the Pool has been in operation is it estimated business rates growth generated in North West Leicestershire has contributed an estimated £33.7m into the Pool. It has received £0.5m from LLEP funding for the Kegworth Public Realm Project and is estimated to receive £4m from the proposed distribution methodology for the period 2020/21 to 2023/24.

5.4 In line with the Council's financial strategy the monies received from the Pool would be used to fund schemes within the Council's Capital Programme. The funding assumptions for the Capital Programme agreed by Council in February 2023 include anticipated monies from the Pool to deliver the Programme.

6.0 CONSIDERATIONS

6.1 It is clear from the financial analysis the business rates growth in North West Leicestershire has been significant, and that under the current distribution methodology the Council has, relative to its contribution, not been successful in securing funding from the LLEP.

6.2 The proposed new distribution methodology enables the Council to receive a much greater share of the business rates growth it generates for the Pool.

6.3 It could be argued that the Council should receive an even greater share of the monies it contributes into the Pool. However, there are a number of factors that need to be recognised as to why this is not practical, including:

- The starting point of the existing arrangements where all monies are 'pooled' for the collective investment across Leicester and Leicestershire.
- A new distribution methodology needs to provide a 'fair' outcome for all councils.
- The Pool would not be able to operate without the 'top up' authority status both Leicester City Council and Leicestershire County Council provide.
- It is not value for money to have in excess of £50m held in the Pool. This money needs to be invested in local service provision.

6.4 It is important an agreement on the distribution of these monies amongst councils is reached as the monies generated are currently not adding any value to the residents and businesses of Leicester and Leicestershire.

6.5 The proposed distribution has been the subject of protracted on-going discussions over the last few years. The outcome represents a pragmatic solution from all councils to release the monies for investment in local services.

6.6 For the Pool to continue in its current form with involvement of all councils in Leicestershire it is important each council agrees to the proposed methodology. All council's with the exception of the County Council and North West Leicestershire District Council have already approved the proposed distribution methodology through their relevant governance processes. The County Council is due to consider the proposed distribution methodology at its Cabinet meeting on 23 June 2023.

- 6.7 The proposed distribution methodology is a fundamental change to the Pool and the way it was designed to operate when it was established. As such the Agreement that underpins the Pool will need to be updated to reflect any changes to the way in which monies are distributed. This report requests that delegation is provided to the Chief Executive, in consultation with the Chief Finance Officer and Leader of the Council, to approve any necessary agreements on behalf of the Council to give effect to the new methodology.
- 6.8 The current Agreement underpinning the Pool requires councils to commit to being part of the Pool by the 30 June in the preceding financial year of the Pool's operations. For example participation in the Pool for the 2025/26 financial year is required by 30 June 2024. The timing will be important for when the Council considers its participation. It is advised the appropriate time to do this would be part of the budget and medium term planning process that concludes in February each year. This would provide sufficient time to provide certainty to other participating councils and improve certainty in the Council's financial planning.

7.0 Risks

- 7.1 The key risks and mitigations arising from this report are:

Risk	Mitigation
The Pool collapses due to all councils not being able to agree and unable to create a new Pool leading to future Pool benefits returning to Government	The proposed approach is a negotiated approach involving all councils in Leicestershire. Once all councils have signed up to the proposed distribution approach it will mitigate the risk of the Pool collapsing. If the current Pool did collapse the Council could work to create a new Pool. However, there is no guarantee Government would sign off the creation of the new Pool.
Growth in North West Leicestershire happening and not enough monies to fund infrastructure required	Currently the Council has not been overly successful in securing resource from the Business Rates Pool from the LLEP. The proposed distribution methodology secures the Council a proportion of monies from the Pool.
The Pooling benefits reduce when the Government undertake a national Business Rates Reset	This is a risk outside the Council's control. The Council should continue its current financial strategy of using the additional proceeds from business rates growth to finance the Council's capital and one off investment programmes. This will ensure the Council does not over commit its on-going revenue budgets and risk its financial stability. A national reset would also lead to a reduction in the level of monies received by the Council, and all other councils, from the Pool.
Reputational issues for the Council with	The mitigations against reputational risk

other councils in Leicestershire	are set out in the proposals in the report and above in the aforementioned risks. The Council has worked extensively with all councils in Leicestershire to maintain positive relationships and minimise any reputational issues.
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Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Supporting Coalville to be a more vibrant, family-friendly town - Support for businesses and helping people into local jobs - Developing a clean and green district - Local people live in high quality, affordable homes - Our communities are safe, healthy and connected
Policy Considerations:	Monies arising from the Pool are being used to fund the Capital Programme approved by Council in February 2023.
Safeguarding:	There are no direct safeguarding considerations arising from the report.
Equalities/Diversity:	There are no direct equalities/diversity considerations arising from the report.
Customer Impact:	There are no direct customer impacts arising from the report.
Economic and Social Impact:	There are no direct economic or social impacts arising from the report.
Environment and Climate Change:	There are no direct environment and climate change impacts arising from the report. as a result of the decision.
Consultation/Community/Tenant Engagement:	Extensive negotiation and engagement has been undertaken with all councils in Leicestershire to develop the proposed Pool distribution methodology.
Risks:	The key risks are outlined in Section 7 of the Report.
Officer Contact	Glenn Hammons Interim Director of Resources glenn.hammons@nwleicestershire.gov.uk

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	PRIVATE SECTOR HOUSING POLICIES	
Presented by	Cllr Michael Wyatt Deputy Leader and Portfolio Holder for Community Services PH Briefed Yes	
Background Papers	Agenda for Community Scrutiny Committee on Wednesday, 5th April, 2023, 6.30 pm - North West Leicestershire District Council (nwleics.gov.uk)Microsoft Word - Environment Directorate Enforcement Policy - amended 25.09.06.doc (nwleics.gov.uk)	Public Report: Yes Key Decision: Yes
Financial Implications	<p>The report provides the Council with the ability to levy financial penalties as part of its housing enforcement activities to raise standards. From a financial perspective the penalties generate an additional income stream, as well as being an alternative to costly legal action for the Council.</p> <p>At the inception of the enforcement approach the level of income from financial penalties is difficult to predict. The level of income will be regularly monitored and on an annual basis, starting in 2024/25, will be reflected as part of the budget process. The income from financial penalties is required to be retained by the Council for its housing standards enforcement activities.</p> <p>The Council will incur staffing costs to enforce these policies, which are funded from the housing service base budget. Once the level of penalty income is known with more certainty there will be the opportunity to off set these costs.</p> <p>Signed off by the Section 151 Officer: Yes</p>	
Legal Implications	<p>No direct legal implications arising from the report, though it is noted that financial penalties offer an alternative to costly legal action.</p> <p>Signed off by the Monitoring Officer: Yes</p>	

Staffing and Corporate Implications	Signed off by the Head of Paid Service: Yes
Purpose of Report	<p>To seek approval of the following policies:</p> <ul style="list-style-type: none"> • Housing Enforcement Policy • Updated General Enforcement Policy • Civil Penalty Policy • Minimum Energy Efficiency Standards (MEES) • Carbon Monoxide and Smoke Alarms <p>Cabinet to note:</p> <ul style="list-style-type: none"> • The Electrical Safety Standards, Process and Overview procedure
Reason for Decision	To continue housing related work to improve the properties people live in.
Recommendations	<p>THAT CABINET:</p> <ol style="list-style-type: none"> 1) NOTES THE COMMENTS FROM COMMUNITY SCRUTINY COMMITTEE 2) APPROVES THE HOUSING ENFORCEMENT POLICY 3) APPROVES THE FOLLOWING POLICIES: <ol style="list-style-type: none"> A) UPDATED GENERAL ENFORCEMENT POLICY B) THE CIVIL PENALTY POLICY C) THE MINIMUM ENERGY EFFICIENCY STANDARDS POLICY D) THE CARBON MONOXIDE AND SMOKE ALARMS POLICY 4) NOTES THE ELECTRICAL SAFETY, STANDARDS, PROCESS AND OVERVIEW PROCEDURE 5) APPROVES A REDUCTION FOR EARLY PAYMENT OF FINES 6) DELEGATES AUTHORITY TO THE HEAD OF COMMUNITY SERVICES TO MAKE ANY MINOR CHANGES TO THE ABOVE POLICIES 7) DELEGATES TO THE STRATEGIC DIRECTOR RESPONSIBLE FOR PRIVATE HOUSING ENFORCEMENT THE OPTION TO GRANT AN ORDER OF SALE.

1.0 BACKGROUND

- 1.1 The Council has a statutory duty to enforce a wide range of legislation, with regulatory functions being delivered by several service areas across the Council. To ensure there is transparency and consistency in the approach to enforcement across the Council there is a General overarching Enforcement Policy which was approved by Cabinet in September 2014.
- 1.2 It is now proposed to introduce an overarching private sector Housing Enforcement Policy that sits under the General Enforcement Policy. It would also be helpful for the Council to have in place measures to deal with offences by way of civil penalties, for

example. The General Enforcement Policy has also been updated as part of this work to ensure that it is up to date.

- 1.3 The Housing Enforcement Policy sets out the approach of the Council to housing enforcement and it sets out what owners, landlords, their agents and tenants can expect from the Council. Having such a Policy also reduces the risk of successful challenge to any legal action the Council take.
- 1.4 Authorised officers within the Environmental Protection Team have both statutory duties and discretionary powers to undertake enforcement action, using a range of legislation to address issues arising at rented properties, caravan sites and mobile home sites.
- 1.5 The Environmental Protection Team works with a number of different teams across the Council but in particular with Housing Choices. The teams work together when there is a possibility that people may become homeless either through the action of a landlord or enforcement action via the Council. The teams have also worked very closely recently managing the Ukraine work. On some occasions the relationship between the hosts and guests can break down. Therefore, a re-match may be required and the teams work closely to manage any homeless situation.
- 1.6 Community Scrutiny Committee considered the report on 5 April and the minutes can be found at Appendix G. The Cabinet report and housing enforcement policy has been updated to reflect the comments raised.

2.0 Housing Enforcement Policy

2.1 The draft Housing Enforcement Policy aims to:

- Demonstrate transparency of enforcement with respect to private sector housing, caravan sites and park home sites within the district by setting out legal requirements and principles that officers will follow when enforcing legislation.
- Ensure that all properties let as residential properties throughout the district, including those in private ownership, are of good quality and well managed.
- Ensure that all residents of North West Leicestershire have a home that is safe, secure, dry and not overcrowded.
- Improve the condition and energy efficiency of homes in the private rented sector and raise housing standards where possible.
- Ensure Houses in Multiple Occupation (HMO's) are safe and well managed, and all relevant Management Regulations are adhered to.
- Ensure Private Sector Housing is not left empty for an unreasonable period of time or becomes an eyesore and nuisance to neighbouring homes.

2.2 The Policy applies to both individuals and businesses and should be read in conjunction with the Council's General Enforcement Policy which sets out the overarching parameters of enforcement.

2.3 The main objectives of the Policy are to ensure that:

- Privately rented accommodation, including houses in multiple occupation ("HMO"), and accommodation provided by registered providers of social housing, are free from actionable hazards that affect the health and safety of the tenant, licensee or any visitor.

- Private rented accommodation and tenancies are managed in accordance with relevant statutory requirements.
 - Privately rented accommodation meets minimum energy efficiency ratings.
 - All licensable properties are licensed, with licence conditions being met.
 - Targeted action is taken to bring empty homes back into use.
 - Owners or occupiers of privately owned accommodation or land do not cause a statutory nuisance, or an unacceptable risk to public health and safety, or to the environment or neighbourhood.
 - Caravan and mobile home sites are managed in compliance with site licence conditions and relevant statutory requirements.
- 2.4 The Environmental Protection Team will respond to enquiries and complaints about substandard, unsafe, problematic and empty housing and where standards are not met enforcement action may be taken.
- 2.5 Decisions will be made by competent and authorised officers, in accordance with legislation and by having regard to enforcement guidance as to the most appropriate course of action. In line with the policy, generally an incremental approach to enforcement will be implemented and where there is non-compliance after an informal approach has been made, formal action will be considered. However, where there are serious breaches of legal requirements, the Council will consider formal action in the first instance to safeguard the health, safety and welfare interests of occupiers, visitors and members of the public.
- 2.6 Tenants may be fearful of making a housing complaint due to the risk of retaliatory eviction. Therefore, Officers ensure that when they undertake investigations tenants are made aware of their rights and Officers are mindful of retaliatory eviction.
- 2.7 A revenge or retaliatory eviction is when a private landlord takes steps to evict tenants just because they have asked for repairs or complain about the housing conditions.
- 2.8 If an Officer suspects that a retaliatory eviction may have taken place, they will take steps to investigate the matter and take appropriate enforcement action where required.
- 2.9 The government has now published the Renters Reform Bill which is intended amongst other things to bring an end to “no fault” evictions through the use of section 21 of the Housing Act 1988. The team will monitor progress of the Bill and ensure that both tenants and landlords are aware of the changes when they come into force so that they are aware of their rights and responsibilities. Depending on the final Act this may require an update to the attached policies, which if so will be undertaken.
- 2.10 There has been an increase in the number of housing related enquiries received by the team over the past five years, with the most significant increase over the duration of the Covid pandemic, as more people were at home for longer periods. More recently, there has been a prioritisation of how the Council respond to reports of damp and mould in the private rented sector. There has also been an increase in demand within the team for housing standard inspections as part of the Homes for Ukraine scheme. The specific Housing Enforcement Policy will ensure a fair and transparent approach to housing and should reduce the risk of successful challenge against any enforcement action if due regard for the policy has been taken in the decision-making process.
- 2.11 Table one – housing service requests received by the team over a five-year period.

Year	Number of Complaints received
2022-23	122
2021-22	123
2020-21	134
2019-20	157
2018-19	120

- 2.12 There are currently 97 licenced Houses in Multiple Occupation (HMO) across the district.
- 2.13 When reviewing the 2022/23 service request figures with the data in relation to section 21 eviction notices, there were four cases where the Council held information that showed tenants received a section 21 notice subsequent to the service request being opened. However, in each case the landlord provided justification to suggest the notice was not retaliatory and one was because the scale of repairs identified required vacant possession to effectively carry out them out so was as a result of the repairs being identified. The team continue to monitor service requests to ensure any section 21 notices are not served in retaliation.
- 2.14 The Council's Housing Strategy Team previously held a landlord's forum that met twice yearly. The Environmental Protection Team attended the forum as it provided an opportunity to raise awareness of new legislation, service initiatives and housing standards enforcement. The Forum was paused during covid although information is still shared with the participating landlords on an ad-hoc basis. The Housing Strategy Team is currently considering options to relaunch the forum and this would provide an opportunity for the Environmental Protection Team to promote these new policies to a relevant audience. The forum could also provide a vehicle to engage landlords around the idea of a Landlord's Charter.
- 2.15 The updated General Enforcement Policy can be found in Appendix A.
- 2.16 The draft Housing Enforcement Policy can be found in Appendix B.

3.0 Civil Penalties Policy

- 3.1 Section 126 and Schedule 9 of the Housing and Planning Act 2016 introduces a number of amendments to the Housing Act 2004. The Housing and Planning Act 2016 provides powers that allow the Council to impose a financial penalty as an alternative to prosecution for specific offences under the Housing Act 2004.
- 3.2 A civil penalty is a financial penalty that may be imposed in instances where there are breaches of legislation which is considered to be a criminal act. However, before imposing a civil penalty the Council must be satisfied 'beyond all reasonable doubt' that a persons' conduct amounts to the relevant housing offence as defined by The Housing Act 2004.
- 3.3 A civil penalty can be imposed on a landlord or letting agent or both. The civil penalties are intended to be issued against landlords or letting agents that are in breach of one or more of the sections of the Housing Act 2004 and the Housing and Planning Act 2016 as detailed below:

- Section 30 – Failure to comply with an Improvement Notice
- Section 72 – Offences in relation to licensing of HMO
- Section 95 – Offences in relation to licensing of houses under Part 3 (Inc. Selective Licensing)
- Section 139 – Offences of contravention of an overcrowding notice
- Section 234 – Failure to comply with management regulations in respect of HMO
- Breach of a banning order (section 21 of the Housing and Planning Act 2016)
- Breach of any of the landlord duties prescribed under regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

- 3.4 When determining the level of the civil penalty the severity and harm of the offence must be considered as stated in Section 63 Sentencing Act 2020: “in considering the seriousness of any offence the court must consider the offender’s culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably cause”. Harm includes actual harm caused as well as risk of harm.
- 3.5 There is a right of appeal to a Civil Penalty. The person served with the Final Notice has the right to appeal to the First Tier Tribunal against the decision to impose a penalty; or the amount of the penalty. The appeal must be made within 28 days of the date the Final Notice was issued. If a person appeals, the Final Notice is suspended until the appeal is determined or withdrawn.
- 3.6 Cabinet is asked to consider the introduction of a lesser charge for early payment of the penalty to encourage prompt payment and this will also reduce the administrative burden on the Council.
- 3.7 The Council can offer a discount to landlords and agents who pay the civil penalty in full within 28 days of the Final Notice being issued. In accordance with sentencing requirements, the reduction would be one third.
- 3.8 Recovery of an unpaid Civil Penalty would be through the Council’s debt recovery process.
- 3.9 Where a civil penalty is appealed and the First Tier Tribunal confirms or varies the penalty, this decision will be automatically registered on the Register of Judgments, Orders and Fines when it is accepted by the County Court. This may affect the landlord’s ability to obtain financial credit due to the Register of Judgment Order made against the individual.
- 3.10 Using civil enforcement as part of a graduated approach to enforcement means that prosecutions will be reserved for the most serious of cases where civil enforcement is not appropriate.
- 3.11 A copy of the draft Civil Penalties Policy can be found in Appendix C.

4.0 Minimum Energy Efficiency Standards

- 4.1 Legislation has been introduced for the regulation of energy efficiency within the private rented housing sector. This imposes an obligation on private sector housing landlords to achieve a minimum energy performance within their properties, demonstrated by an Energy Performance Certificate with a rating of at least E.

4.2 A domestic private rented property is deemed “sub-standard” where the energy performance indicator of the property is below the minimum level of energy efficiency of Band E.

4.3 In order to enforce the regulations, the Council needs to have a policy on the financial penalties to be applied should a landlord be found to be:

- In breach of the prohibition on letting sub-standard property or
- In breach of the requirement to comply with a compliance notice or
- Guilty of uploading false or misleading information to the Exemptions Register.

4.4 The Council, as the enforcement authority, has the discretion to decide on the value of the financial penalties, up to the maximum limits set by the regulation. The proposed scale of financial penalties is set out in in table two.

4.5 Table two – Proposed Scale of Financial Penalties under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Breach	Max Financial Penalty	Proposed Financial Penalty
A) Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than three months.	£2000* plus a publication penalty.	£1000 plus a publication penalty for first offence at property (33% early payment discount)**. £2000 plus Publication penalty for subsequent offences at property (33% early payment discount).
B) Where the landlord has let a sub-standard property in breach of the Regulations for three months or more.	£4000 plus a publication penalty.	£2000 plus a publication penalty for first offence at property (33% early payment discount). £4000 plus Publication penalty for subsequent offences at property (50% early payment discount).
C) Where the landlord has registered false or misleading information on the Private Rented Sector Exemptions Register.	£1000 plus a publication penalty.	£1000 plus a publication penalty (33% early payment discount).
D) Where the landlord has failed to comply with compliance notice.	£2000 plus a publication penalty	£2000 plus a publication penalty (33% early payment discount)

*financial penalty amounts are set by the legislation

**early payment discount applies if penalty paid within 14 days of issue. The discount would be removed if an appeal against the notice is submitted.

- 4.6 A Local Authority can impose more than one financial penalty if there have been multiple breaches up to a maximum of £5000 per property.
- 4.7 If a financial penalty remains unpaid, where appropriate, the Council can apply for a charging order. This would be for cases where the amount of the financial penalty is more than £1,000. To recover the debt, the Council may consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the landlord and not just the property to which the offence relates. This decision will be made in conjunction with the Strategic Director. However, this action will generally be reserved for cases where the property is un-occupied.
- 4.8 The draft Minimum Energy Efficiencies Standards Financial Penalties Policy/Statement can be found in Appendix D.

5.0 Smoke and Carbon Monoxide (England) Regulations 2015

- 5.1 The regulations place a duty on landlords, which include freeholders or leaseholders who have created a tenancy, lease, licence, sub-lease or sub-licence. The regulations exclude registered providers of social housing. The duty requires that landlords ensure that:
- A smoke alarm is installed on each storey of premises where there is living accommodation,
 - A carbon monoxide alarm is installed in any room of premises used as living accommodation, which contains a solid fuel burning appliance,
 - That checks are made by the landlord, or someone acting on his behalf, that the alarm(s) is/are in proper working order on the day the tenancy starts,
- 5.2 Where the Council believes that a landlord is in breach of one or more of the above duties, the Council must serve a remedial notice on the landlord. The remedial notice is a notice served under Regulation 5 of these regulations.
- 5.3 If the landlord then fails to take the remedial action specified in the notice within the timescale, the Council can require the landlord to pay a penalty charge. The charge is potentially made up of two parts, the punitive element (punishment) for failure to comply with the absolute requirement to comply with a remedial notice and a cost element relating to any remedial works arranged and carried out by the Council's contractors.
- 5.4 The Council has discretion to offer an early payment reduction if a landlord pays the penalty charge within fourteen days beginning with the day the penalty charge notice is served. Should a subsequent appeal be made it is proposed that the discount will be removed.
- 5.5 The proposed charges are as follows:
- £2,500 for the first breach to comply with a remedial notice: £1,675 for early payment (33% reduction)
 - £5,000 for each subsequent breach to comply with a remedial notice: £3350 for early payment, (33% reduction)
- 5.6 Early payment discount applies if payment is made within fourteen days of the penalty notice being issued and will be suspended if an appeal against the notice is submitted.

5.7 The draft Smoke and Carbon Monoxide Financial Penalties/Statement can be found in Appendix E.

6.0 Electrical Safety Standards Process and Overview

6.1 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (ESSPRS) came into force on 1 June 2020 (although the requirements apply to new tenancies from 1 July 2020 and existing tenancies from 1 April 2021). The regulations are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.

6.2 The aim of the legislation is to ensure that the electrical installation within rented properties is regularly checked and deficiencies are rectified in a speedy manner to minimise risk to the occupants. The provision of certification allows all parties to see evidence that this has occurred.

6.3 The Electrical Safety Standards Process and Overview can be found at Appendix F.

7.0 Financial

7.1 Income received from financial penalties is retained by the Council if it is used to support statutory functions in relation to its private rented sector enforcement. This is set out in Regulation 4 of The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 s.294A(7).

7.2 There is currently insufficient information to be able to estimate the level of income that may occur from the introduction of any of the policies. Due to the nature of enforcement work it is very difficult to predict income derived from financial penalties. Also, Officers follow a graduated approach to enforcement as per the Enforcement Policy and therefore formal enforcement action is a last resort. However, the income that is generated through this approach will be reviewed every year as part of the budget setting process and, if there is sufficient confidence in the level of income, will be incorporated into future years budget projections. Income from proactive enforcement work may lead to higher levels of income in the first instance and then as compliance improves the income is likely to stabilise. However, the Council takes a graduated approach to enforcement and if compliance is secured through the informal route this would not lead to income through financial penalties.

7.3 Before taking any legal action, the Council will consider the public interest test. Part of that consideration is the option to deal with the matter by way of civil penalty. Offering an early payment discount may reduce the risk of appeal against a civil penalty or other financial penalty notice which whilst this reduces the income received by the Council, it would also reduce the resource demands of the Legal and Environmental Protection Teams to respond to any appeal.

7.4 The capacity within the current team is limited, with 1.2 FTE for housing standards enforcement work. These posts are funded from the service base revenue budget. Therefore, the service is mainly complaint led and reactive.

8.0 Legal

8.1 There are many statutory or discretionary pieces of legislation enforceable by the Council. The Housing Enforcement Policy provides open and transparent information

on the Council's approach to housing enforcement and reduces the risk of legal challenge.

8.2 The Civil Penalties and other financial penalties policies widen the enforcement tools that are available to the Enforcement Officers to encourage compliance by landlords.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Local people live in high quality, affordable homes - Our communities are safe, healthy and connected
Policy Considerations:	The Council is not able to impose financial penalties without having an approved and published policy.
Safeguarding:	Any safeguarding concerns raised through the work within the Environmental Protection Team are referred as appropriate
Equalities/Diversity:	An Equalities Impact Assessment has been completed for these policies.
Customer Impact:	None
Economic and Social Impact:	None
Environment and Climate Change:	<p>Environmental Implications including contributions to achieving Zero carbon Council by 2030</p> <p>The Minimum Energy Efficiencies Standards Financial Penalties policy provides a regulatory framework for improving the energy efficiency in the private rented sector.</p>
Consultation/Community/Tenant Engagement:	None required
Risks:	Having clear and transparent published policies will reduce the risk of successful challenge against any proposed housing enforcement action.
Officer Contact	<p>Paul Sanders Head of Community Services Paul.Sanders@nwleicestershire.gov.uk</p>

General Enforcement Policy

Cabinet Approval: 23 September 2014
Refreshed and approved at Cabinet: 25 April 2023

General Enforcement Policy

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1. Introduction

- 1.1 One of North West Leicestershire District Council's principal duties is to ensure that individuals, businesses and others are meeting their statutory obligations and complying with the law relating to a range of issues from the payment of Council tax to the dropping of litter and producing safe food. To achieve this, Officers from the Council are authorised to take enforcement action.
- 1.2 A decision about enforcement action, and in particular the decision to prosecute, has serious implications for all involved. The Council applies this policy to ensure that:-
- Decisions about enforcement action are fair, proportionate and consistent.
 - Officers apply current Government guidance and codes of practice.
 - Everyone understands the principles that are applied when enforcement action is considered.
- 1.3 The purpose of this general enforcement policy is to set out what those being regulated can expect from the Council when enforcement activities are undertaken.

2. Approval and Application of the Enforcement Policy

- 2.1 This policy was approved by Cabinet on 23 September 2014. The policy has been refreshed and approved by Cabinet on 25 April 2023.
- 2.2 This policy applies to all law enforcement duties which the Council undertakes, except those undertaken by the Revenues and Benefits service. Revenues related enforcement action is detailed within a service specific Recovery Policy.
- 2.3 In addition some service areas have specific enforcement policies. Service specific policies should be read in conjunction with this policy.
- 2.4 'Enforcement' includes any action taken by Officers aimed at ensuring that individuals or businesses comply with the law. This is not limited to formal enforcement actions such as prosecution, formal cautions and the issuing of enforcement notices; it also includes, for example, activities undertaken for the purpose of checking compliance with Acts of Parliament and Regulations, and the provision of advice to facilitate compliance. Some activities undertaken for the purposes of checking compliance is fee earning e.g. building control inspection.
- 2.5 This policy helps to promote efficient and effective approaches to inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens. This policy has been produced having had regard to the Regulators' Code (RC). Requirements of the Code are explained further at section 6.

3. How to obtain a copy of the Policy or make comments

- 3.1 This policy is available in printed format at the Council Offices. It is posted on the Council's website at: www.nwleics.gov.uk and is available in other formats or on disc on request.
- 3.2 If you need any help in understanding this policy, or you would like to comment on the contents, please contact us by:
- telephoning 01530 454545
 - e-mailing ehealth@nwleicestershire.gov.uk
 - writing to the Strategic Director of Place, North West Leicestershire District Council, PO Box 11051, Coalville, LE67 0FW.

4. General Principles

- 4.1 Each set of circumstances is unique and must be considered on its own merits. However, there are general principles that apply to the way each case will be approached. The principles of good enforcement contained in the Enforcement Concordat produced by the Cabinet Office have been formally agreed and adopted by the Council.
- 4.2 Authorised Officers must be fair, independent and objective and must not let any personal views about issues such as ethnic or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender influence their decisions. They must not be affected by improper or undue pressure from any source.
- 4.3 All authorised Officers will have regard to the Policy and take action which is proportionate to the risk and to the seriousness of any breach of legislation where appropriate. In most circumstances Officers have a range of actions available to facilitate compliance ranging from an educational and advisory approach to recommending legal proceedings. However, in certain circumstances legislation is prescriptive and this will limit the discretion of the Authorised Officer. In some circumstances persistent breaches will result in formal action being taken for what would normally be regarded as less serious contraventions.
- 4.4 Consideration will be given to the particular interests of customers including business owners, employees and the public. For example, where the hours of operation of a business do not coincide with normal office hours, we will endeavour to agree a mutually acceptable time or visit during the business's normal trading hours. Similarly, where English is not spoken as a first language, and there is particular difficulty in communication, the services of a suitable translator/interpreter and the provision of information in a relevant accessible form will be considered. Where formal action is proposed, the assistance of an interpreter may be obtained to ensure fairness. There may be occasions when a relative or friend of the individual may act as an interpreter. Officers will seek to confirm that their statements and questions are clearly understood.
- 4.5 Advice and information will be available and given, and businesses, employees and the public will be encouraged to contact the Council regarding relevant matters. The Council retains the right to charge for advice. See fees and charges for further information.
- 4.6 All Officers undertaking enforcement activities will be duly authorised under the Council's scheme of delegation and will be appropriately trained.

- 4.7 All authorised Officers will be made fully aware of the requirements of this Policy. Any departure from this Policy will have to be justified to, and endorsed by, the relevant Head of Service.
- 4.8 This Council is committed to the Equality of Opportunity in employment and the provision of services. Accordingly, this policy will take into account all equality and diversity issues.

5. Enforcing the Law

- 5.1 The Council believes in firm but fair regulation, and its enforcement activities follow these essential principles:-

- **Transparency**

Transparency means helping individuals and businesses to understand what we expect of them and what they should expect from us.

- **Consistency**

Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.

- **Targeting**

Targeting means making sure that, whilst all requests for service are responded to, regulatory effort is directed primarily towards those whose activities actually or potentially give rise to the most serious risks to public safety and the environment.

- **Proportionality**

Proportionality means relating enforcement action to the risks posed. Any action taken by Officers will be proportionate to the seriousness of any breach. Persistent minor breaches may also be viewed as serious.

- **Accountability**

Our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient feedback and complaints procedures.

6. Regulator's Code

Specific Obligations of the Regulators Code on the Authority

- 6.1 When developing policies and operational procedures relating to the regulatory functions and activities within the scope of the Regulators' Code the Council will have regard to the requirements of the Code. This Code applies to the regulatory functions listed under Part 3 of the Legislative Reform (Regulatory Functions) Order 2007. They are:
- Food Standards and Safety
 - Environmental Protection
 - Housing

Animal Health and Welfare
Licensing
Public Health and Safety
Anti Social Behaviour
Consumer and Business protection

6.2 However, in certain circumstances we may conclude that a provision in the Code is either not relevant or is outweighed by another relevant consideration. We will ensure that any decision to depart from the Code is properly reasoned, based on material evidence and documented.

The Council will:

6.2.1 Carry out activities in a way that supports those they regulate to comply and grow.

- The Council will avoid imposing unnecessary regulatory burdens through regulatory activities. The Council will choose proportionate approaches based on relevant factors including, for example, business size and capacity.
- When designing and reviewing policies the Council will consider how to support or enable economic growth for compliant businesses, for example minimising the costs of compliance, improving confidence in compliance and encouraging and promoting compliance.
- The Council will ensure that Authorised Officers have the necessary knowledge and skills to support those we regulate.

6.2.2 Provide simple and straightforward ways to engage with those they regulate and hear their views

- The Council will have mechanism in place to engage those we regulate, residents and others to offer views and contribute to the development of policies and service standards.
- In responding to identified non-compliance the Council will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. The Council will provide an opportunity for dialogue in relation to the advice or decision. This does not apply where the Authorised Officer can demonstrate that immediate action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed action.
- Where the Councils enforcement actions allow for an appeal an impartial and clearly explained route to appeal against a regulatory decision will be provided. The Council will explain in writing any right to representation or right of appeal.
- The Council will make available a clearly explained complaints procedure. The Council will have a range of mechanisms to receive customer feedback. These processes are specific to each service area.

6.2.3 Base regulatory activities on risk

- The Council will take an evidence based approach to determining the priority risks and will allocate resources where they would be most effective in addressing those priority risks.
- The Council, when making an assessment of risk, will recognise the compliance record/history of those they regulate.
- The Council will review the effectiveness of its chosen regulatory activities in delivering the desired outcomes.

6.2.4 Share information about compliance and risk

- The Council will collectively follow the principle of “collect once, use many times” when requesting information from those it regulates.
- Where the law allows the Council will agree secure mechanisms to share information with other regulators about businesses to help target resources and activities.

6.2.5 Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.

- The Council will provide advice and guidance that is focussed on assisting those it regulates to understand and meet their responsibilities. Legal requirements will be distinguished from good practice.
- The Council will publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language.
- The Council will seek to create an environment in which those it regulates have confidence in the advice received and feel able to seek advice without fear of triggering enforcement action.
- In responding to requests for advice, the Council will provide the advice necessary to support compliance, and will ensure that its advice can be relied on.
- The Council will have a mechanism in place to work collaboratively to assist those regulated by more than one regulator. The Council will consider advice provided by other regulators and, where there is disagreement, this will be discussed with the other regulator to reach agreement.

6.2.6 Ensure their approach to the regulatory activities is transparent.

- The Council will publish a set of clear service standards, setting out what those it regulates can expect from them.
- Any information published to meet the requirements of the Code will be easily accessible, including being available on the Council’s website.
- The Council will have a mechanism in place to ensure that Authorised Officers act in accordance with published service standards, including the Council’s enforcement policy.

- The Council will publish details of performance against service standards, including feedback from customer satisfaction surveys and data relating to complaints and appeals.

7. Notifying Alleged Offenders

- 7.1 If we receive information that may lead to enforcement action against an individual or business we will notify that individual or business as soon as is practicable of any intended enforcement action, except in the circumstances described in 7.3 below.
- 7.2 During the progression of enforcement investigations/actions, individuals, business proprietors and witnesses will be kept informed of the progress of the matter under investigation. Confidentiality will be maintained and personal information about individuals will only be released during legal proceedings when required and/or in accordance with the Data Protection Act 1998.
- 7.3 In certain circumstances, we may choose not to keep individuals, business proprietors or witnesses informed of progress if this could impede enforcement action.

8. Covert Surveillance

- 8.1 During an investigation into suspected non-compliance with legislation the Council may need to undertake directed covert surveillance from time to time. This may include remote sound or video monitoring equipment as well as personal observation. When this is necessary the requirements of the Regulation of Investigatory Powers Act 2000 will be complied with.

9. Deciding what level of enforcement action is appropriate

- 9.1 A decision on enforcement action will be taken on its own merits and after full consideration of the implications and consequences of the action. While fair and effective enforcement is essential to the maintenance of law and order, a breach of criminal law may not necessarily result in enforcement action.
- 9.2 A number of factors are considered when determining what action to take. These factors are detailed in **Appendix 1 [Factors we consider when taking enforcement action]**.

Levels of enforcement action:

We will take steps to help individuals and organisations comply with their legal obligations without unnecessary expense, while at the same time taking firm enforcement action where appropriate against those who flout the law or act irresponsibly. Officers have a range of actions at their disposal in seeking to secure compliance with the law and to ensure a proportionate response to apparent offences. **The range of enforcement actions available differs between Regulatory functions.**

The level of the action taken varies from no action through to proceedings in Court. Examples of the main types of action that can be considered are shown below:-

- No Action
- Verbal Warning and/or Advice
- Written Warning and/or Advice

- Acceptable Behaviour Contracts (ABC)
- Fixed Penalty Notices (FPN)
- Formal Notices
- Anti-Social Behaviour Injunction (ASBI)
- Seizure
- Court Injunction
- Refusal, Revocation or suspension of a Licence
- Formal Caution
- Prosecution

i) **No Action**

In some circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the District Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade, or the offender is elderly, frail or a juvenile and formal action would seriously damage their well being. A decision to take no action must take into account the health, safety, environmental damage or nuisance implications of the contravention.

ii) **Verbal Warning and/or Advice**

For minor breaches of the law verbal advice will generally be given to the offender. We will clearly identify the contraventions of the law and give advice on how to put them right and include a deadline by which this must be done. Sometimes we will advise offenders about 'good practice', but we will clearly distinguish between what they must do to comply with the law and what is advice only.

Failure to comply could result in more severe enforcement action being taken. The time allowed must be reasonable, but must also take into account the health, safety and nuisance implications of the contravention.

iii) **Written Warning and/or Advice**

For some contraventions we will send the offender a firm but polite letter clearly identifying the contraventions, giving advice on how to put them right and including a deadline by which this must be done. Failure to comply could result in a notice being served or more severe enforcement action being taken. The time allowed must be reasonable, but must also take into account the health, safety and nuisance implications of the contravention.

iv) **Acceptable Behaviour Contracts (ABC)**

For repeat or serious cases of anti-social behaviour, it may in some circumstances be appropriate for an individual to be asked to sign an acceptable behaviour contract. The ABC is a written agreement between the person who has committed repeated incidents of Anti-Social Behaviour and the Council and/or the police. The contract is entered into voluntarily and clearly details the actions which the perpetrator is no longer allowed to engage. In

addition, a personalised support package is offered to help the individual keep to the conditions of their contract.

v) **Fixed Penalty Notices (FPN)**

For some contraventions Fixed Penalty Notices are issued once an offence has been committed, requiring the offender to discharge their liability to prosecution by payment of a fixed sum. Failure to pay the fixed sum will result in a prosecution being instigated unless there are exceptional circumstances.

vi) **Formal Notice**

Notices are served to require offenders to cease activities contravening the relevant legislation, to give offenders reasonable time to rectify a contravention or to require further information. Notices may require such activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed to comply with the notice must be reasonable, but must also take into account the health, safety, environmental damage or nuisance implications of the contravention.

All notices issued will include details of any applicable Appeals Procedures.

Certain types of notice allow the Council to 'carry out work in default'. This means that if a notice is not complied with [i.e. a breach of the notice] the Council may carry out any necessary works to satisfy the requirements of the notice. Where the law allows, the Council may then charge the person/business served with the notice the costs incurred in carrying out the work.

Failure to comply with a notice is an offence which will result in a prosecution being instigated unless there are exceptional circumstances.

vii) **Anti-Social Behaviour Injunction (ASBI)**

Anti-Social Behaviour Injunctions (ASBI) are civil orders which are intended to protect the public from Anti-Social Behaviour. An injunction can contain certain conditions prohibiting the offender from carrying out anti-social acts or from entering specific areas in which they have previously committed Anti-Social Behaviour. Injunctions can also contain conditions requiring the offender to do certain things for example attend alcohol awareness for alcohol related problems. The Court will determine how long an ASBI should apply for though this is usually 12 months. If an ASBI is breached by the offender they could be committed to prison for up to two years, fined or have their assets seized.

A court may grant an ASBI against anyone who is ten years of age or over. The Council must consult youth offending teams in applications against under 18s. If an under offender is under 18 and breaches an ASBI they can be made subject to a supervision order or, as a very last resort, a civil detention order of up to three months for 14-17 year olds.

viii) **Seizure**

Certain legislation enables authorised Officers to seize goods, vehicles or equipment. For example food that is unsafe or sound equipment that is being used to cause a statutory noise nuisance. When the Council seizes goods an

appropriate receipt will be given. Where the law requires, the Council will produce seized goods before the Magistrate Court.

ix) **Court Injunction**

In certain circumstances, for example where offenders are repeatedly found guilty of similar offences or where an injunction is a more appropriate course of enforcement action than any other, injunctions may be used as an enforcement measure to deal with repeat offenders or dangerous circumstances.

x) **Refusal, Revocation or Suspension of a Licence, Registration or Authorisation**

Certain types of premises/businesses require a licence, registration or authorisation to operate legally. In order to warrant refusal/revocation one of the following criteria must apply to the licensed individual or organisation:-

- No longer a fit and proper person.
- Deliberately or persistently breached legal obligations, which were likely to cause material loss or harm to others.
- Deliberately or persistently ignored written warnings or formal notices.
- Endangered, to a serious degree, the health, safety or well being of people, animals or the environment.
- Obstructed an Officer undertaking their duties.
- Deliberate or persistent breach of licence conditions.
- Any other reasonable cause.

xi) **Simple Caution**

This procedure is used as an alternative to prosecution to deal quickly and simply with less serious offenders to divert them from the criminal courts. For a simple caution to be issued a number of criteria must be satisfied:-

- Sufficient evidence must be available to prove the offence, and;
- The offender must admit the offence, and;
- The offender must understand the significance of the caution and give informed consent to being cautioned.

There is no legal obligation for any person to accept a simple caution.

A record of the simple caution will be kept on the appropriate local and/or national database, and will be kept on file for 3 years. If the offender commits a further offence, the simple caution may influence any decision to prosecute the further offence.. If during the time the caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

If the offender refuses to accept a caution then legal proceedings will normally be instigated.

The caution will also be recorded in the Council's Register of Convictions.

xii) **Prosecution**

A prosecution will normally ensue where one of the following criteria are met by the individual or organisation:-

- Deliberately or persistently breaching legal obligations, which were likely to cause material loss or harm to others.
- Significant or serious breach of legal obligations.
- Deliberately or persistently ignoring written warnings.
- Failure to comply with an enforcement notice, including the non-payment of a FPN
- Endangering, to a serious degree, the health, safety or well being of people, animals or the environment.
- Assaulting or obstructing an Officer in the course of their duties.

10. Determining whether a Prosecution or Simple Caution is viable and appropriate

10.1 The Council applies two 'tests' to determine whether a Prosecution or Simple Caution is viable and appropriate and follows guidance set by the Crown Prosecution Service when applying the tests:

- **The Evidential Test**

There must be sufficient evidence to provide a 'realistic prospect of conviction' against any defendant charged.

- **The Public Interest Test**

There may be public interest factors which are in favour of, or are against prosecution. These have to be considered before a decision regarding the final enforcement action (caution or prosecution) is taken.

For more information about the 'Code For Crown Prosecutors' visit:

http://www.cps.gov.uk/publications/code_for_crown_prosecutors/

10.2 If the case meets the evidential test, the Director will recommend appropriate formal action to the Head of Legal and Support Services. The Head of Legal and Support Services may then authorise a formal caution or prosecution.

10.3 Simple Caution or Prosecution proceedings will only be progressed when the case has passed both tests. Paragraphs 10.4 to 10.8 below, detail how this Policy applies to the consideration of taking a prosecution.

10.4 The Head of Legal and Support Services must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a separate test from the one that the criminal courts themselves must apply. A jury or magistrates' court should only convict if it is sure of a defendant's guilt.

- 10.5 When deciding whether there is enough evidence to prosecute, the Head of Legal and Support Services must consider whether the evidence can be used and is reliable.
- 10.6 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. A prosecution will usually take place unless there are public interest factors tending against prosecution, which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the court for consideration when sentencing the defendant.
- 10.7 The Investigating Officer(s), along with senior managers and the Council solicitors must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. The following lists include some common public interest factors, both for and against prosecution. These are not exhaustive and the factors that apply will depend on the facts in each case.

The more serious the offence, the more likely it is that a prosecution will be in the public interest. A prosecution is likely to be appropriate if:-

- A conviction is likely to result in a significant sentence.
- The evidence shows that the defendant was a ringleader or an organiser of the offence.
- There is evidence that the offence was premeditated.
- The victim of the offence was vulnerable, has been put in considerable fear, or suffered personal, damage or disturbance.
- The victim of the offence has suffered harassment, alarm or distress.
- The offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics.
- There is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption.
- The defendant's previous convictions or cautions are relevant to the present offence.
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct.
- A prosecution would have a significant positive impact on maintaining community confidence or safety.

A prosecution is less likely to be needed if:-

- The court is likely to impose a nominal penalty.
- The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution.
- The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence).
- The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement.
- There has been a long delay between the offence taking place and the date of the trial, unless:-

the offence is serious;
the delay has been caused in part by the defendant;
the offence has only recently come to light; or
the complexity of the offence has meant that there has been a long investigation.

- A prosecution is likely to impact adversely on the victim's physical or mental health, always bearing in mind the seriousness of the offence.
- The defendant is elderly, frail or a juvenile or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.
- The defendant has already discharged their liability through payment of a fixed penalty notice.

10.8 Deciding on the public interest is not simply a matter of adding up the number of factors on each side. The Investigating Officer(s), along with senior managers and the Council's Solicitors must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

11. Who decides what enforcement action is taken

11.1 For less serious infringements of the law, decisions about the most appropriate course of action are usually determined by the Investigating Officer(s). Decisions are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

11.2 For more serious offences, where the nature of the offence points towards prosecution or simple caution, decisions about enforcement will be recommended by the relevant Director or Chief Executive and authorised and instigated by the Head of Legal and Support Services.

Details of '**Who decides what enforcement action is taken**' is shown in **Appendix 2**.

12. Reconsidering a Prosecution Decision

Normally if the defendant is told that there will not be a prosecution, or that the prosecution has stopped, the case will not start again. However, they may be an occasion when the decision not to prosecute, offer a simple caution or stop a prosecution, may be overturned.

The reasons for this include:-

- Rare cases where a new look at the original decision shows that it was wrong.
- Cases which were stopped so that further evidence could be collected.
- Cases which were stopped due to lack of evidence but more significant evidence is discovered later.
- Cases involving a death in which a review following an inquest concludes that a prosecution should be brought.

13. Liaison with other regulatory bodies and enforcement agencies

- 13.1 Where appropriate, enforcement activities carried out by the Council will be co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.
- 13.2 In some cases, for example where there has been a work related death we will inform and liaise directly with Leicestershire Police. Joint investigations may also be undertaken with the Police and or the Health and Safety Executive. These provisions along with other matters relating to workplace health, safety and welfare are detailed within our Health & Safety Enforcement Policy available at www.nwleics.gov.uk.
- 13.3 Where an enforcement matter affects a wide geographical area beyond the District boundaries, or involves enforcement by one or more other local authorities or organisations; all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity co-ordinated.
- 13.4 The Council shares intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:
- Government Agencies, such as the Food Standards Agency, Health and Safety Executive, Environment Agency, Civil Aviation Authority and Public Health England.
 - Police Forces, such as Leicestershire Police
 - Fire Authorities, such as Leicestershire Fire and Rescue Service
 - Public Health Laboratory Service
 - Statutory undertakers, such as Severn Trent Water
 - Other Local Authorities
 - The Safer North West Partnership
- 13.5 Where wider regulatory matters can be more effectively addressed through joint working we will, where appropriate, enter into formal 'Enforcement Liaison Protocols'.
- 13.6 Where enforcement action is being considered against a business, reference will be made to the Primary Authority Scheme.
- 13.7 Where action is being considered in cases of persistent or serious anti-social behaviour a collective decision may be made by the local Community Safety Partnership (The Safer North West Partnership)

14. Offences

- 14.1 It is the duty of enforcement Officers to make sure that enforcement action is taken against the right person. In doing so they must act in the interests of justice and not solely for the purpose of obtaining a conviction.
- 14.2 The Investigating Officer(s), along with the Council's Solicitors should select the most appropriate legislation and ensure that cases are dealt with in the appropriate court which so that the prosecution
- Reflects the seriousness of the offence.
 - Gives the court adequate sentencing powers.
 - Enables the case to be presented in a clear and logical way.

- 14.3 Juveniles (persons aged 17 or under) can be served with warning letters, a Fixed penalty Notice or issued with an acceptable behaviour contract or anti-social behaviour order. Prosecutions can be brought in the Youth Court.

15. Considering the views of those affected by offences

- 15.1 The Council undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test (see section 10.1 above), the consequences for those affected by the offence, and any views they may have expressed, will, where appropriate, be taken into account.
- 15.2 Those people affected by the offence will be told about any decision that makes a significant difference to the case.

16. Actions by the Courts

- 16.1 In cases of sufficient gravity, for example where serious injury or ill health has resulted, consideration will be given to requesting that the Magistrates Court refers the case to the Crown Court where the legislation allows.
- 16.2 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers.
- 16.3 The Council will always seek to recover the costs of investigations which result in court proceedings.

17. Protection of Human Rights

- 17.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998.
- 17.2 Authorised Officers of the Council operate to a range of internal guidance documents that support the principles of primary human rights legislation, for example guidance relating to the Data Protection Act 1998 and Regulation of Investigatory Powers Act 2000. These guidance documents will be monitored by scheduled internal quality audits.

18. Publicity

- 18.1 Where appropriate, publicity will be actively sought for any enforcement action taken which could draw attention to the need to comply with the law or deter anyone else from non-compliance.
- 18.2 Information about enforcement actions will be made available on request subject to the restrictions placed on the authority by the Data Protection Act 1998 and the Freedom of information Act 2000.

19. Complaints, Appeals and Accountability

- 19.1 The Council operates a complaints procedure details of which are available on the website www.nwleics.gov.uk and in the leaflet entitled 'Have Your Say – Complaints, Comments and Compliments'
- 19.2 The mechanism for appeals against enforcement action taken will be referenced in all cases.
- 19.3 The actual service standards provided by the Council are contained in other service specific information.

20. Review of the Enforcement Policy

- 20.1 The implementation of this Policy will be monitored on an ongoing basis.
- 20.2 Every 5 years the Policy will be fully reviewed to ensure it is relevant.

Factors we consider when taking enforcement action?

Officer(s) carry out **investigations/inspections**. This can be done in response to a complaint or request for assistance, as part of routine planned inspections of business premises or survey work.

Investigating Officer discovers evidence and is satisfied that a **criminal offence** may have been committed or is about to be committed. This is called *Prima facie* evidence.

Investigating Officer considers a range of factors including:

- Previous History - whether any similar situation has been found before.
- Seriousness of the alleged offence(s), including:
 - Risks to the public or the environment
 - Any intent or recklessness of the person(s) committing the offence
 - Any obstruction of the Investigating Officer
 - Whether the alleged offence(s) are considered a special area of priority by Central Government and/or North West Leicestershire District Council
- Is their enough evidence to provide a realistic prospect of conviction
- Would any further action be in the public interest

For **LESS SERIOUS** infringements of the law and/or where there is no previous history of offences/non-compliance with legislation the following options are considered:

- **Informal Action** – verbal or written advice/warning
- **Statutory Notice** – service of a legal notice that will require certain specified action to be taken by the recipient

In all cases we will advise the alleged offender what he/she needs to do in order to comply with the law.

For **MORE SERIOUS** offences the following options will also be considered:

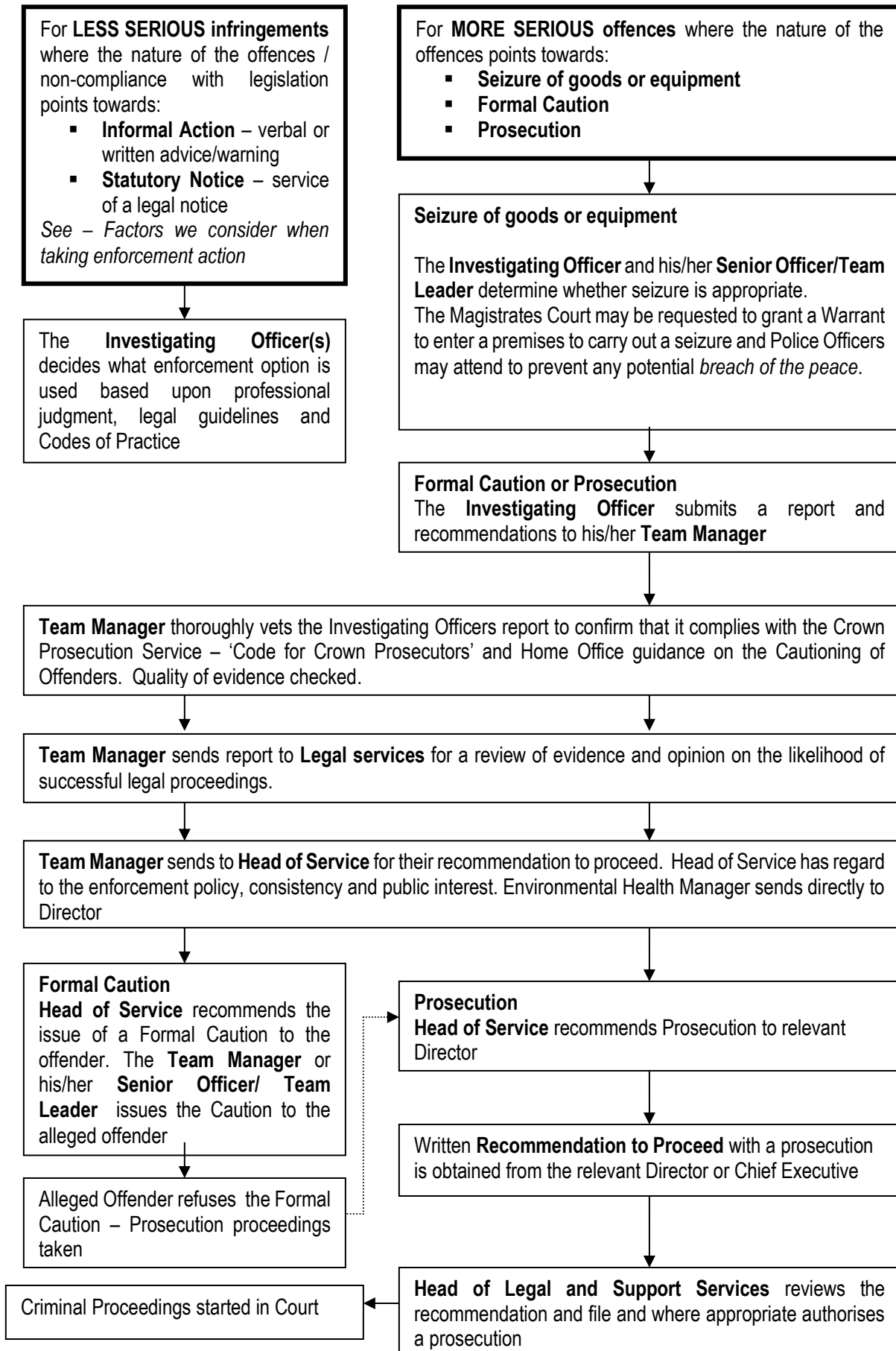
- **Seizure of goods or equipment** – In certain cases, goods or equipment may be seized to protect the public and/or employees, for example unsafe food or sound equipment being used to cause a nuisance.
- **Formal Caution** – a Formal Caution is an alternative to prosecution and can only be issued if strict criteria are met. The Home Office of Central Government sets these criteria. A Caution stays on public record for three years.
 - If a Formal Caution is offered to an offender, but he/she refuses to accept it then we may prosecute instead.
- **Prosecution** – legal proceedings are taken against the offender that results in the offender being summonsed to appear in Court. Any decision to prosecute is based upon guidelines set by the Crown Prosecution Service

In all cases the alleged offender will be informed of the matters under investigation and invited to attend a formal interview in accordance with the Police and Criminal Evidence Act 1984.

**See – Who Decides What Action is taken
[Appendix 2]**

Appendix 2 – Council General Enforcement Policy

Who decides what enforcement action is taken?



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Private Sector Housing Enforcement Policy

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Introduction

Local Housing Authorities (“LHA”) are the primary enforcement agency for ensuring the protection of the health, safety and welfare rights for occupiers and visitors in private sector housing within England and Wales.

North West Leicestershire District Council (“the Council”) has set out its overall approach to enforcement in its General Enforcement Policy 2014.

This policy sets out the general approach of the Council to private sector housing enforcement and it sets out what owners, landlords, their agents and tenants of private sector properties can expect from officers.

Authorised officers (“officers”) of the Council have both statutory duties and discretionary powers to undertake enforcement action, using a range of legislation, to address issues arising at private rented properties, caravan sites and mobile home sites.

Equality Statement

The Council and its officers are committed to the equality of opportunity in employment and the provision of its services. In developing this policy, the Council has recognised its responsibilities under the Equality Act 2010 to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between people who share protected characteristics and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

The council’s Equality, Diversity and Inclusion policy can be found on the Council’s website.

[Equality, Diversity and Inclusion - North West Leicestershire District Council \(nwleics.gov.uk\)](http://nwleics.gov.uk)

Approval of the Enforcement Policy

This policy was approved by the Council’s Cabinet on 23rd September 2014

Aim of the Policy

This Enforcement Policy aims to:

- Demonstrate transparency of enforcement with respect to private sector housing, caravan sites and mobile home sites within the district by setting out legal requirements, policies and principles that officers will follow when enforcing legislation;
- Ensure that all properties let as residential properties throughout the district, including those in private ownership, are of good quality and well managed;
- Ensure that all residents of North West Leicestershire have a home that is safe, secure, dry and not overcrowded;
- Improve the condition and energy efficiency of homes in the private rented sector through maintaining decency standards, and raising them where possible;
- Ensure Houses in Multiple Occupation (HMO’s) are safe and well managed and all relevant Management Regulations are adhered to;

- Ensure Private Sector Housing is not left empty for an unreasonable amount of time or becomes an eyesore and nuisance to neighbouring homes.

This Enforcement Policy applies to both individuals and businesses and should be read in conjunction with the general Enforcement Policy which sets out the general parameters of enforcement.

Enforcement

5.1 Regulators' Code

The Legislative and Regulatory Reform Act 2006 ("the 2006 Act") requires the Council to have regard to the Regulators' Code. This Enforcement Policy has regard to the Regulators' Code in that it follows the principles of good regulation set out in the 2006 Act, in that regulatory activities are carried out in a way that are transparent, accountable, consistent, proportionate to risk and targeted at cases where action is required.

Local Authorities are required by the Regulators' Code to publish a clear set of service standards, including their enforcement policy, explaining how they respond to non-compliance.

The Council's Service Standards can be found on the Council's website.

[Customer service standards - North West Leicestershire District Council \(nwleics.gov.uk\)](http://nwleics.gov.uk)

5.2 Enforcement Objectives

The main objectives of this Enforcement Policy are to ensure that:

- Privately rented accommodation, including HMOs, and accommodation provided by registered providers of social housing, are free from actionable hazards that affect the health and safety of the tenant, licensee or any visitor;
- Private rented accommodation and tenancies are managed in accordance with relevant statutory requirements;
- Privately rented accommodation meets minimum energy efficiency ratings;
- All licensable properties are licensed, with licence conditions being met;
- Targeted action is taken to bring empty homes back into use;
- Owners or occupiers of privately owned accommodation or land do not cause statutory nuisance, or an unacceptable risk to public health and safety, or to the environment or neighbourhood; and
- Caravan and mobile home sites are managed in compliance with site licence conditions and relevant statutory requirements.

Tenure Groups

The Public Protection Team has investigative and enforcement powers relating to all private housing regardless of tenure. However, the approach may vary depending on the tenure of the household. Tenure falls into broadly three main groups:

6.1 Private landlords and tenants

Tenants are reliant on their landlord or their managing agent to adequately maintain their home in accordance with legal requirements.

6.2 Owner occupiers

The prime responsibility for maintaining and improving this type of housing tenure is the responsibility of the owner.

6.3 Registered social landlords

Registered Providers (“RPs”) are governed by the Regulator of Social Housing. RPs have their own procedures in place for reporting problems and making complaints.

Tenants are primarily reliant on the Registered Social Landlord (RSL) to adequately maintain their home in accordance with legal requirements. If this is not the case, the Council will investigate complaints from tenants.

Inspections

Where there are reasonable grounds to suspect a failure or where there is a statutory duty to do so, authorised officers will inspect properties in the private rented sector that fail to meet regulatory housing standards. Where such inspections have been completed, the Council will consider whether further action is necessary. If further action is necessary, the Council will determine what action is most appropriate to the particular circumstances of the case and may decide to exercise enforcement powers if the circumstances of the case make it necessary to do so. The Council will consider an inspection where there are imminent and significant risks to the health and safety of tenants and or the wider public.

7.1 Reactive Inspections

Reactive inspections will be carried out on those premises for which there are statutory requirements and/or present the greatest risk to occupiers and the public, for example where:

- There appears to be significant risks to the health and safety of occupiers and/or visitors;
- The tenant or prospective occupier is vulnerable;
- The issues are complex or involve neighbouring properties; and/or
- There is a poor history of compliance with legal requirements for housing conditions and/or management practices.

7.2 Proactive Inspections

Proactive inspections will be carried out in respect of private rented accommodation that is subject to HMO and discretionary licensing (if adopted by the Council) under Parts 2 and 3 of the Housing Act 2004 respectively and caravan sites and mobile home sites licenced by the Council, for the purpose of assessing compliance with:

- Licence conditions;
- Licence evasion;
- Housing conditions; and/or
- Property management.

7.3 Targeted Inspections and Proactive Interventions

Targeted inspections may take place of properties owned or managed by landlords or managing agents who have a poor history of legal compliance with regard to providing satisfactory housing conditions and/or management practices. Intelligence of legislative breaches may be gathered from partner agencies, by identifying those with previous enforcement action or via lack of engagement.

This service will not usually act on anonymous complaints, unless there is good cause for further investigation such as an imminent risk or danger. Relevant information will be recorded in case of any future complaints.

Retaliatory Eviction

Tenants may be fearful of making a housing complaint due to the risk of retaliatory eviction. Therefore, Officers ensure that when they undertake investigations tenants are made aware of their rights and Officers are mindful of retaliatory eviction.

A revenge or retaliatory eviction is when a private landlord takes steps to evict tenants just because they have asked for repairs or complain about the housing conditions.

A revenge or retaliatory eviction cannot usually take place for 6 months after the Council has served an improvement notice or an emergency remedial action notice. However, the tenant must also have written to the landlord advising them of the repair issues.

If an Officer suspects that a retaliatory eviction may have taken place, they will take steps to investigate the matter and take appropriate enforcement action where required.

Enforcement Action

The Public Protection Team will respond to enquiries and complaints about substandard, unsafe, problematic and empty housing and where standards are not met, enforcement action may be taken.

Decisions will be made by competent and authorised officers, in accordance with legislation and by having regard to enforcement guidance, as to the most appropriate course of action. Where there is non-compliance after an informal approach has been made, formal action will be considered. However, where there are serious breaches of legal requirements, the Council will consider formal action in the first instance to safeguard the health, safety and welfare interests of occupiers, visitors and members of the public.

9.1 Prevention

The Public Protection Team encourages compliance with meeting regulatory housing standards for the maintenance of minimum housing standards and fair treatment of tenants by offering:

- Empty homes week;
- Landlord forum;
- Social media to highlight new legislation;
- Communication via website; and
- Mail shots.

9.2 No Action

In some cases, it may not be appropriate for the Council to take any enforcement action. The circumstances in which the Council may consider no action appropriate include:

- Where the risk is low and does not sufficiently present a significant risk to the occupiers, visitors or members of the public;
- The breach is of a technical nature;
- The allegations are unsubstantiated and unwitnessed;
- The tenant or occupier does not support enforcement action and the Council takes the decision enforcement action is not appropriate in the circumstances; and/or
- Where there are special circumstances regarding the person against whom action would be taken.

9.3 Informal Action

In the first instance, for most cases, tenants are encouraged to take their own action and report the problem to their landlord. This will usually be in the form of a written complaint affording the landlord sufficient time to respond. Where the problem cannot be resolved and a complaint is received by the Council the Public Protection Team will investigate.

Where defective housing conditions are evidenced to justify investigation and it is considered appropriate to take action, the Council aims to offer landlords, managing agents, owners and service users an opportunity to work informally with the Council to effect change to meet regulatory compliance and establish good management practices in respect of lower risks.

The circumstances in which the Council may consider informal action appropriate include:

- If taking no action presents a significant risk of harm to the occupiers, visitors or members of the public;
- Where the issue is not sufficiently serious to warrant formal action or where formal action will not achieve the desired result; and/or
- To allow responsible landlords, managing agents and owners an opportunity to comply with regulatory requirements and agree to undertake the works required by the Council in a short time scale.

9.4 Formal Action

When considering if formal enforcement action is to be taken, the Council will have regard to the impact the informal action has had, the lack of confidence in the property owner, including any history of non-compliance, and the health, safety and welfare of the occupants at the property. Anyone likely to be subject to formal enforcement action will receive clear explanations of what they need to do to comply and have an opportunity to resolve difficulties before formal action is taken.

The circumstances in which the Council may consider formal action appropriate include:

- If taking informal action has not achieved the expected outcome as set out in the request to take action or carry out works;
- The Council has a duty to serve a notice or order or take specific action;
- Remedial action needs to be taken quickly due to significant risk to the health, safety and welfare of the occupiers;
- There is evidence of previous non-compliance; and/or
- There is a long-term empty property.

The following options for taking formal action are available:

Action under the provisions of Part 1 of the Housing Act 2004 to:

- Serve an improvement notice under sections 11 and/or 12;
- Serve a suspended improvement notice under section 14;
- Make a prohibition order under sections 20 and/or 21;
- Make a suspended prohibition order under section 23;
- Serve a hazard awareness notice in accordance with sections 28 and/or 29;
- Take emergency remedial action under section 40;
- Make an emergency prohibition order under section 43; and
- Make a demolition order under section 265 of the Housing Act 1985.

The Council has a general duty to act where category 1 hazards are identified. The Council has a discretionary power to act in respect of category 2 hazards. All category 1 hazards will be dealt with as a priority over category 2 hazards.

9.4.1 Serving Statutory Notices or Orders

The Council will consider serving these notices when it is identified that a landlord is failing to comply with housing or other health and environmental legislation.

Legal notices will detail any rights of appeal and any rights to an extension of time to comply with the requirements of the notice, if requested for legitimate reasons.

9.4.2 Housing health and safety rating system (HHSRS)

The Housing Health and Safety Rating System (HHSRS) is a risk-based approach under the Housing Act 2004 used to tackle poor housing conditions and focus on any of the hazards that are potentially present within dwellings including those that are unoccupied. There are 29 hazards that arise from disrepair, lack of maintenance or poor design. The assessment determines whether there are category 1 or category 2 hazards and identifies the type of work that is needed on properties to conform with the requirements of the HHSRS assessment.

9.4.3 Improvement Notice

Section 11 of the Housing Act 2004 – Category 1 hazards;

Section 12 of the Housing Act 2004 – Category 2 hazards

This notice should be served in response to identified category 1 and category 2 hazards, where reasonable remedial works can be carried out to reduce the hazard sufficiently. Both category 1 and category 2 hazards can be included on the same notice.

9.4.4 Prohibition Order

Section 20 of the Housing Act 2004 – Category 1 hazards

Section 21 of the Housing Act 2004 – Category 2 hazards

This order should be served in response to identified category 1 and category 2 hazards. It may prohibit the use of part or all of a property for some or all purposes or for occupation by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is unreasonable or impractical. In a HMO it can be used to prohibit the use of specified dwelling units. Both category 1 and 2 hazards can be included on the same notice

9.4.5 Hazard Awareness Notice

Section 28 of the Housing Act 2004 – Category 1 hazards

Section 29 of the Housing Act 2004 – Category 2 hazards

This notice should be served where a less serious hazard has been identified but it is not reasonable or appropriate to serve an improvement notice or prohibition order. It is served in an advisory capacity to draw attention to the need for remedial action. This notice is not registered as a land charge and has no appeal procedure and both category 1 and category 2 hazards can be included on the same notice.

9.4.6 Emergency Action

Where there is a category 1 hazard present that is considered to represent an imminent risk of serious harm to the health and safety of the occupiers of a dwelling, the Council may serve an Emergency Prohibition Order or take emergency remedial action. Such emergency actions would involve either the removal of certain defects giving rise to an immediate risk or the closure of part of the dwelling.

9.4.7 Suspended Improvement Notices or Prohibition Orders

The Council has the power to suspend the operation of an Improvement Notices and Prohibition Orders until a specified time has passed or a specified event has occurred. Such action would not normally be the preferred enforcement action unless the circumstances of the current occupants were such that other options were not practical or where there is evidence of programmed maintenance by landlords. The suspensions must be registered as a local land charge and they must be reviewed at the very least every 12 months.

Other enforcement action

10.1 Demolition Order

Section 265 of the Housing Act 1985

Demolition Orders are orders requiring the demolition of a property and are used where the property condition is such that hazards are present and remedial works are not possible or reasonable because of excessive cost or other reason. A Demolition Order should only be used in response to category 1 hazards, but not if the building is listed.

10.2 Clearance Area

Section 289 of the Housing Act 1985

A Clearance Area can be declared on a single or group of properties as a result of category 1 hazards and can be served due to the poor arrangement of the street or area to be cleared. The Council is required to consult on the declaration of a clearance area and publish its intentions.

10.3 Drainage

Building Act 1984

The Council has the power to deal with defects in buildings that require major repairs to drainage systems.

10.4 Enforced Sale

The Council has the power to force the sale of a property where it seeks to recover unpaid debts incurred by the Council in undertaking essential repair works in default.

Local Authorities have the statutory power to force the sale of a property through section 103 of the Law of Property Act 1925. Where Local Authorities have carried out work in default under some of the above legislation and are unable to recover the debt, it is possible under this legislation to register a charge on the property. This charge can then be recovered by way of an enforced sale.

10.5 Rent Repayment Order

The Council may apply to the First Tier Tribunal for a Rent Repayment Order ("RRO") where a landlord has committed a relevant offence (as set out in section 40 of the Housing and Planning Act 2016). A RRO is an order requiring the landlord to repay a specified amount of rent paid by a tenant or pay a local housing authority a specified amount in respect of a relevant award of universal credit paid to any person in respect of rent under the tenancy.

An application for a RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a civil penalty. The Council will offer advice and guidance to assist tenants to apply for a RRO in cases where the tenant paid the rent themselves.

10.5.1 Relevant offences

- Failure to obtain a property licence for a HMO (section 72(1) of the Housing Act 2004);
- Failure to obtain a property licence for a house in a designated selective licensing area (section 95(1) of the Housing Act 2004);
- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004);
- Failure to comply with a Prohibition Order (section 32 of the Housing Act 2004);
- Breach of a Banning Order made under section 21 of the Housing and Planning Act 2016;
- Using violence to secure entry to a property (section 6 of the Criminal Law Act 1977);
- Illegal eviction or harassment of occupiers of a property (section 1 of the Protection from Eviction Act 1977).

10.6 Banning Orders

For serious offenders, where a landlord has committed one or more offences specified in the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018, the Council may apply to the First Tier Tribunal for a Banning Order that bans a landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

A banning order, if granted, must be for a minimum period of 12 months. There is no statutory maximum period for a banning order.

The Council will generally pursue a banning order for the most serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other banning order offences (or received any civil penalty in relation to a banning order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including:

- The harm, or potential harm, caused to the tenant;
- The need to punish the offender;
- The need to deter the offender from repeating the offence; and/or
- The need to deter others from committing similar offences.

10.7 Electrical Safety Standards

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“the Regulations”) require landlords to ensure the electrical installations in private rented sector properties are safe for continued use and carry out periodic testing to evidence this.

The Regulations apply to all new specified tenancies from 1st July 2020, and all existing specified tenancies from 1st April 2021, and require landlords to carry out electrical testing no more than every five years and provide copies to tenants and to the Council on request.

Where the Council believes that a landlord has breached their duties under the Regulations, it may do one, or a combination of, the following:

- Serve a remedial notice on the landlord, requiring them to take action in respect of the breach;
- Carry out urgent remedial action where a report indicates it is required;
- Carry out remedial action where a landlord is in breach of a remedial notice; and/or
- Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.

Representations and appeals are built into the legal process and these will be highlighted in any relevant correspondence and notices.

Where a financial penalty is proposed, the penalty shall be determined in accordance with the Council's Private Sector Housing Civil Penalties Policy. Proceeds of civil penalties can be used to carry out private rented sector enforcement.

10.8 Protection from unlawful eviction and harassment

The Council has the power to take criminal proceedings for offences of illegal eviction and/or harassment. If the evidence justifies it, officers may carry out investigations and the Council may consider prosecution if it believes an offence has been committed.

Where the harassment takes the form of the landlord/agent not undertaking necessary repairs, and the property is in poor condition, the Council also has powers under the Housing Act 2004, through the Housing Health and Safety Ratings System (HHSRS), to take enforcement action to secure improvements to the condition of the property.

10.9 Community Protection Notice

Authorised officers have the power to issue a Community Protection Warning (CPW) and Community Protection Notice (CPN) under section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014 to combat anti-social behaviour. CPNs can be used to tackle a landlord's behaviour where this is having a detrimental effect on the quality of life of those in the locality.

10.10 Work in default

The Housing Act 2004 and other legal powers outlined in this policy make provision for the Council to carry out works to a property where the person responsible has failed to comply with a formal notice. Any action taken would be in accordance with legislative requirements and may be taken either with or without the consent of the responsible person. The Council will aim to recover all costs incurred by completing work in default, the sum recoverable becomes a local land charge on the premises concerned.

10.11 Notice of Entry

Officers will give the required written notice under the appropriate power of entry and will clearly state which power of entry is being used and why.

Where the Council is unable to gain access using a notice of entry or where prior warning is likely to defeat the purpose of the entry the Council may apply to the Magistrates' Court for a warrant to enter.

If a warrant is authorised, entry can be secured by force, if necessary, in association with the police. Officers will, upon request, produce their identification and written authorisation for inspection.

10.12 Civil Penalties

The Council may serve notices imposing civil penalties, as an alternative to prosecution, of up to a maximum of £30,000 in respect of the following offences under the Housing Act 2004:

- Section 30 – Failure to comply with an Improvement Notice
- Section 72 – Offences in relation to licensing of HMOs
- Section 95 – Offences in relation to licensing of houses under Part 3 (inc. selective licensing)
- Section 139 – Offences of contravention of an overcrowding notice
- Section 234 – Failure to comply with management regulations in respect of HMOs
- Breach of a banning order (section 21 of the Housing and Planning Act 2016)
- A further breach of the Tenant Fees Act 2019 that occurs within five years of the imposition of a financial penalty or conviction for a previous breach (a civil penalty of up to £5,000 may be imposed in respect of an initial breach of the Tenants Fees Act 2019)

10.13 Simple caution

Simple cautions may be considered as an alternative to taking a prosecution.

When considering a simple caution the Council will take account of guidance and its general Enforcement Policy.

10.14 Prosecution

The Council may prosecute where there is a summary offence, a serious or recurrent breach or endangerment, to a serious degree, of the health, safety or well-being of people, or where there is a failure to comply with a statutory notice. The officer must investigate the offence, this may involve interviewing relevant people under caution, following the relevant parts of the Police and Criminal Evidence Act 1984.

When considering prosecution the council will take into account the Code for Crown Prosecutors and its general Enforcement Policy.

In prosecution cases where the defendant is found guilty by the Magistrates' Court or the Crown Court, in addition to any fine imposed the Council will seek to recover the costs incurred in bringing the prosecution case, including administrative costs for file preparation, attendance at court and associated legal services.

10.15 Proceeds of crime

The Proceeds of Crime Act 2002 affords the Council, where there is non-compliance by a landlord or owner with any legislative requirements in the private rented sector and who is in receipt of substantial financial gain, to consider taking action to confiscate or recover monies gained through illegal activities. The Council will consider using this legislation where appropriate.

10.16 Local land charge

Certain notices, orders and charges made under the Housing Act 2004 are required to be registered as a local land charge against the property to which it relates until the notice is either withdrawn or complied with. The Council will use this legislation where appropriate.

10.17 Recovery of costs

The Council will aim to recover all the costs and expenses it incurs in carrying out its statutory functions. The costs incurred will include the cost by hour of labour, parts and officer time. Action taken by the Council to recover costs and expenses will be in accordance with the legislative provisions of the relevant Acts.

The Council reserves the right not to invoice or to waive a charge for enforcement action in exceptional circumstances with each case being considered on its own merits.

All charges, where applicable, are set out in the North West Leicestershire District Council Fees and Charges Schedule.

The Licensing of Houses in Multiple Occupation

Mandatory requirements for licensing apply only to houses (or flats) that are in multiple occupation. Under current legislation, a landlord or agent must apply to the Council for a licence for each residential property having:

- Five or more occupiers living in two or more households; or
- Two or more households sharing amenities (either a kitchen, living room or bathroom/toilet facilities).

This enforcement policy will also apply to any properties which become HMO properties as a result of any future legislative changes.

The Council has discretionary powers to introduce licensing for other residential accommodation through additional or selective licensing schemes.

Additional licensing can be used for a HMO that is not subject to mandatory licensing.

11.1 Partnership working

The Council have a Memorandum of Understanding (MOU) with Leicestershire Fire and Rescue and will follow this when assessing fire safety in any HMO.

11.2 Overcrowding

Section 139 of the Housing Act 2004 allows the council to serve an Overcrowding Notice in respect of a HMO that is not required to be licenced or subject to an interim or final management order, where there is found to be a breach of the statutory overcrowding standard.

Officers will investigate complaints about overcrowded conditions from:

- Private rented sector tenants complaining about their own property;
- Other parties concerned about children or vulnerable adults; and
- Other parties where there are significant conditions that are legitimately impacting on a neighbour's health, safety or welfare.

In certain circumstances, advice may be given to the occupiers that their health and safety is at risk from the overcrowded conditions, but no enforcement action will be taken against the landlord.

Where enforcement action is taken that requires tenants to move out of a property, the Public Protection Team will liaise with the Council's Housing Choices Team, who will be able to give advice.

The effect of an overcrowding notice is that the person served must comply with the terms of the notice and if they fail to do so, they commit an offence for which the Council may consider prosecution. An overcrowding notice may either prohibit new residents or limit the number of people sleeping in the HMO, or both of these requirements on the same notice. Overcrowding in non-HMOs is classed as a hazard and may be dealt with by using the Housing Act 2004 notices as detailed above.

11.3 Management Orders

Schedule 3 of the Housing and Planning Act 2016 amends the Housing Act 2004 to allow interim and final management orders to be made in cases where a banning order has been made.

11.3.1 Management Regulations

The Management of Houses in Multiple Occupation (England) Regulations 2006 (“the Management Regulations”) made under the Housing Act 2004 impose duties on landlords and managers of all HMOs (whether or not subject to licensing). There are no notice serving powers under the Management Regulations but the Council can prosecute for breach of the regulations.

11.3.2 Interim and final management order

The Council is under a duty to make an interim and final management order where necessary. The Council will instigate this action where necessary but as a last resort. All practical steps will be taken to assist the owner of the property to satisfy the licensing requirements.

An interim management order is made for the purpose of securing any action that the Council considers necessary, to protect the health, safety and welfare of the occupants.

The Council has a duty to make an interim management order in respect of a property where there is no reasonable prospect of it being licensed in the near future or it is necessary to protect the health, safety and welfare of the occupants.

Where a licence has been revoked, for any reason, but the revocation is not yet in force, if, when the revocation is in force, there is no reasonable prospect of the property regaining its licence an interim management order must be made by the Council.

Once an interim management order has been made the Council must take over the management of the property for up to 12 months. This includes carrying out any remedial works necessary to deal with the immediate risks to health and safety.

If there is still no prospect of a licence being granted after 12 months, then a final management order must be made which may be in force for up to 5 years. If after 5 years there is no prospect of the property being licensed, a further management order must be made.

Management orders can be varied or revoked at any time as a result of a request from the owner or on the initiative of the Council.

Review

This policy will be reviewed in line with the corporate policy register or sooner if there are changes in structure, titles and/or responsibilities and any legislation.

Covid-19 (Coronavirus) and other outbreaks

Officers will aim to maintain effective enforcement of standards in private rented properties by way of routine inspections and enforcement action. Inspections and enforcement action take place with due regard to statutory and non-statutory guidance, any current public health guidance and in consideration of any related local health and safety policies and procedures.

Links with other policies

This policy has been considered alongside the following policies:

- The general Enforcement Policy
- The Civil Penalties Policy
- Returning Houses to Homes Policy and Procedures (Private Sector)
- North West Leicestershire Housing Strategy (2021 – 2026)
- Private Sector Housing Conditions and Empty Homes Enforcement Procedure
- Private Sector Housing Conditions and Empty Homes Enforcement Protocol
- Rent deposit guarantee scheme
- Homeless prevention and Rough Sleeping Strategy 2019 - 2024
- Tenancy Strategy

Appendix A – Key Legislation

Housing enforcement issues can sometimes be resolved through the use of other, more appropriate legislation, regulations, orders or guidance. The Council will consider the use of, but is not limited to, the following relevant legislation to meet the aims of this Policy.

- The Housing Act 2004
- Prevention of Damage by Pests Act 1949
- Local Government Miscellaneous Provisions Act 1982
- Building Act 1984
- Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968
- Environmental Protection Act 1990
- Housing Act 1985
- Law of Property Act 1925
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Public Health Act 1936
- Town and Country Planning Act 1990
- Energy Act 2011; 2013
- Enterprise and Regulatory Reform Act 2013
- Mobile Homes Act 1983; 2013



Civil Penalty Policy

Version Control

Version	Date	Author	Name of report assessed:	Comments
0.0	26.11.2021	SM	Civil Penalty Policy	First draft
0.1	05.12.2021	SM	As above	Revised
0.2	09.12.2021	SM	As above	Revised
0.3	29.12.2021	SM	As Above	Revised
0.4	05.1.2022	SM	As Above	Revised calc and gov guidance
0.5	6/1/22	RC	As above	Revised inc calc and worked examples x2
0.6	06.1.22	SM	As above	Revised last sections of policy
0.7	7.01.22	RC	As above	Revised 3. And calc and WE.
0.8	9.1.2022	SM1	As above	Revised whole document
0.9	14.5.2022	RC	CPP	Comments from NWL
0.10	20/5/2022	RC	CPP	Additional formatting

Civil Penalty Policy

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 - 2.1 Offences covered by Civil Penalties
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- 5. Recovering an unpaid Civil Penalty**
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- 7. Enforcement or other consequences**
- 8. Further guidance**
- 9. Worked examples**

1. Introduction

North West Leicestershire District Council (“the Council”) is committed to improving the standards of homes within the private rented sector, ensuring that all accommodation is safe, well managed, adequately maintained and compliant with regulations and requirements.

The Council acknowledges that the majority of landlords and letting agents operate their businesses in a professional and legal manner. However, it is also recognised there are some landlords and letting agents within the private rented sector that poorly manage and fail to maintain their properties to a safe standard and in some cases knowingly and wilfully disregard the law.

This policy set out below is supplementary to the Private Sector Housing Enforcement Policy and applies to both individuals and businesses.

This document follows the DCLG guidance in using the term "Civil Penalty", but the terms "Civil Penalty" and "financial penalty" are interchangeable.

2. What is a Civil Penalty

Section 126 and Schedule 9 of the Housing and Planning Act 2016 introduces a number of amendments to the Housing Act 2004. The amendments provided by the Housing and Planning Act 2016 allow the Council to impose a financial penalty as an alternative to prosecution for specific offences under the Housing Act 2004.

A Civil Penalty is a financial penalty that may be imposed as an alternative to prosecution for certain housing offences under the Housing Act 2004. Therefore, before imposing a Civil Penalty the Council must be satisfied ‘beyond reasonable doubt’ that a persons’ conduct amounts to the relevant housing offence as defined by section 249A(2).

The exception to this is the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as this is not considered as a criminal offence, however, a financial penalty may still be served. However, to impose a Civil Penalty the

Council must still be satisfied beyond reasonable doubt that the landlord has breached a duty under regulation 3.

The maximum fine that can be imposed is £30,000 per offence. The 'Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities' stipulates that the maximum penalty is for the worst offenders.

2.1 Offences Covered under Civil Penalties

A Civil Penalty can be imposed on a landlord or letting agent or both. The power to impose a Civil Penalty as an alternative to prosecution for certain specified housing offences is stated in section 126 of the Housing and Planning Act 2016. The Civil Penalties are intended to be issued against landlords or letting agents that are in breach of one or more of the sections of the Housing Act 2004 and the Housing and Planning Act 2016 as detailed below:

- Section 30 – Failure to comply with an Improvement Notice
- Section 72 – Offences in relation to licensing of Houses in Multiple Occupation(HMO)
- Section 95 – Offences in relation to licensing of houses under Part 3 (Including Selective Licensing)
- Section 139 – Offences of contravening of an overcrowding notice
- Section 234 – Failure to comply with management regulations in respect of HMO
- Breach of a banning order (section 21 of the Housing and Planning Act 2016)
- Breach of any of the landlord duties prescribed under regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

Civil Penalties can be imposed under regulation 11 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (the Electrical Regulations) where the authority is satisfied beyond reasonable doubt that a landlord has breached a duty under regulation 3.

The breach of a Prohibition Order under section 30 of the Housing Act 2004 is not one of the specified offences. Where appropriate, the Council will be able to seek a rent repayment order in addition to prosecuting the landlord for the offence.

Sometimes minor offences and those that are less serious may be better addressed using a Civil Penalty. Court time is relatively limited, and the public interest test is applied before decision is made to bring a prosecution. The most appropriate course of action will be considered on a case-by case basis. This is in line with the Council's Private Sector Housing Enforcement Policy.

In circumstances where both a landlord and letting/managing agent have committed the same offence, a Civil Penalty can be imposed on both as an alternative to prosecution.

2.2. Burden of proof

The same criminal standard of proof is required to serve a Civil Penalty as to bring a criminal prosecution. The Council must therefore be satisfied that, before a Civil Penalty can be imposed, it can demonstrate it is satisfied 'beyond all reasonable doubt' that criminal offence(s) have been committed by either a landlord and/or letting / managing agent, and if the matter were to be prosecuted in the Magistrates' Court, there would be a realistic prospect of conviction.

In determining whether there is sufficient evidence to secure a conviction, the Council will have regard to its own Enforcement Policies and the Crown Prosecution Service Code for Crown Prosecutors. The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each offender on each charge. The Code for Crown Prosecutors has two stages, the evidential stage and the public interest stage. Both tests will be considered during the Council's decision making process to determine the most appropriate course of action when considering issuing a financial penalty.

2.3 Considerations prior to a Civil Penalty being issued.

The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be

properly served by imposing a Civil Penalty. The following questions should be considered:

- Does the Council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a Civil Penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by the appropriate senior colleague at the Council?
- Has the evidence been reviewed by the Council's legal services?
- Are there any reasons why a prosecution may be more appropriate than a Civil Penalty? i.e., the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.
- The Council will consider its own Private Sector Housing Enforcement Policy when determining whether it is appropriate to serve a Civil Penalty as an alternative option for prosecuting the relevant offence.

3. Determining Level of Civil Penalty

When determining the level of the Civil Penalty the severity and harm of the offence must be considered as stated in section 63 of the Criminal Justice Act 2020 in considering the seriousness of any offence, 'it must consider the culpability in committing the offence, and any harm which the offence caused, was either intended to cause or foreseeably have caused'.

The Government has laid out statutory guidance (*Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities 2018*)(as to the process and the criteria that need to be considered when determining Civil Penalties.

3.1 Considerations

a) Severity of the offence - The more serious the offence, the higher the penalty should be.

b) Culpability and track record of the offender - A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that

they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

c) The harm caused to the tenant - This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a Civil Penalty.

d) Punishment of the offender - A Civil Penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

e) Deter the offender from repeating the offence - The primary aim is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in the future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

f) Deter others from committing similar offences - While the fact that someone has received a Civil Penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a Civil Penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying Civil Penalties where the need to do so exists and (b) that the Civil Penalty will be set at a high enough level to both punish the offender and deter repeat offending.

g) Remove any financial benefit the offender may have obtained as a result of committing the offence - The guiding principle of Civil Penalties is that they should remove any financial benefit to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

3.2 Civil Penalty Calculator

The Council have adopted the following approach which is based on the same approach devised by West Lindsey District Council and subsequently adopted by Blaby District Council.

Matrices

Table 1 details the overall calculation process. Each of the 3 columns are totalled to give the cumulative total in Column 4 which is applied.

Table 1: Civil Penalty level for relevant offences

Column 1+Column 2+Column 3 = Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total
Total for each penalty shown in Table 2, Column A	Total for each penalty shown in table 2 columns B and/or C	20-30	£500	Level of civil penalty to be applied (Maximum £30,000)
		40-80	£1000	
		90-120	£2,500	
		130-170	£5,000	
		180-230	£10,000	
		240	£20,000	

Step 1: Column 1 in table 1 involves detailing what “Offence specific penalties” apply. This will involve going through the case in question and comparing the offences the officer is able to demonstrate “beyond reasonable doubt” to column A of Table 2 (below). For example, an offence of failing to obtain a HMO licence under section 72 of the Housing Act 2004 will automatically get an offence specific penalty of £2,500. If more than one offence has been committed at a property then they must be added together. So, for example, in a HMO the officer notes a series of offences under the Management of Houses in Multiple Occupation (England) Regulations 2006 (“the Management Regulations”), then each breach of a regulation has an associated offence specific penalty and must be must be aggregated (added together). Where a licensing offence is also a Management Regulations offence the licence offence will take primacy.

Step 2: Column 2 in table 1, involves looking at column B and C of Table 2 (below). This step applies where offences have been noted under sections 30 of the Housing Act 2004, 139 of the Housing Act 2004, or the Electrical Safety Standards in the

Private Rented Sector (England) Regulations 2020. For example, if in the improvement notice that has not been complied with, an offence may have occurred under section 30 of the Housing Act 2004; If the notice relates to three hazards (e.g. excess cold rated as an A, damp and mould rated as a D and falls between levels rated as B) then an additional £2,000 is added under Column B. An additional £1,000 is then added for column C as there are 3 or more “high scoring hazards”, as all hazards were scored E or higher.

Table 2: Offence specific penalty and other penalties.

Offences		A		B		C	
Housing Act 2004 Offences	Section 30	Non-compliance with improvement notice	£2,000	There are two or more Cat 1 hazards	£3,000	Where there are 3 or more high scoring hazards ¹	£1,000
	Section 72	Failure to obtain property licence	£2,500				
		Breach of licence conditions (Penalty per breach)	£1,000				
	Section 139	Non-compliance with overcrowding notice	£500	Penalty per additional person	£200		
	Section 234	Failure to comply with HMO management regulations (per breach)	£500				
Electrical Safety Standards in the Private rented Sector (England) Regulations 2020 Reg. 3		Breach of a duty of private landlords in relation to electrical installations (penalty per breach)	£1,000	There is 1 identified Code 1 defect or three or more identified relevant defects. ²	£3,500	There is one or more identified relevant defect (s)	£2,500

¹ A high scoring hazard is defined as a hazard achieving a score rating of E or higher using the HHSRS

² A relevant defect for the purpose of this matrix is defined as a defect which would result in a Unsatisfactory grading on an Electrical Installation Condition report (EICR) Namely a defect given a C1, C2 or F1 observation code.

Step 3: involves evaluating the impact and this requires table 3 (below) to be considered and applied.

The officer is required to answer questions 1-5 and score appropriately using the evidence of the case. It is important the officer records this in a narrative or tabulated form including the evidence that they are relying on. This may be required to be evidenced in next stages.

Table 3: Impacts scoring matrix

Answer each of the questions 1-5 below and apply the score shown in the column header.

Question	Score	0	20	30	40
1	Severity of harm or potential harm caused x2 (The relevant column score is doubled)	LOW No identified risk Previous /current occupant not in vulnerable category. No impact assessed	MODERATE Moderate level of risk to relevant persons , Previous/ current occupant not in vulnerable category. Low impact assessed.	HIGH High level risk(s) to relevant persons. Previous /current occupant in vulnerable category. Occupants affected frequently or by occasional high impact occurrences.	SEVERE High level of risk(s) to relevant persons. Previous/ current occupants in vulnerable category. Multiple individuals at risk. Occupants are severely and/or continually effected.
2	Number of properties owned/managed	1	2-3	4-7	8+
3	Culpability and Track record	No previous enforcement history Minimal prior contact Clear evidence of action not being deliberate	1 or more previous enforcement notices served Clear evidence of action not being deliberate	1 or more enforcement notices served. Offender ought to have known that their actions were in breach of legal responsibilities.	Significant evidence of historical non-compliance. Actions were deliberate or offender knew or ought to have known that their actions were in breach of their legal responsibilities
4	Removal of financial incentive	Little or no income received	Low income received	Moderate income received	High Income received
5	Deterrence and prevention	High confidence that the penalty will deter repeat offence	Medium confidence that penalty will deter repeat offence	Low confidence that penalty will deter repeat offence	No confidence that penalty will deter repeat offence.

Note that the score for row 1 should be multiplied by two (doubled). When each question is completed and the total aggregated the total is compared to Table 1 column 3 so that an appropriate level of penalty for column 3 is apportioned. A number of worked examples are included at the end of the document.

The assessment of the impacts scoring matrix may take into consideration the following:

1) Severity of the Offence and Severity of Harm - the more serious the offence, a higher penalty should be imposed. The greater the harm or the potential for harm, the higher the amount should be when imposing a Civil Penalty. The severity of harm will also consider whether the property is occupied by a vulnerable individual (as detailed in the Housing Health and Safety Rating System (HHSRS) operating guidance). A vulnerable individual is one who is at greater risk of harm, and therefore the penalty should be greater when vulnerability is an issue. This assessment will consider both harm or potential harm within the property. The level of severity will be determined by whether Category One or Category Two hazards are present.

2) Number of properties owned/managed - consideration here is made towards the number of properties that are owned and/or managed by the offender.

3) Culpability and track record of the Offender - culpability levels will be considered higher if the offender has a large portfolio. Landlords, including property managers and agents are running a business and are expected to be aware of their legal obligations. A higher penalty will be appropriate where there is a history of failing to comply with obligations and that they were in breach of their legal responsibilities.

An assessment of culpability and track record includes any past enforcement action taken by the Council. This assessment can include, but is not limited to, the history held of the landlord or letting agent, the number of Housing Act 2004 notices served, previous Civil Penalties served, simple cautions issued, whether works in default have been undertaken by the Council as a result of relevant notices being breached, whether the landlord has been subject to either an Interim or Final Management Order, if the landlord is registered on the Rogue Landlord Database or is or has been subject to a Banning Order.

4) Removal of Financial Incentive - the principle is to ensure that the offender does not benefit due to committing an offence. The Council will consider the financial advantage as a result of the offence, including but not limited to, rental income gained, financial benefit from not undertaking remedial works contained within a

notice, and/or financial benefit in failing to obtain a property licence when required to do so.

5) Deterrence and Prevention - a Civil Penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all their legal responsibilities in the future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

While the fact that someone has received a Civil Penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a Civil Penalty.

3.3 Recording the decision: The officer making the decision shall be accountable to outline the rationale for imposing the penalty, giving reasons for coming to the amount of financial penalty which is to be imposed.

4. The Procedure for Imposing the Civil Penalty

Schedule 13A of the Housing Act 2004 and Schedule 1 of the Housing and Planning Act 2016 lays out the process the Council must undertake when imposing a Civil Penalty.

4.1 Notice of Intent - Housing Act 2004 Schedule 13A, paragraph 1

The Council will firstly serve a notice of intent on the person suspected of committing the offence. The notice of intent must be given no later than 6 months after the Council has sufficient evidence of the conduct to which the penalty relates, or at any time when the conduct is continuing. The notice of intent will specify:

- The amount of any proposed financial penalty
- The reasons for proposing the financial penalty

- Information about the right to make representations to the Council.

4.2 Written Representations following Notice of Intent - Housing Act 2004 Schedule 13A, paragraph 4

Any person in receipt of a notice of intent has the right to make representations in writing to the Council within 28 days of the date on which the notice was given.

4.3 Final Notice - Housing Act 2004 Schedule 13 A, paragraph 6

After the period for making representations has ended, the case, including the representations, will be reviewed by a senior officer within the Public Protection Team. If the senior officer still considers the issue of a Civil Penalty to be correct, a final notice will be served, signed by the Team manager. This notice will include the following information:

- the amount of the financial penalty;
- the reasons for imposing the penalty;
- information about how to pay the penalty;
- the period for payment of the penalty (28 days);
- information about rights of appeal to the First Tier Tribunal;
- the consequences of failure to comply with the notice.

The period for payment of a Civil Penalty is 28 days beginning with the day after that on which the notice was served, unless appealed.

At any time, the Council may withdraw the notice of intent or final notice, however, it reserves its right to pursue a prosecution for the original offence where appropriate to do so. If a notice of intent or final notice is withdrawn it will be by a written notice to the person on whom the notice was served. The Council may also reduce the amount specified in the notice of intent or final notice at any time. This will also be by a written notice to the person on whom the notice was served.

4.4 Right of Appeal

The person served with the final notice has the right to appeal to the First Tier Tribunal against: The decision to impose a penalty; or the amount of the penalty. The appeal must be made within 28 days of the date the final notice was issued. If a

person appeals, the final notice is suspended until the appeal is determined or withdrawn.

5. Recovering an unpaid Civil Penalty

It is the policy of the Council to consider all legal options available for the collection of unpaid Civil Penalties and the Council will commence proceedings to recover the debts owed. The Council will endeavour to recover these debts through the County Court, usually in form of a Court Order. Some of the Orders available to the Council through the County Court are as follows:

- A Warrant of Control for amounts up to £5,000;
- A Charging Order,
- A Third Party Debt Order;
- An Attachment of Earning Order;
- Bankruptcy or insolvency

A certificate, signed by the Council's Chief Finance Officer, which states the outstanding amount has not been received by a specified date, will be accepted by the Courts as conclusive evidence of the outstanding payment due to the Council.

Where appropriate, and where the amount of the Order is more than £1,000, the Council may consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the landlord and not just the property to which the offence relates.

The recovery of the debt may be undertaken by third party Enforcement Agents (Bailiffs) and this may lead to additional fees being applied to the outstanding amount.

6. Income from Civil Penalties

Income received from a Civil Penalty can be retained by the Council provided it is used to further the Council's statutory functions in relation to its private rented sector enforcement activities as detailed in The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.

7. Enforcement or other consequences

Where a Civil Penalty has been imposed on a landlord or agent, this will form part of the Council's consideration when it reviews the HMO licence applications relating to properties in which that person has had some involvement.

Although the imposition of a Civil Penalty will not automatically prevent the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered when deciding whether or not to grant a HMO licence.

In line with Government guidance where a landlord or property agent has received two or more financial penalties in respect of a banning order offence within a period of 12 months committed at a time when the person was a residential landlord or a property agent, the Council will seek to register the landlord's details on the Database of Rogue Landlords and Property Agents.

Further guidance

The 'Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities' is statutory guidance which Local Housing Authorities must have regard to and has been reviewed as part of developing this Civil Penalty Policy. The Policy has also been developed with specific regard to the Housing Act 2004, Housing and Planning Act 2016 and North West Leicestershire District Council Private Sector Housing Enforcement Policy.

8. Worked Examples

Worked example 1

Landlord Mr Smith has a number of HMO's, he has forgotten to licence one of them. He is interviewed under PACE and admits that it was an oversight by one of his members of staff, for which he is responsible. He takes full responsibility of the oversight and has applied immediately upon finding two months after it expired previously.

He is genuinely remorseful and is happy to accept a CPN instead of prosecution which would affect his ability to hold a licence. The HMO is relatively safe, complaint with LACORS fire guide and in good condition with correct facilities and the certificates etc are up to date despite being unlicensed.

The Council officer judge it to be Low harm level and high culpability.

He otherwise has an exemplary record and has licensed properties for a number of years.

The Council decide that he should receive a CPN as he was sent a reminder letter which apparently was lost by junior staff in his office as they have a note as having received it in their mail log but didn't action a response to the reminder.

Table 1: Civil Penalty level for relevant offences

Column 1+Column 2+Column 3 = Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total
Total for each penalty shown in Table 2, Column A	Total for each penalty shown in table 2 columns B and/or C	20-30	£500	Level of civil penalty to be applied (Maximum £30,000)
		40-80	£1000	
		90-120	£2,500	
		130-170	£5,000	

		180-230	£10,000	
		240	£20,000	

Table one determines the overall process and cumulative total.

Therefore, we next look at Table 2 below.

The offence is under Section 72 of the Housing Act 2004- a failure to obtain a HMO licence. Which has a £2,500 offence specific penalty.

There are no hazards noted so nothing added from column B and/or Column C.

Table 2: Offence specific penalty and other penalties

Offences		A		B		C	
Housing Act 2004 Offences	Section 30	Non-compliance with improvement notice	£2,000	There are two or more Cat 1 hazards	£3,000	Where there are 3 or more high scoring hazards ¹	£1,000
	Section 72	Failure to obtain property licence	£2,500				
		Breach of licence conditions (Penalty per breach)	£1,000				
	Section 139	Non-compliance with overcrowding notice	£500	Penalty per additional person	£200		
Section 234	Failure to comply with HMO management regulations (per breach)	£500					
Electrical Safety Standards in the Private rented Sector (England) Regulations 2020 Reg. 3		Breach of a duty of private landlords in relation to electrical installations (penalty per breach)	£1,000	There is 1 identified Code 1 defect or three or more identified relevant defects. ²	£3,500	There is one or more identified relevant defect (s)	£2,500

Then consider Table 3.

Table 3: Impacts scoring matrix

Answer each of the questions 1-5 below and apply the score shown in the column header.

Question	Score	0	20	30	40
1	Severity of harm or potential harm caused x2 (The relevant column score is doubled)	LOW No identified risk Previous /current occupant not in vulnerable category. No impact assessed	MODERATE Moderate level of risk to relevant persons , Previous/ current occupant not in vulnerable category. Low impact assessed.	HIGH High level risk(s) to relevant persons. Previous /current occupant in vulnerable category. Occupants affected frequently or by occasional high impact occurrences.	SEVERE High level of risk(s) to relevant persons. Previous/ current occupants in vulnerable category. Multiple individuals at risk. Occupants are severely and/or continually effected.
2	Number of properties owned/managed	1	2-3	4-7	8+
3	Culpability and Track record	No previous enforcement history Minimal prior contact Clear evidence of action not being deliberate	1 or more previous enforcement notices served Clear evidence of action not being deliberate	1 or more enforcement notices served. Offender ought to have known that their actions were in breach of legal responsibilities.	Significant evidence of historical non-compliance. Actions were deliberate or offender knew or ought to have known that their actions were in breach of their legal responsibilities
4	Removal of financial incentive	Little or no income received	Low income received	Moderate income received	High Income received
5	Deterrence and prevention	High confidence that the penalty will deter repeat offence	Medium confidence that penalty will deter repeat offence	Low confidence that penalty will deter repeat offence	No confidence that penalty will deter repeat offence.

From Table 3 (above) we judge that the severity of harm or potential for harm is low. So zero scored for row 1.

We noted that the Landlord has 5 other HMOs, totalling 6. So that row totals 30. Row three – he has an exemplary record, so the officer scored this 0.

Row 4- Little or no income received, it had only just expired, and he has since put in an application so is no better off by not complying with the law. Interest rates are low so any financial income from that money being in his account for slightly longer is negligible. Landlord is also liable to a Rent Repayment Order should a tenant apply.

Row 5 – High confidence this will have the desired effect of making him manage his properties licenses better. The fine is enough to make him take note both financially and reputationally. Next time he would likely risk prosecution. Row 5 scored 0.

Totalling the 5 rows we get an impact matrix score of 30. Which has an additional fine of £500.

Going back to table 1, we thus score,

Column 1=£2500

Column 2=0

Column 3=£500

Cumulative total of £3000. So the total to be included without early repayment deduction is £3000.

Worked example 2

A freeholder has given his property to his Letting agent to hold the licence and manage the HMO as he is away from the Country for part of the year. The agents are specialist in managing HMO, hold 50 licenses and have previously had an adequate compliance record, though standards appear to have fallen. An officer has done a compliance inspection of a three storey, licensed student HMO.

The HMO is licensed for 5 people in five bedrooms. It was noted that two bedrooms had two people living in them with no alternative living arrangements. The Landlord had consented to this but didn't charge them additional money for it. The additional persons noted were in relationships with the student on the agreement for the room they were found in. This is a HMO licence condition offence.

The fire safety was adequate, fire doors were closing though the letting agent hadn't provided any additional facilities and though one bathroom with WC with an extra separate WC downstairs was OK for 5 people, it doesn't meet the Councils standards for 7 people. The existing licence required an additional WC room to have been provided 6 months ago. This hasn't been provided and is a HMO licensing offence.

The garden is overgrown with a wall partially knocked over by tree roots. The bins are a mess and recycling hasn't been collected for some time due to them being contaminated with non-recyclable materials. These are all HMO licence conditions offences (totalling 3 offences).

The front door lock was damaged to the front door leaving the house insecure if pushed and a bedroom where a tenant is alleged to have kicked his door in having lost his door key 6 months ago hasn't been repaired. This has been evidenced by the students and he has offered to pay for the damage he caused. It still hasn't been repaired. 2 HMO management regs offences.

There is a leak going down the living room wall from the WC pan connector in communal bathroom, which has been present for months and has been reported to the agent by the student's numerous times. They evidence these texts during the inspection and sent to the Council following the inspections. 1 HMO management regs offence.

There are few working lightbulbs in any communal areas and the handrail to stairs has fallen off and is in the front garden. 2 HMO management regs offences
Radiators to two top floor bedrooms don't work as the system doesn't have enough power/ pressure to go to the top of the house. The rooms are noticeably cold in autumn. This again is evidenced by the students as having been reported and the Licence holder refuses to spend the money to address the problem. 2 HMO management regs offences

Table 2: Offence specific penalty and other penalties

Offences		A		B		C	
Housing Act 2004 Offences	Section 30	Non-compliance with improvement notice	£2,000	There are two or more Cat 1 hazards	£3,000	Where there are 3 or more high scoring hazards ¹	£1,000
	Section 72	Failure to obtain property licence	£2,500				

		Breach of licence conditions (Penalty per breach)	£1,000				
	Section 139	Non-compliance with overcrowding notice	£500	Penalty per additional person	£200		
	Section 234	Failure to comply with HMO management regulations (per breach)	£500				
Electrical Safety Standards in the Private rented Sector (England) Regulations 2020 Reg. 3		Breach of a duty of private landlords in relation to electrical installations (penalty per breach	£1,000	There is 1 identified Code 1 defect or three or more identified relevant defects. ²	£3,500	There is one or more identified relevant defect (s)	£2,500

¹ A high scoring hazard is defined as a hazard achieving a score rating of E or higher using the HHSRS

² A relevant defect for the purpose of this matrix is defined as a defect which would result in a Unsatisfactory grading on an Electrical Installation Condition report (EICR) Namely a defect given a C1, C2 or F1 observation code.

Looking initially at table 2, we have a string of offences under the breach of licence conditions, and a string of HMO management offences. Where licence conditions overlap with HMO management regs offences we pursue under the licence condition offence as the primary offence.

In total we note 5 failures to comply with licence conditions and 7 HMO management regs offences.

From table 2 we calculate £5,000 and £3,500 respective offence specific penalties in relation to these offences.

Table 3: Impacts scoring matrix

Answer each of the questions 1-5 below and apply the score shown in the column header.

Question	Score	0	20	30	40
1	Severity of harm or potential harm caused x2 (The relevant column score is doubled)	LOW No identified risk	MODERATE Moderate level of risk to relevant persons,	HIGH High level risk(s) to relevant persons.	SEVERE High level of risk(s) to relevant persons.

		Previous /current occupant not in vulnerable category. No impact assessed	Previous/ current occupant not in vulnerable category . Low impact assessed.	Previous /current occupant in vulnerable category. Occupants affected frequently or by occasional high impact occurrences.	Previous/ current occupants in vulnerable category. Multiple individuals at risk. Occupants are severely and/or continually effected.
2	Number of properties owned/managed	1	2-3	4-7	8+
3	Culpability and Track record	No previous enforcement history Minimal prior contact Clear evidence of action not being deliberate	1 or more previous enforcement notices served Clear evidence of action not being deliberate	1 or more enforcement notices served. Offender ought to have known that their actions were in breach of legal responsibilities.	Significant evidence of historical non-compliance. Actions were deliberate or offender knew or ought to have known that their actions were in breach of their legal responsibilities
4	Removal of financial incentive	Little or no income received	Low income received	Moderate income received	High Income received
5	Deterrence and prevention	High confidence that the penalty will deter repeat offence	Medium confidence that penalty will deter repeat offence	Low confidence that penalty will deter repeat offence	No confidence that penalty will deter repeat offence.

From the above table we calculate

Row 1; Officer observed it's a high risk regarding both the front door, missing handrail on steep stairs and the excessive number of people using one bathroom so $40 \times 2 = 80$.

Row 2; More than 8+ properties managed. So scored 40.

Row 3; Actions were deliberate so 40.

Row 4; Income 0 as no additional rent requested.

Row 5; Medium confidence=20 They're a big going concern. This was only one property though if standards don't improve, suggest straight to prosecution next time, depending on details of case (if similar) next time.

Total for table 3= 180 which equates to £10,000 according to table 1 below.

Table 1: Civil Penalty level for relevant offences

Column 1+Column 2+Column 3 = Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total

Total for each penalty shown in Table 2, Column A	Total for each penalty shown in table 2 columns B and/or C	20-30	£500	Level of civil penalty to be applied (Maximum £30,000)
		40-80	£1000	
		90-120	£2,500	
		130-170	£5,000	
		180-230	£10,000	
		240	£20,000	

Therefore, as per the table above, the cumulative total of table one is £18,500 for Column 1,2&3. This is the amount to include on the proposed Civil Penalty notice before any early repayment discount.

Worked example 3

Landlord Mrs Dench rents out her property to Mr and Mrs Smith and their young family including 2 small children under 5 years old. The date they moved in on the tenancy agreement was 3rd July 2020. Mrs Dench provided an EICR to Mr and Mrs Smith when they moved in. It stated that there were 2 issues. Firstly, exposed wiring due to a smashed double switched socket in the children's bedroom. This was stated to be a "C1" and there was also a lack of supplementary bonding to radiators meaning the radiators and hot water system wasn't earthed. This was a C2. Mrs Dench owns 3 properties, has some history of noncompliance and failed to address the issues in 28 days stating they were caused by the previous tenant. She had pushed a bed frame against the damaged socket in an attempt to prevent its use. When questioned by the EHO she didn't think the bonding was that serious as was stated to be a C2.

Thus, using tables 1,2 and 3 above we note 2 breaches of the regulations in failing to ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy. So the table 2 details that 2x £1000 offence specific penalties are noted.

We have noted from the EICR one CODE 1 (C1) which entails a penalty of £3500 in column 2 and another £1000 for the column 3 C2 defect. Totalling £6500 for columns 1 and 2 in table 1.

Looking at table 3 we note that children under 5 were present and they are the most vulnerable to electrical safety hazards. So we score $40 \times 2 = 80$ for row 1.

For row 2 she has 3 properties so scores 20.

Row 3, the offender ought to have known she was in breach of the law. She was advised to sort it out by the certificate/ electrician but instead ignored that advice and moved a bed over the damaged socket. So we scored this 30. Though 40 would also be ok.

Row 4 the cost of works wasn't even that high, perhaps 200 pounds. So she hasn't benefitted financially excessively. So, we have scored that as 20 for low income.

Row 5 we scored as 0, as we have high confidence that this penalty will deter her from doing so again.

Total for table 3 is 150 which when we convert to £ in table 1= £5,000

So, the cumulative total is £6,500 + £5000 = £11,500 which is an effective deterrent.

Mrs Dench agrees to pay the fine and may in future hand over management of her portfolio of three properties to a managing agent. The Council then uses that money to part fund a post to proactively educate local Tenants, Landlords and agents on their responsibilities under the act. This could include employing an electrician to provide reports for the council on substandard electrical installation.



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Policy for Imposing Financial and Publication Penalties

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

MEES Enforcement Policy

MEES Enforcement Policy

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1. Background Legal Context

On 1 October 2016, the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ('the Energy Regs') came into force.

On 1 April 2018, a phased implementation of the Energy Regs began.

The Domestic Minimum Energy Efficiency Standard (MEES) Regulations ('MEES Regs') provide a minimum energy efficiency standard ('MEES') for domestic private rented properties.

Where a property falls below the MEES Energy performance indicator rating of Band E, a landlord is legally obligated to make energy efficiency improvements to raise the Energy Performance Certificate (EPC) to at least a Band E before they let the property as a rented dwelling.

The Energy Regs apply to all domestic private-rented properties which are let on specific types of tenancy agreements and which are legally required to have an EPC.

Part 2 Chapter 2 of the Energy Regs allows a tenant to request permission from a landlord to make energy efficiency improvements to a private rented property.

The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 makes changes to Part 3 of the Energy Regs.

Under Part 3, regulation 23 of the Energy Regs, where private rented property's EPC is below the minimum level of energy efficiency, it is illegal for the landlord to:

- grant a new tenancy of a property (including an extension or renewal) after 1 April 2018;
- continue to let the property (on an existing tenancy) after 1 April 2020.

Since 1 April 2019, landlords of domestic properties with an EPC rating below E must carry out up to £3,500 worth of works to improve energy efficiency if they cannot obtain third-party funding to meet the costs (the £3,500 figure includes VAT).

The £3,500 cap is an upper ceiling and not a target nor a spending requirement; landlords may, if they wish to, spend more than £3,500 on energy efficiency improvement to their let property.

If a landlord can improve their property to Band E (or higher) for less than £3,500 then they will have met their obligation.

2. Introduction

Under most circumstances, a private sector tenant must, by law, be provided with an appropriate EPC certificate by a landlord. However, in some cases, statutory exemptions exist for certain types of properties whereby EPC legal provisions are not applicable.

Under regulation 34, North West Leicestershire District Council ('the Council') is under a statutory duty enforce the Energy Regs in respect of domestic private rented properties and may serve compliance notices on any landlord who is currently in breach of regulation 23 and any landlord who (at any time within the 12 months before the date of service of the compliance notice) has previously been in breach of Regulation 23.

A compliance notice enables the Council to monitor compliance by requesting relevant information which can include either clear copies of or, alternatively, originals of:

- the EPC that was valid for the time when the property was let
- any other EPC for the property in the landlord's possession
- the current tenancy agreement used for letting the property
- any Green Deal Advice Report in relation to the property
- any other relevant document that the enforcement authority requires for the purpose of discharging its duties

The compliance notice may also require a landlord to register copies of the requested information on the Private Rented Sector (PRS) Exemptions Register.

The compliance notice will specify the name and address details of the person to whom the landlord must send the requested information as well as the date by which the requested information must be supplied which must not be less than one month from the date on which the compliance notice is served.

3. Objectives of the MEES Regs

The MEES Regs were created for a myriad of reasons which include:

- helping clinically vulnerable private rented tenants who are in most need of thermally efficient home environments
- tackling fuel poverty
- improving the energy efficiency of buildings
- helping tenants to reduce their energy bills

The regulations are also part of the Government's wider approach to reducing the UK greenhouse gas emissions and tackling climate change.

4. Landlords' Legal Duties

Under the MEES Regs, private landlords are legally required to take one of the actions listed below:

- They must ensure that their rented properties are, at the very least, EPC Band E
- Register a valid exemption on the PRS Exemption Register.

5. Exemptions and the PRS Exemption Register

There are valid exemptions which are available to a private landlord. It is, however, recommended that a private landlord has a clear understanding of the Energy Regs and how to register an exemption.

It is also recommended that a landlord refers to The Energy Act 2011 and the Government's guidance for the full details of the criteria required to register a valid exemption.

The PRS Exemptions Register is an online platform which allows a landlord (or an agent acting on their behalf) to register valid exemptions from the minimum energy efficiency requirements.

The Register can be accessed via the Department for Business, Energy & Industry Strategy ('BEIS') website.

All registered exemptions are valid for a period of five years unless otherwise stated.

It is unlawful to put false or misleading information on the Register.

A private landlord may register a valid exemption in the following situations:

- a) Cavity, external or internal wall-insulation has been recommended to help improve energy efficiency, but a recognised surveyor is of the expert written-opinion that such measures could potentially have a negative impact on the fabric or structure of the property (Reg 24(2))
- b) All relevant energy efficiency improvements have been made, within the cost-cap of £3,500 (this figure includes VAT) but the property still remains sub-standard (Reg 25(1)(a))
- c) there are no relevant energy efficiency improvements possible at the property (Reg 25(1)(b))
- d) The cost recommended for improvements exceeds the £3,500 cost-cap. (This figure of £3,500 includes VAT) MEES Regs
- e) A third party (such as a tenant, superior landlord, mortgage provider, freeholder, or planning authority) refuses to consent to the relevant energy efficiency improvements. However, the landlord must be able to demonstrate that they have made all reasonable efforts to obtain the consent before registering an exemption (Reg 31(1A))
- f) A surveyor or a qualified expert can confirm, in writing, that the recommended improvements would decrease the value of the property by more than 5% (Reg 32)
- g) A person may, on becoming a private landlord, register a valid (temporary) exemption under Regulation 33(1) if the person became the landlord by virtue of any of the following circumstances:
 - i. The grant of a lease due to a contractual obligation.
 - ii. Where a tenant becomes insolvent, and the landlord has been the tenant's guarantor.
 - iii. The landlord having been a guarantor, or a former tenant has exercised the right to obtain an overriding lease of a property under section 19 of the Landlord and Tenant (Covenants) Act 1995.
 - iv. A new lease has been deemed created by operation of law.
 - v. A new lease has been granted under Part 2 of the Landlord and Tenant Act 1954.
 - vi. A new lease has been granted by a court order, other than under Part 2 of the Landlord and Tenant Act 1954.
- h) When a person becomes a private landlord on purchasing a property, and on the date of purchase it was let to an existing tenant, a valid exemption may be registered under Regulation 33(3)

Temporary exemptions registered under Regulation 33 are valid for a maximum period of 6 months from the date the person became the private landlord of the property.

All exemptions must be registered on the PRS Exemptions Register. The register can be found online here: <https://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

Supporting evidence will need to be submitted when registering a valid exemption.

If a let property is sold, any exemption registered on the PRS Exemptions Register by the previous owner is not transferable to the new owner.

The new owner will be required to improve the property or register their own valid exemption.

6. Removal of “No Cost to the Landlord” Exemption

The originally enacted regulations allowed for a “no cost to the landlord” exemption to be registered. However, the regulations were amended in 2019 to introduce the £3,500 cost cap, and this exemption was not available after 31 March 2019.

Owing to the changes, all “no cost to the landlord” exemptions registered on the PRS Exemptions Register before 1 April 2019 and which were originally expected to last five years, have since expired on 31 March 2020.

7. Government guidance

The Council will have regard to any guidance issued by BEIS when exercising its functions under the Energy Regs.

This policy takes effect from **25 April 2023** and will apply to all the relevant breaches of the Energy Regs which occur on the date the policy takes effect and thereafter.

The Domestic Private Rented Property Minimum Standard - Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended, is available online at: [The domestic private rented property minimum standard \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

8. Compliance Notice

The Council will liaise with landlords of properties in breach of the Energy Regs informally at the first instance by sending them reminder letters and giving landlords of such properties adequate time frames within which to comply. Where breach of the regulations cannot be resolved informally through the warning letters, the Council will then proceed to initiate the penalty process as highlighted in this policy.

Where there is no action taken by the landlord after the first and second warning letters have been sent, and if it appears to the council that a private landlord is in breach of the prohibition on letting properties with an energy efficiency rating of F or G, the Council may serve a Compliance Notice (‘Comp. Notice’) on that private landlord requiring such information as it considers necessary to enable it to monitor compliance.

A Comp. Notice may also be served if it appears to the council that the private landlord was in breach of the regulations at any time in the 12 months preceding the date of service of the notice.

The Comp. Notice can formally request copies or originals of the following:

- The EPC for the property which was valid at the time the property was let
- Any other EPC
- Tenancy agreement
- Any qualifying assessment in relation to the property
- Any other document the council considers necessary to monitor compliance with the regulations

In addition, the Comp. Notice may require a private landlord to register copies of any of the above on the PRS Exemptions Register.

The Comp. Notice will specify the name and address of the officer of the Council to whom the documents or other information required must be supplied.

The Comp. Notice will also specify the time-period for compliance which will be no less than one month from the date the notice is served.

Under Regulation 37(4), a private landlord must comply with any Comp. Notice served on them by the Council; they must also allow the Council, when requested, to see and take copies of original documents.

9. Financial and Publication Penalties

There are 4 breaches under the Energy Regs for which a private landlord may be given a Financial Penalty (Fin. Pen.).

Regulation 40 sets out the breaches and the statutory maximum amounts that may be imposed in respect of each type of breach. These are as follows:

Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for less than 3 months:

Statutory maximum financial penalty of £2,000

Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for 3 or more months:

Statutory maximum financial penalty £4,000

Registering false or misleading information on the PRS Exemptions Register under Regulation 36(2):

Statutory maximum financial penalty £1,000

Failing to provide information to the Council demanded by a CN, in contravention of Regulation 37(4)(a):

Statutory maximum financial penalty £2,000

In respect of any one tenancy, a private landlord cannot, owing to Regulation 40(6), be subject to multiple financial penalties that exceeds a total of more than £5,000.

10. MEES – Financial Penalty Policy

The Council has determined to take the following approach when imposing a Fin. Pen. under the Energy Regs. The Council has discretion to offer an early payment reduction if a landlord pays the penalty charge within 14 days beginning with the day the penalty charge notice is served. However, should a subsequent appeal be made the discount will be removed.

Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for less than 3 months:

For the first breach under the Energy Regs for the property: £1,000 with 33% early payment discount

For any subsequent breach under the Energy Regs for the property: £2,000 with 33% early payment discount.

Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for 3 or more months:

For the first breach under the Energy Regs at the property: £2,000 with 33% early payment discount.

Registering false or misleading information on the PRS Exemptions Register under Regulation 36(2):

Breach under the Energy Regs: £1,000 with 33% early payment discount.

Failing to provide information to the council demanded by a Comp. Notice, in contravention of Regulation 37(4)(a):

Breach under the Energy Regs: £2,000 with 33% early payment discount.

For the purposes of this policy, where a landlord having been previously fined up to £5,000 for having failed to satisfy the requirements of the Energy Regs then proceeds to unlawfully let a sub-standard property on a new tenancy, a further financial penalty of up to £5,000 can be issued.

The maximum remains but the ability to issue a further Fin. Pen. starts again with a new tenancy.

11. Houses in Multiple Occupation

Where a House in Multiple Occupation ('HMO') is legally required to have an EPC under the provisions of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 and where it is let on one of the qualifying tenancy types, then the HMO, as a whole, is required to comply with the minimum level of energy efficiency.

However, individual rooms within HMOs are not required to have their own EPCs.

In accordance with Regulation 40(6), where a private landlord has committed multiple breaches in respect of a single tenancy and, where such circumstances would make the financial penalty to such landlord go beyond the £5,000 limit, the Council would consider adjusting one or more of the Fin. Pens. in such a way that the maximum of £5,000 (as permitted under the MEES Regs) is not exceeded.

12. Publication Penalties

Under Regulation 39, a Publication Penalty ('Pub. Pen.') means publication of the following information by the Council, on the PRS Exemptions Register:

- The name of the private landlord, but only where the landlord's name is not an individual;
- Details of the breach;
- The address of the property at which the breach occurred;
- The amount of Fin. Pen. imposed.

Under the provisions of Regulation 39(2), the Council may decide how long the details of each breach should stay on the PRS Exemptions Register, subject to a minimum period of 12 months.

13. The Council's Publication Penalty Policy

The Council shall impose a Pub. Pen. in respect of all breaches that are subject to a Penalty Notice ('Penalty notice'), unless there are allowed and permitted representations received.

The Council is also determined that all breaches will be registered on the PRS Exemptions Register for a period of minimum 12 months, but not more than 24 months.

14. Penalty Notice Scope

If the Council decides to impose a Fin. Pen. and/or a Pub. Pen. for a breach of the regulations, it will serve a Penalty Notice on the offender.

A Penalty Notice may be served in respect of an ongoing breach or a breach that has occurred in the 18 month period leading up to the date of the service of the Penalty Notice

Where a landlord fails to take the action required by a Penalty Notice, within the period specified in that Penalty Notice, then the Council can serve a further Penalty Notice, however the total amount of all fines, for the same breach, remains capped at £5,000.

The Penalty Notice will set out the following:

- a) the provision within the Energy Regs the Council believes the private landlord has breached;
- b) the particulars the Council considers necessary to identify the breach;
- c) the action the Council requires the private landlord to take to remedy the breach;
- d) the timescale in which remedial action must be taken (which must not be less than one month);
- e) the amount of the Fin. Pen. imposed and how it has been calculated including any applicable discount;
- f) whether a Pub. Pen. has been imposed;
- g) the time-period in which any Fin. Pen. must be paid (which must not be less than one month from the date the Penalty Notice was served)
- h) the name and address of the person to whom any Fin. Pen. must be paid and the method of payment.
- i) The effect of Regulation 42, which sets out the right to request a review of the Council's decision to serve a Penalty Notice
- j) the effect of Regulations 43 to 44, which sets out the right of appeal against any decision to confirm a Penalty Notice
- k) The effect of Regulation 45, which sets out the Council's power to recover any unpaid Fin. Pen. as a debt;
- l) the name and address of the person to whom any request to review the Council's decision (i.e. to serve a Penalty Notice) must be sent and the period within which such a request must be made (which must not be less than one month).

If a private landlord fails to take the action required by a Penalty Notice (i.e. to remedy a breach) then the Council may serve a further Penalty Notice.

15. Landlords' Rights re Penalty Notice

A private landlord, on whom the Council has served a Penalty Notice is entitled to request a review of the Council's decision to serve the notice. The Council will accept such a request if it is received within the period of one month (commencing the day on which the Penalty Notice was served).

A request for a review, together with any representations received, will be carefully considered by the Council before it makes a final decision as to whether to confirm or withdraw the Penalty Notice.

Once the Council has made its decision, it will notify the private landlord of that decision by serving a Notice of Decision Following a Review of a Penalty Notice ("Dec. Notice"). To ensure

fairness and transparency, every decision to confirm a Penalty Notice following a request for review, will be subject to approval by the Regulatory Services Manager.

16. Appealing a Decision Notice

A private landlord, on whom a Penalty Notice or Dec. Notice has been served, may appeal to the First-tier Tribunal ('the Tribunal') on the grounds that:

- The issue of the Penalty Notice was based on an error of fact; or
- The issue of the Penalty notice was based on an error of law; or
- The Penalty Notice does not comply with a requirement imposed by the Energy Regs; or
- In the circumstances of the case, it was not appropriate for the Penalty Notice to be served.

Appeals must be brought within 28 days from the date on which the Penalty Notice was served. Once an appeal has been made, the Pen. No. is suspended until the appeal has been finally determined by the Tribunal or withdrawn by the landlord.

The Tribunal has the power to quash or affirm the Penalty Notice.

If the Tribunal decides to affirm the Penalty notice, it may do so in its original form or with such modification as it may deem fit.

The address and contact details of the Tribunal are as follows:

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber>

First-tier Tribunal (General Regulatory Chamber) HM Courts and Tribunals Service PO Box 9300 Leicester LE1 8DJ

Email: grc@justice.gov.uk

Phone number: 020 39368963

17. Unpaid Financial Penalties – Implications and enforcement

The Council will take corresponding action to recover any unpaid Fin. Pens. (or part thereof) within the time period stipulated in a Penalty Notice and in line with the Council's debt recovery policy.

18. Multiple Breaches

In respect of any single tenancy, the Council may not impose a combination of Fin. Pens. on an offender that, in total, exceeds the statutory maximum of £5,000.

However, when considering imposing more than one Penalty Notice on an offender (resulting from the offender committing 1 or more breaches at multiple properties) the Council will carefully consider whether the cumulative Fin. Pen. would be just and proportionate, in the circumstances, having regard to the offending behaviour, as a whole.

The Council shall operate and maintain a just, equitable and proportionate approach.

19. Further Help and Advice

If you would like further advice or clarification, contact North West Leicestershire District Council by telephone on 01530 454545 or by email at environmental.protection@nwleicestershire.gov.uk

Alternatively, you can write to us at: North West Leicestershire District Council, PO Box 11051, Coalville, LE67 0FW.

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Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Financial Penalties

North West Leicestershire District
Council Statement of Principles

Introduction

This statement sets out the principles that North West Leicestershire District Council will apply when exercising its powers to require a landlord (relevant landlord) to pay a Penalty Charge.

Purpose of the statement of principles

The council is required under these regulations to prepare and publish a statement of principles, which it then must follow when deciding on the amount of a Penalty Charge.

The council may revise this statement of principles at any time, but where it does so, it must publish a revised statement.

When deciding on the amount of the Penalty Charge, the council will have regard to the statement of principles published at the time when the breach in question occurred.

The legal framework

The powers come from the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations), which came into force on 1 October 2015.

The Regulations place a duty on landlords, which includes freeholders or leaseholders who have created a tenancy, lease, licence, sub-lease or sub-licence. The Regulations exclude registered providers of social housing.

The duty requires that landlords ensure that:

- A smoke alarm is installed on each storey of premises where there is living accommodation
- A carbon monoxide alarm is installed in any room of premises used as living accommodation, which contains a fixed combustion appliance other than a gas cooker

Also for tenancies starting from 1 October 2022:

- That checks are made by the landlord, or someone acting on his behalf, that the alarm(s) is/are in proper working order on the day the tenancy starts

Where the council believes that a landlord is in breach of one or more of the above duties, the council must serve a Remedial Notice on the landlord. The Remedial Notice is a notice served under regulation five of these regulations.

If the landlord then fails to take the remedial action specified in the Remedial Notice within the timescale, the council can require the landlord to pay a penalty charge. The power to charge a penalty arises from regulation eight of these regulations.

A landlord will not be considered to be in breach of their duty to comply with the Remedial Notice, if they can demonstrate they have taken all reasonable steps to comply. This can be done by making written representations to The Environmental Protection Team, North West Leicestershire District Council, PO Box 11051, Coalville, LE67 0FW. Representations must be made within 28 days of when the Remedial Notice is served.

The council will impose a Penalty Charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the Remedial Notice and has not made representations within the required timescales.

The purpose of imposing a financial penalty

The purpose of the council exercising its regulatory powers is to protect the interests of the public.

The aims of financial penalties on landlords are to:

- Lower the risk to tenant's health and safety
- Reimburse the costs incurred by the council in arranging remedial action in default of the landlord
- Change the behaviour of the landlord and aim to prevent future non-compliance
- Penalise the landlord for not installing alarms after being required to do so, under notice
- Eliminate financial gain or benefit from non-compliance with the regulations

- Be proportionate to potential harm outcomes, the nature of the breach and the cost benefit to comply with these legal requirements

The financial penalty - criteria and amount

A failure to comply with the requirements of a Remedial Notice allows the council to require payment of a Penalty Charge.

In considering the imposition of a penalty, the council will look at the evidence concerning the breach of the requirement of the Remedial Notice. This could be obtained from a property inspection, or from information provided by the tenant or agency that no remedial action had been undertaken.

Landlords can demonstrate compliance with the regulations by supplying dated photographs of alarms, together with installation records or confirmation by the tenant that a system is in proper working order.

Landlords need to take steps to demonstrate that they have met the testing at the start of the tenancy requirements. Examples of how this can be achieved are by tenants signing an inventory form confirming that they were tested by the landlord or landlord's agent and were in working order at the start of the tenancy. Tenancy agreements can specify the frequency that a tenant should test the alarm to ensure it is in proper working order.

In deciding whether it would be appropriate to impose a penalty, the council will take full account of the particular facts and circumstances of the breach under consideration.

A Penalty Charge will be considered appropriate if the council is satisfied, on the balance of probabilities, that the landlord who had been served with the Remedial Notice under regulation five, had failed to take the remedial action specified in the Remedial Notice within the time period specified.

The Regulations state the amount of the Penalty Charge must not exceed £5,000.

The Penalty Charge comprises two parts, a punitive element (punishment) for failure to comply with the requirement to comply with a Remedial Notice and a cost element relating to the investigation (investigative) costs, officer time, administration and any remedial works arranged and carried out by the council's contractors.

The Penalty Charge is payable within 28 days beginning with the day on which the Penalty Charge Notice is served.

The council has discretion to offer an early payment reduction if a landlord pays the Penalty Charge within 14 days beginning with the day the Penalty Charge Notice is served. Should a subsequent appeal be made the discount will be removed.

The council's Penalty Charges are as follows:

- £2,500 for the first breach to comply with a Remedial Notice: £1,250 for early payment (50% reduction)
- £5,000 for each subsequent breach to comply with a Remedial Notice: £2,500 for early payment, (50% reduction)

Steps taken to impose penalty charge notices

The Regulations impose a number of procedural steps which must be taken before the council can impose a requirement on a landlord to pay a Penalty Charge.

When the council is satisfied that the landlord has failed to comply with the requirements of the Remedial Notice, all Penalty Charge Notices will be served within six weeks.

Where a review is requested within 28 days from when the Penalty Charge Notice is served, the council will consider any representations made by the landlord. All representations are to be sent to The Environmental Protection Team, North West Leicestershire District Council, PO Box 11051, Coalville, LE67 0FW. The council will notify the landlord of its decision by notice, which will be either to confirm, vary or withdraw the Penalty Charge Notice.

A landlord who has requested a review of a Penalty Charge Notice and has been served with a notice confirming or varying the Penalty Charge Notice, may appeal to the First-tier Tribunal against the council's decision. Appeals should be made within 28 days from the notice served of the council's decision on review.

If the Penalty Charge Notice is not paid, then recovery of the Penalty Charge will be in accordance with the council's debt recovery policy.

However, in cases where a landlord has requested a review of the Penalty Charge Notice, recovery will not commence until after 28 days from the date of the notice served giving the council's decision to vary or confirm the Penalty Charge Notice. Where landlords do make an appeal to the First-tier Tribunal, recovery will commence after 28 days from when the appeal is finally determined or withdrawn.

Remedial action taken in default of the landlord

Where the council is satisfied that a landlord has not complied with a requirement described in the Remedial Notice within the required timescale and consent is given by the occupier, the council will arrange for remedial works to be undertaken in default of the landlord. This work in default will be undertaken within 28 days of the council being satisfied of the breach. In these circumstances, battery operated alarms will be installed as a quick and immediate response.

Smoke alarms

In order to comply with these regulations, smoke alarms will be installed on every storey of residential accommodation. This may only provide a temporary solution as the property may be a high risk due to:

- Its mode of occupancy such as a house in multiple occupation or building converted into one or more flats
- Having an unsafe internal layout where fire escape routes pass through living rooms or kitchens
- It being three or more storeys high

A full housing health and safety rating system inspection will be carried out at this point also taking into consideration Local Authorities Co-ordinators of Regulatory Services (LACORS) Housing and Fire Safety Guidance. This will consider the adequacy of the type and coverage of the smoke alarm system, fire escape routes including escape windows and fire separation measures such as fire doors, protected walls and protected ceilings. Any further works required to address serious hazards in residential property, that are not undertaken through informal agreement, will be enforced using the Housing Act 2004, in accordance with our Enforcement Policy.

Carbon monoxide alarms

In order to comply with these regulations, a carbon monoxide alarm will be installed in every room containing a solid fuel combusting appliance.

For more detailed information, including the LACORS fire safety guide provisions for certain types of existing housing, please visit [**fire safety law and guidance documents for business \(GOV.UK\)**](#)

All communications for representations made against the Remedial Notice (regulation five) or the Penalty Charge Notice (regulation eight) are to be sent to:

Environmental Protection Team
North West Leicestershire District Council
PO Box 11051
Coalville
LE67 0FW



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Electrical safety Standards Process and Overview

1. GUIDANCE

The aim of the legislation is to ensure that the electrical installation within rented properties is regularly checked and deficiencies are rectified in a speedy manner to minimise risk to the occupants. The provision of certification allows all parties to see evidence that this has occurred.

Responsibility of managing the documents is owned by the Public Protection Team.

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2. NWL/ESS – A1 – Overview of legislation and coding

Purpose of process	Version	Last reviewed	By
To provide a basic overview of Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	0.1		

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (ESSPRS) came into force on 1 June 2020 (although the requirements apply to new tenancies from 1 July 2020 and existing tenancies from 1 April 2021). The regulations are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.¹

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020²

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020		
Regulation	Provision	Required notices / Letters
Part 2	Duties of Landlords	
Reg 3	<p>3(1) (a) – electrical safety standards have not been met during the period of a tenancy.</p> <p>3(1) (b) – that the electrical installation has not been inspected at regular intervals (5 years or shorter as required).</p> <p>3(1) (c) – that the first inspection was not carried out before the tenancy began (for new tenancies) or by 1st April 2021 (for existing tenancies).</p> <p>3(4) – that remedial or investigative work was required to the electrical system and this was not undertaken within 28 days (or a shorter period where required).</p> <p>3(6) – that remedial or investigative work was required to the electrical system as a result of further investigations and that this was not undertaken within 28 days (or a shorter period where required) of the further investigations.</p> <p>Duty to supply a copy of the most recent Electrical Inspection and Testing</p>	<p>Notice Requesting an Electrical Inspection and Testing Certificate.</p> <p>More than one penalty can be issued for a continuing failure. The maximum penalty for each offence is £30,000. Financial Penalty (Reg 11).</p> <p>Appeal provisions relating to the issue of financial penalties are contained within Schedule 2 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.</p>

¹ <https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities/guide-for-local-authorities-electrical-safety-standards-in-the-private-rented-sector>

² <https://www.legislation.gov.uk/ukdsi/2020/9780111191934>

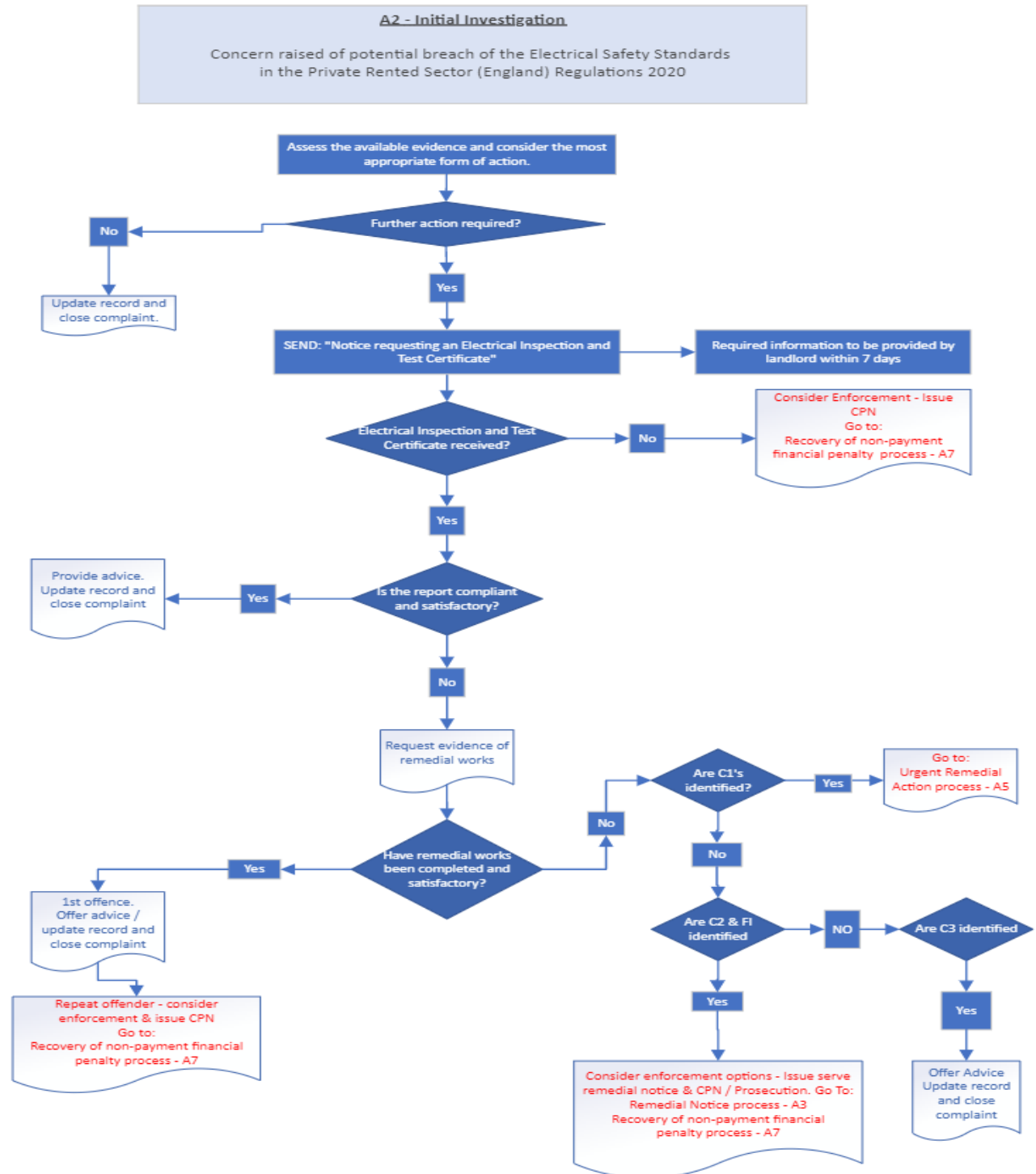
	Certificate relating to the fixed electrical installation at the foregoing property.	
Part 3	Remedial Action	
4	Duty of local housing authority to serve a remedial notice	Remedial notice
5	Duty of landlord to comply with remedial notice	
6	Power of LHA to arrange remedial action	Notice of intention take remedial action. Letter giving notice to tenant for remedial action. Letter providing 48hrs notice and contact details of contractor.
7	Appeals relating to remedial action by local housing authorities	Letter – response to representations received
8	Recovery of costs	Financial Demand (appeal to FTT)
9	Appeals against recovery of costs	
Part 4	Urgent Remedial Action	
10	Urgent Remedial Action	Urgent remedial action notice
Part 5	Financial Penalties	
11	Financial penalties for breach of duties	Issue financial penalty. More than one penalty can be issued for a continuing failure. The maximum penalty for each offence is £30,000.
12 & Sch 2		Notice / Final Notice to issue financial penalty
Part 6	Licences under Parts 2 & 3 of the HA 2004	
Part 7	Duty of manager to supply and maintain gas and electricity	
Schedule 1	Excluded Tenancies	
Schedule 2	Procedure for appeals against financial penalties	

Landlords must obtain a report giving the results of the test and setting a date for the next inspection. Landlords must comply within 7 days with a written request from the local housing authority for a copy of the report and must also supply the local housing authority with confirmation of any remedial or further investigative works required by a report. Inspectors will use the following classification codes to indicate where a landlord must undertake remedial work.

Codes		
Code 1 (C1)	Danger is present and there is a risk to injury	The Landlord must ensure remedial work or further investigative work is carried out by a qualified person within 28 days or less if specified in the report.
Code 2 (C2)	Potentially dangerous	
Further Investigation (FI)	Further investigation without delay	
Code 3 (C3)	Improvement recommended	Draw recommended improvement to the attention of the landlord.

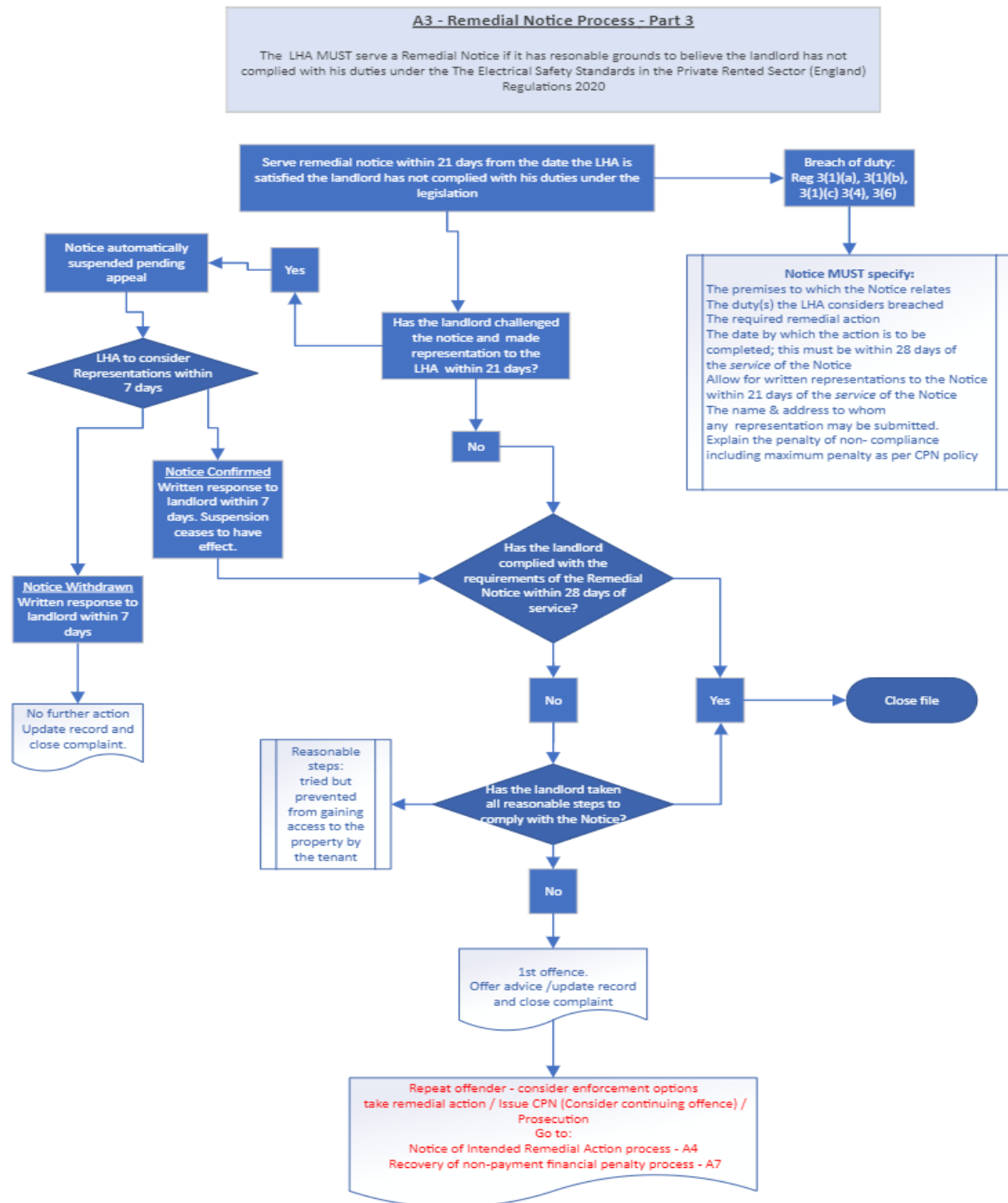
3. NWL/ESS – A2 – Flow chart – Initial Investigation

Purpose of process	Version	Last reviewed	By
To provide a basic overview of initial investigative process and procedure relating to a concern of a potential breach of legislation	0.1		



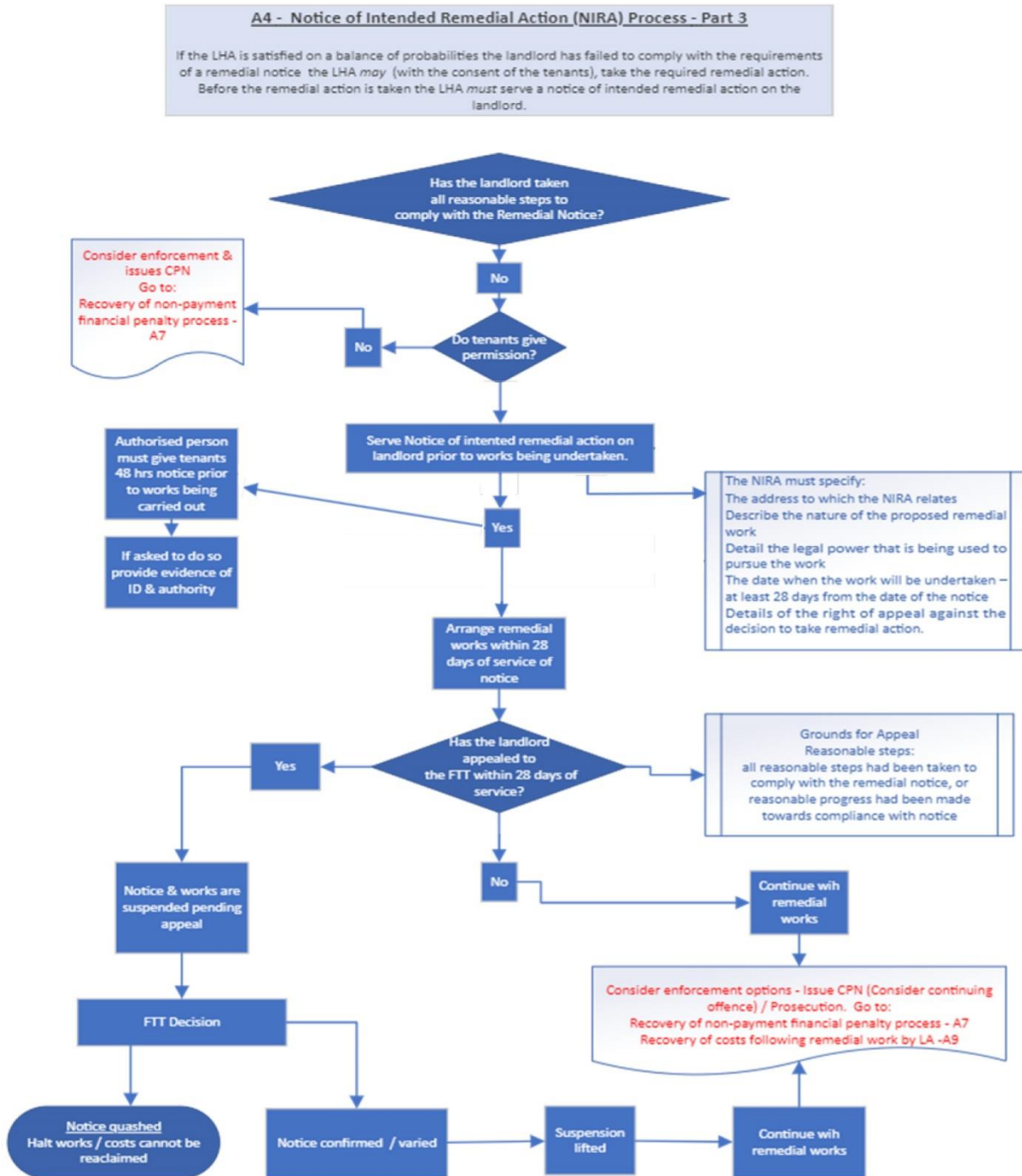
4. NWL/ESS – A3 – Flow chart – Remedial action

Purpose of process	Version	Last reviewed	By
To provide a basic overview of the process of serving a remedial notice, appeal and enforcement options	0.1		



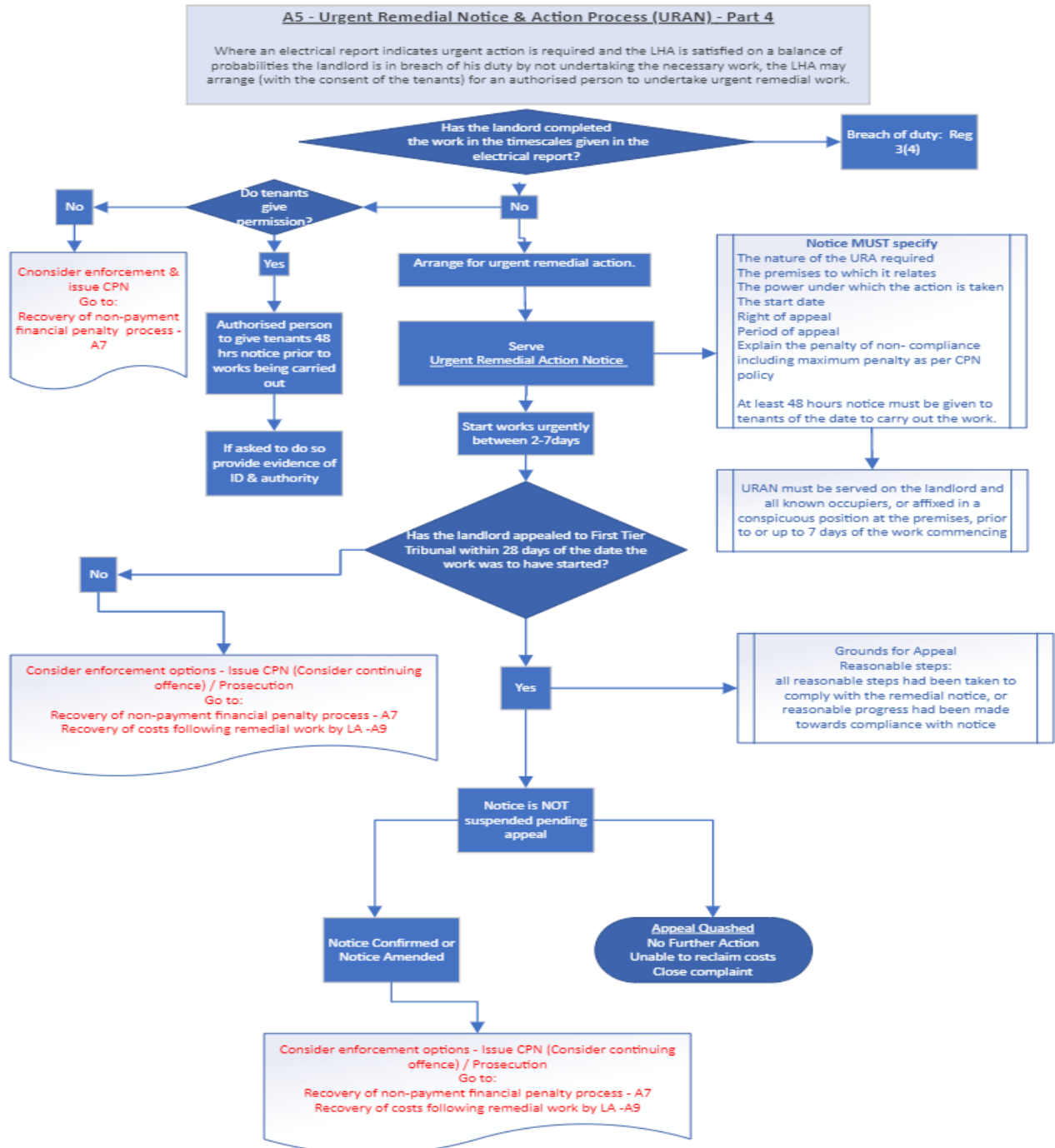
5. NWL/ESS – A4 – Flow chart – Notice of Intended Remedial Action

Purpose of process	Version	Last reviewed	By
To provide a basic overview of the process of serving a urgent remedial action notice, appeal and enforcement options	0.1		



6. NWL/ESS – A5 – Flow chart – Notice of Urgent Remedial Action

Purpose of process	Version	Last reviewed	By
To provide a basic overview of the process of serving a urgent remedial action notice, appeal and enforcement options	0.1		



7. NWL/ESS – A6 – Accompanying Notes – Investigation, Remedial action, Notice of Intended Remedial Action and Urgent Remedial Action

Purpose of process	Version	Last reviewed	By
Supporting procedure document to flowcharts: A2, A3, A4, A5	0.1		

INITIAL INVESTIGATION (A2)

The regulations require the LHA to enforce the duties imposed on private landlords and include the power to arrange remedial action.

The Landlord

As defined in section 122(6) of the Housing and Planning Act 2016; who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.

Tenancies (schedule 1 of the Regulations)

Specified tenancy – tenancies to which the regulation apply:

- ▶ Grants one or more persons the right to occupy all or part of the premises as their only or main residence
- ▶ Provides for the payment of rent (whether at market value or not)
- ▶ Is not an excluded tenancy.

Excluded Tenancies – tenancies to which the regulations do not apply:

- ▶ Tenancies where the landlord is a registered social landlord
- ▶ Where the tenant shares the property or part with the landlord or a member of the landlord's family
- ▶ Long leases of seven years or more
- ▶ Student halls of residence
- ▶ Hostels and refuges
- ▶ Care homes
- ▶ Hospitals, hospices and other healthcare-related accommodation.

Duties of a landlord – Part 2

Ensure the property meets the national standards for electrical safety for the period it is let under a specified tenancy.

Ensure the electrical installations are inspected every five years against the electrical safety standard laid down in the 18th Edition of the Wiring Regulations and by a competent person who is part of the electrical safety industry competent-person scheme.

Electrical installations are deemed to be:

- ▶ Consumer units
- ▶ Light fittings
- ▶ Plus sockets
- ▶ Wiring

A copy of the inspection certificate must be provided by the landlord to:

- ▶ All existing tenant(s) within 28 days of the inspection
- ▶ New or prospective tenant before they occupy the property, or receiving a request for the report
- ▶ To the LHA within seven days of receiving a written request to do so.
- ▶ To the next person undertaking the next inspection and test.

Complete required works with 28 days or a shorter period where the inspection certificate requires this.

Complete further remedial work or further investigation within a further period of 28 days (or shorter period, where this is required).

Where a LHA has cause to do so it may request a copy of the most recent Electrical Inspection and Testing Certificate and condition report relating to the fixed electrical installation at the rented property pursuant to Regulation 3(3) of the regulations. Failure to comply with request is a breach of duty and can result in the LHA imposing a civil penalty in accordance with its civil penalty policy. There is no statutory appeal against the notice although the landlord may make representations to the LHA. Alternatively, the landlord may challenge the notice through Judicial Review.

OVERVIEW OF ENFORCEMENT – LHA POWERS

- ▶ Regulation 3(1)(a)
electrical safety standards have not been met during the period of a tenancy, or
- ▶ Regulation 3(1)(b)
electrical installation has not been inspected at regular intervals (5 years or shorter as required), or
- ▶ Regulation 3(1)(c)
the first inspection was carried out before the tenancy began (for new tenancies) or by 1st April 2021 (for existing tenancies), or
- ▶ Regulation 3(4)
remedial or investigative work was required to the electrical system and that this was not undertaken within 28 days (or a shorter period where required), or
- ▶ Regulation 3(6)
that remedial or investigative work was required to the electrical system as a result of further investigations and that this was not undertaken within 28 days (or a shorter period where required) of the further investigations; and
- ▶ The most recent inspection report does not indicate that urgent remedial action is required

Where the Council believes that a landlord has breached their duties under the Regulations, they may do one, or a combination of, the following:

- ▶ Serve a remedial notice on the landlord, requiring them to take action in respect of the breach;
- ▶ Carry out urgent remedial action where a report indicates it is required;
- ▶ Carry out remedial action where a landlord is in breach of a remedial notice;
- ▶ Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.
- ▶ Consider using discretion to make entries onto the database of rogue landlords and property agents under the Housing and Planning Act 2016 where a landlord or has received 2 or more civil penalties within a 12-month period.
- ▶ Consider prosecution proceedings taking into account and alongside current overarching policies including but not exclusive to the Housing and General Enforcement policy.

REMEDIAL NOTICE – PART 3 (A3)

A notice of intended remedial notice *must* be served where the LHA has reasonable grounds to believe the landlord has failed in his duty to comply with the requirements of the legislation.

The remedial notice must be served within 21 days from the date the LHA is satisfied that the landlord has not complied with one of his duties. The Notice must specify:

- ▶ The premises to which the Notice relates
- ▶ The duty(s) the LHA considers breached
- ▶ The required remedial action
- ▶ The date by which the action is to be completed; this must be within 28 days of the *service* of the Notice
- ▶ Allow for written representations to the Notice within 21 days of the *service* of the Notice
- ▶ The name & address to whom any representation may be submitted.
- ▶ Explain the penalty of non- compliance including maximum penalty as per CPN policy

Reasonable Steps

A landlord has a duty to comply with a remedial notice unless they are able to claim that they have taken all reasonable steps, where the landlord (or electrician) has tried to gain access to the property to undertake the work and the tenant has prevented this.

Right of make representation

The landlord has 21 days from the date of service to challenge the Remedial Notice and make representations to the LHA.

On receipt of any appeal the notice is automatically suspended pending the outcome of the appeal.

The LHA must consider the representation and respond in writing with its decision to the appellant within 7 days of receipt of the appeal.

Outcome of representation

- ▶ Representation accepted – notice withdrawn – no further action – compliant closed.
- ▶ Representation declined – notice confirmed or varied - suspension lifted – landlord must comply with the notice within 21 days of receipt of confirmation.

Enforcement

- ▶ Carry out urgent remedial action where a report indicates it is required;
- ▶ Carry out remedial action where a landlord is in breach of a remedial notice;
- ▶ Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.
- ▶ Consider using discretion to make entries onto the database of rogue landlords and property agents under the Housing and Planning Act 2016 where a landlord or has received 2 or more civil penalties within a 12-month period.
- ▶ Consider prosecution proceedings taking into account and alongside current overarching policies including but not exclusive to the Housing and General Enforcement policy.

REMEDIAL ACTION BY LHA – PART 3 – (A4)

Notice of intention to take remedial action (NIRA)

If the LHA is satisfied on a balance of probabilities the landlord has failed to comply with the requirements of a remedial notice the LHA *may*, with the consent of the tenant, arrange for an authorised person to carry out remedial action.

If the tenant fails to give permission for the remedial works, the LHA may consider issuing a civil penalty notice in accordance with its Civil Penalty Policy.

Prior to any remedial action being taken by the LHA must serve a notice of intention to take remedial action (NIRA) on the landlord. The NIRA must include:

- ▶ The address to which the Notice of Intention relates
- ▶ Describe the nature of the proposed remedial work
- ▶ Detail the legal power that is being used to pursue the work
- ▶ The date when the work will be undertaken – at least 28 days from the date of the notice
- ▶ Details of the right of appeal against the decision to take remedial action.
- ▶ Copies must be served on any interested parties

If an appeal has not been received and at the end of the 28-day period, works may be undertaken by an authorised person.

The authorised person must give the tenants at least 48 hours' notice of the remedial works. If asked to do so by the landlord or tenant the authorised person carrying out the works must produce proof of authority and identity.

Right of appeal – Landlord representations

The landlord has 28 days from the date of service of the NIRA to appeal against the decision of the LHA to take action, to the First Tier Tribunal (property chamber).

A landlord may submit an out of time appeal if he can demonstrate good reason for failing to appeal within the statutory timeframe.

Reasonable steps

A landlord has a duty to comply with a notice of intended remedial action unless they are able to claim that they have taken all reasonable steps. An appeal maybe brought on the grounds on “reasonable steps” where the landlord (or electrician) has tried to gain access to the property to undertake the work and the tenant has prevented this or where reasonable progress has been made towards compliance.

NIRA is suspended pending appeal.

Appeal outcome

- ▶ Appeal allowed - Notice quashed – cease works, costs cannot be reclaimed
- ▶ Appeal declined – Notice confirmed or varied – suspension lifted, works can recommence and costs can be recovered.

Enforcement

- ▶ Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.
- ▶ Consider using discretion to make entries onto the database of rogue landlords and property agents under the Housing and Planning Act 2016 where a landlord or has received 2 or more civil penalties within a 12 month period.

- Consider prosecution proceedings taking into account and alongside current overarching policies including but not exclusive to the Housing and General Enforcement policy.

URGENT REMEDIAL ACTION – PART 4 (A5)

Where an electrical report indicates that urgent action is required and the LHA is satisfied on the balance of probabilities that the landlord has failed to undertake the works the LHA may, with the consent of the tenant, arrange for an authorised person to carry out urgent remedial work.

If the tenant fails to give permission for the urgent remedial works the LHA may consider issuing a civil penalty notice in accordance with its Civil Penalty Policy.

Subject to 48 hours' notice to be given as referenced below the LHA may exercise its right to arrange remedial works at any time.

The LHA must issue and serve an Urgent Remedial Action Notice (URAN) on the landlord and all known occupiers, or affix the notice in a conspicuous position at the premises, prior to or up to 7 days of the work commencing.

The Notice must include:

- ▶ The nature of the urgent remedial action required
- ▶ The address to which the Notice relates
- ▶ The power being used to justify the urgent work
- ▶ The date when the urgent work is or has been started
- ▶ The right of appeal and the period of appeal
- ▶ The provisions relating to the issue of financial penalties.

The authorised person must give the tenants at least 48 hours' notice of the remedial works. If asked to do so by the landlord or tenant the authorised person carrying out the works must produce proof of authority and identity.

Right of appeal – landlord representations

The landlord has 28 days from the date the urgent remedial work started or was due to start (whichever was first) to appeal against the Notice to the First Tier Tribunal (property chamber).

A landlord may submit an out of time appeal if he can demonstrate good reason for failing to appeal within the statutory timeframe.

Right of appeal – Landlord representations

The landlord has 28 days from the date the remedial work started or was due to start to appeal against the decision of the LHA to take action, to the First Tier Tribunal (property chamber).

A landlord may submit an out of time appeal if he can demonstrate good reason for failing to appeal within the statutory timeframe.

Reasonable steps

A landlord has a duty to comply with a notice of intended remedial action unless they are able to claim that they have taken all reasonable steps. An appeal may be brought on the grounds on "reasonable steps" where the landlord (or electrician) has tried to gain access to the property to undertake the work and the tenant has prevented this or where reasonable progress has been made towards compliance.

The URAN is not suspended on appeal.

Appeal outcome

- ▶ Appeal allowed - Notice quashed – cease works, costs cannot be reclaimed

- ▶ Appeal declined – Notice confirmed or varied – suspension lifted, works can recommence and costs can be recovered.

Enforcement

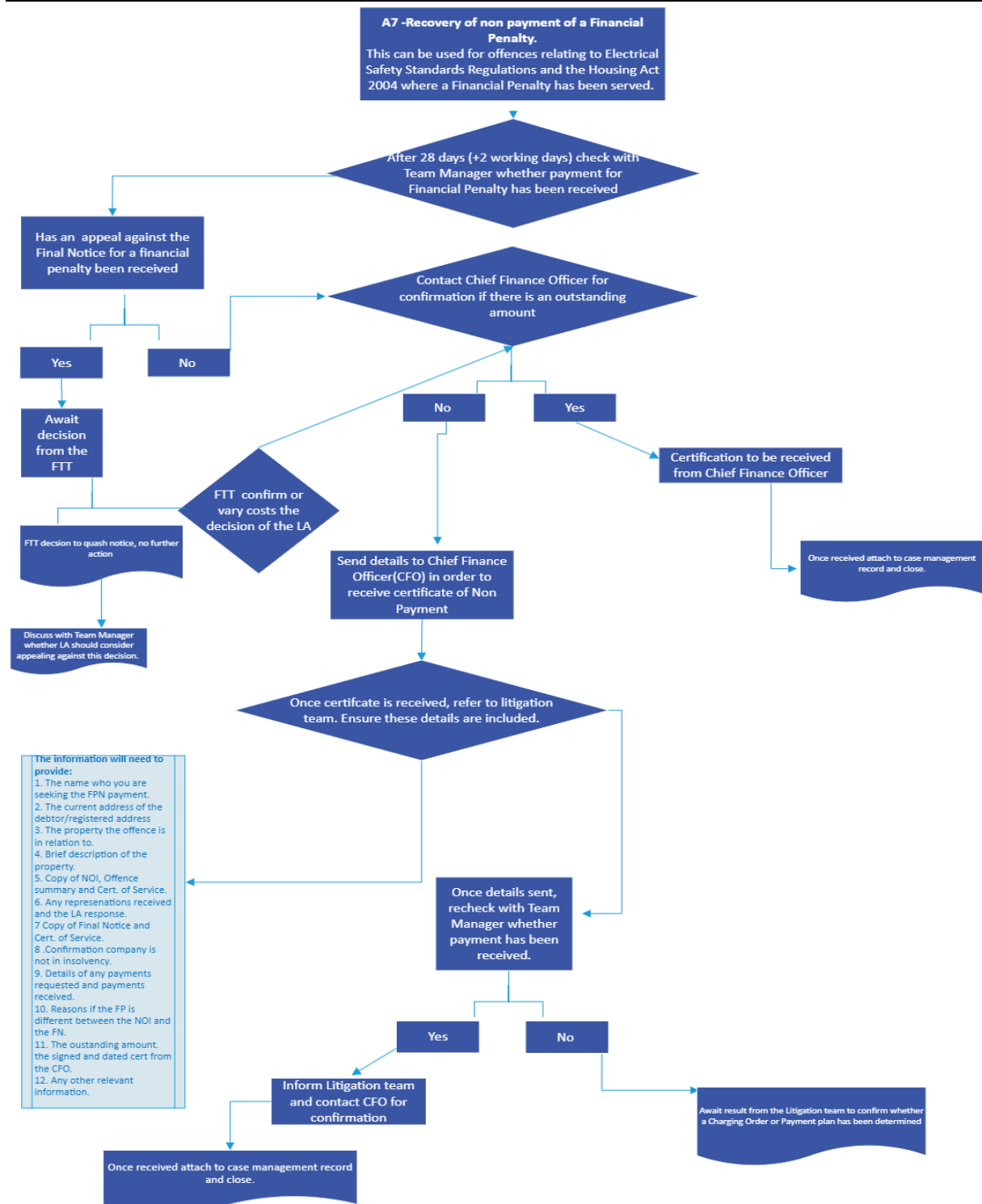
- ▶ Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.
- ▶ Consider using discretion to make entries onto the database of rogue landlords and property agents under the Housing and Planning Act 2016 where a landlord or has received 2 or more civil penalties within a 12 month period.
- ▶ Consider prosecution proceedings taking into account and alongside current overarching policies including but not exclusive to the Housing and General Enforcement policy.

Power of Entry

Powers provided under section 239 of the Housing Act 2004.

8. NWL/ESS – A7 – Flow chart – Recovery of non-payment financial penalty

Purpose of process	Version	Last reviewed	By
To provide an overview of the process to recover non-payment of Financial Penalties	0.1		



NWL/ESS – A8 – Accompanying Notes - Recovery of non-payment of financial penalty process

Purpose of process	Version	Last reviewed	By
Supporting procedure document to flowchart A7	0.1		

Prior to undertaking this process, determine whether an appeal against the financial penalty has been received. An appeal made against the Financial Penalty can be made pursuant to the Electrical Safety Standards Regulations 2020 Schedule 2 (5, (1)). If an appeal has been made to the First Tier Tribunal (FTT), await the outcome of the hearing as the value of the financial penalty may change or the financial penalty quashed.

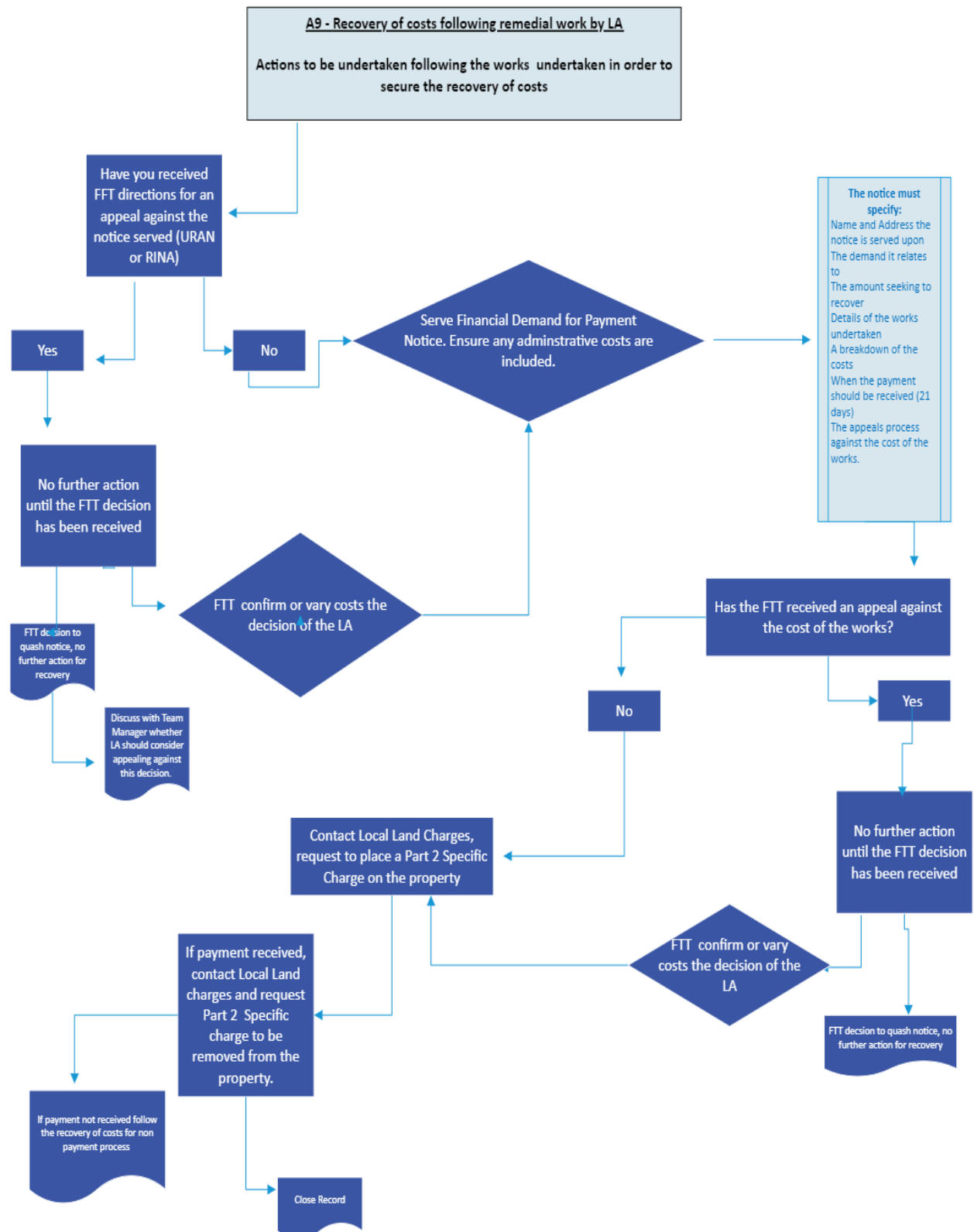
- 1 28 days (+2 working days) after the date the financial penalty notice has been served, check with the team manager whether payment has been received. If the financial penalty has been paid in full, no further action is required.
- 2 Once satisfied payment is outstanding, contact the councils Finance Team Manager for confirmation of this. A certificate from the Finance Team Manager should be received.
 1. The Finance Team Manager will review the case and provide a certificate confirming the outstanding amount.
 2. Refer the certificate of non-payment to the litigation team. The following details are required to be provided:
 - The name of whom you are seeking the financial penalty payment.
 - The current address of the debtor/ registered address.
 - The property the offence is in relation to.
 - Brief description of the offence.
 - Copy of the Notice of Intent, offence summary and certificate of service.
 - Attach a copy of any representations received (if applicable).
 - Attach a copy of the councils' response to any representations (if applicable).
 - Copy of the Final notice and certificate of service, highlighting the date it was served.
 - Confirm check made on company's house for insolvency details if you are seeking to recover the debt against the company.
 - Details of any requests for payments by instalments including date of the first payment and agreed date and amount per month to be received after the first payment.
 - If the amount has changed from the notice of intent and the final notice, the reasons why.
 - The date and amount of any payments received.
 - The outstanding amount.
 - The signed and dated certificate from the Finance Team Manager.
 - Any other information you think may be relevant.
 3. Recheck with both the team manager and the Finance Team Manager whether payment has been made. If so, inform the litigation team and await a further certificate of payment demonstrating a new outstanding amount.
 4. The litigation team will arrange for either a County Court or High Court hearing (depending on the outstanding amount). Await from the litigation team the results of the hearing and whether a charging order or payment plan has been ruled.
 5. If a payment plan is made, undertake the usual process. If there is a charging order made, an interim charging order following this a final charging order will be determined by the courts. For

confirmation of this, you should receive a copy of the final charging order and an up to date land registry document detailing the charge on the property for the Final notice amount plus any additional costs that have been incurred chasing the debt.

6. Once all payments received, email the finance team to confirm. Once confirmed the full amount of the finically penalty has been received, update the case management file and close the record.

9. NWL/ESS – A9 – Flowchart – Recovery of costs following remedial work by LA

Purpose of process	Version	Last reviewed	By
Process of actions to be undertaken following Works in default	0.1		



10. NWL/ESS – A10 – Accompanying Notes - Recovery of costs following remedial work by LA

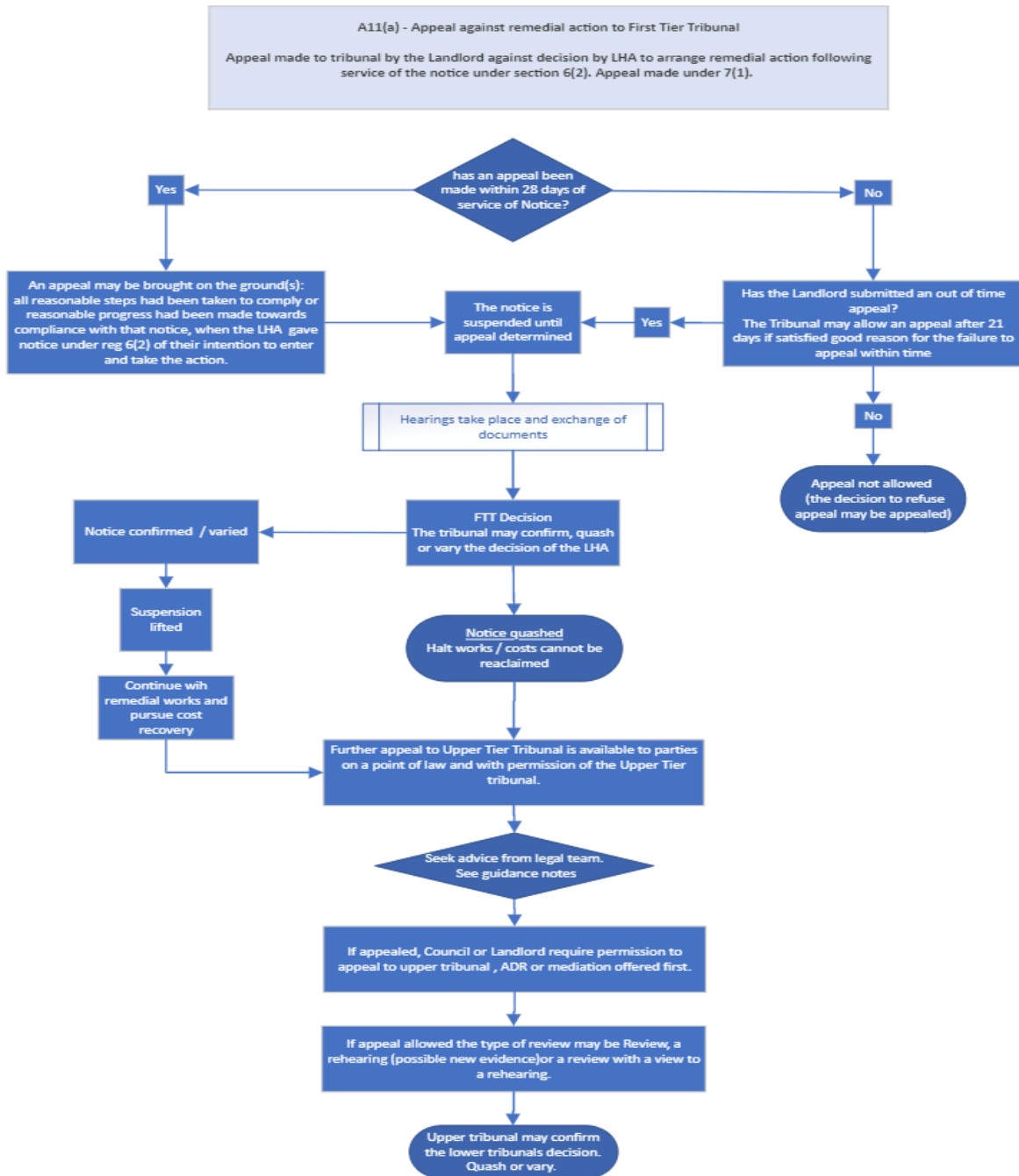
Purpose of process	Version	Last reviewed	By
Supporting procedure document to flowchart A9	0.1		

1. Once works in default have been undertaken regarding either the Urgent Remedial Action Notice (URAN) or Notice of Intended Remedial Action (NIRA), a Financial Demand for payment under Regulation 8 (2) of the Electrical Safety Standards (ESS) must be served on the person whom you are seeking payment from. This will be the landlord.
2. Once the appeal period for either notice has passed and you are satisfied no directions have been received from the FTT you can arrange for a competent person to undertake the remedial action on behalf of the local authority and arrange to recover reasonable costs.
3. The appeal period is 28 days for either the URAN or the NIRA.
4. Once the remedial works have been undertaken, serve a Financial Demand Notice under Regulation 8(2). This Financial Demand will be used for costs incurred for either urgent remedial action or the remedial action that has been undertaken and the property.
5. The Financial Demand has an appeals process to the FTT and the landlord can make this appeal under Regulation 9 of the Electrical Safety Standards Regulations 2020. The appeal period is 21 days.
6. Check the total amount on the invoice received from the trusted/approved contractor regarding the electrical works that have been undertaken at the property. Ensure these match what works were instructed.
7. If the amount is correct and the invoice details the works included in the URAN or RAN serve the notice for the Financial Demand. As the local authority are undertaking works in default by implementing public law, it is widely viewed that generally VAT should be deducted from the amount the local authority are seeking from the individual or company (sundry debtor). Within the Electrical Safety Standard Regulations (ESSR) it states that a demand for recovery of costs must be served on the private landlord whom the local authority is seeking recovery.
8. The Financial Demand must include the following:
 - Name and address of whom the notice is served upon. This must be the person NWL are seeking recovery of payment.
 - The demand the property relates to.
 - The amount NLW are seeking to recover.
 - Detail of the works undertaken at the property.
 - A breakdown of the costs -This will usually consist of the cost of the works undertaken and any administrative charges that have occurred as a result of the North West Leicester having to oversee the works. The costs must equate to the total amount you are seeking to recover.
 - When the payment should be received – 21 days from the date of service of the notice.
 - How the landlord can appeal against the costs and the timescale the landlord has to make an appeal to the First Tier Tribunal (FTT) (21 days).
 - Officers' signature and date.
9. After 21 days (+2 working days) from the date of the demand of the Financial Payment notice was served, the demand becomes payable if no appeal has been received. Contact local finance services to establish whether payment has been received.

10. If payment has not been received contact local land charges and request that a part two specific land charge registered on the property. Ensure you receive confirmation of this (usually through email) so the debt can be recovered should the property be sold.
11. Once payment has been received, contact local land charges and ask for the part two specific land charge to be removed and receive confirmation of this.

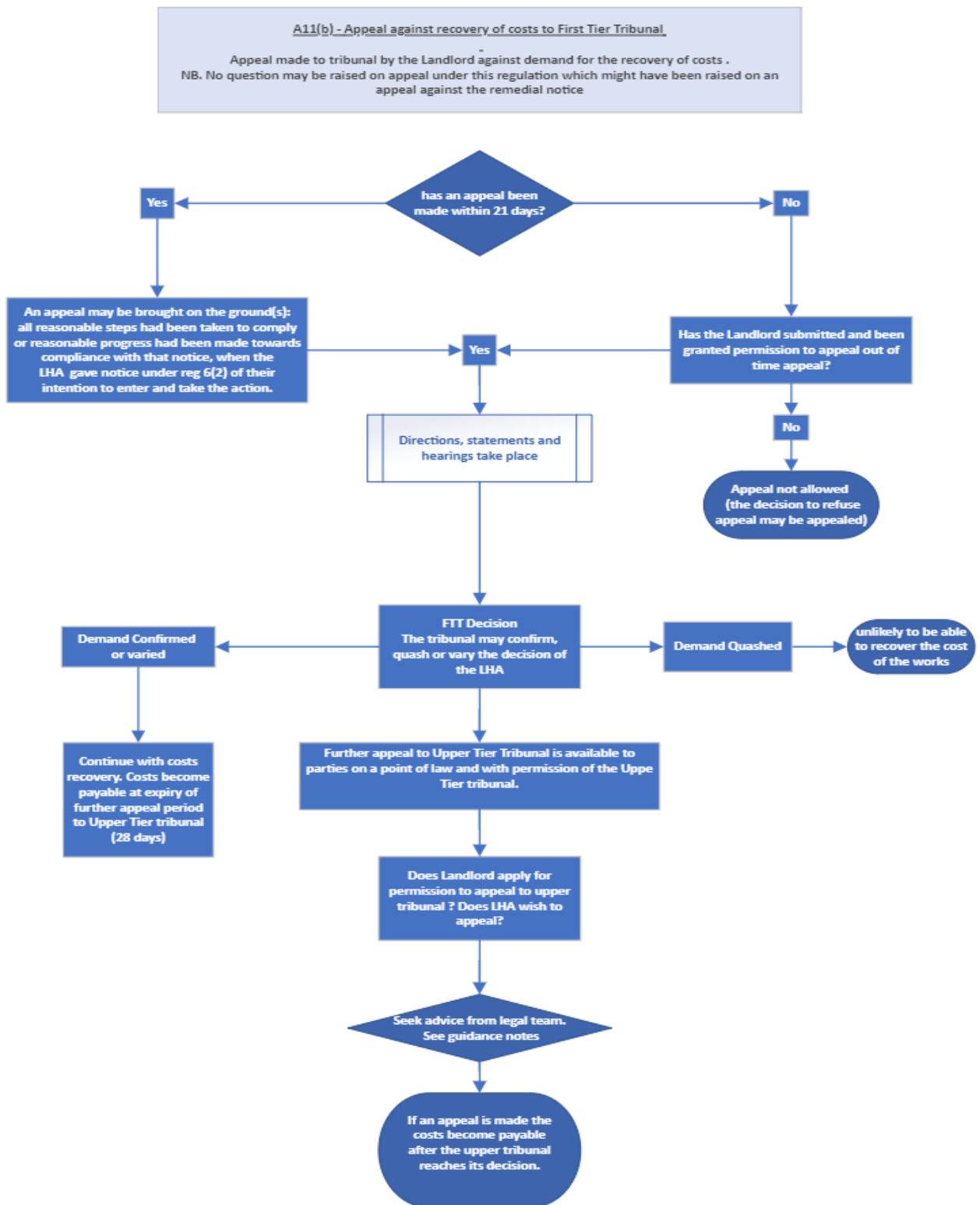
11. NWL/ESS – A11a – Flow chart – Appeal against remedial action to First Tier Tribunal

Purpose of process	Version	Last reviewed	By
Appeal made to the FTT following URAN or NIRA	0.1		



12. NWL/ESS – A11b – Flow chart – Appeal against recovery of costs to First Tier Tribunal

Purpose of process	Version	Last reviewed	By
Appeal made to the FTT following URAN or NIRA	0.1		



13. NWL/ESS – A12 – Accompanying Notes – Appeal to First Tier Tribunal

Purpose of process	Version	Last reviewed	By
Supporting procedure document to flowchart A11a and A11b	0.1		

The Process flow diagrams show the two different appeal processes including timescales that can be made to the tribunal.

Process A11a - Appeal against Notice to the First Tier Tribunal (Land Chamber)

- This details the Landlords (the appellants) appeal under regulation 7 against decision by Local Authority to take remedial action or urgent remedial action, following service of the notice under 6(2) or 10 (3) (URAN).
- The appeal must have been received by the tribunal within 28 days of the service of the notice or under URAN within 28 days of the start of taking of the urgent action.
- The notice is suspended as and when the appeal is received by the tribunal. However the URAN notice is not suspended when appealed (as in all likelihood it has already started or been completed and may put tenants at immediate risk if not undertaken).
- The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 S.I. 2013 No. 1169 (L. 8) must be followed and can be found at the following link. It is advised the respondent both read and understand the rules, though the case worker for the tribunal will effectively lead the respondent through the process using directions that will be produced at the start of the process.
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/357067/property-chamber-tribunal-procedure-rules.pdf
- The tribunal is likely to require the production of a statement of case as part of the directions made by firstly the Landlord as to why they are appealing. This is the opportunity for the Landlord to state why they are appealing. These are known as the grounds of the appeal. The timescales given must be strictly adhered to.
- If the timescales cannot be adhered to the Landlord must apply for an extension of time via the tribunal case worker. They will contact the respondent for consent (Council). If they agree a joint application from both parties may be submitted. If the Council objects they must give a reasoned explanation as to why the object.
- If there is a possibility that the appeal can be resolved using alternative dispute resolution a stay in proceedings of up to six weeks may be allowed. If mediation is considered by both parties then the two parties are encouraged to attend to resolve their differences in this way. It is often cheaper in terms of time and legal fees and expert reports.
- Fees must be paid as directed by the tribunal. Non-payment may mean the tribunal must not proceed further until paid.
- The tribunal may require the exchange of documents between the two parties of relevant documents. This may include (but not limited to)
 - a. Evidence that the work is required (from Council and Landlord).
 - b. Statements from electricians who have attended, certificates or periodic inspection reports refuting oppositions evidence, purchase orders, email conversations, records of telephone calls. Etc.
 - c. Statements of agreed matters
 - d. Expert evidence.
- There may be a hearing if it cannot be concluded by written submissions. This may involve a visit to the property involved.
- A hearing would normally follow the property inspection by the tribunal either in a court room or in a community centre etc.
- If the appellant withdraws the effect is that the notice is confirmed.

- If the tribunal in its decision confirm the notice the Landlord may appeal to the upper tribunal.
- The Council or landlord may choose to appeal if it quashes the notice and disagrees with the findings of the tribunal.
- If the notice is quashed the notice ceases to exist and the Council may need to consider what (if any) further action to take. It can reserve a notice. Care needs to be taken that the subsequent notice is taking into account the findings of the tribunal. If for example the initial notice was served on the wrong person.
- If the notice is varied the landlord is still required to address the varied works/notice.
- If an appeal is made against the decision of the first tier tribunal the upper tribunal will consider if the case has merit. An explanatory leaflet detailing the process is found at the following link.³

Process A11b – Appeal to the Upper Tier Tribunal (Land Chamber)

- This details an appeal against recovery of costs following service of a demand by the Local Authority following either works undertaken by the LA, following a remedial action notice under section 6 or secondly following urgent remedial action following a notice served under section 10.
- Note that the appeal must not consider those issues which could be dealt with by process A11a. Two separate appeals should be made if both the reason for the service of the notice is being appealed as well as the recovery of costs.
- Appeal in this case must be made within 21 days of the demand for payment from the Council for the recovery of their costs.
- An out of time appeal may still be heard if special circumstances exist that would convince the tribunal to allow the appeal.
- An appeal may be heard if the grounds for appeal include that the landlord had made reasonable progress to comply with the notice when the Council gave notice of their intention to enter and take the action.
- The tribunal is likely to require a statement of case from the Landlord as to why they are appealing.
- The tribunal is likely to require evidence of the reasonable steps that the appellant (Landlord) had made.
- The tribunal will provide directions for the Local Authority including timescales and deadlines for when it must be provide certain information.
- It is likely in this case to require evidence from the officer involved of their involvement and communications with the landlord.
- It is likely that quotations may be examined and possibly the authorities procurement policy has been complied with.
- The tribunal in its decision may quash the demand, vary the demand (increase or decrease the demand), or confirm the demand.
- If the demand is quashed the Council is unlikely to be able to recover the cost of the works.
- If the demand is confirmed the costs become payable at the end of the period during which the appeal to could be made. So if the Tribunal gives the appellant 28 days to appeal, then the costs become payable at the end of 28 days.
- If an appeal is made the costs become payable after the upper tribunal at the time of its decision.

³ [T605 - Explanatory leaflet for appeals against decisions of the First-tier Tribunal \(Property Chamber\), and the Leasehold Valuation and Residential Property Tribunals \(publishing.service.gov.uk\)](#)

14. NWL/ESS – A13 – Worked examples

Purpose of process	Version	Last reviewed	By
Problem statements and explanation relating to the above	0.1		

Worked example 1

EHO receives a complaint from a tenant that they hadn't received an electrical safety certificate from their landlord when they moved in three weeks ago. It is a standard assured short hold tenancy. They have noticed there are a few concerning items around the house that need addressing. They have sent in two photos of switched sockets that have cracked with exposed live contact points behind.

EHO starts initial investigation process (A2)

They assess the evidence and judge that they should send a notice requesting the electrical inspection and test certificate.

They send this to the landlord Mr Smyth. The Council have no prior knowledge of the Landlord.

5 days later the EHO receive a copy of the test certificate and it identifies that the supplementary bonding is inadequate to the radiator pipe works which is stated to be a C2. It also says that 2x C1s (damaged switched sockets) were found and have since been addressed. The Landlord included photographs of the repaired switched sockets showing the front plates have been replaced. He included a report from the electrician stating he had repaired the urgent C1s.

The EHO calls the Landlord asking for evidence that the bonding has been addressed also. He says he hasn't done it as he hasn't been paid any rent for some weeks and he will address this when the tenant pays his missing rent or when they move out. The landlord says he has never needed a periodic inspection report to date and he has had the property for ten years.

The EHO then considers the necessity to address the C2 identified and seeing as the Landlord will not do it of his free will decides to serve a Remedial Action Notice.

The EHO is satisfied that there is a breach of duty under section 3(1) (a) so within 21 days they send a remedial notice to the Landlord. They follow Remedial Notice process (A3)

On the notice it states

- 1 The address the notice refers to. Flat 2B main road, Ashby
- 2 The duty the landlord has been judged to have breached. 3(1)(a)
- 3 The required remedial action. Provide supplementary bonding/earthing to the wet central heating system in the house in line with current wiring regulations.
- 4 The date by which the action is to be completed- within 28 days.

The landlord responds in writing to the EHOs manager (within 5 days) stating that he would address the works within 2 months if the Tenant pays their rent. *The notice is suspended at this point.*

The senior officer receiving the response, reviews the response and decides this is not an adequate response or timescale and within 7 days provides a written response back to Mr Smyth saying that the Notice is confirmed and that the notice is no longer suspended.

14 days later (within the total of 28 days allowed) the EHO is contacted by the tenant who says the landlord's electrician has come back and done some work to the pipes. So, the EHO re-inspects the house, and the supplementary bonding has been completed and the tenant has been left with

a certificate stating that the electrical installation is now compliant. A copy is received from the landlord within 3 days via the post.

The Council must then decide if they will take further action using the civil penalty process. They decide based on the facts of the case that they will not on this occasion serve a notice of intent to serve financial penalty. But instead write formally to him warning him that any future failures in his duty to comply with the regulations will likely result in a civil penalty. The case is then concluded and closed.

Worked example 2

Background

Mrs Jones is Landlord and has a number of properties (10) in the Local authority area. She is well aware of the electrical safety standards regulations having been found previously to be operating without a periodic inspection report and certificate at a previous house. She was not served with a civil penalty for this previous failure as it was her first offence.

She has since rented a property to a family with young children on a 6-month assured short-hold tenancy. It's a relevant tenancy.

The Tenants have not received a periodic inspection report nor certificate despite moving in two months ago.

The Tenant's house has been in partial darkness upstairs for a week. The upstairs wiring circuit has been effectively condemned due to squirrels biting through the insulation/ cables in numerous places to the loft. It's classified as a C1 on the report.

Her electrician who attended made it safe, but has left upstairs without a working lighting circuit and was awaiting an order number from the landlord before he could start work to rewire the upstairs lighting circuit and repair the socket.

Mrs Jones has provided a few lamps (to be plugged into the ring main) to deal with the lack of lighting.

Also present upstairs were one cracked socket. This was not addressed/made safe. The tenants have complained to the Council.

The EHO sent a notice to the landlord requesting the Electrical inspection and test certificate. This was received promptly by return of email.

The report dated two weeks previously, showed two C1 issues. It stated that the works to address the C1's should have been completed in 7 days.

No remedial action had been taken within the time specified on the inspection report (apart from making the lighting circuit safe) but the electrician hadn't repaired it nor the cracked electrical socket. The Landlord is (or is potentially) in breach of their duty to undertake remedial work within the period specified in the report as stated in 3(4) (b).

The EHO cannot get in touch with the landlord following the email and answer phone messages are not being answered.

URAN

As there are 2 C1s (urgent) the EHO therefore goes through the urgent remedial action process (URAN- process A5).

The family want this work completing urgently and the landlord is not contacting them back, they therefore give permission for the works to be carried out by the Council. The EHO uses a suitably qualified electrician using their trusted contractor list to provide a quotation for

- Replacing the lighting circuit to current wiring regulations.
- Replace the damaged socket.

While on site the contractor quoting for the works also notices that there is some

- Thermal damage to a socket above the cooker.

- An MCB fitted to the distribution board has an incorrect breaking current.

Both of which issues are stated to be C2s. This additional information and report is relayed to the landlord by email who is instructed to address it.

Therefore the process is split into two. Firstly, a URAN is served to address the C1's which is to replace the wiring to the lighting circuit upstairs and to replace the damaged socket. The second part of the works required to address the C2s (not being urgent) will revert to the remedial notice process A3 if the Landlord doesn't address it.

The EHO therefore follows the URAN process contained in flow diagram A5. The notice served includes the following.

- 1 Name of the premises. 12 Acacia walk, Coalville.
- 2 The power under which the action is taken. Regulation 6.
- 3 The date (three days' time) when the work will commence by the authorised person.
- 4 The right of appeal to the notice. Which must be made 28 days from the service of the works.
- 5 The notice is served on the occupiers (family at the rented house) and on the landlord at her home address.

The works are then undertaken 3 days later by the Councils contractor having been procured in line with the Council procurement procedures. Adequate notice has been given to the Tenants that the works start after 48 hours.

The landlord doesn't appeal against the URAN to the FTT in 28 days.

Cost recovery process

The Council then go through the Cost recovery process for the works undertaken.

- 1 Firstly the EHO contacts the local land charges team by email and asks them to place a part 2 financial charge on the property including the cost of works and additional admin charge for arranging the works inline with our current charging policy.
- 2 The officer raises an order number for the works and adds a 20% fee for the Council's costs in arranging the works.
- 3 After the order number is raised, then an invoice is raised and sent to the Landlord through the Councils own internal system.

The Landlord then pays the invoice for the works, within 7 days.

Civil Penalty

The EHO then decides that a civil penalty will be considered. The Landlord is noted to be a repeat offender having failed in her duties previously. So to calculate the CPN the EHO uses the civil penalty policy and calculator, the tables of which are included below to assist calculation.

Table 1: Civil Penalty level for relevant offences

Column 1+Column 2+Column 3 = Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total

Total for each penalty shown in Table 2, Column A	Total for each penalty shown in table 2 columns B and/or C	20-30	£500	Level of civil penalty to be applied (Maximum £30,000)
		40-80	£1000	
		90-120	£2,500	
		130-170	£5,000	
		180-230	£10,000	
		240	£20,000	

Table 2: Offence specific penalty and other penalties

Offences		A		B		C	
Housing Act 2004 Offences	Section 30	Non-compliance with improvement notice	£2,000	There are two or more Cat 1 hazards	£3,000	Where there are 3 or more high scoring hazards ¹	£1,000
	Section 72	Failure to obtain property licence	£2,500				
		Breach of licence conditions (Penalty per breach)	£1,000				
	Section 139	Non-compliance with overcrowding notice	£500	Penalty per additional person	£200		
	Section 234	Failure to comply with HMO management	£500				

		regulations (per breach)					
Electrical Safety Standards in the Private rented Sector (England) Regulations 2020 Reg. 3	Breach of a duty of private landlords in relation to electrical installations (penalty per breach)	£1,000	There is 1 identified Code 1 defect or three or more identified relevant defects. ²	£3,500	There is one or more identified relevant defect (s)	£2,500	

¹ A high scoring hazard is defined as a hazard achieving a score rating of E or higher using the HHSRS

² A relevant defect for the purpose of this matrix is defined as a defect which would result in a Unsatisfactory grading on an Electrical Installation Condition report (EICR) Namely a defect given a C1, C2 or F1 observation code.

Table 3: Impacts scoring matrix

Answer each of the questions 1-5 below and apply the score shown in the column header.

Question	Score	0	20	30	40
1	Severity of harm or potential harm caused x2 (The relevant column score is doubled)	LOW No identified risk Previous /current occupant not in vulnerable category. No impact assessed	MODERATE Moderate level of risk to relevant persons, Previous/ current occupant not in vulnerable category. Low impact assessed.	HIGH High level risk(s) to relevant persons. Previous /current occupant in vulnerable category. Occupants affected frequently or by occasional	SEVERE High level of risk(s) to relevant persons. Previous/ current occupants in vulnerable category. Multiple individuals at risk. Occupants are severely

				high impact occurrences.	and/or continually effected.
2	Number of properties owned/managed	1	2-3	4-7	8+
3	Culpability and Track record	No previous enforcement history Minimal prior contact Clear evidence of action not being deliberate	1 or more previous enforcement notices served Clear evidence of action not being deliberate	1 or more enforcement notices served. Offender ought to have known that their actions were in breach of legal responsibilities.	Significant evidence of historical non-compliance. Actions were deliberate or offender knew or ought to have known that their actions were in breach of their legal responsibilities
4	Removal of financial incentive	Little or no income received	Low income received	Moderate income received	High Income received
5	Deterrence and prevention	High confidence that the penalty will deter repeat offence	Medium confidence that penalty will deter repeat offence	Low confidence that penalty will deter repeat offence	No confidence that penalty will deter repeat offence.

Looking at Table 2 above of the civil penalty policy to calculate the offence specific penalty, there is a £1000 per breach of duty, which in this case Regulation 3 (1) (a) states that a Landlord who grants a relevant tenancy has a duty to...

“ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;”

The Electrical Safety Standards have not been met. As there are two unrepaired C1's this is the first failure of duty under 3(1) (a).

The Officer notes that the test report and certificate is dated some weeks after the tenant has moved in. Therefore a duty under 3 (1) (c) (i) (which is to ensure the test was carried out before they moved in) has also been breached.

The EHO asks the landlord if a previous report has been completed in the previous 5 years, but none could be produced. Therefore, the Landlord has failed in their duty to regulation 3 (1) (b) also (as the electrical installation was not inspected and tested at regular intervals of 5 years).

Also the officer notes that Regulation 3(4) which states that:

(4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—

(a) 28 days; or

(b) the period specified in the report if less than 28 days, starting with the date of the inspection and testing.

The Officer notes that the electricians report says the C1's should be repaired within 7 days from the day of the testing- being urgent. Therefore 4(b) hasn't been complied with.

The breached duties are therefore 3(1) and 3(4) (b).

The Officer then considers if there are any identified Code 1 defects present on the inspection report and we have two, so in column two we calculate an additional £3,500 to be added to the £2000.

The officer then considers the questions in table 3 of the Civil Penalty Policy (CPP).

Question 1= Score of 30- High risk. If someone touches the live contact points which are at a low level in switched sockets, the score for this is doubled as per the policy to 60.

Question 2= The landlord owns 10 properties, so the score= 40.

Question 3= The Landlord has some previous enforcement action against them and should have known what they were doing was wrong. So score= 30.

Question 4= Apart from the cost of the works little or no income was received as a result of their action. So scores 0

Question 5= Medium confidence that this will deter from repeat offending. So scores 20.

Total for table 3 the score = 150, which when we look at Table 1 of the CPP is £5,000.

So looking at table 1 of the CPP,

Column 1+Column 2+Column 3 = Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total
£2000	£3,500	150	£5,000	£10,500

The process for the service of civil penalties for the ESS regulations is contained in Schedule 2 of the Regulations.

Following the process contained in schedule 2, the Notice of intention to serve a Civil Penalty is served within 6 months of the Council being made aware of the breach.

The notice of intention sets out

- 1 the amount of the proposed financial penalty; £10,500
- 2 the reasons for proposing to impose the penalty; The Landlord has failed in their duty to maintain the electrical installation for a relevant tenancy leaving the Tenant in a potentially dangerous situation.
- 3 information about the right to make representations under paragraph 2. The Landlord may make representations against the proposal to serve a notice within 28 days.

Following receipt of the notice of intention to serve a civil penalty, the Landlord then supplies a representation to the Council. It states:

"I was in the process of undertaking the works. I had provided the Tenant with alternative lighting upstairs until a full repair was made. The lighting circuit was made safe and a series of pest control treatments were being undertaken to address the squirrel problem in the loft. I didn't see much point reinstalling the wiring until the squirrels were dead or stopped from getting into the loft as they may have done it again. I had gone away on business when the URAN was received. I would have actioned it immediately if I had received it in time before the urgent works commenced. I have already paid the invoice for the works as I accept it is my responsibility. I inspected the property between tenancies (before the tenant moved in) and there was no cracked socket in that location and it is likely the tenant may have done this, possibly when moving furniture in, as it's located behind some furniture. I provide a dated photograph showing the socket in good working order dated 1 month ago, I have looked at the socket in question and although cracked there doesn't appear to be any exposed contact points. I provide a photo and it appears to be only a hairline crack. May I also add that I had instructed the electrician to start the rewiring and repairs the following week, it was in a safe condition and risk was in my opinion low despite it being stated to be a C1". Appended to the response were 3 inspection reports from the pest control company for the squirrel trapping, evidence she was away on business (flight receipts), photographs of the electrics between tenancies and a current photo of the damaged socket.

The Council decides that this representation has raised some issues that would make the service of a civil penalty at its current level appealable and perhaps unfair.

Therefore the Council decides to reduce the level of civil penalty on this occasion.

The reason for this is as follows, the Landlord's electrician had made the C1 safe in the loft however they hadn't addressed the cracked socket. The socket may have been damaged by the tenant or their children. There doesn't appear to be any exposed contact points and therefore questionable if it was urgent (C1) to begin with. The senior officer considering the evidence presented decides it is possibly unfair to serve her with a civil penalty for £10,500.

However the Landlord has made no representation about the lack of testing of the electrical standards for the dwelling in the past 5 years. Therefore, the calculation is adjusted as follows.
 Column 1+Column 2+Column 3, =Column 4

1	2	3		4
Offence Specific Penalties	Further Penalties (if any)	Table 3 impact matrix score A	Level of penalty	Cumulative total
£1000	0	150	£5,000	£6,000

Column 1 is reduced to £1000 for failing in her duty to test the electrical standards in the past 5 years. The Landlord has reasonable excuse not to have complied with duty 4(b) due to the ongoing squirrel problem. The penalty for breach of duty under 3 (1) remains.

The further penalties (column 2) are reduced to 0, as they had reasonable excuse for not having completed the work in 7 days and had in any case removed that wiring until the squirrels were dealt with.

The offence specific penalty for the cracked socket is decided to be removed due to questionable accuracy regarding exposed contact points.

Column 3 remains the same at £5000 as the Landlord knew about the regulations and the remaining facts remained the same. Which gives column 4 (the CPN to be served) as £6,000. The CPN is therefore reduced by £4,500. The Landlord doesn't make any further representations to the amended notice of intention to serve a civil penalty. A final civil penalty is served for £6,000 and no appeal is made to the tribunal. The Landlord pays it.

Remedial Notice process A3.

The EHO notes after 28 days that the C2s picked up by the Council electrician still haven't been addressed by the landlord and must consider addressing the C2s noted on the Council's electricians report and decides to serve a remedial action notice. This notice must include...

The premises to which the Notice relates ... 12 Acacia Walk Coalville.

The duty(s) the LHA considers breached; Regulation 3(4)

The required remedial action;

- 1 Replace the thermally damaged socket near cooker, moving it to a more appropriate location
- 2 Replace MCB for correctly specified new MCB as per current wiring regulations.

The date by which the action is to be completed; this must be within 28 days of the service of the Notice.

Allow for written representations to the Notice within 21 days of the service of the Notice

The name & address to whom any representation may be submitted.

Explain the penalty of non- compliance including maximum penalty as per CPN policy.

The Landlord decides they will address the works using their own electrician having received the proposed civil penalty prior to receiving the remedial action notice.

The inspection report and certificate and evidence the works have been completed are sent in and checked by the Council.

The case is closed.



Private Sector Housing Policies

[Meeting of Community Scrutiny Committee, Wednesday, 5th April, 2023 6.30 pm \(Item 75.\)](#)

Report of the Head of Community Services.

Minutes:

The Head of Community Services presented the report and highlighted that the outlined policies would make the district's private sector homes safer and more energy efficient, with greater powers to carry out enforcement.

Members wanted to know the number of sites and the number of officers the Council had to carry out checks and enforcements. Officers advised that the Council had been looking for additional resources to carry out more pro-active work. It was confirmed that at present, only complaints are investigated, so it had been a reactive service as opposed to a pro-active one. It was noted that the Council interacts with tenants who have expressed that they are not happy in order to approach landlords. A member felt that a complaint driven system could leave tenants in a vulnerable position and they could be afraid that landlords would retaliate if they became aware that they had been complained about. It was asked whether the Council would act if it was found that tenants had suffered reprisals from landlords after making a complaint. Officers advised that they could facilitate a conversation between tenant and landlord, but it would be hard to know if there had been reprisals.

A member asked how many private tenants were aware of their rights and officers responded that there may be many who were not aware, although there had been advertising around tenants' rights. It was asked whether landlords are informed by the Council that they are being investigated due to a complaint from the tenant and this was the case, although officers confirmed that tenants are made aware of their rights and that Government is currently looking into legislation around retaliatory evictions.

Officers advised the Committee that if a tenant was served with a Section 21, then the Council would be able to offer help and support via the Housing Choices service. A member suggested that statistics for instances like this be measured so that data would be available for members' consideration.

It was suggested that the Council don't disclose they are investigating a complaint to landlords and claim to be carrying out an investigation. Officers agreed that this was something which could be looked into.

A member raised concerns that funding used to increase staffing numbers to carry out inspections had come from the Disabled Facilities Grant.

One member said that they had been involved in a case whereby a retaliatory eviction had taken place and noted that this was not illegal. It was felt that landlords are given more protection than tenants therefore pro-active enforcement would be preferable to the current complaint driven system. The member also stated that they weren't convinced EPC ratings were given correctly and asked whether officers had any means to check EPC ratings. It was also mentioned that there seemed to be a lack of community consultation and the views of private tenants should have been sought.

A member asked if there had been any improvement on energy ratings in privately rented accommodation since the Task and Finish group had focused on this subject and suggested that statutory checks should be carried out along with blanket inspections, in order to remove

culpability from the tenants. Officers responded that pro-active inspection was dependent on capacity.

Members suggested that the penalties for first and subsequent offences were not clear and asked for clarification as to whether this applied to the landlord or the property. It was also noted that the fine would be limited to £5,000 and it was asked whether this would be over a period of time. Officers replied that as this was new legislation, they would review this to try and give more clarity.

RESOLVED THAT:

Community Scrutiny Committee comment on the following draft housing policies ahead of consideration by Cabinet:

- Housing Enforcement Policy
- Refresh of the General Enforcement Policy
- Civil Penalty Policy
- Minimum Energy Efficiency Standards
- Carbon Monoxide and Smoke Alarms
- Electrical Safety

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	FOOD SAFETY SERVICE DELIVERY PLAN 2023/24	
Presented by	Councillor Michael Wyatt Portfolio Holder for Community Services	
Background Papers	Food Standards Agency – The Framework Agreement on Official Feed and Food Controls by Local Authorities.	Public Report: Yes
	Food Standards Agency – Food Law Code of Practice (England) (Issue: March 2021)	Key Decision: Yes
Financial Implications	The budget for the provision of the food safety service is £344,295. No additional funding is required to deliver the 2023/24 service delivery plan	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	If the authority fails to discharge its duty imposed by the Food Safety Act 1990 Food Standards Agency may intervene.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There is a risk that additional staffing resource will be required to carry out the checks on imported food entering Great Britain through East Midlands Airport. Once the resource requirement is known, if required a recruitment plan will be devised. Increasing the contracted hours of the official veterinary surgeon is likely to be sufficient to meet the new service demand. Any additional costs will, however, be recovered through inspection income from the importers	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To inform Members of the content of the Food Safety Service Delivery Plan 2023/24 as required by the Food Standards Agency	
	To inform Members of the performance against the 2022/23 service delivery plan	
Reason for Decision	To approve the content of the Food Safety Service Delivery Plan 2023/24 as required by the Food Standards Agency.	
Recommendations	<p>(1) THAT THE ENVIRONMENTAL HEALTH FOOD SAFETY SERVICE DELIVERY PLAN 2023/24 APPENDED TO THIS REPORT BE APPROVED</p> <p>(2) THAT THE PERFORMANCE AND ACHIEVEMENTS IN 2022/23 BE NOTED</p>	

1.0 BACKGROUND

- 1.1 The Food Safety function is delivered by the Environmental Health team. When providing the Food Safety function, the Council must have regard to the 'Framework Agreement on Official Feed and Food Controls by Local Authorities' ("the Framework Agreement") which sets out the standards agreed with the Food Standards Agency.
- 1.2 The Framework Agreement requires each food safety service to document and implement a Food Safety Service Delivery Plan in accordance with a specified standard. In addition, a documented performance review of the plan is required to be carried out at least once a year. The Framework Agreement requires the Service Plan, together with the performance review to be submitted for member approval to ensure local transparency and accountability.
- 1.3 The Environmental Health Food Safety Service Delivery Plan 2023/24 is attached at **Appendix 1**.

2.0 MAIN FOCUS OF THE 2023/24 PLAN

2.1 Planned Activities

- Undertake a programme of 329 food safety interventions consisting of inspection, auditing and sampling will be carried out at high and medium risk food establishments (Categories A, B, C, D and unrated).
- Undertake a programme of official and non-official food controls at 232 low risk food establishments (risk category E).
- Provide support to HMS Host UK Limited under a Primary Authority Partnership.
- Investigate food and food premises complaints and all outbreaks and incidents of food related illnesses.
- Provide information and advice on food safety to businesses and customers.
- Undertake a programme of food, water and environmental sampling.
- Promote the National Food Hygiene Rating Scheme for food establishments within the district. Food establishments will be encouraged to display their rating.
- Facilitate international trade through the issuing of export certificates, organic certification and catch certificates (fish).
- Operate the inspection facility at East Midlands Airport. Check all products of animal origin and certain high-risk foods not of animal origin entering the United Kingdom for the first time via East Midlands Airport.

2.2 Government Policy on Managing Britain's Borders and implications for operating the border control post at East Midlands Airport

When the United Kingdom (UK) left the European Union (EU), it regained the right to manage its own borders in a way that works for Britain. This includes how imports are managed into the country from overseas. In June 2022, the Government announced that they would not introduce the import controls on EU goods planned for 1 July 2022.

The Government published a draft target operating model in April 2023 which sets out the new regime of border import controls. The new approach will apply equally to goods from the EU and goods from the rest of the world. Once the final document has been published, work will begin on assessing the implications for the Environmental Health service. The majority of the work will focus on resource planning by modelling the future

volume of trade at East Midlands Airport and matching that service demand with adequate staffing levels and competency.

3.0 PERFORMANCE INDICATORS AND TARGETS 2023/24

3.1 The following performance indicators and targets are proposed for 2023/4:

Indicator	Target
Percentage of due food interventions completed at food establishments within risk category A and B (high risk)	100%
Percentage of due food interventions completed at food establishments within risk category C and D (medium risk)	90%

4.0 SUCCESSES AND ACHIEVEMENTS IN 2022/23

4.1 The Council has successfully achieved all milestones within phases 1 and 2 of the Covid-19 Recovery Plan, published by the Food Standards Agency.

4.2 100% of food establishments risk rated for hygiene as category A, B, C and D (high and medium risk) have received an on-site intervention.

4.3 The Council was successful in securing a grant from the Food Standards Agency to enable an enhanced level of imported food surveillance to be carried out. 184 commercial shipments of undeclared restricted commodities were detected and seized from 172 flight manifests.

Policies and other considerations, as appropriate	
Council Priorities:	Insert relevant Council Priorities: - Support for businesses and helping people into local jobs - Our communities are safe, healthy and connected
Policy Considerations:	None
Safeguarding:	N/A
Equalities/Diversity:	No negative impact
Customer Impact:	Delivery of the food safety service delivery plan will ensure that food manufactured, purchased and consumed is safe.
Economic and Social Impact:	Regulatory support provided to food establishments will support economic growth. Publication of food hygiene ratings will provide consumer confidence
Environment and Climate Change:	None
Consultation/Community Engagement:	None
Risks:	Failing to approve an adequately resourced food

	safety service delivery plan would present a risk to the Council.
Officer Contact	Paul Sanders Head of Community Services Paul.Sanders@nwleicestershire.gov.uk

FOOD SAFETY
ENVIRONMENTAL HEALTH
SERVICE DELIVERY PLAN 2023-24



As Required By the Food Standards Agency

FOOD SAFETY SERVICE DELIVERY PLAN 2023-2024

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FOOD SAFETY SERVICE DELIVERY PLAN 2023-2024

1. INTRODUCTION

- 1.1 This service plan has been produced in accordance with the Framework on Agreement on Official Feed and Food Controls by local authorities. It provides the basis on which the Council will be monitored and audited by the Food Standards Agency.

2. AIM AND OBJECTIVES OF SERVICE

2.1 Aim

To protect public health in North West Leicestershire and ensure that the food imported, prepared, stored, sold and consumed in the district is safe to eat, through enforcement and education.

2.2 Objectives

- To undertake quality programmed interventions of food establishments (in land and point of entry) in line with their risk rating and intervention policy.
- To undertake an alternative enforcement strategy in low risk premises.
- To investigate all reports of food poisoning in line with service standards and take appropriate action.
- To investigate all service requests in line with service standards and inform complainants of outcomes and the reason for the outcomes.
- To undertake a programme of food sampling to demonstrate the importance of good hygiene and to check food safety systems are working.
- To further develop Primary Authority partnerships
- To maintain an accurate database.
- To undertake a programme of education aimed at the public and businesses.
- To undertake surveillance, inspection and sampling of imported foods.

2.3 Strategic Aims

The work of the food safety team makes an important contribution to the Council's priorities 'Business and Jobs' and 'Homes and Communities'.

2.4 Performance Indicators

Indicator	Target
Percentage of due food interventions completed at food establishments within risk category A and B (high risk)	100%
Percentage of due food interventions completed at food establishments within risk category C and D (medium risk)	90%

2.5 Service Standards

All service users can expect and will receive an efficient and professional response.

Officers will identify themselves by name in all dealings with service users.

Officers will carry identification cards and authorisations at all time.

Service users will be informed of the name and telephone number of the officer who is responsible for their need.

All service requests will be responded to; however, anonymous requests may not be dealt with.

The following initial response times to service requests can be expected by service users:-

Immediate

Vermin in food premises.
Food poisoning outbreak.
Case of suspected food poisoning.
Mouldy food complaint.
Situations likely to result in an imminent risk to health.

Within 24 hours

Collection of a food complaint.
Inspection of imported food at East Midlands Airport
IUU – catch certificates

Within three days

Food Hygiene Rating Scheme – appeal application
Food Hygiene Rating Scheme – Re-score visit application
Food Hygiene Rating Scheme – Right to Reply request
Imported food enquiries – request for advice
All other food hygiene related complaints.

Within five days

Confirmed cases of all other food related illness or communicable disease.

Following a food hygiene intervention food business operators will receive a letter within 14 days. The letter will contain details of how to make representations to the Environmental Health Safety Team Leader or Environmental Health Team Manager.

All enforcement action will be taken in accordance with the Council's Enforcement Policy.

3. BACKGROUND

3.1 Profile of the Authority

North West Leicestershire District Council services an estimated population of 93,468 covering an area of 27,933 hectares. It is a predominately rural district with two main urban areas, Coalville and Ashby de la Zouch.

3.2 Organisational Structure

3.2.1 Democratic Structure

The Council is composed of 38 Councillors elected every four years. All Councillors meet together as the full Council. Meetings of the Council are normally open to the public. Councillors decide the Council's overall policies and set the budget each year. The Council will appoint a Leader, scrutiny committees, regulatory bodies, an Audit and Governance Committee and other statutory, advisory and consultative bodies.

The Cabinet is responsible for most day-to-day decisions and comprises the Leader and his appointed Portfolio Holders. The Cabinet has to make decisions which are in line with the Council's budget and policy framework.

The scrutiny committees may make recommendations which advise the Cabinet and the Council on its policies, budget and service delivery as well as monitoring the decisions of the Cabinet.

3.2.2 Food Safety Team Structure

The Food Safety Team sits within the Environmental Health Safety Team which forms part of the Community Services Team. The team is managed by the Environmental Health Team Manager. In addition, the following staff contribute to the food safety service:

Environmental Health Safety Team Leader
Environmental Health Officers (two FTE)
Environmental Health Officer / Primary Authority Officer (Full-Time)
Food Safety Officer (Full-Time)
Food Safety Officer / Environmental Health Officer (Career Graded Full-Time)

In addition, there is one Business Support Officer and one Business Support Assistant who support the work of the Food Safety Team.

The team submits any samples for microbiological analysis to the Public Health Laboratory Colindale, London and all other samples for analysis to the County Public Analyst (Wolverhampton Scientific Services and ALS).

Eville & Jones Ltd provide the Official Veterinary Surgeon at the border control post at East Midlands Airport. The Lead Official Veterinary Surgeon (OVS) is Patrik Vazan.

3.3 Description and Scope of Service

Proactive	Reactive
Programmed inspections Programmed surveillance visits Food sampling (including imported foods) Water sampling Primary Authority Partnerships Flight manifest checks (imported food) Advice / Coaching	Food hygiene complaints Food complaints Food poisoning investigations/outbreaks Food alerts / Incidents Advice / Coaching Food Import enquiries Catch certificates Export certificates New Business enquiries / Business Support Inspections of products of animal origin and high risk foods of non animal origin at the border control post/designated point of entry

3.4 Demands on the Service

The food safety service is based at the Council Offices situated at Whitwick Business Centre Coalville. The hours of opening are 8.45 – 5.00 Monday, Tuesday, Wednesday, Friday and 9.30am – 5.00 Thursday. Officers from the Food Team operate a hybrid working model and working normal office hours as the need arises.

The border control post situated at East Midlands Airport is manned on a part-time basis, as and when the service is required. The Official Veterinary Surgeon (OVS) is programmed to be sited at the control post 3 days a week.

3.4.1 There are 1042 food establishments known to the team in the district. These comprise of:

4%	Manufacturers
4%	Distribution / Importer / Exporter
18%	Retailers
74%	Caterers

Of these there is one meat product and one dairy product manufacturer which have been approved as required by EC Regulation 853/2004.

3.4.2 East Midlands Airport is within the district. The border control post at East Midlands Airport (EMA) is managed by the Environmental Health Team.

3.4.3 All food establishments are categorised according to their intervention frequency in accordance with the Statutory Food Law Code of Practice.

At 1 April 2023 the profile of premises within the district was:

Category	Number	Intervention Frequency
A (high risk)	1	At least every six months
B (high risk)	17	At least every 12 months
C (medium risk)	131	At least every 18 months
D (medium risk)	385	At least every two years
E (low risk)	471	A programme of alternative enforcement strategies at least every three years
Unrated	37	
Total registered food establishments	1042	

Note: Category E premises must be subject to an alternative enforcement strategy or intervention, at least once during any three-year period.

All transit sheds and importers not currently importing foodstuff will be contacted every three months.

The number of businesses owned by ethnic minorities whose first language is not English has no significant impact on the service.

3.5 Enforcement Policy

Officers within the Food Team take into account the principles of good enforcement set out in the Regulators' Code. The Council's general enforcement policy and specific food control enforcement policy incorporates the content of the Regulators' Code.

4. SERVICE DELIVERY 2023/2024

4.1 Service Delivery/Covid Recovery Plan from 1 October 2021 to 31 March 2023

The Food Standards Agency (FSA) published a Recovery Plan which commenced on 1 July 2021 and ended on 31 March 2023.

The Recovery Plan provided a framework for re-starting the delivery system post Covid in line with the Food Law Codes of Practice for new food establishments and for high-risk and/or non-compliant establishments while providing flexibility for lower risk establishments.

The Council successfully completed the recovery programme on 31 March 2023, meeting all of the targets set by the FSA.

4.1.1 Programmed Food Hygiene Inspections

The following table displays the food premises risk category and the number of premises due, as of 1 April 2023, that are required to be inspected by 31 March 2024. This number also includes any outstanding food inspections due before 31 March 2023.

Council Policy: "that all food establishment interventions will be carried out in accordance with the Statutory Food Law Code of Practice and internal procedure:

PN1.0 Food Interventions. Interventions will take place unannounced wherever possible.”

Risk Category	Inspections due 2023/24	Carried forward from previous year	Total Programmed 2023/24
A	2 (1 establishment)	0	2
B	17	0	17
C	92	0	92
D	181	0	181
E	25	207	232
Unrated	37	0	37
Total	354	207	561

Priority will be given to establishments within risk category A, B, unrated and non broadly compliant* C and D. It is estimated that 30% of establishments will receive one or more revisits. In addition to the above programme, all new food establishments will receive an initial inspection.

*NOTE: A ‘broadly complaint’ establishment is one that has an intervention rating score of not more than 10 points under each of the following parts of Annex 5, Part 2: level of (Current) Compliance, hygiene and level of (Current) Compliance – Structure and Part 3: Confidence in Management.

Intervention Policy

Category	Planned Intervention
A (non compliant)	Full/Partial inspection/audit
B (non compliant)	Full/Partial inspection/audit
C (non compliant)	Full/Partial inspection/audit
D (non compliant)	Full/Partial inspection/audit
	monitoring / verification / official sampling
	or
	education/advice/ coaching
A (compliant)	Full/Partial inspection/audit
B (compliant)	Full/Partial inspection/audit
C (compliant)	Full/Partial inspection/audit
	Or
D (compliant)	Monitoring / verification / official sampling
	Full/Partial inspection/audit
	monitoring / verification / official sampling
	or
	education/advice/ coaching
E (compliant)	Self assessment questionnaire
Unrated	Full/Partial inspection/audit
Non food ETSF / Importers	Telephone questionnaire Liaison with UKBF

4.1.2 Better Business for All - Earned Recognition Scheme

The service will follow an earned recognition scheme when targeting resource to food hygiene controls large public gatherings such as the Download Music Festival. Those mobile food vendors that have a Food Hygiene Risk Rating score of 3 or above on

the national food hygiene rating scheme will not receive an intervention unless the registering authority requests that an intervention is made or a concern is identified or received. The objective of this approach is to reduce unnecessary regulatory burden on compliant businesses.

4.1.3 Inspection of aircraft

Aircraft are included within the definition of premises. The Food Law Code of Practice states that primary consideration should be given to the origin of the food on board, including water and other drinks, and the transport to, and loading of, the aircraft. An audit of the sampling programme for the water on board aircraft will be undertaken.

4.1.4 Specialised Processes

The manufacture of meat and dairy products, in-flight catering, the inspection of third country imports of products of animal origin, the production of carbonated drinks and the production of crisps and snacks are all specialist areas of work undertaken within North West Leicestershire. The current post holders within the Food Safety Team hold adequate expertise within these specialist areas of work. When devising the departmental training needs, maintaining adequate knowledge in these areas of work is a priority.

Donington Park is situated within North West Leicestershire. A number of international sporting and musical events are held at the park. Officer time will be spent assisting with the planning of large events such as the Download music festival. This work will include the partial inspection of a proportion of food establishments trading at these events. Where water provision involves a temporary installation, work to ensure water safety will be undertaken.

A street trading consent scheme operates within North West Leicestershire. All mobile food establishments and static units trading within the district hold a 'consent' under the scheme.

4.2 Food Complaints

Council Policy: **“that all food complaints received are investigated in accordance with the Statutory Food Law Code of Practice and internal procedure note PN7.0: Food Complaints.”**

Based on previous years' figures it is estimated that the team will receive in the range of 20 food complaints.

4.2.1 Food Hygiene Service Requests

Council Policy: **“that the Food Safety Team undertakes unprogrammed visits as a result of a complaint about the standards of hygiene at a food establishment, a new establishment opening, new management taking over or due to a request by another agency”** e.g. Defra, Ofsted.

This will include most service requests received by the food team regarding standards of hygiene e.g. including complaints about:-

- cleanliness in premises
- drainage defects

- pest problems
- service requests for inspections by other statutory bodies, e.g. Ofsted, Animal Health
- service requests for guidance from new owners of food establishments

These interventions do not form part of the programmed interventions.

Based on previous years' figures it is estimated that the number of service requests received relating to standards of hygiene will be approximately 30.

4.3 **Primary Authority**

Council Policy: **“to have regard to the Primary Authority Scheme”**.

Council Policy: **“to have regard to the information (national inspection plans and approved assured advice) provided on the Primary Authority website before undertaking an intervention at an establishment with a Primary Authority.”**

The Council has a Primary Authority partnership with HMS Host UK Limited.

Based on previous years' figures it is estimated that the team will receive in the range of 5 - 10 originating authority complaints from other local authorities.

4.4 **Support and Advice to Business (including import enquiries)**

Council Policy: **“to provide advice to both established and new food establishments”**.

The Leicester and Leicestershire Regulatory Services Partnership and Better Business for All (BBfA) Steering Group was established in 2011. The overriding objective of the Partnership and the BBfA programme is to improve engagement with local businesses and provide them with advice and guidance to assist in reducing the burden of regulation on business.

In 2023/24 the following food safety support is available to businesses:

Inspection – An officer will provide advice to every business during a routine food hygiene inspection.

Food safety advice is available on the Council's website. Advice is also available on the food standards agency website.

Any business requesting advice and guidance in other areas of regulation or non regulatory support will be signposted to the Leicester and Leicestershire Enterprise Partnership (LLEP) Business Gateway Growth Hub.

4.5 **Sampling Programme**

4.5.1 **Food Sampling**

Council Policy: **“to take part in National and Local Food Sampling Programme.”**
 The food items which form part of this programme are selected by the Leicester and Leicestershire Food Best Practice Group based on known or potential problem areas. All samples are taken in accordance with the Statutory Food Law Code of Practice.

In addition to the sampling programme food samples may be submitted for examination as part of a programmed intervention, complaint, infectious disease investigation or imported food surveillance.

Using sampling as an Official Control intervention is highlighted in the Statutory Food Law Code of Practice. Some samples may be sent to the Public Analyst for analysis. The authority is charged for this service.

4.5.2 Water Sampling (Commercial Premises & Aircraft)

Council Policy: **“that routine sampling of mains water is not undertaken.”**

However, sampling of mains water may take place as a result of a complaint or concern.

Council Policy: “to periodically audit the sampling and monitoring programme in place to ensure the quality of water on-board aircraft at East Midlands Airport.

4.5.3 Private Water Supplies

The district has the following private water supplies and distribution systems in its area:

	Large	Small	Single domestic
Private Water Supplies	3	1	11
Distribution Systems	2		

The Authority has a statutory duty to risk assess private water supplies within its district, excluding those to single dwellings or on request from the supply owner. It will then conduct a sampling program based upon the risk assessment.

Sampling Programme 2023/24

The three large supplies will be sampled twice during the year.

One small supply will be sampled every five years. The small supply will not be sampled during 2023/24

Single domestic supplies will not routinely be sampled but sampling can be carried out on request.

Private Distribution Systems will be sampled based on the outcome of the risk assessment.

4.6 Infectious Disease Control

Council Policy: **“to investigate all food borne diseases.”**

The team receives notifications from the UK Health Security Agency (UKHSA) relating to residents/visitors within the district suffering from a notifiable infectious disease. The team may also receive informal notifications of suspected food poisoning from members of the public. Non food related infectious diseases are investigated based on advice from the Consultant for Communicable Disease Control (CCDC).

Based on previous year’s figures it is estimated that the team will receive in the range of 110-120 formal or informal notifications of food related infectious diseases.

4.7 **National Food Safety Incidents**

Council Policy: **“to deal with food alerts in accordance with the Statutory Food Law Code of Practice.**

The FSA issues a ‘Product Withdrawal Information Notice’ or a ‘Product Recall Information Notice’ to let local authorities and consumers know about problems associated with food. In some cases, a ‘Food Alert for Action’ is issued. This provides local authorities with details of specific action to be taken.

The team receives food alerts via EHC net messaging system and the FSA Enforcement mailbox. Food Alerts: Alerts ‘For Action’ are referred for the urgent attention of the Environmental Health Team Manager or Environmental Health Safety Team Leader.

Based on previous year’s figures the section is likely to receive less than 10 alerts for action.

4.8 **Food Export Health Certificates**

Export Health certificates are issued to food businesses who wish to export certain foodstuff from Great Britain to the European Union Countries and other Non-EU Countries. They are provided to help local exporters meet the food safety requirements. The team check that the business is registered with us and that we are satisfied with the food hygiene standards before issuing the certificate.

Based on previous year’s figures the team is likely to issue approximately 100 export certificates.

4.9 **Imported Foods at Point of entry (East Midlands Airport)**

4.9.1 **Border Control Post (BCP) – Products of animal origin**

The service manages and operates the border control post at East Midlands Airport (EMA). The BCP is subject to audits and verification visits by Animal and Plant Health Agency (APHA), an Agency of Defra.

The OVS inspects all other products of animal origin entering GB via the border control post. Support is provided by officers of the food safety team.

4.9.2 **Catch certificates (Fish and Fishery Products)**

On 1 January 2010, an EU regulation came into force to combat illegal, unreported and unregulated fisheries. The regulation, which was retained by UK law in 2021 requires a catch certificate for all imports and landings of fish and fish products into the EU by third countries. The service issues catch certificates for fish and fishery products entering the EU via East Midlands Airport.

Based on previous year’s figures the team is likely to issue approximately 250 catch (exemption) certificates.

4.9.3 **Border Control Post (BCP) – High risk foods not of animal origin**

The officers of the food safety team are responsible for checking all 'high risk' foods not of animal origin from a rest of the world country entering Great Britain via the border control post.

Based on previous year's figures the team is likely to process less than 10 consignments.

4.9.4 **Surveillance**

A risk-based programme of surveillance will be carried out. This will involve officers carrying out checks of flight manifests and visits to transit sheds. Sampling of foodstuffs found may be undertaken.

Each of the importers and freight handlers that do not currently handle foodstuffs will be contacted every three months.

Due to the flight schedule the monitoring of 'live' manifests has to be undertaken outside normal office hours. In addition, some manifests checked will not be 'live'. They will be viewed after the freight has left the airport. The checking of such manifests provides a useful auditing tool.

Additional surveillance is taking place to mitigate the risk from African Swine Fever.

4.9.5 **Sampling**

A sampling programme will be carried out, being informed by the national monitoring plan and local intelligence and information.

4.9.6 **Liaison/Management of Port Health**

In 2008, a multi-agency East Midlands Airport Port Health Group was established. Membership of this group includes UK Health Security Agency (UKHSA), North West Leicestershire DC, East Midlands Airport and UK Border Force.

Council Policy: **"To contribute to the delivery of the multi-agency Port Health Group at East Midlands Airport."**

A representative from the Environmental Health will attend meetings of this group.

Regular communication with Border Force is in place.

4.10 **Other non-official control interventions**

Council Policy: **"to raise the awareness of the public to the potential causes of food poisoning."** Throughout the year articles will be published in the local press and on the Council web pages regarding food safety matters.

The team will be communicating the key messages as suggested by the FSA during national food safety week.

To raise the awareness of the importance of hand washing in preventing the spread of disease such as Covid-19 the hand washing machine with ultra violet light will be available for hire (without charge) to workplaces, schools and child nurseries around the district.

4.11 Food Hygiene Rating Scheme

North West Leicestershire District Council operates the national Food Hygiene Rating Scheme (FHRS). The scheme provides consumers with information regarding the hygiene standards identified in food establishments at the time of the last intervention.

The data is managed by the Environmental Health Safety Team Leader on an ongoing basis and a data upload carried out a minimum of every 13 days.

The profile of the scheme will be maintained through the issue of press releases and social media messages with compliance standards at businesses being recognised by issuing certificates/stickers.

4.12 Licensing/Consents

The team is consulted prior to the issue of premises licences (new and variations) under the Licensing Act 2003. All take-away premises and food mobiles trading between 11.00 p.m. and 5.00 a.m. require licensing under the Act. The Safety Team will respond to any new applications and variation applications received and make representations if there are public safety or public nuisance concerns.

Officer time will be spent assisting with the planning of large events such as the Download Music Festival, Outbreak Festival and the World Superbikes motor racing event.

The team is consulted prior to the issue of new consents and existing non compliant traders under the Street Trading Scheme. All mobile food establishments and static units trading within the district hold a 'consent' under the scheme.

4.13 Liaison with Other Organisations and Internal Communication

A member of the Environmental Health Service is represented on the following groups/meetings:

External/Multi-agency Groups:

- Leicestershire and Rutland CIEH Food Best Practice Group
- Association of Port Health Authorities Liaison Groups (Small Ports Group)
- East Midlands Airport multi-agency Port Health Group
- Leicestershire CIEH Environmental Health Managers Group
- UK Health Security Agency Liaison Group
- Idox Uniform User Group
- NWL Safety Advisory Group
- Better Business for All Partnership
- UK Border Force liaison meetings

Internal Groups:

- Safety Team Meeting
- Monthly 121's/Performance meetings
- NWLDC Idox user group

5. RESOURCES

5.1 Financial Allocation

The budget for the provision of the food safety service is £344,295. The general expenses incurred by the service such as training, salaries and administrative costs are budgeted for as part of the budget for Environmental Health.

5.2 Staffing Allocation

It is the Council's policy to authorise officers appropriately in accordance with their qualifications and experience having regard to the Statutory Food Law Code of Practice.

The nominated lead officer for food safety is the Environmental Health Safety Team Leader. The lead officer for food safety has assessed the competency of all authorised officers. Individual officer authorisations have been signed and issued by the Environmental Health Team Manager based on recommendations made by the lead officer for food safety.

5.2.1 The details of the staffing levels in the section are as follows:

Environmental Health Team Manager – The post holder is an Environmental Health Officer with responsibility for the food hygiene, health and safety, port health, pest control, animal welfare, licensing and community safety functions of the council. Food related work = 0.3 FTE (Imported foods= 0.05FTE) (Operational Manager)

Environmental Health Team Leader – The post holder supervises the operational work of the Team, and undertakes food safety work. Food related work = 0.7 FTE (Imported foods= 0.05FTE)

Environmental Health Officer – The post holder undertakes food safety work and also carries out duties under the Health and Safety at Work etc. Act 1974. Food related work = 0.7 FTE (Imported foods= 0.05FTE)

Environmental Health Officer – The post holder undertakes food safety work and also carries out duties under the Health and Safety at Work etc. Act 1974. Food related work = 0.7 FTE (Imported foods= 0.05FTE)

Environmental Health Officer – The post holder undertakes food safety work and also carries out duties under the Health and Safety at Work etc. Act 1974. Food related work = 0.3 FTE (Imported foods= 0.05FTE)

Food Safety / Technical Officer (Part time – 18.125 hours) – The post was vacant during April, May and June. Food related work = 0.3 FTE (Imported foods= 0.05FTE)

Primary Authority Officer (Part time – 18.125 hours) The post holder undertakes the Primary Authority role, working with HMS Host UK Limited. The post was vacant during April, May and June.

Food Safety Officer – The post holder undertakes food safety work and also carries out limited duties supporting an appointed inspector under the Health and Safety at Work etc. Act 1974. Food related work = 0.9 FTE (Imported foods= 0.05FTE)

There is one Business Support Officer and one Business Support Assistant providing support to the food safety section. Food related work = 0.1 FTE and 0.1 FTE.

5.3 Staff Development/Training

The Environmental Health Team has embraced the principles of the Best Employee Experience (B.E.E). The individual Performance and Development Reflection meetings are a key element of North West Leicestershire District Council's aim to support its employees by providing them with the development and learning required. Additional training requirements will be identified during the reflection meetings and regular one to one meetings and will form a training plan for the team. Officers from the team will be given training which will take into account any changes in legislation or guidance as and when required.

NOTE: Each Food Officer is required by the Statutory Food Law Code of Practice to do a minimum of 10 hours core training.

6. QUALITY ASSESSMENT / INTERNAL MONITORING

6.1 A performance management system is in place within the Environmental Health Team in order to assess the quality of the service provided and the performance against agreed standards and how this information is communicated.

The system involves:

- The Environmental Health Team Manager (EHTM) and Environmental Health Team Leader (EHTL) monitoring the team performance against the SDP on a monthly basis.
- One accompanied inspection will be carried out for each Authorised Officer each year by the Environmental Health Team Leader.
- Additional checks to assess the adequacy of the post inspection paperwork will be carried out by the EHTL on a monthly basis and the check will be on a minimum of two inspections each month.
- All statutory notices will be checked by the EHTL or in their absence the EHTM before service.
- The EHTL will check the notice log on a monthly basis to ensure all outstanding notices have been checked off.
- Monitoring of service requests will be carried out by EHTL. A minimum of one service request will be checked every month.
- Periodically customer satisfaction surveys will be carried out. The EHTM will receive all completed customer satisfaction forms and will reply to any questionnaires requesting a response. Any adverse comments will be reacted to appropriately.
- The EHTL will check the sampling log every quarter to ensure its completeness and accuracy and to ensure that appropriate follow action has been taken.

When undertaking the above checks will be made to ensure the Code of Practice and internal procedures are being complied with.

Internal procedures have been and will continue to be developed in consultation with the Leicester and Leicestershire Food Best Practice Group to ensure consistency across the County.

7. COMMUNICATION

7.1 Communication within the Team

7.1.1 Every month the EHTM meets with the Head of Community Services.

7.1.2 Every month the EHTM meets with the EHTL to discuss any issues and the previous month's performance. In addition, on-going issues are discussed as and when they arise.

7.1.3 The EHTL meets with the officers individually to discuss performance and development.

7.1.4 At least every quarter there is a team meeting where specific issues are discussed with the Food Team.

8. REVIEW 2022/2023

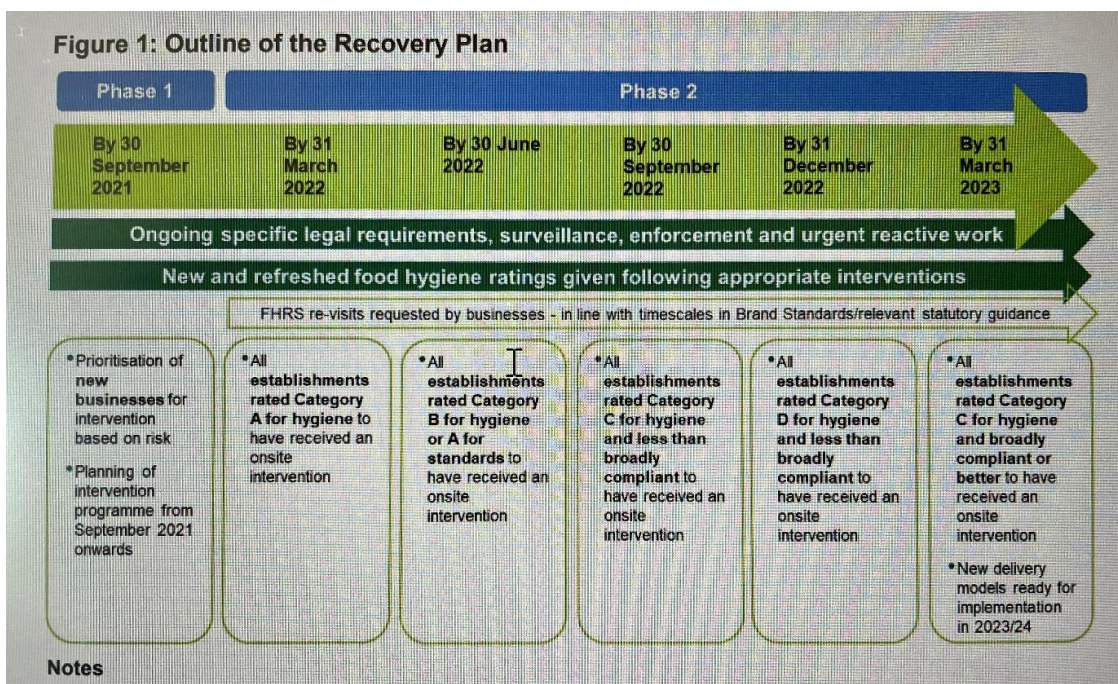
8.1 Review against the Service Plan

Resource from the food safety team was focussed on the recovery of the food inspection programme arising from the Covid-19 pandemic.

Since the start of the pandemic the FSA has permitted local authorities to operate outside of the requirements of the Food Law Code of Practice. The FSA published a food recovery plan setting out its expectations for the period up to 31 March 2023.

The following work activity was prioritised in accordance with the recovery plan:

- Official controls at the border (East Midlands airport)
- Response to complaints / concerns likely to result in an imminent risk to health
- Ongoing enforcement activity
- Registration and provision of advice to new businesses
- Interventions at approved establishments / approval of establishments



8.1.1 Programmed Inspections (Inland)

All milestones within phase 2 of the recovery programme were met.

Food Establishment Risk Category / Frequency	Number of Establishments due on-site visit before 31 March 2023	Number of planned interventions remaining due on 31 March 2023
Risk Category A / every 6 months	2	0
Risk Category B / every 12 months	18	0
Risk Category C – not broadly compliant (hygiene ratings 0,1,2)	5	0
Risk Category C – broadly compliant (hygiene ratings 3,4,5)	59	0
Risk Category D - not broadly compliant (hygiene ratings 0,1,2)	3	0
Risk Category D - broadly compliant (hygiene ratings 3,4,5)	181 (Over and above minimum requirements set by recovery plan)	0
Total	268	0

On 1 April 2022, 50 establishments were awaiting an inspection. On 31 March 2023, 37 establishments were awaiting an inspection.

8.1.3 Food Hygiene Service Requests

	2019/20	2020/21	2021/22	2022/23
Food Hygiene Service Requests including drainage	73	37	50	51
Regarding problems with pests and rubbish	4	3	3	1
Total	77	40	53	52

8.1.4 Food Complaints

	2018/19	2019/20	2020/21	2021/22	2022/23
Foreign bodies in food	13	8	13	14	15
Mouldy foods	2	0	4	3	4
Chemical issues	1	1	5	0	0
Labelling of food	2	2	0	1	4
Allergy related	NA	4	0	5	5
Total	18	15	22	23	28

8.1.5 Advice to Businesses

The Safety Team and Customer Contact Centre gave advice over the telephone to customers. Detailed figures for this work are not recorded.

	2018/19	2019/20	2020/21	2021/22	2022/23
Requests for food safety advice	45	49	136	117	72

8.1.6 Sampling

	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Food Samples - Total	1	10	17	0	0	0
Food Samples - unsatisfactory (number)	0	1	3	0	0	0
Environmental Samples - Total	34	9	5	0	0	0
Environmental Samples - unsatisfactory (number)	10	7	3	0	0	0
Private Water Supply Samples - Total	17	25	7	8	8	9
Private Water Supply Samples - % unsatisfactory	35% (6)	60% (15)	43% (3)	25% (2)	0% (0)	0% (0)
Large Public Event Samples - Total	0	13	27	0	15	4
Large Public Event - % unsatisfactory	0	0	0	0% (0)	13% (2)	0% (0)

8.1.7 Infectious Disease

	2019/20	2020/21	2021/22	2022/23
Reported suspected food poisoning cases	49	18	32	33
Infectious Disease notifications	NA	14	26	27
Most common disease and number	NA	Giardia - 6	Crypto - 10	Salmonella - 10

8.1.8 Responding to National and Serious Localised Food Safety Incidents

If there is a problem with a food product that means it should not be sold, then it might be 'recalled' (when the product is taken off the shelves or customers are asked to return the product). If the problem presents a serious risk to public health the FSA issues a 'Food Alert For Action' requiring all local authorities to take direct action. The Environmental Health – Food Safety Team responds to all alerts for action.

8.1.9 Border Control Post (POAO)

Year	Catch (exemption) Certificates Issued	Total consignments CHED	Fish (EHO)	Other products (OVS)	Total Rejected	% Rejected
2005/06	N/A	86	28	58	18	21
2006/07	N/A	149	76	73	21	14
2007/08	N/A	129	41	88	53	41
2008/09	N/A	172	31	141	107	62
2009/10	N/A	161	20	141	83	52
2010/11	255	154	13	141	62	40
2011/12	246	84	15	69	33	39
2012/13	251	67	6	61	22	33
2013/14	258	68	8	60	9	13
2014/15	256	71	16	55	6	9
2015/16	249	52	8	44	6	11
2016/17	254	52	1	51	7	13
2017/18	255	68	11	57	28	41
2018/19	251	33	3	30	12	40
2019/20	242	41	5	36	27	66
2020/21	245	39	12	27	16	41
2021/22	203	98	29	69	63	64
2022/23	220	171	29	143	117	68

8.1.10 Imported High Risk Foods of Non- Animal Origin

The Border Control Post is designated for both products of non-animal origin for human consumption and animal feed. The table below details the volume and types of foods received since 2016/17.

	Number of consignments presented	Product description	Number cleared
2016/17	3	Pistachio nuts	3
2017/18	23	Tea – China (21), dried grapes – Turkey (2)	23
2018/19	7	Tea - China	7
2019/20	1	Tea – China	1
2020/21	11	Beans – Kenya (10) Tea – China (1)	11
2021/22	14	Figs – Turkey (3) Tea – China (5) Hazelnuts Turkey (2) Peanuts – USA (2) Goji berries – Hong	5

		Kong (1)	
2022/23	15	Tea – China (7) Hazelnuts – Turkey (1) Pistachio – (1) Peanuts – USA (3) Pepper (2) Melon seeds (1)	12

8.1.11 Surveillance of flight manifests

A risk-based programme of surveillance was carried out in 2022/23 to identify any foodstuffs subject to import controls. A total of 250 manifests were checked during the year.

An enhanced level of surveillance was carried out during December, January and February as a result of a grant from the FSA.

172 flight manifests were checked during the reporting period.

Summary of the manifest checks:

- 184 commercial shipments of restricted products of animal origin (POAO) and high risk foods of non-animal origin (HRFNAO) commodities were found.
- 215 commercial shipments of potentially restricted POAO and HRFNAO commodities with a generic description were found.
- 267 private shipments of restricted POAO commodities were found.
- 421 private shipments of potentially restricted POAO commodities with generic description were found.

8.1.12 Food Export Health Certificates

	Number of export certificates issued	Number of customers
2016/17	98	1
2017/18	210	4
2018/19	122	5
2019/20	37	4
2020/21	20	4
2021/22	51	2
2022/23	45	2

8.1.13 African Swine Fever Project

Grant funding received from Defra was used to enforce the emergency measures in place relating to African Swine Fever. Monitoring activity included the viewing of flight manifests and joint enforcement operations with Border Force.

Eight seizures of illegal pork were carried out.

8.1.14 Liaison with Other Organisations

During 2022/23 the following liaison took place:-

Leicester, Leicestershire and Rutland Chartered Institute of Environmental Health Food Best Practice Group / Technical Sub-Committee: Quarterly meetings. The Environmental Health Team Leader attended the quarterly meetings

East Midlands Airport Multi-agency Port health Meeting: This group did not meet.

Leicestershire CIEH Environmental Health Managers Group: The Environmental Health Team Manager attended the quarterly meetings.

Leicestershire Better Business for All Steering Group / Partnership: The Environmental Health Team Manager attended the quarterly meetings.

UK Health Security Agency Group: The Environmental Health Team Leader attended all of the scheduled meetings.

East Midlands Airport – Port Health Authorities Capability Delivery Forum – The Environmental Health Team Manager attended the meetings.

8.1.15 Education & Awareness Initiatives (Other Non-Official Controls Interventions)

National Food Hygiene Rating Scheme

The food hygiene rating scheme was promoted using press releases and social media (Twitter).

8.2 Staffing Allocation

A full-time Primary Authority/EHO post was vacant for a proportion of the year. Temporary resource was appointed through a recruitment agency.

8.3 Food Hygiene training Undertaken by Staff

All authorised officers continued to undertake a programme of continuous professional development.

8.4 Enforcement Actions Taken

Hygiene Improvement Notices were served	0
Prohibition related notices	0
Seizure of food notices	0
Detention / Remedial Action Notices	0
Enforcement Notices (Regulation 20) under The Trade and Related Animal Product Regulations – Fail Veterinary checks at BIP	117
Enforcement Notices (Regulation 32(6)) under The Trade and Related Animal Product Regulations – Introduced in breach of regulations	0
Regulation 32 Notices under Official Feed and Food Controls (England) Regulations	0
Cautions for offences under food hygiene legislation	0
Conviction for offences under food hygiene legislation	0
Prohibition of Person from managing a food business	0

8.5 Performance Outcomes

The food team met and exceeded the targets set by the FSA within phase 2 of their Covid-19 Recovery Plan.

100% of interventions due at establishments within risk categories A, B, C and D were completed.

The number of food establishments less than broadly compliant with food hygiene law was 13 on 31 March 2023. The number was 14 on 1 April 2022.

8.6 Issues for 2023/24

- To effectively prepare for the introduction of a new imports' regime following publication of the target operating model
- To appoint to the vacant Primary Authority post and further develop the Primary Authority role with HMS Host
- To undertake a review of food operational procedure notes
- To undertake a review of officer authorisations.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	RESPONSE TO GOVERNMENT CONSULTATION IN RESPECT OF PROPOSED INFRASTRUCTURE LEVY	
Presented by	Councillor Keith Merrie Infrastructure Portfolio Holder PH Briefed <input checked="" type="checkbox"/>	
Background Papers	Technical consultation on the Infrastructure Levy - GOV.UK (www.gov.uk)	Public Report: Yes
		Key Decision: No
Financial Implications	If the government proceeds with the proposed Infrastructure Levy as set out in the consultation document, it is likely that it could have significant financial implications for the Council. A particular concern is the proposal for local authorities to borrow against future Levy receipts in order to pay for new infrastructure required to support development.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	Should the government proceed with the proposed Infrastructure Levy then the various legal requirements will be set out in Regulations.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no direct staffing implications at this stage. However, if the government proceeds with the proposal to replace S106 Agreements with the Infrastructure Levy it is likely that this will have resource implications which would require additional staff capacity.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To report the submission of the Council's response to the government's consultation.	
Reason for Decision	To ensure that Cabinet is aware of the Council's response.	
Recommendations	THAT CABINET: (i) NOTES THE RESPONSE AT APPENDIX 1 OF THIS REPORT WHICH WAS AGREED WITH THE PORTFOLIO HOLDERS FOR PLANNING AND INFRASTRUCTURE AND WHICH HAS BEEN SUBMITTED TO GOVERNMENT.	

1.0 BACKGROUND

- 1.1 As part of the Levelling Up and Regeneration Bill currently going through Parliament it is proposed to introduce an Infrastructure Levy. The Infrastructure Levy would (largely)

replace the current system of planning obligations (Section 106 Agreements) and the Community Infrastructure Levy (CIL).

- 1.2 The Government consulted on various technical aspects of the proposed Infrastructure Levy between 17 March and 9 June 2023. There was no available committee to which the consultation could be reported before the closing date. Therefore, the Council's response was agreed with the Portfolio Holders for Planning and Infrastructure.

2.0 THE PROPOSALS

2.1 In summary:

- The Levy will be a single charge which is mandatory and locally determined.
- The Levy will be charged on the value of the property at completion per square metre and applied above a minimum threshold.
- The rates and minimum thresholds will be set and collected locally with local authorities being able to set different rates within their area based on certain factors (for example different rates for greenfield and brownfield sites).
- For large and complex sites (scale to be defined) S106 Agreements will be retained as these sites require specialised infrastructure to be delivered at specific times throughout the development period. The value to be provided would have to at least match that which would arise from the Levy.
- It will apply to developments that fall under permitted development rights (i.e. do not require planning permission) such as various types of changes of use which are currently exempt from Section 106's.
- It will include a new *"right to require"* which will allow local authorities to mandate the amount and type of on-site affordable housing. It will allow local authorities to set the *"percentage of the levy value delivered in-kind by developers as on-site affordable housing"*.
- It will be gradually introduced through a phased test and learn process over several years, so everyone can prepare and adapt to the change. Sites permitted before it takes effect will continue as before under CIL and Section 106 requirements.
- There are two proposed types of infrastructure: integral (on-site infrastructure needed to make a site liveable such as on-site play areas, biodiversity net gain, carbon reduction measures, flood risk migration measures, road layout etc) and levy-funded (infrastructure required as a result of the cumulative growth in the local area – improvements to education or health capacity, to the highway network or wastewater infrastructure etc). Integral would be secured using planning conditions or targeted use of S106 agreements.
- It is proposed that authorities will have some flexibility to use some of Levy funding towards non-infrastructure such as social care or service provision.
- Liabilities (i.e. payments) will be based on the Gross Development Value (GDV) at completion of the development (unlike S106 Agreements where payments are phased linked to progress of developments). To ensure that infrastructure continues to be provided when required local authorities will be able to borrow against future Levy receipts.
- The Council will be required to prepare a Charging Schedule which will be subject to consultation and Examination (as with a Local Plan) and an Infrastructure Delivery Strategy which sets out how levy receipts will be utilised.

- 2.2 A lot of the issues covered in the consultation were technical and detailed in nature regarding how it might operate in practice. Responding to all of these questions

would have been easier if the Council had experience of implementing the Community Infrastructure Levy. Therefore, the Council's response (Appendix 1) limited itself to a small number of questions dealing with key principles.

Policies and other considerations, as appropriate	
Council Priorities:	Our communities are safe, healthy, and connected. Local people live in high quality, affordable homes
Policy Considerations:	At this time none. Should the government decide to introduce the Infrastructure Levy it will be subject to further consultations, at which time it will be possible to provide a more detailed assessment of its implications
Safeguarding:	None identified
Equalities/Diversity:	None identified
Customer Impact:	None identified
Economic and Social Impact:	As this time none. Should the government decide to introduce the Infrastructure Levy a more detailed assessment of its implications will be required.
Environment and Climate Change:	As this time none. Should the government decide to introduce the Infrastructure Levy a more detailed assessment of its implications will be required.
Consultation/Community/Tenant Engagement:	None
Risks:	As outlined in the report, there is a potential financial implication for the Council in the event that it has to borrow against future Levy receipts to forward fund new infrastructure.
Officer Contact	Ian Nelson Planning Policy and Land Charges Team Manager 01530 454677 ian.nelson@nwleicestershire.gov.uk

Question 2: Do you agree that developers should continue to provide certain kinds of infrastructure, including infrastructure that is incorporated into the design of the site, outside of the Infrastructure Levy? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

The Council supports the proposal to identify integral infrastructure to be provided at the developers' expense as a means to achieve the Council's aim of creating high quality places that people want to live in.

Question 3: What should be the approach for setting the distinction between 'integral' and 'Levy-funded' infrastructure? [see para 1.28 for options a), b), or c) ~~or a combination of these~~]. Please provide a free text response to explain your answer, using case study examples if possible.

The Council supports Option b and considers that integral infrastructure should be defined nationally, whether in regulations or through policy as this will avoid the need for the matter to be debated at Examinations.

Question 7: Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? [high threshold/medium threshold/low threshold/local authority discretion/none of the above]. Please provide a free text response to explain your answer, using case study examples if possible.

The Council supports a medium threshold (ie no less than 2,000 dwellings). Setting the threshold as low as 500 dwellings would seem to negate the whole purpose of the Levy as it will simply result in the continued use of S106 Agreements in more cases.

Question 9: Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes/No/Unsure]. Are there some types of permitted development where no Levy should be charged? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

The Council supports extending the Levy to permitted development rights that create new dwellings.

Question 19: Are there circumstances when a local authority should be able to require an early payment of the Levy or a proportion of the Levy? Please provide a free text response to explain your where necessary.

The Council considers that there does need to be a mechanism which would allow for local authorities to require early payment of the Levy, either in total or as a proportion. The specific circumstances in which this might be necessary are difficult to predict as it will depend upon local circumstances. For example, there might be a requirement for significant off-site highway works to which a number of developments will be expected to contribute. If one or more of those developments get delayed, then this could mean a delay in provision and hence result in congestion and/or environmental issues. This could potentially be addressed if it were possible to bring forward payment from one or more other developments to address the unexpected shortfall. The payments from the delayed development would then be used to address other less crucial infrastructure issues. A further example would be

if it could be demonstrated that a school or local health centre was already at capacity or would be at capacity within the first xx number of dwellings being occupied, then the authority could require an early payment (in total or part).

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	QUARTER 4 PERFORMANCE REPORT	
Presented by	Councillor K Merrie Infrastructure Portfolio Holder PH Briefed Yes	
Background Papers	Council Delivery Plan Agenda for Council on Tuesday, 7 September 2021, 6.30pm-North West Leicestershire District Council (nwleics.gov.uk)	Public Report: Yes
		Key Decision: No
Financial Implications	There are no direct financial implications arising from this report. There is a Provisional Financial Outturn 2022/23 report separately on the agenda which sets out the financial performance for the financial year.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	There are no direct financial implications arising from this report.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no direct financial implications arising from this report.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	The report provides Cabinet with information on the performance and progress made against the Council Delivery Plan actions and performance indicators for Quarter 4. The report also explains the proposed arrangements for the development of the new Council Delivery Plan.	
Reason for Decision	That Cabinet notes the progress against the corporate objectives and performance indicators for Quarter 4.	
Recommendations	THAT CABINET: 1) NOTES THE PROGRESS AGAINST THE COUNCIL DELIVERY PLAN ACTIONS AND PERFORMANCE INDICATORS FOR QUARTER 4 OF 2022/23. 2) AGREES TO THE CLOSE DOWN OF THE PREVIOUS COUNCIL DELIVERY PLAN AND THE PROCESS AND TIMELINE FOR THE PRODUCTION OF THE NEW PLAN AND ASSOCIATED PERFORMANCE FRAMEWORK.	

1. INTRODUCTION

- 1.1 This report provides an update of the Council's key objectives and performance indicators for the final quarter of the financial year – the period January to March 2023. Performance is managed at a strategic, service, operational and individual level. This report provides information measured against the Council Delivery Plan agreed by full Council in September 2021. The detail of Quarter four performance is set out in Appendix 1 below.
- 1.2 The quarterly performance reports seek to recognise good performance, share best practice across the organisation and to identify 'performance gaps' highlighting if and where action is required to meet targets. Once these gaps are identified, intervention plans will be created or adapted to improve performance towards the target. This will be part of a continual cycle of review and action.
- 1.3 This is the final performance review report on the Council Delivery Plan agreed by Council in September 2021. A plan for the new Council administration will be developed during the summer in consultation with members and will be presented to the November meeting of Council. Where appropriate, any outstanding actions from the previous plan will be either incorporated in service plans or reimaged in the new plan. It is proposed that the new plan will set out the ambitions of the Council and span the duration of the new Council administration, but will be reviewed annually to take account of any changes and developments and actions will be incorporated into Departmental and Service Plans. A new suite of performance indicators will also be developed to ensure the areas measured are relevant and effective in supporting the new Council delivery plan. A revised Performance Framework will set out how Performance against the new Council Delivery Plan will then be monitored. This will take effect from quarter 4 (January to March 2024) with reports to members in 2024.
- 1.4 Financial performance information is now being reported to members as a separate report.

2. SUMMARY OF PERFORMANCE

- 2.1 This report sets out the performance and progress against the Council Delivery Plan actions and key performance indicators.
- 2.2 A report on the progress made against the Council Delivery Plan actions and indicators is detailed in the tables below. During the quarter twenty-two of the thirty-five actions in the Council Delivery Plan were in progress and thirteen had been achieved.

Looking at the forty-four performance indicators, at the end of Quarter 3, twenty-eight were achieved, four were within 5% tolerance, nine had not been achieved and three are reported annually (or where the data was not available at the time of writing this report).

Delivery Plan Action 2022/23	Actual	Target
Number of Actions achieved.	13	35
Number of Actions in Progress	22	0
Number of Actions Not achieved	0	0

Performance Indicators 2022/23	Actual	Target	RAG
Number of targets achieved.	28	44	★
Number of targets within 5% variance of target (10% financial)	4	0	●
Number of targets Not achieved	9	0	▲
Not Applicable/Annual Measure	3		

3.0 SUMMARY OF PROGRESS AGAINST PRIORITIES AGAINST THE FIVE THEMES AND PERFORMANCE INDICATORS.

3.1 Supporting Coalville to be a vibrant family friendly town.

The Coalville Regeneration Framework has been approved by Cabinet, which will enable projects delivery to commence.

Approvals have now been completed for the Highways works in Marlborough square, Coalville and updated prices are being obtained from the contractor.

Footfall at the Newmarket is continuing to show further growth and improvement when compared to the previous financial year. A survey of customers demonstrated high levels of satisfaction with shopping visits, and we received some useful comments about how the market might be further improved.

The strategy to seek to attract a cinema operator and the work involving the development of the Hermitage Leisure Centre and Hermitage Recreation ground continue to be developed in consultation with partners and stakeholders prior to consideration of the options by the scrutiny and Cabinet meetings.

Four of the five performance indicators associated with the Coalville regeneration priority were achieved in the quarter. These relate to footfall in the Coalville town centre, schemes meeting the Good design supplementary guidance document, retail vacancy rates and attendance at Coalville events.

One performance indicator was below target – that of occupancy rates in the Newmarket which stood at 45% against a target of 88%. There has been a slight increase during the quarter, so the movement is in the right direction. To try to increase the occupancy, the Council has extended the offer for half price stalls and work with prospective traders is continuing.

3.2 Our Communities are safe, healthy, and connected.

The customer contact centre in the Belvoir Shopping Centre continues to be an important and well-used facility for customers who prefer to interact with the Council on a face-to-face basis. The centre also has floor walker customer advisors and a range of self-serve options. This centre has significantly improved our face-to-face offer in the post COVID recovery period and its location in the town centre should also contribute towards footfall and business recovery.

Two neighbourhood plans were completed during the year and four further plans are in development.

Consultations on the emerging Local Plan were delayed to 2023/24 due to further work being required to confirm housing requirements with other Leicestershire authorities.

Work continued with partners on the healthy communities plan, with the next stages being further public engagement and the development of an action plan.

Seven of the nine performance indicators associated with the Safe, Healthy and Connected priority were achieved, (or were within the acceptable variance) in the quarter. These relate to an end of year target of 40,000 on-line accounts, a significant growth in the number of on-line forms submitted, very high participation levels at the new Coalville and Whitwick and refurbished) Ashby Leisure centres, Neighbourhood plans, and requests for new mobile CCTV locations in the district area.

One indicator was not achieved, - the percentage customer services centre satisfaction rate was at 88% compared to a target of 95%. This was attributed to a number of customers not having resolution at the first point of contact - this is not an ideal position for customers and this is something being work on with departments to improve.

3.3 Local people live in high quality, affordable homes.

Two of the seven actions in this part of the plan were achieved with five in progress.

The two actions involving housing supply were achieved with thirteen new, mixed types of housing, being let to tenants in the year. Feasibility assessments around potential new Council housing sites, and the current stage of their development are detailed in the report.

The long-term target to achieve one thousand new affordable homes over a five-year period (in association with Housing associations and partners) continued to show good progress with 143 delivered during 2022/23, taking the current total to 438 against the target of 1000 by March 2026.

Improvement works to existing Council homes have been severely affected during the year by a number of factors and these have previously been documented to the scrutiny committee and cabinet in the Quarter 3 report. External contractors have been engaged to support the catch-up works needed.

The redevelopment of the Appleby Magna caravan park was delayed by weather conditions.

Seven of the ten performance indicators were achieved in this priority area, with two not achieved and one a multiple year target.

Performance on all four of the planning indicators was strong in the period with major and minor planning applications being achieved within the prescribed timescales. This success should not be underestimated given the recruitment and retention challenges some other councils are experiencing currently.

The internal repairs team has exceeded its repairs target with 6418 out of a total of 6089 completed.

Forty-five new Council homes were delivered in 2022/23 against a target of ten. This includes homes built, purchased, or secured through S106 bids.

Seventy-two adaptations were made to the homes of the most vulnerable tenants, amounting to a spend of £370K against a target of £300K during the year.

The indicators below target included the average time to relet vacant Council properties – this showed some improvement during the quarter and was due to the amount of work needed to bring the properties up to lettable standard in many of the vacant properties with the resource constraints in this area documented elsewhere in this report.

Similarly, the spend on major works to Council houses has been affected by workforce considerations and supply issues with a total spend of £2.8m against a target of £6.9m.

3.4 Support for businesses and helping people into local jobs.

Five of the seven actions in this part of the plan were achieved.

These included the updating of the district Economic Growth plan, and further success with business growth at the Segro and Mercia Park Business sites with the potential of around two hundred new jobs,

In addition, the Council has supported loyalty schemes for our high streets, developed a new visitor economy plan and continued the work around developing employment, training and apprenticeship opportunities in the supply chains associated with the building (and completion) of the new Whiwick and Coalville Leisure Centre.

Work is continuing at a strategic level with the East Midlands Development Corporation Interim Vehicle and with the establishment of the East Midlands Freeport in conjunction with partners.

Performance on the indicators in this area of the plan show that five of the nine indicators were achieved, with four not achieved.

Businesses were supported in recovering from the pandemic to the tune of £1.6m paid to approximately two hundred organisations.

Training and business support to businesses and schools involved work with eight local schools and digital business support programmes, while the actions relating to the new Whitwick and Coalville Leisure Centres were achieved earlier in the year.

The indicators relating to tourism were still struggling post pandemic with job numbers, annual visitor spend and overnight stays all below their targets.

3.5 Developing a clean and green district.

Four of the eleven actions in this element of the plan were achieved, with seven in progress.

In recent years recycling rates have improved, with a rate of 46.6% in 2021/22 up by 4.1% compared to 2020/21. The rate for 2022/23 was not available at the time of writing the report.

The Council has worked with the National Forest Company to develop the Heart of the Forest masterplan and the Sustainable Tourism Accommodation design guide and programme.

The litter taskforce has continued to achieve successes in cleaning up the District through close co-operation and support to voluntary litter pickers.

The Green Homes Grants Local Authority delivery programme has delivered its target of modifications to fifty-six of the Council's properties which has led to improvements in their Energy Performance Certificates.

Good progress continues to be made on the development of electric charging points, with the electrification of the Council's own fleet or greener alternatives, with a review of Council - owned buildings and by encouraging Hackney carriage and private vehicle operators to move to greener options.

Three of the four performance indicators in this area were achieved during the period.

Six of the seven performance indicators in the Value for money section of the Appendix achieved their target or were within the acceptable variances. The indicator which did not meet the target - the annual income achieved by the In-house repairs team has been explained elsewhere in this report.

APPENDIX 1. COUNCIL DELIVERY PLAN - DETAILED PROGRESS ON ACTIONS AND PERFORMANCE INDICATORS.

Council Delivery Plan 2022/23 Quarterly Report QTR 4

Supporting Coalville to be a more vibrant, family friendly town

Our aims

Coalville is a vibrant town – Local people choose to spend their time and money in Coalville town centre.

– Coalville is a good place to do business

Key tasks 2022/23	Quarter 4 Performance								
<p>Complete Coalville's Regeneration Framework and commence delivery.</p> <p>Achieved</p>	<p>The Regeneration Framework document has been approved by Cabinet and delivery of projects within the framework such as the Marlborough Centre has begun.</p>								
<p>Begin construction of Marlborough Square new public space.</p> <p>In progress</p>	<p>Section 278 Approval (the highways agreement) has now been obtained and an updated price for delivery of the works is being obtained from the contractor</p>								
<p>Open Coalville's Newmarket once COVID -19 restrictions permit and continue to provide support, guidance, and funding for Coalville Market traders to grow their businesses.</p> <p>In progress</p> <table border="1" data-bbox="124 1592 703 1944"> <thead> <tr> <th></th> <th>Total Footfall Q4 21/22</th> <th>Total Footfall Q4 22/23</th> <th>% + / - (from last period)</th> </tr> </thead> <tbody> <tr> <td>Total Footfall</td> <td>6,756</td> <td>9,369</td> <td>+2,613</td> </tr> </tbody> </table>		Total Footfall Q4 21/22	Total Footfall Q4 22/23	% + / - (from last period)	Total Footfall	6,756	9,369	+2,613	<p>The period after Christmas is historically a quieter time in the market industry, However, total footfall for Quarter Four 2022/23 was 9,369 an increase of 2,613 from Quarter Four 2021/23. Total footfall 2022/23 was 34,961. Officers undertook customer surveys which ran for the duration of December. The survey was designed to get a clear understanding of what matters to customers and how Officers can make improvements to help meet customer expectations and help market traders to grow their businesses.</p> <p>Thirty-four people took part in the on-line survey. Fifty percent of participants rated their visit as excellent or very good and twenty-five percent poor or not very good and twenty-five rated their visit as average. The main reasons for visiting Newmarket were for shopping (forty-one percent), food and drink (thirty five percent) activities (twenty-nine percent).</p> <p>Forty-six people completed a paper survey when they visited. Almost one hundred percent of participants rated their visit as excellent or very good (two participant rated their visits as average / poor). The main reasons for visiting Newmarket were for food and</p>
	Total Footfall Q4 21/22	Total Footfall Q4 22/23	% + / - (from last period)						
Total Footfall	6,756	9,369	+2,613						

drink (sixty-three percent) and activities (fifty four percent). Shopping accounted for four percent of visits.

Participants were also asked to comment on what they enjoyed about Newmarket and how we could improve the offer. Below is an indication on the types of comments received. What did you enjoy most about your visit?

- As always, the staff are so inviting polite and friendly people. Always make me and my children welcome and are always so supportive.
- The atmosphere and the people both make for an excellent night out. It feels like one big family.
- Friendly people and lovely and welcoming
- Great choice of food, some of it not what you might expect.
- Meeting new people my daughter loves the kids club there and enjoying a coffee with friends.

What could we do better next time?

- More stalls with better items the new market is so small that I wouldn't call it a market.
- The place needs filling and advertising, concessions should be made to interested businesses, free rent, free advertising.
- More variety of stalls
- Provide a more traditional market with fruit/ veg stalls etc.
- Nothing everything is amazing here.

What else would you like to see at Newmarket?

- More market stalls.
- More children's and evening activities.

Comments on the survey indicate that Officers are providing a good service, many customers feel welcome and have a positive experience when visiting Newmarket for food and activities. Responses also suggest that customers want to see more variety of market stalls, in particular fruit and veg.

Officers did secure a fruit and veg stall when Newmarket first opened but the business could not compete with a local trader who sells fruit and veg on Memorial Square. It is the intention that the local trader will trade at Marlborough Square when the works are complete. The Council can then provide customers with a traditional market to enhance the offer at Newmarket. Officers continue to reach out to prospective traders and have contacted sixty-four businesses following the survey. The offer of fifty percent discount for casual stalls has also been extended.

<p>Seek a cinema operator for Coalville.</p> <p>In progress</p>	<p>The strategy designed to attract a cinema operator to Coalville continues to be implemented.</p>
<p>Develop a framework of opportunities for the land adjacent to the new Leisure Centre, the Hermitage Recreation Ground, and the existing Hermitage Leisure Centre Building.</p> <p>In progress</p>	<p>This project has now been split into two strands: the Hermitage Leisure Centre (HLC) building and site, and the Hermitage Recreation Ground (HRG). Cabinet approved the demolition of the HLC building and consideration will now be given to developing a business case to assess if it is feasible to create a small residential development on the site in advance of the site's appropriation to the Housing Revenue Account (HRA). Consideration will also be given to reinvesting the savings generated to the General Fund account into the HRG as part of an Active Community Zone.</p> <p>Whilst the Active Community Zone cannot be progressed until the business case for the HLC site has been assessed and, if appropriate, approved, proposals to develop an Ecopark on the HRG are progressing. These proposals have been developed in line with stakeholder feedback from the various consultations undertaken, and include the planting of over 3,300 trees, a Tiny Forest, five new footpaths to allow for more cycling and walking, a trim trail to encourage children and young people to be physically active, interactive nodes to encourage family engagement, and significant biodiversity improvements. The intention is that the Ecopark is developed and maintained with no additional capital or revenue financial support required from the council due to the external funding streams available to support it.</p> <p>Now proposals have been developed, further stakeholder engagement is being undertaken prior to reporting proposals to Scrutiny Committee and Cabinet to seek approval to deliver the project.</p>

Supporting Coalville to be a more vibrant, family friendly town - performance indicators

Coalville is a vibrant town – Local people choose to spend their time and money in Coalville.

Coalville is a good place to do business.

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Increase footfall in Coalville town centre per annum	Latest figures available are Jan 2023 356,535 Jan 2022 324,328 Increase is 32,207 9.9%	3%	★	Footfall figures for Coalville have increased by 9.9% between January 2022 and January 2023
Percentage of major residential development schemes scoring / performing positively against Building for a Healthy Life and the Council's Good Design Supplementary Planning Document	100%	90%	★	The team continues to exceed the target for schemes that perform positively when assessed against Building for a Healthy Life and the Council's Good Design Supplementary Planning Document
High Street Retail Vacancy Rate in Coalville is below national average	12%	< 13.7% * *Note: targets for 2021/22/23 may vary as National Average varies	★	The most recent national statistics available were for Q3 2022/23 where the average was 13.9%. Coalville remains below the national average.
Increase the number of Coalville events attendees by 500 per 2022/23 from baseline of 5000 in 2020/21	0 (Q4) 5000 (Q3) 4119 (Q2) 3000 (Q1)	6000 Annual Visitor Target	★	There were no events scheduled for delivery by the council in Q4.
Trade Occupancy rates in Coalville's Newmarket.	45%	88%	▲ Average occupancy rate is forty five percent this quarter which is forty three percent below target	Overall occupancy rates have increased from thirty nine percent in Quarter four 2021/22 to forty five percent in Quarter four 2022/23 an increase of six percent. The Council has extended the offer for half price stalls to help attract new traders. Outreach work continues and sixty-four prospective traders

Trading Day	% Occupancy Rate Q4 21/22	% Occupancy Rate Q4 22/23	% + / - (from last period)				have been contacted this quarter.
Tuesday	25%	41%	+16%				
Thursday	32%	43%	+11%				
Friday	37%	43%	+6%				
Saturday	60%	54%	-6%				
Overall Occupancy	39%	45%	+6%				

Our communities are safe, healthy, and connected.

Our aims

Put our customer sat the heart of all we do – Increase connectivity (physically and virtually) throughout our communities.

– Support safer neighbourhoods

Key tasks 2022/23	Quarter 4 Performance
<p>Make sure our customers can interact with us in a way which meets their needs, improving our services, promoting self-serve and digital options as well as providing face-to-face support compliant with COVID19 guidance.</p> <p>In progress</p>	<p>Both the customer experience and customer service team have been working on new forms in collaboration based upon customer feedback to make sure where enquiries can be self-served at the customer convenience this is available. The Customer Centre enables greater self-serve facilities with the Customer Services team available to assist with the addition of the floor walker role. Since opening the Customer Centre has seen an increase in face-to-face demand and the Customer Service team re assisting more residents.</p>
<p>Work with our leisure partners to continue the construction of the new Whitwick and Coalville Leisure Centre with completion planned for July 2022 and increase participation at both this centre and Ashby Leisure Centre to where they were pre-COVID-19</p> <p>Achieved</p>	<p>Completed in Q4 2021/22</p>
<p>Encourage and support town and Parish Councils to write and prepare their own Neighbourhood plans.</p> <p>In progress</p>	<p>Two Neighbourhood Plans made in 2022/23 whilst four are in the process of being prepared.</p>
<p>Consultation will take place with relevant stakeholders on emerging options for the Local Plan Substantive Review including the development strategy and potential site allocations for new development.</p>	<p>Consultation on emerging plan delayed until 2023/24 due to delays in confirming housing requirements as a</p>

<p>In progress</p>	<p>result of joint work with other Leicestershire authorities. Various reports to Local Plan Committee dealing with responses to consultation undertaken in January to March 2022</p>
<p>As part of the Integrated Neighbourhood Team, and in partnership with the West Leicestershire Clinical Commissioning Group, the North West Leicestershire GP Federation, Adult and Social Care, front line health care workers, and other key stakeholders, develop a locality based Healthy Communities plan aimed at tackling significant health inequalities in North West Leicestershire.</p> <p>In progress</p>	<p>During Quarter 4, the Integrated Care Board has undertaken consultation on the twenty emerging priorities that Stakeholders feel should be taken forward into the plan. The six priorities that were deemed highest priority are Cancer (prevention, screening, diagnosis, and support), Dementia Support, Carers Support, Healthy Weight, Mental Health and Learning Difficulties/special educational needs.</p> <p>The next stage of the process is to review the priorities against the data and public health indicators that are significantly worse than the national average to ensure they are not ignored or are being addressed through other action plans such as the North West Leicestershire Health and Wellbeing Strategy. Further engagement will then be undertaken with the public to see if these priorities resonate with them. Once the priorities are finalised an Action Plan will be created by the Integrated Care Board and action groups formed to create and deliver actions to tackle the agreed priorities.</p>

Our communities are safe, healthy, and connected – performance indicators.

Put our customer sat the heart of all we do – Increase connectivity (physically and virtually) throughout our communities – Support safer neighbourhoods.

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Number of online accounts	Quarter 4 1379 Total number of accounts to date 47483	40,000	★	Our monthly target is 450 new online accounts. This quarter the average was 459 accounts per month. The end of year target of reaching 40,000 online accounts was achieved.
Number of online forms submitted by customers (transactions)	Quarter 4 total number of forms submitted 14,915.	4,000	★	Average per month for quarter 4 was 4971 which was 971 per month more than the monthly target. Form submissions can vary depending upon if a form is created for a specific event that can get a lot of traction. The more online forms there are the more submissions will rise. The garden bin renewal has played the part this quarter.
Percentage of customer satisfaction (Customer Services)	88% when combining all satisfaction ratings	95%	▲	The overall satisfaction rating was reduced due to call resolution and not having the answer available at first point of contact. This is something the team continues working with key service areas on in monthly meetings.
The percentage of adults in North West Leicestershire who are overweight or obese.	70.9%	71.3%	●	Obesity levels across the District are reducing. Actions taken throughout the year by the Leisure Services team to support weight management include. <ul style="list-style-type: none"> Promoting messages and campaigns to support behaviour change around weight management, including Let's Get Moving, Love Food, Hate Waste, Change for Life and Public Health Campaigns. Delivery of the North West Leicestershire Food Poverty Action Plan.

				<ul style="list-style-type: none"> • Delivery of physical activity interventions such as the Active Friends Programme, the community allotment plot, and the delivery of physical activity sessions in sheltered housing schemes. • Supporting the Leicestershire County Council (LCC) Weight Management Service, through delivery of the physical activity aspect of their service. • Supporting delivery of the Holiday Activities and Food Programme (HAF) across the District which provides children from families of low socio-economic status with free access to school holiday activity clubs with a healthy lunch time meal provided. • The delivery of school holiday sessions including a healthy snack or meal for children that do not qualify for HAF but are affected by the cost-of-living crisis. • Supporting delivery of the LCC Public Health Healthy Tots and Healthy Schools programmes to schools and early years settings. • Supporting the delivery of Making Every Contact Count (MECC) training to frontline NWLDC staff to support 'healthy conversations and signposting.
<p>Levels of participation at Hermitage / Whitwick and Coalville Leisure Centres.</p>	<p>Annual – 798,560 Quarterly – 218,581 Q3 Actual: 579,979 Q2 Actual: 402,067 Q1 Actual: 206,372</p>	<p>323,893 Annual Target 80,973 Quarterly Target 249</p>	<p style="text-align: center;"></p>	<p>Whitwick and Coalville Leisure Centre enjoyed a further strong quarter, within which its first anniversary was marked. This was attributable to the four factors of fitness members and swim lesson pupils, casual swimming popularity and an impressive and growing sports hall programme of activities and events.</p> <p>At the end of March 2023, the centre had 3,917 fitness members compared to 3,196 at the start of</p>

				<p>the year, whilst swim lesson pupil numbers had grown from 1,710 to 2,210 across the same period. The take up of casual swimming at the centre has been a particularly good news story, with utilisation of casual swim sessions currently sitting at 64% against a national average of 45 – 50%. Sports Hall usage levels have been equally impressive, sitting at 67% against an accepted national standard of 40-45% due to centre staff proactively securing and facilitating a diverse and inclusive portfolio of daytime, evening, and weekend bookings.</p>
Levels of participation at Hood Park / Ashby Leisure Centre	<p>Annual – 413,236 Quarterly - 107,688</p> <p>Q3 Actual: 305,548</p> <p>Q2 Actual: 216,560</p> <p>Q1 Actual: 105,591</p>	<p>371,526 Annual Target</p> <p>92,881 Quarterly Target</p>	★	<p>As previously reported, usage levels at Ashby Leisure Centre and Lido have suffered more than was predicted in terms of the impact of the new Whitwick and Coalville Leisure Centre, despite overall usage across the two centres surpassing targets.</p> <p>This has been entirely attributable to fitness membership and swim pupil numbers having stagnated across the year, with 1,606 fitness members signed up at the end of March 2023 compared to 1,564 at the start of the financial year. The year ended with 1,412 swim lesson pupils against a starting position of 1,516.</p> <p>Away from fitness membership and swim lesson pupils, the centre continues to perform well with sports hall usage at 49% due primarily to an increasing events portfolio including Megaslam Wrestling, and baby clothing and equipment markets. The refurbishment and re-branding of the former outdoor Ball Courts to the Ashby 3G Football Hub also proved to be a success story with overall utilisation of the facilities up from 41% to 48% on the back of increased evening usage.</p>

NWL Local Plan – number of new homes built since the start of the Local Plan period in 2011 (target 481 homes annually)		5,291 (11 2022/23s x 481 homes)		Figure not available until end of April
Number of new Neighbourhood Plans made	2 (Blackfordby and Swannington)	2 Annual Target	★	
Number of new locations for mobile CCTV cameras in partnership with local stakeholders including parish and town councils to help make our communities safer.	5	5 Annual Target	★	All requests for the installation of mobile CCTV cameras are considered in accordance with data protection requirements. A mobile camera will only be positioned if both the data protection impact assessment (DPIA) concludes that it is proportionate to do so and it is cost effective. New locations within Measham, Castle Donington, Ravenstone, Ashby and Agar Nook have been considered. Following the DPIA assessment of all locations, work is underway to locate mobile cameras in four locations within Castle Donington, associated with theft from motor vehicles and anti-social behaviour. A further mobile camera will remain in place on Garendon Road as a result of crime and anti-social behaviour and discussions are underway to site a mobile camera in Ashby to monitor anti-social behaviour

Local People live in high quality, affordable homes.

Our aims

Increase the number of affordable homes in the district.

Improve the quality of our council housing – Improve the quality of private rented accommodation.

Key tasks 2022/23	Quarter 4 Performance
<p>New Council Housing Supply – ensure we deliver at least 10 additional NWL Council Homes.</p> <p>Achieved</p>	<p>Thirteen new properties have been taken on (a mixture of mid terrace, end terrace, semi-detached houses, and semi-detached bungalows all of which are two bedrooms) to date. These have been let to new tenants. There are also plans to bring two semi-detached bungalows and one detached bungalow in to the portfolio in the Osgathorpe area through purchases that are being actively worked on.</p>
<p>New Council Housing Supply - Complete feasibility assessment of potential new Council Housing build across the District, and progress to Planning Application stage if viable.</p> <p>Achieved</p>	<p>Throughout recent months the property portfolio has been reviewed and aligned this with current development goals and the needs of the District. The table below has been adjusted to show the number of sites at each key stage of development. These developments are to be driven by the Council on Council owned land with the support of external contractors as opposed to purchases of completed properties.</p> <ol style="list-style-type: none"> 1) Desktop Site Feasibility – NONE 2) Scheme Design – two Sites 3) Site Acquisition - NONE 4) Procurement – two Sites 5) Building Contract – NONE 6) Post Contract Handover – one Site 7) Post Completion – two Sites <p>The proposed properties to be procured and built as per these scheme designs are a mix of one to three bedroom houses and bungalows. This spread is driven by the housing register and is geared to meeting residents’ needs.</p>
<p>New Housing Supply - Work with housing associations & partners to deliver 1000 new affordable homes over the next 5 years to help meet local housing needs.</p> <p>In Progress</p>	<p>In Q4, an additional 26 units were delivered achieving an annual total of 143. Combined with the 295 homes delivered in 2021/22, supply is still ahead of the profile and expect to reach the target by 31 March 2026</p>
<p>Maintaining & Improving Council Tenants Homes - Complete a programme of investment of up to</p>	<p>Works delivered in Q4 have been slow and prolonged by staffing availability, materials and planning issues within the HIP team. There was an original programme of £4.5m issued for the financial year with an addition of £2.7m of works rolled over that were not completed the previous financial year. Work and performance are being monitored closely. The total value over the financial year was £7.2m worth of work. Of this, approx. £3.5m has been delivered.</p>

<p>£4.5m of improvement works to maintain our tenant's homes at the Decent Homes standard.</p> <p>In progress</p>	
<p>Commence a programme of additional improvement works, worth up to £2.4m to complete improvement works deferred from 2020/21 as a result of the Covid-19 pandemic.</p> <p>In Progress</p>	<p>A contractor has been procured and Housing Commercial Services Team. Works are continuing to deliver on catch up works. The services have experienced challenges in delivery, but the programme of works is continuing to deliver, and the contractor is the process of being extended to continue deliver.</p>
<p>Maintaining Our Council Homes Estates - Invest up to £1.06m in estate improvements to improve the quality of life for residents of Council estates, including our tenants.</p> <p>In progress</p>	<p>The works on estate improvements are going well. Parking improvements have been completed in Cropston Drive in Coalville and parking improvements at Main Street Long Whatton.</p> <p>The demolition of the two deteriorating footbridges on the Riverway Estate, Measham are currently being reviewed for removal and replacement. Works were delayed due to material changes to planning. Works are now to mobilise April 2023 with a completion for early summer.</p> <p>Fencing – A pilot was set up on the Riverway Estate on Pipit Close in the previous financial year to improve the appearance of the dilapidated stores, garages and fencing. The second phase of these works is underway and all the rear and side elevations complete. Works are to be fully signed off in Jan 23. Due to resident views on the estate, further works are on hold until the issues raised can be addressed.</p>
<p>Other Housing Actions - Obtain Planning Permission, appoint a contractor and complete the delivery of the redevelopment of Appleby Magna Caravan Park, to provide a modern fit</p>	<p>Limited progress in Q4 due primarily to the weather conditions. Awaiting plan from developer, Alliance together with timescales for completion of the project. Should fully complete in Q1 2023/4.</p>

<p>for purpose environment for the residents.</p> <p>In progress</p>	
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Local People live in high quality, affordable homes – performance indicators.

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Percentage of major residential development schemes scoring / performing positively	100%	90%	★	The Team continues to exceed the local target.
Percentage of major planning applications determined within 13 weeks.	100%	75%	★	The team has dealt with all major applications in quarter four above both the local (75%) and nationally set targets (60%).
Percentage of minor planning applications determined within 8 weeks	85%	80%	★	The team has exceeded the local target of 80% and the nationally set target of 65% for the determination of minor applications in the 8-week statutory period.
Percentage of other planning applications determined within 8 weeks	96%	85%	★	The team has significantly exceeded the local target of 85% and the nationally set target of 80% for the determination of other applications in the 8-week statutory period.
Percentage of all repairs completed within target	95%	94%	★	The Internal Repairs Team has exceeded its target of 94% of all repairs completed with target, with 6418 repairs completed in time out of 6089 total.
Average length of time taken to re-let a Council property when it becomes vacant	37 days	28 days	▲	During Q4, fifty-two properties were re-let in an average re-let time of 34 days which is an improvement on previous quarters and has reduced the cumulative performance to 37 days. A total of 236 properties re-let during the year. More work has been required to bring the properties to a lettable standard which has increased the average re-let time, and the resource constraints in the repairs service has created some delay.

Number of New Council Homes delivered within 2022/23. Built, Purchased, or through S106 Bid TOTAL	45	10	★	
Number of New affordable homes delivered by Housing Associations and Partners within the 2022/23.	26 in Q4 143 for the year 438 in first two years of the target	One thousand between 2021/22 and 2025/26	Target over multiple years	
Number, type and value of components improved across the Council's Homes in 2022/23. Bathrooms, Kitchens, Electrical Rewire, Roof, Heating or Other Total Components Total Spend	337 £2.8m	£6.9m	▲	The current spend for IRT is at £1.7m and UK Gas have completed £1.1m.
Number, type and value of adaptations to homes for the most vulnerable tenants	Seventy-two adaptations made to the value of £373,623.84	£300k	★	

Support for businesses and helping people into local jobs.

Our aims

Match local people with skills and jobs – Support new and growing businesses to create jobs – Help young people into work.

Key tasks 2022/23	Quarter 4 Performance
Update the North West Leicestershire Economic Growth Plan and commence delivery. Achieved	The updated Growth Plan has been adopted and delivery is ongoing.
Enable business growth and inward investment in North West Leicestershire that contributes to the objectives of NWL Economic Growth Plan. Achieved	In Q4, two large businesses, Unipart and one still protected by a Non-Disclosure Agreement, have made multimillion pound investment in the District at Mercia Park and Segro respectively. The investment will result in the creation of a minimum two hundred new jobs and expecting to increase substantially into 2023 as the onsite operations being to ramp up.
Preserve the vibrancy of our High Streets by supporting Shop Local initiatives designed to reduce vacancy rates. Achieved	The team has supported the Shopappy and Hex Loyalty card roll out across primary retail areas. Further measures to support high street vibrancy are being examine for potential adoption in 2023/24
Develop our “visitor economy” offer to encourage dwell time, local spend and investment in new and improved attractions. Achieved	A new Visitor Economy plan has been put in place. Measures designed to improve the tourism product and raise awareness of NWL as a visitor destination are being worked on.
Working with our leisure centre construction contractor increase local employment, training, and apprenticeship opportunities with a key focus on local supply chains in the construction of the new Whitwick and Coalville Leisure Centre. Achieved	This action has now been completed. The new leisure centre opened over five months early in February 2022, and usage since then has exceeded all expectations, with pre-Covid participation levels at both sites being achieved by April 2022.
Contribute to the work of the East Midlands Development Corporation Interim Vehicle in implementing 2022/23 Year one deliverables included in the Business Plan. This includes developing a	The District has continued to contribute to the work of the East Midlands Development Corporation Interim Vehicle (EM Dev Co). Key work on developing a "strategic masterplan/infrastructure plan and delivery strategy" is being undertaken by an external commercial partner and the initial stages of this commission have

<p>strategic masterplan/infrastructure plan and delivery strategy for the East Midlands Airport Area.</p> <p>In progress</p>	<p>been completed which will lead to a draft commercial vision report in 2023/24. The EM Dev Co “HS2 Growth Strategy Review” is underway which is being funded by government. The Strategic Director (Place) has attended the EM Dev Co Board meetings and the Portfolio Holder (Infrastructure) has attended the Oversight Authority on behalf of the Council.</p>
<p>Contribute to the establishment of the East Midlands Freeport with private sector businesses, other local authorities, and government.</p> <p>In progress</p>	<p>The final business case for the East Midlands Freeport (EMF) was approved by Government in March 2023. There is ongoing engagement between EMF and the government on the project. The Portfolio Holder attends the EMF Board meetings on behalf of the Council and the Chief Executive attends the Operational Forum, the first meeting of which was held in March 2023. Work on the EMF has progressed, and a report will be considered by members at a later date.</p>

Support for businesses and helping people into local jobs.

Performance Indicators

Match local people with skills and jobs – Support new and growing businesses to create jobs – Help young people into work.

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Support Inward Investment to the District	<p>Two business in Q1 equating to a recorded £1million investment and four hundred new jobs. Four business in Q2 creating over 150 new jobs. Two businesses in Q3 investing over £1.5million and creating at least forty jobs. Additionally, a further £3million has been invested on robotics at the Mercia site.</p> <p>In Q4 2 large businesses (one still protected by a Non-Disclosure Agreement) have made multimillion pound investment in the District at Mercia Park and Segro respectively.</p>	<p>Five large Businesses per 2022/23</p> <p>One thousand new jobs per 2022/23</p> <p>£1,000,000 of investment per 2022/23</p>	▲	<p>Ten large businesses have been supported to relocate to the District creating a minimum of eight hundred new jobs. and generating over £5.5million of investment.</p>

	The investment will result in the creation of a minimum two hundred new jobs and expecting to increase substantially into 2023 as the onsite operations being to ramp up.			
Businesses supported to recover from the impacts of Covid-19	£1.6million of Covid Additional Relief Fund (CARF) to two hundred eligible businesses in Q2.	£500,000 of Restart Grant shared between up to fifty businesses. £250,000 of Growth Grant shared between up to ten businesses	★	Work has concluded on Covid grants. As reported in Q3 the final Covid Additional Relief Funding (CARF) was awarded in Q2 paying over £1.6million to approximately two hundred eligible North West Leicestershire businesses.
Increase the number of jobs in the tourism sector in the District.	Below target (-22.8% change from 2019 to 2021)	2%	▲	Information reported in Q2. No further information to be reported.
Increase annual Visitor spend.	Below target (-16.4% change from 2019 to 2021)	2%	▲	Information reported in Q2. No further information to be reported.
Increase the number of overnight stays in NWL 2022/23 on 2022/23	Below target (-18.4% change from 2019 to 2021)	2%	▲	Information reported in Q2. No further information to be reported.
Work with schools / colleges and local businesses to improve employment skills / opportunities.	Working with eight schools across the district	Work with five schools per 2022/23 across the district	★	Ongoing active collaborations with The SMB Group (Stephenson College), Forest Way School, The Newbridge School, Ivanhoe College, The Castle Rock School, Ibstock Community College, Castle Donington College and Ashby School

<p>Support Market Town Businesses to respond to transformational opportunities.</p>	<p>Six training sessions for Sixteen business (there were no grants included in the third cohort)</p>	<p>Deliver 5 Digital Growth Training Sessions. Support twenty-five businesses to Access Digital Growth Training. Provide £10,000 of Digital Growth Grants</p>	<p>★</p>	<p>The original digital training sessions concluded in 2021 with all grants being paid out to businesses who successfully completed the training programmes. The third and final Digital Skills cohort concluded in November. The third cohort was made up of two groups totalling sixteen businesses will be taken through training on business/digital strategy, social media advertising and use of social media, Search Engine Optimisation, and use of Website Analytics. Whilst there is no cash grant attached to cohort three, business who completed the training will be able to use grant funding to access further 1:2:1 support for a digital high street specialist.</p>
<p>% of construction materials used in the construction of the new Whitwick and Coalville Leisure Centre that are sourced in the local area.</p>		<p>25%</p>	<p>★</p>	<p>The leisure centre was completed in February 2022, this performance indicator has already been reported in 2021/22.</p>
<p>Local economic value to the local area as a result of the construction of the new Whitwick and Coalville Leisure Centre. (Target £2.2m)</p>		<p>£0.4m</p>	<p>★</p>	<p>The leisure centre was completed in February 2022, this performance indicator has already been reported in 2021/22.</p>

Developing a clean and green district

Our aims

Lead by example by delivering the council's Zero Carbon Roadmap's Action Plan and ambition to be zero carbon for its operations by 2030 – Reduce littering and fly tipping – Promote the work of the National Forest

Key tasks 2022/23	Quarter 4 Performance
<p>Increase recycling rates by at least 1% per annum through our Recycle more campaign.</p> <p>Achieved</p> <p>4.1% increase between 2020/21 and 2021/22</p>	<ul style="list-style-type: none"> • 2020/21 - 42.5%, confirmed by the Department for Environment, Food and Rural Affairs (Defra). • 2021/22 - 46.6% confirmed by Defra in March 2023. It is NWL's second highest recycling rate and is the highest rate of all the local authorities in Leicestershire, and the eighth highest in the East Midlands. The recycling rate increased by 4.1% percentage points compared to 42.5% in 2020/21 and it was the 18th largest increase of all the local authorities in England, of which there are 333. • 2022/23 - to be confirmed by Defra in late 2023/early 2024.
<p>Support towns and villages to develop an identity associated with the National Forest open spaces.</p> <p>Achieved</p>	<p>The Council continued to work with the National Forest to develop the following initiatives:</p> <ul style="list-style-type: none"> • Heart of The Forest masterplan – the final report has been completed and will be launched in Spring 2023. Progression and implementation of the masterplan forms part of the United Kingdom Shared Prosperity Fund (UKSPF) Investment Plan which has commenced in Q4 and delivered through to 31 March 2025. <p>Sustainable Tourism Accommodation design guide and Accelerator Programme - work on this programme continues and throughout 2022/23. Moira Furnace has been identified as an asset for further feasibility work under this programme, which could support the future sustainability and development of the site as a tourist attraction. Progression and implementation of initiatives at Moira Furnace forms part of the UKSPF Investment Plan.</p>
<p>Review our employee travel and allowances to help deliver the Zero Carbon Roadmap.</p> <p>In progress</p>	<p>A revised timetable has been put in place to seek to reopen the conversations with the trade unions.</p>
<p>Explore the setting up of a Carbon offset fund as part of the Local Planning process.</p> <p>In progress</p>	<p>Officers are investigating options for establishing a Carbon offsetting fund.</p>

Develop a council wide strategy for more Electric Vehicle charging points on council car parks, housing land and corporate property land. Initial installations to be made at Lindon Way Depot to support electric vehicle trials.

In progress

The EV charge cost increase was implemented 9 January 2023 as planned.

OZEV funding was confirmed to support the installation of EV charging points at Ibstock High St car park. This installation will be planned for the summer.

A county wide project, led by Green Living Leicestershire group, has been awarded LEVI funding which enables the Flex D project to explore the installation of a solar PV hub style EV charging unit in London Road car park and the roll out of four car clubs across Leicestershire.

In addition, the Council is working with LCC on its successful LEVI bid to bring on street EV charging across Leicestershire, including locations within NWL.

Develop a fleet management strategy to transition our fleet to a zero carbon/low carbon solution by 2030 and start the first phase of procurement and purchase of vehicles.

In progress

The strategy was adopted by Cabinet in September 2021 and work is well underway with the procurement plan. Twenty-five vehicles are currently on order and fifteen of these are electric. All “diesel” vehicles, current and new, will run on HVO (hydrotreated vegetable oil). In line with the strategy, there will be a continued focus on emerging technology and consideration will be given to the best option at the point of vehicle replacement.

BEV = battery electric vehicle

What	Number	BEV	Diesel
Bin lorries	6	0	6
Vans, Cars, Chassis cabs	19	15	4

Phase one

- Six bin lorries: delivery date June 2023

Phase two


- Nineteen – ordered awaiting delivery dates:
- Two Electric Panel vans fleet replacements received at depot being prepared for full use and for driver training.
- Six Electric Panel Vans for housing/fleet replacements, June delivery date
- Five Electric Cars for Environmental Protection and Pool car replacements,
- Four Euro 6 Chassis cabs for ground maintenance replacements on order

	<ul style="list-style-type: none"> Two Electric Chassis cabs for ground maintenance replacements on order
<p>Develop a property portfolio action plan and retrofit programme to make our assets fit for purpose and reduce our carbon footprint.</p> <p>In progress</p>	<p>A KgCO₂/M² baseline figure for the Council's property portfolio has been produced., anges have started to be implement which will deliver CO₂ savings which will be able to be quantified in future years.</p>
<p>Develop and implement a new taskforce to tackle litter across the district by enhancing the work of volunteers and aligning with the work carried out by street cleansing.</p> <p>Achieved</p>	<p>In Q3, an additional forty-one volunteer litter pickers registered with the Council taking the total number to over 450.</p> <p>In March 2023, a pick your street took place which saw 104 volunteers register for the event over twenty-four streets. In total, eighty-six bags of waste were collected weighing in at 720kg.</p> <p>The matrix trailer has been deployed to four hot spot locations promoting messages such as "take you litter home" and "pick up after your dog".</p> <p>The work of the taskforce will continue with many joint campaigns planned for 2023/2024.</p>
<p>Deliver improvements to fifty-six of the least energy efficient Council tenant's homes through the Green Homes Grant Local Authority Delivery Phase 1B Programme, including the installation of additional insulation, air source heat pump systems, and photovoltaic electricity generation.</p> <p>Achieved</p>	<p>The GHG project was delivered successfully, Phase 1b consisted of fifty-six properties. All relevant documentation has been sent to BEIS and the project has also received sign off by the Chief Executive. Of the 56 properties identified on the first phase, 12 had an EPC rating of D, 17 had an EPC rating of E and two had an EPC rating of F. Following the completion of the works twenty-four properties had a new EPC rating of C, thirty-one had a new EPC rating of B and one had a new EPC rating of A.</p> <p>In total, 257 new green energy efficient measures were installed at the fifty-six properties.</p>
<p>Reduce carbon emissions at the new Whitwick and Coalville Leisure Centre and Ashby Leisure Centre by 20% by 2024.</p> <p>In progress</p>	<p>The Council's leisure partner, Everyone Active, continues to work with and support the Council on the journey to Zero Carbon through delivery of their Energy Management Plan 2022/23. Utility consumption for the year has seen an overall reduction at both Whitwick and Coalville Leisure Centre (WCLC) and Ashby Leisure Centre and Lido (ALCL) as compared to targets set.</p>

	<p><u>WCLC</u></p> <ul style="list-style-type: none"> • Electricity consumption 25% below target • Gas consumption 4% over target <p><u>ALCL</u></p> <ul style="list-style-type: none"> • Electricity consumption 38% below target • Gas consumption 32% below target. <p>Gas consumption at WCLC was higher than anticipated due to a building snagging issue meaning a boiler on continuously which is being addresses by the building contractor.</p> <p>Actions delivered in Q4 in support of reducing utility consumption and carbon emissions at the leisure centres include.</p> <ul style="list-style-type: none"> • Refinement of the Building Management System (BMS) at both sites • The addition of facility areas to the BMS at ALCL • The introduction of an ALCL Travel Plan • Ongoing staff education on energy efficiency measures.
<p>Reduce vehicle emissions from licensed Hackney Carriage and Private Hire vehicles by encouraging taxi operators to move to vehicles that emit lower emissions (Euro 5).</p> <p>In progress</p>	<p>The Council's hackney carriage and private hire licensing policy sets out the timeframe for reducing the vehicle emissions from licensed hackney carriage and private hire vehicles.</p> <p>All (100%) of licensed vehicles are fitted with either a Euro 5 or 6 engine or are an ultra-low emission vehicle (ULEV).</p> <p>The Council is encouraging drivers to purchase vehicles with a Euro 6 engine or a ULEV. The Council offers a 15% reduction in the licence fee for all ULEV.</p>

Developing a clean and green district - Performance indicators

Lead by example by delivering the council's Zero Carbon Roadmap's Action Plan and ambition to be zero carbon for its operations by 2030 – Reduce littering and fly tipping – Promote the work of the National Forest

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Number of trees delivered to the local community to increase the number of trees in the district's National Forest area	32,574	13,000		<p>The scheme opened on 11 October 2022 with the hedge scheme closing early on 19 October due to meeting the confirmed quota with the tree supplier. The tree scheme closed on 29 October.</p> <p>A total of 32,574 trees were given away in the District.</p> <p>The annual report on the scheme success has been submitted to the National Forest Company and their external funding support of £9,000 to support delivery of the initiative has been received.</p>
Percentage increase on 2022/23ly recycling rate by 1%	TBC	1%	TBC	<ul style="list-style-type: none"> • 2020/21 - 42.5%, confirmed by the Department for Environment, Food and Rural Affairs (Defra). • 2021/22 - 46.6% confirmed by Defra in March 2023. It is the Council's second highest recycling rate and is the highest rate of all the local authorities in Leicestershire, and the eighth highest in the East Midlands. The recycling rate increased by 4.1% percentage points compared to 42.5% in 2020/21 and it was the 18th largest increase of all the local authorities in England, of which there are 333. • 2022/23 - to be confirmed by Defra in late 2023/early 2024.

Amount in kgs of household waste sent to landfill per house, per 2022/23	105.7kgs	125kgs	★ -19.3kgs	The amount of non-recyclable waste sent to landfill, energy from waste, or refuse derived fuel collected from each household during this quarter was 105.7kgs, 19.3kgs less than the target. This is encouraging as it means residents are disposing less waste in the black bin than what the target is.
% of the taxi vehicle fleet that are fitted with a Euro 5 engine or higher	100%	93%	★	201 Licensed hackney carriage or private hire vehicles are fitted with a Euro 5 or 6 engine or are ULEV

Value for money performance indicators (No CDP actions for VFM)

Performance Indicator	Actual	Target 2022/23	Performance	Commentary
Percentage of rent loss	0.98%	1.20%	★	The amount of rent loss during Q4 was 0.85% which in monetary terms was £40,384.38. The total rent loss for the year was 0.98% which in monetary terms was £168,642.16.
Percentage of Council Tax Collected (in 2022/23 target)	94.5%	96.7%	●	This is the cumulative performance for 2022-23 as at February 2023- which is the latest data available. This is a yearly target
Percentage of National Non-Domestic Rates (in 2022/23 target)	95.6%	99.20%	●	This is the cumulative performance for 2022-23 as at February 2023- which is the latest data available. This is a yearly target
Number of days taken to process new claims.	17.2 days	18.7 days	★	This is the cumulative performance for 2022-23 as at February 2023- which is the latest data available. This is a yearly target
Percentage of rent collected from commercial tenants	96%	98%	●	
Percentage of commercial units occupied per annum	91%	90%	★	

Amount of annual income achieved by the In-house Repairs Team	£1,126,420	£1,300,000	▲	<p>The Internal Repairs Team are 13% down on its annual income target of £1.3m for Responsive Repairs Revenue. Due to work flow errors in the new Housing System, it is expected that a number of completed repairs orders remain at an open status and therefore have not been accounted for. The Asset Management Support Team is currently carrying out system cleansing work and any further completed orders will be accrued.</p> <p>The Internal Repairs Team continues to deliver the Council's capital works program and void revenue works which has generated an additional £2.6m income.</p>
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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	FORMER TENANT RENT ARREARS, CURRENT TENANT RENT ARREARS, COUNCIL TAX, NON-DOMESTIC RATES AND SUNDRY DEBTOR WRITE OFFS FOR APPROVAL IN FINANCIAL YEAR 2022/23	
Presented by	Councillor Nick Rushton Corporate Portfolio Holder	
	PH Briefed <input type="checkbox"/> Yes	
Background Papers	All information used in compiling the report contain exempt information under paragraph 3 of Part 1 to Schedule 12A Local Government Act 1972	Public Report: Yes
		Key Decision: Yes
Financial Implications	There is no additional financial effect as all the debts are met from the Authority's bad debt provision for previous years arrears or from in year income if the debts relate to the current financial year.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	There are no direct legal implications from this report.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	None identified.	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To inform Cabinet of the write-offs during the 2022/23 financial year and seek approval to write off debts over £10,000.	
Reason for Decision	To comply with proper accounting practices.	
Recommendations	THAT CABINET APPROVES THE NON-DOMESTIC RATES WRITE OFFS THAT ARE OVER £10,000	

1.0 BACKGROUND

- 1.1 The purpose of this report is to seek approval to write off debts over £10,000.
- 1.2 Details of overall write offs in the financial year 2022/23 are included in this report.
- 1.3 Writing off debts is only considered where appropriate recovery and enforcement options have been taken, or, where the Council is legally prohibited from pursuing the debt.

These include:

- Bankruptcy or a Debt Relief Order is in place.
- Deceased – No assets within the estate.
- Debtor Absconded / No Trace.
- Company in liquidation/dissolved or ceased trading with no assets.
- Severe hardship and/or serious health issues; or Statute barred i.e., we cannot legally pursue the debt as there has been six years since the debt fell due and no action has been taken to collect the debt.
- Uneconomical to collect i.e., it is not financially viable to take further action for example due to the low level of the debt or they have gone abroad.

2.0 WRITE-OFFS FOR APPROVAL

- 2.1 There is one Non-Domestic Rate debt over £10,000 for which Cabinet approval is sought amounting to £30,069.45.

Table 1: Non-Domestic Rate Debt Over £10,000

Company	Financial Year		Status on Account	Amount to be Written Off
Limited Company	2019/20	£6,195.00	In Liquidation	£30,069.45
	2020/21	£7,808.00		
	2021/22	£7,808.00		
	2022/23	£7,808.00		
	2023/24	£ 450.45		
TOTAL				£30,069.45

- 2.2 For Business Rates, writing off debt is only ever considered as a last resort. In the above instance when companies, sole traders or partnerships become insolvent the Council is prohibited from taking any further action as all their outstanding debts are included within the Administration, Liquidation, or personal bankruptcy.
- 2.3 There are no write offs for consideration for any other fund that have a value of over £10,000.

3.0 2022/23 WRITE-OFFS

- 3.1 The write-offs for 2022/23 financial year are detailed in Table 2 below. For each fund the total amount written off during the year has been split into Cabinet approved (over £10,000) and those written off under delegated powers (under £10,000). Details of the opening value of the bad debt provision and the value remaining at the end of the financial year are also stated.

Table 2: Debts Written Off during the 2022/23 Financial Year

Fund	2022-23 Bad Debt Provision £	Cabinet Approved Write Offs £	Delegated Powers Write Offs £	Total Value of Write Offs £	Bad Debt Provision Remaining £
Council Tax	4,259,574.77	0.00	192,483.19	192,483.19	4,067,091.50
National Non-Domestic Rates	867,005.00	99,123.50	29,810.01	128,933.51	738,071.49
Overpaid Housing Benefit	1,188,965.38	0.00	10,406.25	0.00	1,178,559.13
Housing Rent	1,112,085.05	0.00	3,950.73	3,950.73	1,108,134.32
Sundry Debtor Invoices	93,000.00	0.00	0.00	0.00	93,000

Policies and other considerations, as appropriate	
Council Priorities:	Value for Money
Policy Considerations:	Not applicable.
Safeguarding:	Not applicable.
Equalities/Diversity:	Not applicable.
Customer Impact:	Not applicable.
Economic and Social Impact:	Not applicable.
Environment and Climate Change:	Not applicable.
Consultation/Community Engagement:	Not applicable.
Risks:	Regular reviews of debts for write off mitigates the risk that the Council's accounts do not reflect the true level of recoverable income. It is also part of an effective arrears management strategy.
Officer Contact	Andy Gould Exchequer Services Team Leader andy.gould@nwleicestershire.gov.uk

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 27 JUNE 2023



Title of Report	THE LEICESTERSHIRE PARTNERSHIP AND BENEFITS JOINT COMMITTEE – APPOINTMENT OF MEMBERS	
Presented by	Councillor Richard Blunt Leader of the Council PH Briefed Yes	
Background Papers	The Constitution of the Joint Committee	Public Report: Yes
		Key Decision: Yes
Financial Implications	There are no financial implications.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	Should members not be appointed to the committee, then the authority will not be meeting the requirements of the governance arrangements.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no Staffing and Corporate Implications	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To appoint members to the Leicestershire Partnership Revenues and Benefits Joint Committee.	
Reason for Decision	To comply with the Constitution of the Leicestershire Partnership Revenues and Benefits Joint Committee	
Recommendations	THAT CABINET APPOINTS COUNCILLORS M WYATT AND A WOODMAN TO SERVE ON THE JOINT COMMITTEE.	

1.0 BACKGROUND

- 1.1 A joint Revenues and Benefits Governance Arrangements report developed in partnership with Hinckley and Bosworth Borough Council and Harborough District Council was produced in 2011. It was agreed that the same report should be sent to all three Councils within a similar timeframe. The joint report was considered by Cabinet on 15 February 2011, where it was agreed that three Executive/Cabinet members be appointed to serve on the Joint Committee, one from each Authority.
- 1.2 At the meeting of the Joint Committee on 17 October 2013 amendments were made to the Constitution to increase the membership of the Committee from one Executive/Cabinet Member from each Authority to two Executive/Cabinet Members from each Authority.

1.3 Substitute Members can be nominated to attend a meeting in place of an appointed Member from that Executive/Cabinet subject to notice being given to the secretary of the Committee before the start of the meeting. Substitute Members must be Executive Members but do not need to be officially appointed.

2.0 NOMINATIONS

2.1 Cabinet is asked to appoint Councillors M Wyatt and A Woodman to serve on the Joint Committee.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Supporting Coalville to be a more vibrant, family-friendly town - Support for businesses and helping people into local jobs - Developing a clean and green district - Local people live in high quality, affordable homes - Our communities are safe, healthy and connected
Policy Considerations:	The Constitution of the Joint Committee
Safeguarding:	N/A
Equalities/Diversity:	N/A
Customer Impact:	N/A
Economic and Social Impact:	N/A
Environment and Climate Change:	N/A
Consultation/Community/Tenant Engagement:	N/A
Risks:	Should members not be appointed to the committee, then the authority will not be meeting the requirements of the governance arrangements.
Officer Contact	Glenn Hammons Interim Director of Resources glenn.hammons@nwleicestershire.gov.uk