

**When telephoning, please ask for:** Democratic Services  
**Direct dial** 0115 914 8511  
**Email** democraticservices@rushcliffe.gov.uk

**Our reference:**  
**Your reference:**  
**Date:** Monday, 1 July 2024

To all Members of the Cabinet

Dear Councillor

A Meeting of the Cabinet will be held on Tuesday, 9 July 2024 at 7.00 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West Bridgford to consider the following items of business.

This meeting will be accessible and open to the public via the live stream on YouTube and viewed via the link: <https://www.youtube.com/user/RushcliffeBC>  
Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely



Gemma Dennis  
Monitoring Officer

## AGENDA

1. Apologies for Absence
2. Declarations of Interest

[Link to further information in the Council's Constitution](#)

3. Minutes of the Meeting held on 14 May 2024 (Pages 1 - 10)
4. Citizens' Questions

To answer questions submitted by citizens on the Council or its services.

5. Opposition Group Leaders' Questions

To answer questions submitted by Opposition Group Leaders on items on the agenda.

Rushcliffe Borough  
Council Customer  
Service Centre

Fountain Court  
Gordon Road  
West Bridgford  
Nottingham  
NG2 5LN

**Email:**  
customerservices  
@rushcliffe.gov.uk

**Telephone:**  
0115 981 9911

[www.rushcliffe.gov.uk](http://www.rushcliffe.gov.uk)

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**Postal address**  
Rushcliffe Borough  
Council  
Rushcliffe Arena  
Rugby Road  
West Bridgford  
Nottingham  
NG2 7YG

## NON-KEY DECISIONS

6. Freeport Business Rates Relief Policy (Pages 11 - 24)

The report of the Director – Finance and Corporate Services is attached.

7. Housing Enforcement Policy (Pages 25 - 74)

The report of the Director – Neighbourhoods is attached.

8. Financial Outturn 2023/24 (Pages 75 - 104)

The report of the Director – Finance and Corporate Services is attached.

### Membership

Chair: Councillor N Clarke

Vice-Chair: Councillor A Brennan

Councillors: R Inglis, R Upton, D Viridi and J Wheeler

<b>Meeting Room Guidance</b>
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**Fire Alarm Evacuation:** In the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble at the far side of the plaza outside the main entrance to the building.

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<b>Recording at Meetings</b>
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## **MINUTES OF THE MEETING OF THE CABINET TUESDAY, 14 MAY 2024**

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena,  
Rugby Road, West Bridgford  
and live streamed on Rushcliffe Borough Council's YouTube channel

### **PRESENT:**

Councillors N Clarke (Chair), A Brennan (Vice-Chair), R Inglis, R Upton, D Virdi and J Wheeler

### **ALSO IN ATTENDANCE:**

Councillors R Bird, C Thomas, J Walker and L Way

### **OFFICERS IN ATTENDANCE:**

L Ashmore	Director of Development and Economic Growth
D Banks	Director of Neighbourhoods
G Dennis	Monitoring Officer
P Linfield	Director of Finance and Corporate Services
K Marriott	Chief Executive
H Tambini	Democratic Services Manager

#### **65 Declarations of Interest**

Councillor Brennan made a declaration of interest in respect of Item 10 Review of Smoke Control Areas, and confirmed that she would not take part in the debate or vote on the item.

#### **66 Minutes of the Meeting held on 9 April 2024**

The minutes of the meeting held on Tuesday, 9 April 2024 were agreed as a true record and signed by the Chair.

#### **67 Citizens' Questions**

Question from Ms Claire Wenn to Councillor Virdi. Ms Wenn was unable to attend the meeting, so her question was read out by the Leader, Councillor Clarke.

"Why is it that owners of new build properties in Rushcliffe are in effect paying Council Tax twice? Once to the Council and once to a management company to maintain green spaces accessible to and used by the whole community, not just those who pay the additional fee?"

Councillor Virdi thanked Claire Wenn for the question and stated that the spend was in relation to assets not maintained by, or the responsibility of, the Council

and therefore residents were not paying twice. Those individuals paying fees did so based on contracts they had entered into with developers and it would not be right for taxpayers across the Borough to be paying for a service that was not the responsibility of the Council. Councillor Virdi reiterated that the payment of those fees was in no way a replication of Council Tax payments to the Council.

Question from Mr Jonathan Morris to Councillor Virdi. Mr Morris was unable to attend the meeting, so his question was read out by the Leader, Councillor Clarke.

“Why is the financial risk to Rushcliffe Borough Council of setting up an estate management company deemed so high that it prevents doing so, despite the activity being financially attractive and viable for many private businesses and investors, given 100% of the costs incurred can be charged to the affected residents?”

Councillor Virdi thanked Jonathan Morris for his question and stated that to fulfil the duty costs would be significant, as outlined in the report to be discussed this evening. It would come with much risk in setting-up a company, including the overheads consumed in managing a company, the resources required to operate the service, the Council did not have the in-house expertise, and then there were further risks in recovering the income and the associated costs of this. In simple terms, it was prudent for the Council not to take the risks if the private sector could fulfil this function. Councillor Virdi acknowledged the legitimate issues raised, which would be addressed later in the meeting, and advised that the emphasis of the recommendations was to improve enforcement of the private sector, which was where the expertise currently rested and thus they made a profit. Cabinet noted that the Council had limited powers to compulsorily adopt open spaces, and therefore it would make such proposals more difficult to implement.

## **68 Opposition Group Leaders' Questions**

Question from Councillor Birch to Councillor Upton. Councillor Birch was unable to attend the meeting, so his question was read out by the Leader, Councillor Clarke.

“Can you please confirm when Rushcliffe Borough Council moved away from adopting public spaces and instead began allowing management companies to assume these responsibilities, with the costs being passed on to the residents?”

Councillor Upton responded by stating that the Borough Council stopped adopting open spaces on new housing estates in 2011.

Councillor Birch had submitted a supplementary question to Councillor Upton, which was read out by the Leader.

“Considering that the Growth and Development Scrutiny Group had recommended further investigation into the practices of management companies and alternative, why does the Cabinet recommend maintaining the



status quo, causing a significant number of residents to be double taxed, under a policy introduced under this Conservative-led administration?"

Councillor Upton advised that the issue of double taxation had just been answered by Councillor Viridi and the recommendations in the report would be discussed later in the meeting.

Question from Councillor J Walker to the Leader, Councillor Clarke.

"In light of the casework experienced by Councillors who represent the areas most affected by management companies due to the clear negative impact they are having on residents, does it not seem appropriate to keep up the scrutiny of Management Companies and keep it a Key Decision for this Council?"

The Leader thanked Councillor Walker and agreed that it would be appropriate to continue to scrutinise management companies; however, he stated that it was not a political decision to make this a Key Decision, and that it was the Monitoring Officer's professional view, that this item did not meet the criteria set out within the Constitution to be a Key Decision. Significant staffing resources had already been dedicated to this subject, acknowledging its importance, and given the recommendations in the report, the Council would continue to champion, on behalf of residents, concerns over the actions of such management companies.

Councillor Walker asked a supplementary question to the Leader.

"Given that this was a long term, permanent issue for residents and should be made a Key Decision, could this be brought to Full Council?"

The Leader reiterated his previous comments that this was not a political decision; however, this was an issue that everyone was concerned about and was not a political party matter. He felt that everyone should be working together to get the issue resolved, and it was not relevant if it was a Key Decision or not, as the priority was to ensure that management companies were regulated

Question from Councillor Thomas to Councillor Upton

"In Agenda Item 8 there is a proposal for the Council to acquire 50ha of land and maintain it for carbon sequestration, at an estimated maintenance cost over 15 years, including initial planting and replacement but not land purchase, of around £1M.

In Agenda Item 7 the estimated cost for maintaining about twice as much open space in Fairham (110ha) over 15 years is £11M. Land on new estates could be acquired as a planning gain with the developer probably covering the cost of initial planting.

Why is one estimate so much more expensive than the other?

Councillor Upton thanked Councillor Thomas and advised that the Council was

not comparing like for like. Agenda Item 7, which referenced Fairham included more infrastructure costs than Agenda Item 8, with the figures in both reports being calculated from national building and surveying guidance.

Councillor Thomas asked a supplementary question to Councillor Upton.

“Are you aware in a recent planning application approved in Gotham that the largest area of greenspace is for biodiversity gain with no public access, including residents of the estate, who will presumably be landed with the maintenance bill. How does the Portfolio Holder feel about this scenario?”

Councillor Upton stated that he understood what was being said; however, he was unaware of the specific application being referred to and would provide a written response.

## **69 Revised Contaminated Land Inspection Strategy 2024-2029**

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Neighbourhoods, which detailed the revised Contaminated Land Inspection Strategy for 2024-2029.

Councillor Inglis advised that contaminated land could pose a significant risk because of substances contained within it and stated that the two key areas of the report related to the protection of the local environment from harm and to the protection of people’s health, well-being and safety, which also complimented the Council’s Corporate Priorities for the environment and quality of life. The Council was required to regularly review the Strategy and it had last done so in 2018.

Councillor Inglis stated that in December 2013, DEFRA had announced that funding for site investigations would be withdrawn, which had resulted in the Council having to be more reactive, rather than proactive, when undertaking contaminated land investigations, due to the costs falling directly on it. Cabinet noted that primarily investigations would be dealt with in the planning process at cost to the landowner, which was deemed the most appropriate means of dealing with land contamination.

Councillor Inglis advised that the Strategy remained unchanged from the last review, ensured that the Council met its responsibilities under the legal requirements of the Environmental Protection Act 1990, and represented the anticipated progress in the context of current resources and expertise available to the Council, with a renewed action plan for the next five years.

In seconding the recommendation, Councillor Viridi referred to the withdrawal of Government funding in 2013, which left the Council with a potential budget shortfall from any required investigation and remediation. If a major emergency occurred, financial support could be requested from DEFRA, subject to its budget availability, but generally costs would be resolved directly with the landowner and their insurance companies through the Council’s planning regime.

Councillor Viridi advised that for Council owned land, it would be necessary to

utilise contingency budgets or in-year efficiencies, with staff costs contained within existing budgets, and Cabinet was reminded that the Council was unable to carry out its statutory enforcement responsibilities without a Strategy being in place.

**It was RESOLVED that** the Contaminated Land Inspection Strategy 2024-2029 be approved.

## 70 **Management of Open Spaces in New Developments**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Development and Economic Growth, which detailed the management of open spaces in new developments.

Councillor Upton referred to the concerns reported by Councillors and residents and stated that this was a national issue, for which there was currently no regulation for the governance of private management companies. The issue had been considered by the Growth and Development Scrutiny Group in January 2024, with a progress review scheduled for Spring 2025.

Councillor Upton stated that over recent years, the design and layout of many new housing estates had changed, to accommodate environmental and topographical issues and provide biodiversity. With increased housing density, private gardens had generally got smaller, and communal, public open spaces, managed by private management companies had been provided by developers to try and compensate for that.

It was noted that historically the Council had adopted small scale open spaces; however, due to increased complexity, and significantly increased costs, the Council had stopped this in 2011. Councillor Upton advised that detailed research by officers had been undertaken to look at the cost of reverting back to adopting public open spaces, details of which were highlighted in paragraphs 4.23 to 4.30 of the report, and it had concluded that the Council was not in a position to do that, due to the significant financial burden that this would create.

Councillor Upton confirmed that the Council was taking a more active and supportive role, working with both developers and management companies to encourage good practice, as highlighted in paragraph 4.36. A Supplementary Planning Document (SPD) and a Good Practice Code were being developed and officers had met with developers and management companies to discuss concerns raised by residents, and all have said that they were keen to build better relationships with both the Council and residents.

Councillor Upton stated that the majority of developers were registered with the independent New Homes Quality Board, which included a New Homes Ombudsman service. The Council was aware of the Government's intention to legislate in this area and that it was actively lobbying to regulate the governance of management companies. Councillor Upton reminded Cabinet that the Leader had written to the Secretary of State in March urging the Government to put controls in place. Reference was made to the market study into housebuilding by the Competition and Markets Authority (CMA), which the

Council had responded to, with details of the three recommendations from that published report highlighted in paragraph 4.19. The key recommendation was that councils should adopt amenities on all new housing estates; however, the CMA did not suggest how that should be funded, it recognised concerns on how councils would find funding and suggested that the Government would need to consider this. It was noted that the Leader had received a response to his letter, in which the Secretary of State confirmed that the Government would be responding to the CMAs report within 90 days of its publication in February.

Councillor Upton concluded by stating that the Council understood the concerns raised, in particular the financial costs to residents, and that it had and would continue to lobby for Government legislation, whilst waiting for the Government's response to the CMA report. This Council did not have the legal power to oblige developers to hand over the management of open spaces to it, and as previously mentioned, it was currently not financially viable for the Council to revert back to managing open spaces, as to do so would only worsen an existing projected budget deficit position. The Council was playing a much more proactive role to try and improve the situation, whilst considering guidance for new estate design layouts as part of its new Building Design Code.

In seconding the recommendation, the Leader referred to the genuine concerns raised by residents, and the importance of this issue, as illustrated by the number of questions submitted. The Leader reiterated that this was a national problem, with the introduction of management companies leading to unintended consequences and advised that he would continue to lobby through various channels, including the LGA and the District Councils Network. It was vital that proper rules and legislation were in place, and the Leader reiterated that as everyone appeared to generally be in agreement, it would be helpful to have collective cross-party discussions, to identify what issues needed to be taken forward.

Councillor J Wheeler emphasised the importance of needing Government legislation, referred to the issues raised in paragraph 4.29 of the report and to the complexity of new developments, not just in relation to open spaces. Councillor Wheeler felt that any legislation and policies should be clear and robust to provide assurance and security to residents going forward.

The Leader referred to paragraph 4.36 of the report, which highlighted that officers were already talking with developers, and that management companies had been invited to join Development Boards. He emphasised how important this issue was and that the Government needed to bring regulations forward.

**It was RESOLVED that:**

- a) the Council's position not to adopt open spaces on new developments due to the significant financial burden this entails be reaffirmed;
- b) the proposal for the Council to take a more active role working with developers and management companies to encourage good practice, as outlined in section 4.36 of the report be supported;

- c) the Growth and Development Scrutiny Group be requested to review progress against the proposals as set out in section 4.36 of the report in Spring 2025; and
- d) the Government be lobbied to regulate the governance of management companies, to ensure transparency, remove charges unrelated to the management of open spaces, mandate engagement with homeowners and to expediate the adoption of the Leasehold and Freehold Reform Bill.

## **71 Rushcliffe Carbon Offsetting Framework**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Neighbourhoods, which detailed the Carbon Offsetting Framework for Rushcliffe.

Councillor Upton stated that in 2020 the Council agreed a target to be carbon neutral by 2030, from its direct operations, and it adopted a Carbon Management Action Plan to monitor progress. In 2021 the Climate Change Strategy 2021-2030 was adopted and good progress was being made, with several projects underway; however, some carbon offsetting estimated at 360 tonnes per annum would still be required. Councillor Upton advised that the focus of the framework would be offsetting within the Borough, including the establishment and enhancement of a range of natural habitats. The Council could choose to acquire carbon credits from third party providers or land outside the Borough; however, it was considered important to show local leadership. Councillor Upton referred to the options available, which were detailed in paragraph 4.5 of the report, with 40 hectares of additional woodland and 10 hectares of additional meadow or wetland required to offset the Council's carbon emissions. Section 4 of the report provided details of the types of natural habitat that could give good carbon offsetting, together with the principles of what and where to plant and included a map detailing the best areas of the Borough for re-wilding.

Councillor Upton confirmed that some land acquisition would be required, which would need to go through the Acquisitions and Disposals Policy. Section 6 of the report set out guidelines and some risks and recommended that a Site Specific Risk Assessment should be undertaken for all proposed purchases. Councillor Upton referred to paragraphs 7.14 to 7.16 of the report, which detailed how purchase costs could be achieved by using the Climate Change Reserve, together with various funding support schemes. Councillor Upton concluded by reiterating that good progress was being made, but that action needed to be taken now on this matter.

In seconding the recommendation, Councillor Brennan stated that to achieve the carbon neutral targets by 2030, some difficult and potentially expensive decisions would have to be made, and the report provided a pragmatic reflection that some carbon offsetting was required. Councillor Brennan welcomed the recommendation to purchase land within the Borough, even though that might be more expensive, as it would provide an opportunity to enhance the local environment and increase biodiversity. She referred to a recent report, which had stated how 'de-natured' the UK had become and

welcomed the opportunity to creatively improve the natural environment across the Borough and agreed that it was important to take action now.

The Leader welcomed the report and recommendations and stated that going forward other options and alternatives would be considered to further increase offsetting.

**It was RESOLVED that:**

- a) the Carbon Offsetting Framework be approved, for the repurpose or acquisition of land or partner with other agencies to deliver carbon offsetting in the Borough of Rushcliffe; and
- b) the Director – Neighbourhoods, in conjunction with the Council's S151 Officer be delegated responsibility to implement the Carbon Offsetting Framework, in accordance with the Council's Acquisitions and Disposals Policy and Financial Regulations.

**72 Revised Empty Homes Strategy 2024-2029**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Neighbourhoods, which detailed the revised Empty Homes Strategy for 2024-2029.

Councillor Upton stated that in 2019, Cabinet had approved the Council's first Empty Homes Strategy, which was now due for renewal. Cabinet noted that in December 2023, there were 889 empty homes in the Borough, of which 498 had been empty for over six months or more. Councillor Upton felt that given the acute need for housing, this situation was both morally and economically wrong, and referred to the detrimental effect that empty homes could have on local residents and neighbourhoods.

Councillor Upton confirmed that the Communities Scrutiny Group reviewed the Strategy in July 2023, and had been very supportive. Since 2019, procedures and protocols had been developed and relationships forged with various agencies to help to get empty properties back into use. One particular success had been the development of a specific web page providing advice and information, together with the development of an empty homes database.

Councillor Upton concluded by advising that the Strategy was working well, with 74 long term empty properties brought back into use through active intervention by this Council, and during the same period, a further 2,400 other properties had been brought back into use, with the Council's advice and support.

In seconding the recommendation, Councillor J Wheeler welcomed the report and referred to the importance of getting empty homes back into use, and the blight that they caused to neighbourhoods. Councillor Wheeler referred to the advice and support that was available and asked residents to report potential empty properties to the Council.

**It was RESOLVED that:**

- a) the revised Empty Homes Strategy 2024-2029 be approved; and
- b) the Director – Neighbourhoods be authorised to make minor revisions to the Strategy during its lifespan in accordance with the Constitution.

**73 Review of Smoke Control Areas**

Having declared an interest, Councillor Brennan took no part in the debate and voting on this item.

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Neighbourhoods, which detailed the review of the Smoke Control Areas.

Councillor Inglis stated that in 2022, the Government proposed a new legally binding target to reduce levels by 2040, focusing on reducing the concentrations of fine particulate matter (PM2.5), which caused the most harm to human health, and that the national Air Quality Strategy expected all local authorities to effectively use their new powers to reduce PM2.5 emissions from sources within their control.

Councillor Inglis confirmed that the Communities Scrutiny Group considered a report in October 2023, outlining a public consultation on revised Smoke Control Areas within the Borough, with four options. The Group chose the option to revoke the existing Smoke Control Orders and sought to declare the whole Borough as a Smoke Control Area, as defined in the Environment Act 2021. A public consultation was held, with 80% of the 1,206 responders in disagreement with the option to extend the current Smoke Control Area to cover the whole Borough, with the reasons detailed in paragraph 4.6 of the report. Cabinet noted that the main reasons provided by the 20% of respondents who did agree with the proposal were the need to improve air quality, health reasons and quality of life.

Councillor Inglis stated that the Council had listened to those concerns, balancing them with the positive responses and the requirements of the Act and was proposing that any decision to change the current Smoke Control Areas should be postponed for a further two years, to allow for a public awareness campaign and for people to start making plans and changes that would be required in the future. It was acknowledged that the Council was at risk of criticism from DEFRA; however, Rushcliffe was largely rural, outside of the current zone, with any risk to public health greatly diminished given the highest risk was in areas of poor deprivation and high urban density. Councillor Inglis concluded by thanking residents who had responded to the consultation and trusted that they were assured that their concerns and opinions had all been considered.

In seconding the recommendation, Councillor J Wheeler thanked all those who had responded to the consultation and stated that the Council had recognised that this was not the right time to change current arrangements. The Council would need to work with residents living in rural areas, to see how they could

be helped and it was important to recognise the differing needs of those communities and that some could not afford to change things at the moment.

The Leader agreed that it had been helpful to have a large response from the consultation and that the recommendation reflected the majority view of those residents.

Councillor Upton stated that the recommendation allowed time for reflection and to consult again. He referred to the diversity of the Borough, that one option might not be suitable for all and a compromise might be required.

**It was RESOLVED that:**

- a) the existing Smoke Control Area coverage remains unchanged for a period of two years, at which time it will be reviewed; and
- b) the development and delivery of a public awareness campaign around domestic burning be approved.

The meeting closed at 7.57 pm.

CHAIR





**Cabinet**

**Tuesday, 9 July 2024**

**Freeport Business Rates Relief Policy**

## **Report of the Director – Finance and Corporate Services**

**Cabinet Portfolio Holder for Finance, Transformation and Governance,  
Councillor D Virdi**

### **1. Purpose of report**

- 1.1. One of the benefits of the East Midlands Freeport (EMF) is that businesses may be awarded Business Rates Relief. This report outlines the East Midlands Freeport Business Rates Relief Policy upon which decisions will be made, to be approved by Cabinet.
- 1.2. To ensure consistency of application across the three Councils who administer Business Rates on behalf of the Freeport, the Policy is also being agreed by both South Derbyshire and North West Leicestershire district councils.

### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) approves the Council's East Midlands Freeport Business Rates Relief Policy (Appendix A); and
- b) delegates authority to the Director of Finance and Corporate Services to either finalise any changes or make future amendments to the Policy (particularly if there are changes in legislation) in consultation with the Finance Portfolio Holder.

### **3. Reasons for Recommendation**

As part of the formal creation of the East Midlands Freeport (EMF) the Council is required to have in place a Business Rates Relief Policy for eligible organisations outlining the eligibility criteria, operation and delivery of Business Rates Relief for East Midlands Freeport Tax Sites.

### **4. Supporting Information**

- 4.1 Previous information regarding EMF Business Rates Relief highlighted that relief will be available to eligible business for the EMF Tax Sites once they are designated. Originally relief would be available to all new businesses, and certain existing businesses where they expand, until 30 September 2026. Relief

will apply for five years from the point at which each beneficiary first receives relief.

- 4.2 For the billing authorities (Rushcliffe Borough Council, North West Leicestershire District Council and South Derbyshire District Council) to approve the final Business Rates Relief Policy, the existence of a viable subsidy control scheme (previously State Aid) was a prerequisite, followed by the subsequent agreement on the Business Rates Relief Policy.
- 4.3 There was a necessity for a comprehensive review and enhancement of the existing subsidy control framework, working with Government, to ensure its effectiveness and alignment with the overarching objectives of the Freeport initiative. The development and implementation of such a scheme is crucial for maintaining the integrity and competitiveness of the Freeport, necessitating a meticulous approach to its design and governance. This is further outlined in paras 4.4 to 4.8 below.

#### *Subsidy Control*

- 4.4 One of the key elements of the Business Rates Relief Policy is the consideration of subsidy control. Freeport Business Rates Relief is subject to the UK's domestic and international subsidy control obligations. Businesses located in the Tax Site will need to fulfil any requirements in place to ensure compliance with those obligations in advance of, during, and after claiming relief.
- 4.5 There has been a delay relating to subsidy control which can be attributed to the Government announcing that it would publish guidance which sets out the conditions which apply to the award of Freeport Business Rates Relief. This was published in late April 2024 in the form of Government guidance.
- 4.6 This guidance states that billing authorities, when awarding relief, will need to meet the conditions of the stated legacy subsidy scheme. This operates in a similar manner to other council business rates relief schemes, with Government reimbursing the billing authority for the amount of relief awarded.
- 4.7 The issue of a subsidy scheme has been the subject of legal advice from DWF, which confirms that any legal risk around the establishment process has in theory passed (as the challenge window has now expired, even if that is dated back to April 2024). The Subsidy Control Act 2022, introduces new legal considerations, including legacy subsidy schemes. It is improbable that the Freeport scheme, endorsed by Central Government as the preferred exemption method, would face legal challenges. If the Council adheres to the scheme's conditions and maintains proper records, the risk of further challenge is minimal.
- 4.8 Based upon this development the billing authorities are now in a position to consider the EMF Business Rates Relief Policy, which involves assessing whether this aligns with the broader subsidy control regime including that it meets the legal obligations set out in the Subsidy Control Act 2022.

## *Eligibility Principles*

- 4.9 Freeport Business Rates Relief is available to new businesses moving into the Freeport after the date on which the relevant Freeport tax site has been formally designated and occupying both existing and new hereditaments on the rating list.
- 4.10 Freeport Business Rates Relief is available for five years from the date it is first claimed. At the time of approving the EMF Business Rates Relief Policy on 26 April 2022, the Policy included the criteria for granting the relief from the establishment of the Freeport area until 30 September 2026. However, at the Autumn Statement on 30 November 2023, the Government announced that the window to claim Freeport tax relief would be extended from five to ten years, until 30 September 2031 for English Freeports.
- 4.11 This means that if a business first received relief on 30 September 2026, the relief may be applied up to 29 September 2031. Where a business first receives relief on 30 September 2031, the relief may be applied up to 29 September 2036. This has been reflected in the revised EMF Business Rates Relief Policy.
- 4.12 Enclosed at Appendix A is the updated version of the EMF Business Rates Relief Policy.

## **5. Alternative options considered and reasons for rejection**

There are no alternative options. To allocate the Business Rates Relief in relation to the EMF a policy framework must be in place.

## **6. Risks and Uncertainties**

- 6.1. Risks associated with the approval of the EMF Rates Relief Policy are minimal. The Policy is closely aligned to national guidance and compliant with Government parameters and policy.
- 6.2. The Policy applies once the Council has joined the EMF Company and thereafter businesses locate to the Ratcliffe on Soar Power Station site and apply for Business Rates Relief.

## **7. Implications**

### **7.1. Financial Implications**

There are no direct financial implications. Council officers will be administering Business Rates on behalf of the EMF.

### **7.2. Legal Implications**

- 7.2.1 The Government has confirmed that it will not introduce legislation in relation to the administration of rate reliefs for Freeports and expects local authorities to rely on their discretionary powers under section 47 of

the Local Government Finance Act 1988. A Policy is necessary to demonstrate how the Council will exercise those discretionary powers in relation to the EMF.

7.2.2 External legal advice has been provided to the Council (and the other Billing Authorities) by DWF in relation to the establishment of the EMF company and associated governance documents, subsidy control etc.

**7.3. Equalities Implications**

None.

**7.4. Section 17 of the Crime and Disorder Act 1998 Implications**

None.

**7.5. Biodiversity Net Gain Implications**

None.

**8. Link to Corporate Priorities**

The Environment	Environmental and climate impact will need to be assessed as part of the wider Freeport operation and expansion and mitigated through appropriate measures.
Quality of Life	The Freeport will deliver economic growth resulting in more employment and a more prosperous local economy.
Efficient Services	The East Midlands Freeport Business Rates Relief Policy although largely technical in terms of operation and application forms a key element in the Freeport offer, incentivising businesses to relocate into the Freeport or existing businesses to expand.
Sustainable Growth	

**9. Recommendation**

It is RECOMMENDED that Cabinet:

- a) approves the Council's East Midlands Freeport Business Rates Relief Policy (Appendix A); and
- b) delegates authority to the Director of Finance and Corporate Services to either finalise any changes or make future amendments to the Policy (particularly if there are changes in legislation) in consultation with the Finance Portfolio Holder.

<b>For more information contact:</b>	Peter Linfield Director of Finance and Corporate Services 0115 914 8439 <a href="mailto:plinfield@rushcliffe.gov.uk">plinfield@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	None
<b>List of appendices:</b>	Appendix A - Freeport Business Rate Relief Policy

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**Business Rates Relief Policy for the East Midlands Freeport**

**Adopted by North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council**

**July 2024**

**1. Purpose of the Policy**

- 1.1. The purpose of this policy is to determine the level of discretionary relief which may be granted to certain defined ratepayers within the tax site located within the East Midlands Freeport area. The policy takes account of the criteria for granting the relief from the establishment of the Freeport area until 30 September 2031<sup>1</sup> for a five year period (**Last Relief Commencement Date**) and takes account of the '[Freeports business rates relief: local authority guidance](#)' published on 26 April 2024. A map of the Freeport area is available at the following link: [Map of East Midlands Freeport customs site - GOV.UK \(www.gov.uk\)](#)
- 1.2. Central Government is not changing the legislation relating to the reliefs available to businesses and has produced guidance for local billing authorities to use their discretionary powers under section 47 of the Local Government Finance Act 1988 (as amended) to grant business rate relief in relation to Freeport tax sites to those ratepayers who are eligible. This policy follows the principles in the government guidance.
- 1.3. Where relief is granted correctly, the government will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003.
- 1.4. This policy outlines the eligibility criteria, operation and delivery of this discretionary business rates relief within the East Midlands Freeport area. It aligns with the Freeports Subsidy Control Scheme, that government guidance states was made on 19 November 2021<sup>2</sup>. This policy has been jointly developed and adopted by all three billing authorities that cover the area of the Freeport - North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council (collectively known as the "EM Freeport Billing Authorities").

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<sup>1</sup> Relief will be available to all new businesses, and certain existing businesses where they expand, until 30 September 2031. Relief will apply for five years from the point at which each beneficiary first receives relief. This means that if a business first received relief on 30 September 2026, the relief may be applied up to 29 September 2031. Where a business first receives relief on 30 September 2031, the relief may be applied up to 29 September 2036.

<sup>2</sup> prior to the Subsidy Control Act 2022 coming into full force and effect from 4 January 2023. This is therefore regarded to be a legacy scheme and the subsidy control requirements set out in the Act do not apply except for the requirements as to transparency in Chapter 3 of Part 2 of the Subsidy Control Act 2022. This policy shall not be inconsistent with the terms of the legacy scheme.

- 1.5. This policy only applies to sites within this area, provided that the Applicant also meets the other requirements in this policy.

## **2. Discretionary Relief – Legislative Background**

- 2.1. The original purpose of discretionary relief was to provide assistance where the property did not qualify for mandatory relief or to top up cases where ratepayers already receive mandatory relief.
- 2.2. Over recent years and particularly since 2011, the discretionary relief provisions as defined by section 47 of the Local Government Finance Act 1988 (as amended) have been used by government to provide assistance to certain specified categories of business ratepayers without the need to change the legislation. However, whilst government provides general guidance, it is for the Billing Authority to ensure that all relief is granted strictly in line with the primary legislation and the Non-Domestic Rating (Discretionary Relief) Regulations 1989.
- 2.3. Unlike mandatory relief, ratepayers are obliged to make a written application to the Billing Authority. The Billing Authority will carefully consider every application on its merits, taking into account Government guidance and legislation.
- 2.4. The decision to grant or not to grant relief is a matter purely for the Billing Authority, however an unsuccessful applicant has the right to request a review. Please see Section 14 regarding the review process.

## **3. Provision of Relief**

- 3.1. The purpose of providing this relief is to incentivise investment into the EM Freeport. An Applicant will therefore only be eligible for relief where they can demonstrate that they will be committing to investment on the relevant property of at least an equivalent amount to the relief to be provided under this scheme. A pre requisite to be eligible for the relief will be that the applicant has been accepted into the EM Freeport through the TSIGR process.
- 3.2. Applicants will be asked to disclose as part of the application process any other subsidies that they are in receipt of (or likely to be in receipt of in the near future) that will contribute towards investment in the relevant property and to keep the relevant EM Freeport Billing Authority informed of any potential subsidies in relation to investment in the relevant property during the period of the relief. Any such subsidies will be taken into account when the relevant EM Freeport Billing Authority is determining the application for discretionary relief and whether there are circumstances that could result in withdrawal of reduction or relief.
- 3.3. Discretionary relief under this policy will apply for a maximum of 5 years from the date on which each beneficiary receives the relief for the first time on or after the date on which the Tax Site is designated (and on or before the Last Relief Commencement Date). This means that if a business first received relief on 1 July 2024 . The relief may be applied up to 30 June 2029. Where a business first receives relief on 30 September 2031, the relief may be applied up to 29 September 2036. This will be subject to any changes in circumstances as set out in Section 13 below.



#### **4. Eligibility Principles – Awarding relief to new businesses locating to tax sites within the Freeport**

- 4.1. Freeport business rates relief is available to new businesses moving into designated Freeport sites in the East Midlands Freeport area after the date on which the Tax Site has been formally designated and on or before the Last Relief Commencement Date, and occupying existing or new hereditaments on the rating list.
- 4.2. Existing businesses within a Tax Site that seek to relocate within the East Midlands Freeport area are unlikely to be eligible for the relief, subject to consideration of the following:
  - The business must occupy the hereditament – both existing and any new hereditaments must be shown on the local rating list.
  - New businesses which expand after moving into the Freeport area (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy in the Tax Site.
- 4.3. In considering what is a new business, the Billing Authority will lift the corporate veil and consider groups of companies to be single businesses.
- 4.4. The Billing Authority will retain discretion to apply additional tests for discretionary relief in order to avoid or not incentivise displacement of business activity from within the freeport or the surrounding area. This may include reducing the award of relief in cases where a ratepayer's occupation of a space arises in whole or in part from them vacating another space in the Freeport or surrounding area.

#### **5. Eligibility Principles – Awarding relief to existing businesses within the Freeport tax sites**

- 5.1. Subject to 5.3 to 5.7 below, full relief is available on a hereditament where a person has occupied the property comprising that hereditament for the first time on or after the date on which the Tax Site is designated (22 September 2022) and on or before the Last Relief Commencement Date. This, for example, would include existing businesses expanding into a further property.
- 5.2. Subject to 5.3 to 5.7 below, partial relief is available on a hereditament where a person has occupied a room or similar within a hereditament for the first time on or after the date the Tax Site is designated (22 September 2022) and on or before the Last Relief Commencement Date. For example, where an existing business builds an extension or takes on new rooms or floors in their building leading to an expansion of the hereditament.
- 5.3. Ratepayers cannot generally claim Freeport Relief merely by expanding their use of an existing room or similar within a hereditament. However, partial relief is available to a person in respect of part of a hereditament on which they were already the occupier or owner prior to the date on which the Tax Site is designated, provided that the space is within an existing room of a building and has become useable for the first time following development commenced on or after the date on which the Tax Site is designated (and on or before the Last Relief Commencement Date), e.g.

installation of a mezzanine or access/fire control improvements to bring an existing space into use.

- 5.4. General refurbishment improvements to space already or previously in use by the person prior to the date on which the Tax Site is designated are not eligible for discretionary relief.
- 5.5. Service improvements (e.g. heating and air conditioning) to space already or previously in use by the person prior to the date on which the Tax Site is designated are not eligible for discretionary relief.
- 5.6. The relevant EM Freeport Billing Authority will need to determine the value of any part of the hereditament where partial relief is to be granted. Where the relevant EM Freeport Billing Authority is unable to reasonably ascertain the increase in rates liability attributable to these factors, no relief shall be awarded.
- 5.7. The relevant EM Freeport Billing Authority will retain the discretion to apply additional tests for discretionary relief in order to avoid or not incentivise displacement of business activity from within the freeport or the surrounding area. This may include reducing the award of relief in cases where a ratepayer's occupation of a space arises in whole or in part from them vacating another space in the Freeport or surrounding area.

## **6. Principles for establishing the value of the Freeports Business Rates Relief**

- 6.1. Subject to 6.3 below, the value of full relief for hereditaments falling within 5.1 above is 100% of the bill.
- 6.2. Subject to 6.3 below, the value of partial relief should be 100% of that part of the rates bill attributable to the part of the hereditament falling within 5.2 above where that increase is reasonably ascertainable. In establishing the part of the rates bill attributable to the part of the hereditament falling within 5.2 above, the Billing Authority may have regard to:
  - the survey and rating valuation of the hereditament provided by the ratepayer if available (e.g., for hereditaments valued by area on the rental comparison basis).
  - a change to the rateable value where it is clear that the change is solely due to the addition to the valuation of the parts of the hereditament falling within 5.2 above.
  - any other information the Billing Authority deems appropriate to determine the extent of the parts of the hereditament falling within 5.2 above.
- 6.3. The Billing Authority may withhold or reduce the discretionary relief in cases of displacement (see 5.7 above)

## **7. Sequence of Reliefs**

- 7.1. The relief will be applied after mandatory reliefs and other discretionary reliefs have been applied, excluding those where the relevant EM Freeport Billing Authority has

used its wider discretionary relief powers introduced by the Localism Act 2011. The relevant EM Freeport Billing Authority may use its discretionary powers to offer further discounts outside this scheme but where the Billing Authority applies a locally funded relief, this will be applied after the Freeport relief scheme.

## **8. Financing Reliefs**

- 8.1. The government has indicated that it will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003. However, this is not automatic, and the Billing Authority will ensure that relief is only granted strictly in line with government guidance.

## **9. Subsidy Control**

- 9.1. The EM Freeport Billing Authorities will use the Freeports Subsidy Control Scheme, which the government states was made on 19 November 2021..
- 9.2. Businesses located within the Tax Site will be required to provide information to evidence that they meet the eligibility criteria and the terms and conditions of the scheme.

## **10. Administration of Discretionary Relief - Applications and Evidence**

- 10.1. Relief must be applied for in writing by the ratepayer to the relevant EM Freeport Billing Authority. The EM Freeport Billing Authorities will ensure that the application forms for discretionary rate relief are made available to ratepayers upon request as well as through their respective websites. Reliefs will be administered by each EM Freeport Billing Authority's revenue and benefits function.
- 10.2. Ratepayers are required to provide a completed application form plus any evidence, documents, accounts, financial statements, etc. necessary to allow the relevant EM Freeport Billing Authority to make a determination. Application forms and guidance notes will set out the evidence requirements that need to be met for a decision to be made. Failure to provide the necessary evidence will delay the decision-making process and/or could result in no relief being granted.
- 10.3. Business rate payments remain legally due and payable in accordance with the most recent bill until such time as any relief is awarded. Written applications will be required for each individual property.
- 10.4. The Billing Authority will provide this service and any guidance free of charge. Ratepayers are encouraged to approach the EM Freeport Billing Authorities direct and not pay for such services through third parties.

## **11. Administration of Discretionary Relief – Granting of Relief**

- 11.1. The Billing Authority will notify the ratepayer in writing of any decisions made.
- 11.2. Where an application is successful, the ratepayer will be notified of the following:

- The amount of the relief granted and the date from which it has been granted;
  - If relief has been granted for a specified period, the date on which it will end;
  - The new chargeable amount;
  - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
  - A requirement that the ratepayer should notify the Billing Authority of any change in circumstances that may affect entitlement to relief.
- 11.3. The rate relief will be awarded by means of a reduction in liability shown on the business rates bill issued to the ratepayer. Where this puts the account in credit for the year, a refund will be made by the relevant EM Freeport Billing Authority. A new Rate Demand Notice will be issued as confirmation.
- 11.4. Where relief is not granted then the ratepayer will be notified of the following:
- An explanation of the decision within the context of the relevant EM Freeport Billing Authority's statutory duty; and
  - An explanation of the appeal rights (see section 16 below).
- 11.5. The Billing Authorities under legislation from 1 April 2023, can receive backdated applications at any time and are no longer restricted to 6 months.

## **12. Administration of Discretionary Relief – Variation of a decision**

- 12.1. Where it is necessary to vary any decision on rate relief, the relevant EM Freeport Billing Authority will notify the ratepayer as soon as practicable and will confirm the following amount of increase or reduction in rate relief, including when such changes will take effect.
- 12.2. An EM Freeport Billing Authority has discretion to revoke rate relief where it considers it appropriate to do so and in such circumstances, the relevant EM Freeport Billing Authority will notify the ratepayer of the reasons for such revocation and the date by which it will take effect.

## **13. Reporting changes in circumstances**

- 13.1. Where a ratepayer has been awarded relief, they will be required to report any changes in circumstances which may affect the relief as soon as practicable and, in any event, no more than 21 days from the event occurrence. Such changes may include (but are not limited to) circumstances where the premises become unoccupied or are used for a purpose other than that determined by the relevant EM Freeport Billing Authority as eligible for relief.
- 13.2. Where a change of circumstances is reported, the EM Freeport Billing Authority will have discretion to vary or revoke the relief in accordance with section 13 above.

- 13.3. Without prejudice to the above, the EM Freeport Billing Authorities will require ratepayers that are in receipt of relief to reaffirm their eligibility on an annual basis.

**14. Right of Review**

- 14.1. A ratepayer may request a review of any relief decision. Any such review will be carried out by the respective EM Freeport Billing Authority's Director who has not been involved in the original decision.
- 14.2. Details of how to request such a review will be provided in the refusal letter. Any request for review will need to set out evidence as to why the applicant considers that the matter warrants a review, including but not limited to any further evidence in support of how the Applicant meets the eligibility and terms and conditions of the scheme.

**15. Fraud**

- 15.1. Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

**16. Enquiries**

- 16.1. In the event that a ratepayer has any queries on this scheme or the application process, they can contact the Council's Revenues Services Manager.

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**Cabinet**

**Tuesday, 9 July 2024**

**Housing Enforcement Policy**

## **Report of the Director – Neighbourhoods**

### **Cabinet Portfolio Holder for Housing and Planning, Councillor R Upton**

#### **1. Purpose of report**

- 1.1. To enable Cabinet to consider and approve the adoption of a new policy relating to housing enforcement.
- 1.2. Cabinet is asked to approve the adoption of the new Housing Enforcement Policy.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet approves the adoption of the new Housing Enforcement Policy 2024-29.

#### **3. Reasons for Recommendation**

- 3.1. The adoption of a Housing Enforcement Policy sets out the way in which the Council intends to secure effective compliance with relevant housing legislation whilst minimising the burden to the Council, individuals, organisations, and business, including:
  - Housing conditions in Private Sector properties (rented and owner-occupied)
  - Housing conditions in Registered Provider owned properties (Social Housing)
  - Landlords' obligations in the Private Rented Sector
  - Houses in Multiple Occupation (HMOs)
  - Mobile Home Sites.

#### **4. Supporting Information**

- 4.1. Improved housing conditions can save lives, prevent disease, increase quality of life, reduce poverty, and help mitigate climate change. Housing is becoming increasingly important to health in light of urban growth, ageing populations and climate change. (WHO, 2018.)
- 4.2. Quality of life and the environment are key priorities for Rushcliffe Borough Council as stated in its Corporate Strategy 2024-27.

- 4.3. The Council has statutory obligations to ensure that all properties let as residential properties throughout the Borough, and those in private ownership, are safe, of good quality, free from major dis-repair and are well managed.
- 4.4. The adoption of the policy will support the Council's enforcement of housing standards. This policy should be read in conjunction with the Council's Corporate Enforcement Policy.
- 4.5. There is no legal requirement to enter into a public consultation. This policy merely lays out how the Council will generally enforce the relevant statutory requirements.

**5. Alternative options considered and reasons for rejection**

To continue without a specific policy will increase the legal risk should cases be brought to legal proceedings.

**6. Risks and Uncertainties**

The adoption of this policy will reduce the legal/ reputational risk in the event of legal proceedings.

**7. Implications**

**7.1. Financial Implications**

Any financial implications are already contained within existing budgets.

**7.2. Legal Implications**

The adoption of this policy will reduce the legal / reputational risk in the event of legal proceedings.

**7.3. Equalities Implications**

An Equality Impact Assessment has been completed and no significant impacts have been identified.

**7.4. Section 17 of the Crime and Disorder Act 1998 Implications**

No implications have been identified.

**7.5. Biodiversity Net Gain Implications**

No implications have been identified.



## 8. Link to Corporate Priorities

The Environment	Good quality housing can make a positive contribution to climate change
Quality of Life	Direct impact between quality of housing and public health
Efficient Services	The recommendations in this report do not impact on or contribute to the Council's Efficient Services priority.
Sustainable Growth	The recommendations in this report do not impact on or contribute to the Council's Sustainable Growth priority.

## 9. Recommendation

It is RECOMMENDED that Cabinet approves the adoption of the new Housing Enforcement Policy 2024-29.

<b>For more information contact:</b>	Geoff Carpenter Service Manager, Public Protection 0115 914 8229 gcarpenter@ <a href="mailto:gcarpenter@rushcliffe.gov.uk">rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	None
<b>List of appendices:</b>	Appendix 1 – Draft Housing Enforcement Policy Appendix 2 – Equality Impact Assessment

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**Rushcliffe Borough Council**

**Housing Enforcement  
Policy  
2024 - 2029**

**Adopted xth July 2024**

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# Introduction

Improved housing conditions can save lives, prevent disease, increase quality of life, reduce poverty, and help mitigate climate change. Housing is becoming increasingly important to health in light of urban growth, ageing populations and climate change. (WHO,2018).

Quality of life and the environment are key priorities for Rushcliffe Borough Council as stated in its Corporate Strategy 2024-27.

The Council has Statutory obligations to ensure that all properties let as residential properties throughout the Borough, and those in private ownership, are safe, of good quality, free from major dis-repair and are well managed.

This Policy sits underneath the Council's Corporate Enforcement Policy and its Housing Delivery Plan 2022-27. It sets out the way in which the Council intends to secure effective compliance with the relevant legislation whilst minimising the burden to the Council, individuals, organisations, and business, including:

- Housing conditions in Private Sector properties (rented and owner-occupied)
- Housing Conditions in Registered Provider owned properties (Social Housing)
- Landlord's obligations in the Private Rented Sector
- Houses in Multiple Occupation (HMOs)
- Mobile Home Sites

The aim of this Policy is to govern the way in which enforcement is undertaken to achieve the following objectives:

- Good quality, healthy housing for all households renting and to prioritise action to those which present the greatest risks to the health and safety of the occupants or their visitors
- Houses in Multiple Occupation (HMOs) are safe and well managed, and all relevant Management Regulations are adhered to
- All licensable Houses in Multiple Occupation are licensed, and all licensing conditions are met
- All Mobile Homes sites are safe and well managed in accordance with licence conditions

# Enforcement Principles

The Council recognises that each case is unique and will be considered on its own merits. When deciding on the appropriate action, Officers will consider the Law, Government Guidance, Council Policies and the sufficiency and reliability of the evidence.

When deciding on appropriate action, Officers will have regards to the Council's Corporate Enforcement Policy. The Council supports the Principles of Good Regulations, as specified under Part 2 of the Legislative and Regulatory Reform Act 2006, and will exercise enforcement activities in a way which reflects these, as outlined below:

## Proportionate

Any enforcement action taken will be proportionate to the risks and the seriousness of the breach. This will ensure that the most serious risks are targeted first.

## Accountable

Enforcement activities will be open to Public Scrutiny, with clear and accessible policies and a fair and efficient complaints procedure.

## Consistent

Enforcement duties will be carried out in a fair and consistent manner. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case. However, the Council will have regards to current procedures, best practice and advice provided by Regulatory Delivery, other Agencies (such as Nottinghamshire Fire and Rescue, the Police, Trading Standards and the Health and Safety Executive) and other relevant professional bodies.

## Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.

## Targeted

Enforcement will be primarily directed towards those activities that are likely to give rise to the greatest risks and most serious breaches of legislation, reflecting local need, and national and corporate priorities.

## Tenure Groups

The Environmental Health Team have investigation and enforcement powers relating to all Housing regardless of tenure; however, the approach taken will vary depending on the tenure of the household.

## Private Tenants

Tenants within rented accommodation are reliant on their landlord, or their landlord's Agent, to maintain their homes in accordance with legal requirements. Where Landlords or Landlord's Agents are putting the Health or Safety of their Tenants or those occupying a neighbouring property at risk, or are failing to meet their statutory obligations, the Council will take formal action as required.

## Owner Occupiers

Owner occupiers are responsible for the maintenance and safety issues of their own home. Therefore, formal enforcement action against Owner Occupiers will be limited, except for situations where neighbouring properties are being affected in some way, for example a defect leading to water penetration into a neighbouring property or where there is an 'Imminent Risk' to the Occupier or any visitors to their property.

## Registered Providers

Registered Providers (RPs) are regulated by the Regulator of Social Housing (RSH). RPs have their own procedures in place for reporting problems and making complaints and usually have clear response times for addressing any issues. The Environmental Health Team will not normally act against an RP unless the problem in question has been properly reported to the RP who has then failed to take appropriate action. The Council will consider enforcement action against an RP where there are significant risks to the Health and Safety of Tenants and or the wider Public.

# Types of action available

We will respond to enquiries about substandard, unsafe, and problematic housing and adopt a graduated approach to enforcement.

Before considering any action in respect of a tenanted property, where it is appropriate, the Tenant(s) will be encouraged to contact their landlord about the problems to give the Landlord an opportunity to respond.

In some cases where the Tenant is considered vulnerable or the nature of the concern requires immediate investigation, this will not be appropriate.

## Deciding on the Course of Action

The course of action will be decided having regard to the circumstances of each case, including:

- Amount and nature of disrepair
- Vulnerability of the Occupant, if any (e.g., elderly Occupants, young children).
- Effect the problem has on the Occupants, neighbours, or the surrounding area.
- Relevant legislation
- Relevant history of the Owners, Neighbours or Tenant, particularly the Owner's history of carrying out repairs at a pre-formal stage or following service of notice.

## No Action

In the case of occupied homes, in some circumstances, it may be appropriate to take no action, for example:

- When the Health and Safety risk is sufficiently low, or when action would be disproportionate, or inappropriate in the circumstances of the case
- Having taken the tenant's views into account and the Council is not under a statutory duty to do so
- The allegations or complaints are unsubstantiated.

In such cases, occupiers may be directed to other sources of advice and support, for example the Citizens Advice Bureau. In some cases, the Council will cease to provide a service, for example, where the Tenant unreasonably refuses access to the property owner or a contractor to carry out works; or where a Tenant continually fails to engage with Council Officers.



## Advice and Guidance

Council Officers will offer the following:

- Advice as to how the complainant can request repairs or improvements without the need for intervention from the Council
- A letter or telephone call to the property owner (without a visit), advising them of the information that the Council has received and allowing them a reasonable period to address the issues.

## Pre-formal Action

Pre-formal action involves:

- A visit to the property to further investigate the complaint
- Once completed, the Council will write to the property owner identifying the hazards and advise on the repair or improvements that are required

When taking pre-formal action of any nature, Officers will clearly differentiate between what is legally required and what is recommended as good practice.

Where it is deemed appropriate to deal with issues through pre-formal action, the Council will work with the property owner to help them comply with their regulatory requirements. Clear and concise information will be provided along with the Council's contact details.

In cases where the property owner refuses or fails to carry out satisfactory works during the pre-formal stage, the case will usually progress to formal action.

## Formal Action

Examples of circumstances in which formal action would be taken include where:

- Pre-formal action has had no effect
- There is a lack of confidence, due to a history of non-compliance from the property owner
- The risk to Health, Safety and Wellbeing is such that immediate formal action is necessary

## Notice of Entry

Where a complaint of housing disrepair has been received and an inspection is required, a Notice of Entry is to be served under Section 239 of the Housing Act 2004. This informs all relevant parties of the Council's intended inspection.

Complaints of an urgent nature and/or the Council exercising its emergency powers negate the need for the service of a Section 239 Notice.

Where the Council are unable to gain access using a Notice of Entry or where such Notice will defeat the object of entry, the Council are able to make an application to the Magistrates Court for a Warrant to enter.

## Serving of a Statutory Notice

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Such statutory notices are likely to require repairs or improvements to be completed within a specified timescale or requiring a specific action. These include notices served under the Housing Act 2004:

## Improvement Notices

Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, work will be required to either remove the hazard entirely or reduce its effect so that it ceases to be a Category 1 hazard. Where the Council determines that an Improvement Notice should be served in respect of a Category 2 Hazard, it will require works considered sufficient either to remove the hazard or reduce it to an appropriate degree.

Suspended Improvement Notices will be considered where it is reasonable, for example when the deferring of the work required is of benefit to the personal circumstances of the occupants.

## Prohibition Orders

Can be used in respect of both Category 1 and Category 2 hazards for all or part of a dwelling and are likely to be used if repair or improvement appear inappropriate, due to practicality or excessive cost.

This option may be employed to prevent occupation by a particular description of persons, for example premises with steep staircases or uneven floors which make them particularly hazardous to elderly occupants, or premises with open staircase risers that make them particularly unsuitable for infants.

## Hazard Awareness Notices

May be served to notify owner-occupiers of the existence of hazards, where the risk from the hazard is mitigated by the longstanding nature of the occupancy, or where it is judged appropriate to draw a landlord's attention to the desirability of remedial action as part of a measured enforcement response.

Failure to comply with the Notice or Order may result in works being carried out in default, a Civil Penalty or a Prosecution.

Details of the Notice will be recorded on the Council's Local Land Register against the property to which it relates until the Notice is withdrawn or complied with.

This Register is available to the Public and anyone may search for entries upon payment of a fee. Potential purchasers of a property will normally search this Register.

## Emergency Remedial Action and Emergency Prohibition Orders

Where a Category 1 Hazard exists, which poses an imminent risk of serious harm to the occupiers or others and immediate action is required to mitigate or remove the risk, appropriate emergency action will be taken.

Examples may include risk of electrocution, fire, noxious gases, explosion, or structural collapse.

Where emergency remedial action is taken, further action will be taken to recover the full costs incurred by the Council.

## Works in Default

Where the property owner has failed to undertake legally required works within the permitted time, the Council may carry out the Works in Default. This will only be considered to remove serious hazards.

Once the Council has started works, it is an offence to obstruct Council Officers, or any contractors carrying out the works.

The cost of the Works and all other associated relevant costs will be recovered in accordance with the relevant Statutory Provisions. All outstanding debts will be registered as a Local Land Charge against the property and where interest can be charged, this will be added to the debt. The Council may consider using the Enforced Sale Procedures to recover the charges owed, where appropriate.

Carrying out Works in Default is a Discretionary Power, and the Council reserves the right not to do so where the costs of the Works is likely to be high, or there may be difficulties recovering the costs.

## A Simple Caution

The Council has the power to issue informal cautions as an alternative to prosecution, where a person admits an offence and consents to the informal caution. Where an informal caution is offered and declined, the Council is likely to consider a prosecution.

An informal caution will be kept on the Council's Register of Cautions. It is likely to influence how the Council deal with any similar breaches in the future and may be cited in court if the offender is subsequently prosecuted for a similar offence.

## Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute, the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

Prosecution will only be considered where the Council is satisfied that it has enough evidence to provide a realistic prospect of conviction against the defendant(s). Before deciding that prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have regard to the public interest test.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence.

## Civil Penalties

The power to impose a Civil Penalty as an alternative to prosecution was introduced under the Housing and Planning Act 2016. See separate appendix.

## Banning Orders

Where a Property Owner has been successfully prosecuted for certain offences, the Council can apply for a Banning Order. See separate Appendix.

## Rent Repayment Orders

Where Housing Benefit has been paid to a Landlord and the Council are satisfied that the Landlord has committed one or more specific offences, the Council, or in some cases the Tenant, can apply for a Rent Repayment Order. See separate Appendix.

## Who Decides What Enforcement is Taken

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 and the scheme of delegation and authorisation adopted by the Council.

For more serious offences, where the nature of the offence points towards a Civil Penalty or Prosecution, any decision will initially be considered at a case conference attended by the Investigating Officers, an Environmental Health Manager, a representative from Legal Services.

## Publicity

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.

Information about enforcement actions will be made available on request subject to the restrictions placed on the authority by the Data Protection Act 2018, Freedom of information Act 2000, and General Data Protection Regulations (GDPR).

## Houses in Multiple Occupation

The Environmental Health Service is responsible for ensuring that all Houses in Multiple Occupation (HMOs) comply with necessary Management Regulations and Mandatory Licensing Schemes.

### House in Multiple Occupation (HMO) - Definition

The definition of an HMO is given in the Housing Act 2004. Premises classed as HMOs are:

- a building or flat in which, three or more tenants make up two or more households and share basic amenities such as bathroom, toilet or cooking facilities.
- a building that has been converted and does not entirely comprise of self-contained flats.
- a building that is declared an HMO by the local authority
- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied: this is known as a section 257 HMO.

A household is generally taken to mean a single person, cohabiting partners, or people living together who are members of the same family. There are circumstances where people will be regarded as a single family where they are not related, for example where accommodation is provided for a carer, au pair, or nanny etc.

To be classed as an HMO the property must be used as the tenants only or main residence. Properties let to students and migrant workers will be treated as being their only or main residence, as would properties used as domestic refuges and hostels.

Schedule 14 of the Housing Act 2004 exempts certain buildings from the HMO definition.

### Mandatory HMO Licensing

The Housing Act 2004 requires mandatory licensing of certain houses in multiple occupation (HMOs).

Mandatory licensing is required where the HMO is occupied by five or more persons living in two or more separate households. Children of any age contribute to the number of occupants.

### Licensing Offences

Where the Council considers that a property needs to be entered to ascertain whether an offence has been committed, an Authorised Officer may enter the property at any reasonable time without

giving prior Notice. For example, if the Council receives a report of a property being used as an unlicensed HMO, a visit may be arranged without giving prior notice.

It is an offence to be a person having control of or managing a licensable house in multiple occupation (HMO) without a licence.

Such a person may have a defence if they have applied for temporary exemption from the requirement to have a licence. No offence will have been committed once an application for a licence or for a temporary exemption notice has been submitted. Licence holders or persons in control may have committed an offence if they:

- knowingly permit another person to occupy and this results in more persons or households occupying than authorised by a license, or
- breach any condition of a license.

The Council will investigate all cases of HMOs that are found to be operating without a licence. This is a criminal offence, and if the Council is satisfied that it has enough evidence to provide a realistic prospect of conviction, consideration will be given to the issuing of a civil financial penalty or to prosecution, which could lead to an unlimited fine. The same approach will be taken in instances of an HMO being occupied by more persons than a licence allows.

In the case of breaches of HMO licence conditions, the same approach will be taken, and consideration will be given the issuing of a civil financial penalty, or to prosecution, which could lead to a fine of up to £5,000 per offence.

In addition to the above actions for licensing related offences, the Council will consider seeking a Rent Repayment Order after a person is the subject of a successful Civil Penalty or Prosecution.

## Refusal of a Licence

An HMO licence will generally run for 5 years, but we may issue a licence for a shorter period in some circumstances. For example:

- if we have concerns over the management arrangements
- if there has been the need for previous intervention by the Council
- if there has been a history of non-compliance, or
- if planning permission is needed for the building but has not been obtained, a shorter licence period can be issued.

In more serious cases, or where we consider the applicant is not a 'fit and proper person' to hold a licence the Council may refuse to grant one (See separate Appendix). This will normally only be the case if the Council are of the view that there are serious difficulties with the management of the property, the fitness of the applicant to be involved in its management, or if the applicant is subject to a Banning Order. In such cases alternative licensing and management arrangements



will need to be put in place. If arrangements for the satisfactory management of an HMO cannot be put in place and there is no prospect of the HMO being licensed within a reasonable time the Council may make an Interim Management Order.

The order can last for up to a year until suitable permanent arrangements can be put in place. If the order expires and the issue has not been resolved the Council can then make a Final Management Order which can last for up to five years and can be renewed.

## **The Management of Houses in Multiple Occupation (England) Regulations 2006**

The Regulations apply to all HMOs, except for section 257 HMOs who have their own broadly similar management regulations, which impose duties on a person managing an HMO. Where compliance with the Management Regulations has not been achieved, then enforcement will be considered based on the impact of the breaches, thereby providing tenants and neighbours confidence that the Council are addressing any issues relating to all HMOs. The enforcement options that will be considered by the Council are a civil financial penalty (see separate Appendix) or a prosecution, which could result in an unlimited fine.

# Mobile Homes

Local Authorities are responsible for safeguarding the interests of Mobile Home Residents living on Residential Mobile Home sites through the Licensing regime under the Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013.

## Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013

All site Owners are required to obtain a Site Licence before any land may be used as a Caravan Site. The Council has powers to attach Licence Conditions to a Site Licence that are necessary or desirable for the interests of people living on the site or the Public at large, for example the number of units, the size of the units, the positioning of the units, sanitary provisions etc.

In formulating Site Licence Conditions, the Council must have regard to the Model Standards 2008 for Caravan Sites in England: Caravan Sites and Control of Development Act 1960 Section 5. Section 8 of the 1960 Act allows the Council to change Licence Conditions at any time following consultation with the site owner.

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ("the Regulations) require the manager of a relevant protected site to be a Fit and Proper Person. See separate Appendix.

## Enforcement

Section 9A of the Caravan Sites and Control of Development Act 1960 allows the Council to serve Compliance Notices on the Site Owner, where a Breach of a Site Licence Condition has occurred.

Where possible, an informal approach will be taken in the first instance, working to an agreed schedule of works provided to the site owner in writing.

A Compliance Notice can only be used in relation to Breaches of the Site Licence Conditions.

Failure to comply with a Compliance Notice within the given timescale is an offence which on conviction carries a fine. Where the Site Owner is convicted of an offence the Council may carry out Works in Default. Where the Licence Holder has been convicted on 2 or more previous occasions for failing to comply with a Compliance Notice, the Council may apply to the Court for revocation of the Site Licence.

The Council will take emergency action where the Site Owner has failed or is failing to comply with a Site Licence Condition and where, because of such failure, there is an imminent risk of serious harm to the Health or Safety of any person who is or may be on the land.



# Appendix 1: Minimum Energy Efficiency Standards

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are designed to improve the least energy efficient properties those with Energy Efficiency Performance Certificates (EPC) rated F or G.

Unless an exemption applies, a domestic Private Rented Sector property must not be let unless it has a minimum Energy Performance Certificate (EPC) rating of E.

Exclusions and exemptions are detailed in Regulations and the Domestic Private Rented Property Minimum Standard Guidance (or any subsequent Government Guidance), and include:

- Where all 'relevant Energy Efficiency Improvements' for the property have been made (or there are none that can be made) and the property remains sub-standard
- Where a recommended measure is not a 'relevant Energy Efficiency Improvement' because the cost of purchasing and installing it cannot be wholly financed at no cost to the Landlord
- The relevant Energy Efficiency Improvement is wall insulation, and it cannot or should not be installed on the property in question, where the Landlord has obtained written expert advice which indicates that the measure is not appropriate for the property due to its potential negative impact
- The relevant Energy Efficiency Improvements require third party consent, e.g., planning permission and consent has not been given
- The relevant Energy Efficiency Improvements would devalue the market value of the property by more than 5%
- Where the Landlord is exempt due to recently becoming a landlord.

All exclusions and exemptions must be registered by the Landlord on the National Private Rented Sector Exemptions Register and will last for 5 years.

Landlords of a domestic property for which an EPC is not a legal requirement (for example a property which has Listed Building status) are not bound by the prohibition on letting sub-standard property.

- The Council will check for different forms of non-compliance with the Regulations including:
- For any property that is sub-standard (rated F or G); and does not have a registered exemption

- Where the Landlord has registered any false or misleading information on the Private Rented Sector Exemptions Register or has failed to comply with a compliance Notice

Buildings that are not legally required to have an EPC are not required to provide an entry on the Exemptions Register.

The Council will serve a Compliance Notice requiring information from the Landlord to help them decide whether the Landlord has breached the Regulations, this may be served up to 12 months after the suspected Breach. The information requested can include:

- The EPC that was valid for the time when the property was let
- The current tenancy agreement used for letting the property
- Information on energy efficiency improvements made
- Any Energy Advice Report in relation to the property
- Any other relevant document that the enforcement authority requires to carry out its compliance and enforcement functions.

## Infringements and Penalties

Infringements which may result in a Penalty Notice:

- Failure to comply with a Compliance Notice
- The letting of a non-compliant property in breach of the Regulations or
- The uploading of false or misleading information to the Exemptions Register.

If the Council confirms that a property is (or has been) let in breach of the Regulations, a Penalty Notice may be served relating to a financial Penalty, a publication Penalty, or both and may be served on a landlord (a person or entity that lets, or proposes to let, a domestic Private rented property) up to 18 months after the Breach.

The financial Penalty amounts will be applied per property and per infringement, up to a maximum of £5,000.

Infringement	Penalty (less than 3 months breach)	Penalty (3 months or more in breach)
Renting out a non-compliant property	£2,000 And/or a Publication Penalty	£4,000 And/or a Publication Penalty
Providing false or misleading information on the Private Rented Sector Exemptions Register	£1,000 And/or a Publication Penalty	
Failing to comply with a compliance Notice	£ 2,000 And/or Publication Penalty	

A Publication Penalty will include the publishing of:

- The Landlords name (except where the Landlord is an individual)
- Details of the Infringement
- The address of the property in relation to which the infringement occurred
- The amount of the financial penalty imposed

The details will be published on a publicly accessible part of the Private Rented Sector Exemptions Register which will be available for view by the Public through the 'gov.uk' website. The Council recognises that each case is unique and will be considered on its own merits.

When deciding on the appropriate action, Officers will consider the Law, Government Guidance, Council Policies and the sufficiency and reliability of the evidence.

## Right of Appeal

A Landlord has the right to ask the Council to review its decision to serve a Penalty Notice. This request must be in writing and the Council will consider everything detailed in the request in deciding whether to withdraw the Penalty Notice. Details of the right to make a request and the associated timescales will be included with the Notice.

A Landlord has 28 days to submit an appeal in respect of a Penalty Notice to the General Regulatory Chamber (GRC) of the First-Tier Tribunal. A Landlord may appeal if a request to review the Council's decision results in the Penalty Notice being upheld.

# Appendix 2: Electrical Safety Standard Regulations

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require Landlords of privately rented accommodation to:

- Ensure national standards for electrical safety are met. These are set out in the appropriate 'wiring regulations', which are published as British Standard 7671
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every five years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local housing authority with a copy of this report within seven days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.
- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the local housing authority within 28 days of completion of the works.

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 Council for a copy of the report and must supply the Council with confirmation of any remedial or further investigative works required by a report.

The Council may wish to request reports following inspections of properties to ascertain the condition of the electrical installation and confirm the landlord is complying with the Regulations. Inspectors will use the following classification codes to indicate where a landlord must undertake remedial work. More information can be found in the relevant edition of the Wiring Regulations:

- Code 1 (C1): Danger present. Risk of injury.
- Code 2 (C2): Potentially dangerous.
- Further Investigation (FI): Further investigation required without delay.
- Code 3 (C3): Improvement recommended. Further remedial work is not required for the report to be deemed satisfactory.

If the report contains a code C1, C2 or FI, then the landlord must ensure that further investigative or remedial work is carried out by a qualified person within 28 days, or less if specified in the report.

The C3 classification code does not indicate remedial work is required, only that improvement is recommended.

A remedial notice must be served where the local housing authority is satisfied on the balance of probabilities that a landlord has not complied with one or more of their duties under the Regulations. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

If the Council has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is required, it may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, a remedial notice will be served requiring the landlord to take remedial action within 28 days. Should a landlord not comply with the notice, the Council may, with the tenant's consent, arrange for any remedial action to be taken themselves.

Landlords have the rights to make written representation and appeal against remedial action. The Council can recover the costs of taking the action from the landlord.

Under regulation 11 of the Regulations where the Council is satisfied, beyond a reasonable doubt, that a private landlord has breached a duty under regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.

A financial penalty may be of such amount as the authority imposing it determines but must not exceed £30,000.

In determining the Civil Penalty amount, the Council will have regard to the statutory guidance issued under schedule 9 of the Housing and Planning Act 2016 and to the Council's Civil Penalty Matrix.

When determining the appropriate sanction, the Council should satisfy itself that if the case were to be prosecuted there would be a 'realistic prospect of a conviction'.

The maximum penalty that can be set is £30,000. A minimum penalty level has not been set and the appropriate amount of penalty is to be determined by the Local Housing Authority. Only one penalty can be imposed in respect of the same offence.

# Appendix 3: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1st October 2015, followed by the Smoke and Carbon Monoxide Alarm (amendment) Regulations 2022 which came into force on 1st October 2022.

The regulations require private sector landlords to:

- Ensure at least one smoke alarm is installed on every storey of their properties where there is a room used for living accommodation.
- Ensure a carbon monoxide alarm is installed in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- Make sure the alarms are in working order at the start of each new tenancy, and that they are repaired or replaced once informed and found to be faulty.

Where it is found that a rented home does not comply with these regulations, the Council has a duty to serve a remedial notice.

Landlords who fail to comply with a remedial notice can face a fine of up to £5,000. In determining the value of a penalty charge the Council takes into account the following principles:

- No penalty charge shall be issued above the statutory maximum of £5,000
- No penalty charge shall be less than 20% of the starting value after all aggravating and mitigating factors are considered.
- Mitigating factors will be considered based on evidence submitted by the landlord or their agent to the Environmental Health Team including any information provided following inspection and any representations that the landlord provides following service of a Notice of Intent to issue a Financial Penalty.
- In recovering the value of any financial penalty, The Council will consider the incomes, savings and assets of the perpetrator and where appropriate a payment plan considered.

<b>Starting value of penalty charge (note 1)</b>	<b>£</b>
1st offence	1,000
2nd subsequent offence by same person/company	2,500
Subsequent offences by same person/company	4,000
<b>Aggravating factors (use all that apply) (note 2)</b>	
Acts or omissions demonstrating high culpability. (note 4)	500
Large housing portfolio (note 5)	500
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 6)	500
<b>Mitigating Factors (use all that apply) (note 3)</b>	
Evidence of Low culpability (note 7)	-500

## Notes to accompany charging table

Notes 1-3 set out the overall process for determining the value of a given financial penalty. Notes 4-7 give detail on specific other issues.

### Note 1 -Determining the starting value of a financial penalty

The starting point for a financial penalty is based on the number of:

- Previous Final Notices of a Financial Penalty issued under these regulations issued to the same person or corporate entity for the same type of offence in the previous four years. The Council will take into account any such financial penalties irrespective of the locality to which the offence relates.

### Note 2 – Aggravating factors

After the starting point as per note 1 has been determined any relevant aggravating factors are considered and where appropriate to do so, the given value is added to the starting point to provide the maximum level of financial penalty.



At this stage it is possible for the notional penalty to be above the statutory maximum, but once mitigation and income are considered, if the value is still above the statutory maximum, it will be capped as per the “general principles”.

### **Note 3 - Mitigating factors**

After aggravating factors are considered and applied where appropriate, mitigating factors are considered and where there is sufficient and compelling evidence the relevant value will be discounted from the Financial Penalty.

In considering whether it is appropriate to include a mitigating factor, evidence shall be considered that has been gathered by the inspecting officer in the course of the investigation into the offence as well as any representations that have been provided following a Notice of Intent.

### **Note 4 – Acts or omissions demonstrating high culpability**

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.

### **Notes 5 – Large housing portfolio**

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation. For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

### **Note 6 – Vulnerable persons**

This note applies where the occupant is considered vulnerable to harm or where significant harm has occurred as result of failure to comply with regulations.

- Vulnerable occupant and/or significant harm occurred as result of the failure to comply with the Regulations.

For the purposes of this factor a vulnerable person is defined as:

A person who suffers, or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering due to age, disability or severe financial insecurity”

This factor applies where an occupant is vulnerable and, due to the underlying failure to comply with the relevant legislation is placed at additional risk or harm compared with a non-vulnerable resident.

For purposes of this factor, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm as recorded in Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System.



## Note 7 – Low culpability

This factor will apply where the perpetrator provides sufficient evidence that they only marginally fell short of their legal obligations, for instance:

- significant efforts were made to address the risk, breaches or offences, although they were inadequate to mitigate the underlying cause to issue the penalty;
- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.
- failings were minor and occurred as an isolated incident.

It will not be sufficient to claim not to have known of the legal requirement or deficiency that forms the underlying reason for the financial penalty in order to benefit from this factor.

It will also not apply where the underlying failure was due to the inaction of the perpetrator in properly managing rented properties, responding to complaints of poor standards, carrying out routine visits, instruct others to assist where necessary etc.

## Appendix 4: Civil Penalties

Civil Penalties may be used as an alternative to Prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice – Section 30
- Offences in relation to Licensing of HMOs - Section 72
- Offences in relation to Licensing of houses - Section 95
- Failure to comply with an overcrowding Notice – Section 139
- Breach of Management Regulations in respect of an HMO – Section 234

In addition, a Civil Penalty can be imposed for a breach of a Banning Order, or under regulation 11 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, where the Council is satisfied, beyond a reasonable doubt, that a private landlord has breached a duty under Regulation 3. See Appendix 5 Electrical Safety Standard Regulations.

### The Decision to Prosecute or Issue a Civil Penalty

Where the Council considers that an offence detailed above has been committed, it will decide whether to Prosecute or to issue a Civil Penalty.

Any decision to Prosecute or to issue a Civil Penalty will initially be considered by the Investigating Officers, the Manager, and a representative from Legal Services. When making the decision, the Council will have regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

### The Evidential Test:

The Council will consider whether there is sufficient evidence to provide a realistic prospect of a conviction for each offence (considering any potential defence). This will not require that the evidence is overwhelming, but that an objective, impartial and reasonable court, properly directed and following the law, is more likely than not to convict the defendant. The Council will review and assess the evidence as part of this test.

If the evidential test is satisfied, the Council will proceed to the second test.

### The Public Interest Test:

The Council must be satisfied that it is in the public interest to pursue a legal sanction and determine which sanction is appropriate. The public interest factors that will be considered include:

- The seriousness or severity of the offence
- The compliance history of the offender(s)
- The level of culpability of the offender

- Any harm suffered by the tenant, including consideration of the vulnerability of the tenant(s)
- The potential deterrent effect that instigating any action would have on the offender and other potential offenders within the local area
- Any financial benefit resulting from the offence.

At the conclusion of the decision-making process, the Council may determine that one of the following outcomes is appropriate:

- Pursue a prosecution for the offence(s)
- Impose a civil penalty
- Gather additional evidence so that it can be further considered
- Utilise alternative enforcement options
- Utilise informal methods
- Take no further action.

If the Council believes that it has a reasonable prospect of conviction in a particular case, it will always consider a Civil Penalty in the first instance.

The following factors, whilst not exhaustive, are examples of where it may be appropriate to consider the issuing of a Civil Penalty rather than Prosecuting:

- No evidence of previous non-compliance with appropriate legislation
- No previous convictions recorded
- Not in the Public Interest to Prosecute
- Positive interaction with Strategic Housing
- The offence was committed because of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence)
- A Civil Penalty is likely to have a deterrent effect
- Prosecution is likely to have a serious adverse effect upon an individual's well-being e.g., a Landlord's physical or mental health (these factors must be balanced against the seriousness of the offence).

## Determining the Level of a Civil Penalty

In accordance with Government recommendations, to ensure that the Civil Penalty is set at an appropriate level, the Council will consider the following factors:

- The seriousness of the offence
- Culpability and track record of the offender
- The harm caused to the tenant
- Punishment of the offender for the offence
- Deterrent value to prevent the offender from repeating the offence and to prevent others from committing the offence
- Removing any financial benefit obtained from the committing the offence.

## The Harm Caused

In determining the level of harm, the Council will have regard to the:

- Person i.e., physical injury, damage to health and psychological distress
- Community i.e., economic loss, harm to the Public
- Other types of harm, i.e., public concerns with regards to the impact of poor housing conditions on the local neighbourhood

The nature of the harm depends on the personal characteristics and circumstances of the victim. Where no actual harm has resulted from the offence, the Council will consider the relative danger that persons have been exposed to because of the offender's conduct, the likelihood of harm occurring and the gravity of harm that could have resulted.

Factors that indicate a higher degree of harm include:

- Multiple victims
- Serious or psychological effect on the victim
- Victim is particularly vulnerable.

## Culpability

The Council will have regard to 4 levels of culpability, where the offender:

- Has the intention to cause harm: the highest culpability where an offence is planned
- Is reckless as to whether harm is caused: i.e., the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences, even though the extent of the risk would be obvious to most people
- Has knowledge of the specific risks associated with the actions: even though harm is not intended
- Is negligent in their actions

## Civil Penalty Amount

The table below sets out the interrelation between harm and culpability as a starting point in the determination of the Civil Penalty which Officers will use on a case-by-case basis:

	Low Harm	Medium Harm	High Harm	Very High Harm
Low Culpability	£1,000	£3,000	£4,000	£5,000
Medium Culpability	£3,000	£6,000	£8,000	£10,000
High Culpability	£4,000	£8,000	£12,000	£18,000
Very High Culpability	£5,000	£10,000	£18,000	£27,000

## Aggravating and Mitigating Factors

Aggravating factors in the case will be considered and may increase the initial amount by 3% (for each aggravating factor), up to a maximum of 15% (or £30,000 whichever is the lesser) and equally, any mitigating factors will be considered and will reduce the initial amount by 3% (for each mitigating factor), to a maximum of 15% of the initial penalty level.

Examples of Aggravating Factors include:

- Previous convictions having regard to the offence to which it applies, and the time elapsed since the offence.
- Motivated by financial gain.
- Lack of co-operation/communication or obstruction of the investigation.
- Deliberate concealment of the activity/evidence.
- Offending over an extended period i.e., more than 6 months
- Number of items of non-compliance – the greater the number, the greater the potential aggravating factor.
- A history of non-compliance.
- A history of poor management.
- Lack of a tenancy agreement.
- Already a member of an accreditation scheme or letting standard

Examples of Mitigating Factors include:

- Co-operation with the investigation.
- Voluntary steps taken to address issues e.g., submit a licence application.
- Willingness to undertake training.
- Willingness to join the DASH Landlord Accreditation Scheme.
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns.
- No previous convictions.
- Vulnerable individual(s) where their vulnerability is linked to the commission of the offence.
- Good character and/or exemplary conduct.
- Early admission of guilt i.e., within 1 month.

## Actions and Process

The Council will give Notice of its proposal (Notice of Intent) to impose a financial Penalty within 6 months where there is sufficient evidence of the conduct to which the Penalty relates, or at any time when the conduct is continuing.

At the end of the period for representations, the Council will decide whether to impose a Civil Penalty and if so, the amount.

Where a decision is made to impose a Civil Penalty, the Council will give Notice (Final Notice) requiring the amount to be paid within 28 days. The Council may withdraw or reduce the amount specified at any time.

## Financial Means to Pay a Civil Penalty

An Offender will be assumed to be able to pay a Civil Penalty up to the maximum amount unless they can demonstrate otherwise. It is for the Offender to disclose to the Council such information relevant to his or her financial position that will enable the Council to assess what he or she can reasonably afford to pay.

The Council will decide whether a Civil Penalty is affordable for the Offender based on all evidence available to them. This will include any equity that could be released from properties owned by the offender if refinanced. Consideration will be given to whether any of the properties can be sold.

Income received from Civil Penalties will be retained by the Council and used for further enforcement work covering the Private Rented Sector.

## Right of Appeal

A person issued with a Civil Penalty has a Right of Appeal to the First-Tier Tribunal. The Tribunal has the power to confirm, vary (increase or reduce) or cancel the Civil Penalty issued. The First-Tier Tribunal can dismiss an appeal if it is satisfied the appeal is frivolous, vexatious or an abuse of process, or has no reasonable prospect of success.

## Recovery

If the final notice remains unpaid, the Council may apply for an order for payment from the county court, then employ bailiffs to collect unpaid penalties if necessary



## Appendix 5: Rent Repayment Orders

A Rent Repayment Order (RRO) is an Order made by the First-Tier Tribunal requiring a landlord to repay a specified amount of rent.

- Rent Repayment Orders cover a wide range of offences, as detailed below:
- 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 - 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 the Occupiers of a property – Section 1 of the Protection from Eviction Act 1977
- Offences in relation to Licensing of HMOs - Section 72(1)
- Offences in relation to Licensing under Part 3 of the Act - Section 95(1)

Rent Repayment Orders require repayment, of rent, or Housing Benefit, or of the housing costs element of Universal Credit paid in respect of a tenancy or licence, by a landlord/agent who has committed one of the offences listed. The RRO can be granted to either the Tenant or the Council. If the Tenant paid their rent themselves (or a proportion) then the rent (or equivalent proportion) must be repaid to the Tenant. If the rent (or a proportion) was paid through Housing Benefit or through the housing element of Universal Credit, then the rent (or equivalent proportion) must be repaid to the Council. The maximum amount of rent that can be recovered is capped at 12 months.

A Rent Repayment Order can be applied for by the tenant, or the Council, when the Landlord has committed an offence, whether a landlord has been convicted. Where an application for Rent Repayment Order is made and the Landlord has not been convicted of the offence for which the Rent Repayment Order application is being made, the First-Tier Tribunal will need to be satisfied beyond reasonable doubt that the Landlord has committed the offence.

The Council will consider applying for a Rent Repayment Order after a person is the subject of a successful Prosecution, or Civil Penalty for the following offences:

- Failure to comply with an Improvement Notice - Section 30
- Failure to comply with a Prohibition Order – Section 32 of the Housing Act 2004
- Breach of a Banning Order - Section 21 of the Housing and Planning Act 2016

- Offences in relation to Licensing of HMOs - Section 72(1)
- Offences in relation to Licensing under Part 3 of the Act - Section 95(1)

In most cases the Council will make an application for a Rent Repayment Order to recover monies paid through Housing Benefit, or through the housing element of Universal Credit and will offer advice and guidance to assist Tenants to apply for a Rent Repayment Order in cases where the Tenant paid the rent themselves.



## Appendix 6: Redress schemes for lettings agency and property management work

All letting agents and property managers must belong to one of the Government approved redress schemes.

These schemes include:

- The Property Ombudsman
- The Property Redress Scheme

This means that tenants, prospective tenants, landlords dealing with lettings agents in the private rented sector; as well as leaseholders and freeholders dealing with property managers in the residential sector can complain to an independent person about the service received. This makes it easier for tenants and landlords to complain about bad service and prevent disputes escalating. The Council will act where it is satisfied that, on the balance of probability, someone is engaged in letting or management work and is required to be a member of a redress scheme but has not joined.

Because this requirement has now been in place for a number of years and to reflect the fact that all Lettings and Managing Agents are expected to be aware of their obligations, the applicable penalty will be £5,000. A penalty fine will only be charged if the Council is satisfied that there are extenuating circumstances. It is up to the Council to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine. It is open to the authority to give a lettings agent or property manager a grace period in which to join one of the redress schemes rather than impose a fine.

The Council may impose further penalties if a lettings agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed.

There is no limit to the number of penalties that may be imposed on an individual letting's agent or property manager and further penalties may be applied if they continue to be in breach of the legislation.

# Appendix 7: Fit and Proper Person Determination and Satisfactory Management Arrangements

The aim of this policy is to ensure that all licensable houses in multiple occupation (HMO's) have appropriate arrangements in place to ensure that they are satisfactorily managed by fit and proper persons in accordance with the Housing Act 2004.

## Duties of a person managing an HMO

Under the provisions of The Management of Houses in Multiple Occupation (England) Regulations 2006, any person managing an HMO of any size has a duty of care in respect of providing information to occupiers, taking safety measures, maintaining water supply and drainage, maintaining gas and electricity supplies, maintaining common parts and living accommodation and providing waste disposal facilities. In addition to these requirements, any person applying for an HMO licence must be able to prove to the council that they are a fit and proper person.

## The decision to issue an HMO licence

In deciding whether to issue a licence, the council must be satisfied that there are acceptable management arrangements in place or that such satisfactory arrangements can be put in place by the imposition of conditions in the licence.

In considering whether the management arrangements are satisfactory, the council must have regard to the following:

- The suitability of the proposed licence holder and manager (if different) and any other person involved in the management of the property; that is to say that they are in each case a “fit and proper person”
- The competence of the proposed licence holder/manager to manage the building
- The suitability of management structures
- The adequacy of financial arrangements

This document considers the meaning of fit and proper person, the council's approach to deciding whether a person is fit and proper and the factors that the council will take into account when making such decisions. This protocol relates to applications for new licences, as well as to existing licences and applications for their renewal.

## What is a fit and proper person test?

Before issuing an HMO licence, the Housing Act 2004 states that the council must be satisfied that the proposed licence holder and manager of the property are a fit and proper person. If not, the licence must be refused unless other satisfactory arrangements can be agreed.

The test is designed to ensure that those responsible for holding the licence and managing the property are of sufficient integrity and good character to be involved in the management of an HMO and that as such, they do not pose a risk to the welfare or safety of persons occupying the property.

A licence may be revoked where the council no longer considers the licence holder to be a fit and proper person and/or that the management of the house is no longer being carried out by persons who are in each case fit and proper to be involved in its management.

## What is meant by “involved in the management”?

The council must consider licence holders, managers and others involved in the management of the property.

A person involved in the management, is a person who is able to comply with any licence conditions and deal with the day-to-day issues that arise within an HMO as well as being able to deal with longer term management issues. Typically, but not exclusively, these will include such matters as:

- Emergency repairs and other issues
- Routine repairs and maintenance of the property and its grounds
- Cyclical maintenance
- The management and the provision of services to the building and its grounds
- The management of tenancies or occupants, including dealing with rent matters and tenants' enquiries
- The management of the behaviour of tenants, occupants and their visitors to the property
- Neighbourhood issues (including disputes)
- Engagement with the local authority, Police and other agencies, where appropriate.

The licence holder and the manager can be two different people. Where this is the case, a decision will be made for each of them about whether they are a fit and proper person.

## How will the council decide if I am fit and proper?

Each licensing application must be accompanied by a basic disclosure certificate from the Disclosure Barring Service for each licence holder and all persons involved in the management of the licensable property.

A basic disclosure allows the council to confirm whether a licence applicant has a current criminal conviction or not. The information is taken directly from the Police National Computer and printed on an official disclosure certificate from the Disclosure Barring Service.

The licence holder and manager (if different), and any other person involved in the management of the HMO must also sign the official declaration on the HMO licensing application form.

The council may consult with other councils and with council departments and may use any information contained within the database of rogue landlords and property agents under chapter 3 of the Housing and Planning Act 2016.

The council will consider a person to be “fit and proper” if satisfied that they:

- have not committed an offence involving fraud or other dishonesty, or violence of drugs, or any offence listed under schedule 3 to the Sexual Offences Act 2003 (section 66(2)(a) of the Housing Act 2004).
- have not practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in or in connection with the carrying on of any business (section 66(2)(b) of the Housing Act 2004).
- have not contravened any provision of the law relating to housing or landlord and tenant law (section 66(2)(c) of the Housing Act 2004).
- have not acted otherwise than in accordance with a code of practice under section 233 of the act (regarding management of HMOs) (section 66(2)(d) of the Housing Act 2004).
- are not subject to a banning order under section 16 of the Housing and Planning Act 2016

In addition to the above, the council will consider any contravention of legislation relevant to housing. This may include where the council has served a statutory notice, carried out works in default of a notice, taken a prosecution or issued a civil penalty.

The nature of the contravention and its relevance to the management of an HMO and the potential harm associated with the contravention will be taken into consideration.

In relation to any contravention of a provision of the law relating to housing, the council will consider whether a proposed licence holder or manager:

- Has had a licence revoked, refused or has been convicted of breaching the conditions of a licence under parts 2 or 3 of the Housing Act 2004 or is / has operated an HMO without an appropriate licence in place.
- Owns or manages or has owned or managed an HMO or house which has been the subject of a control order under section 379 of the Housing Act 1985 in the five years preceding the date of the application; or any appropriate enforcement actions described in section 5(2) of the Housing Act 2004 (in relation to category 1 hazards).
- Owns or has previously owned a property that has been the subject of an interim or final management order whilst in their ownership, or a special interim management order under the Housing Act 2004.
- Is subject to a banning order under section 16 of the Housing and Planning Act 2016.
- Owns or has previously owned a property for which the council has taken action as described in section 5(2) of the Housing Act 2004, which includes the service of an Improvement Notice, Prohibition Order, Emergency Prohibition Order, Hazard Awareness Notice, Demolition Order or Emergency Remedial Action.

Each case will be decided on its own merits, taking into consideration the circumstances surrounding the contravention, where there has been more than one contravention, repeating nature of contraventions and of any evidence demonstrating good character since the contravention(s).

### **How will the council make their decision?**

Where there is evidence of a relevant offence, unlawful discrimination, contravention, banning order or breach of the code of practice, the council may decide that the person is not fit and proper. Each case will be decided on its own merits and such evidence will not necessarily lead to a conclusion that a person is not a fit and proper person. The council will act reasonably, proportionately, and consistently in its approach to making a decision. It will consider those factors relevant to a person's fitness to hold a licence and/or manage an HMO and disregard those which it considers are not relevant.

### **Consideration of “persons associated or formerly associated” with the proposed licence holder or manager**

Where there is evidence that a person associated, or formerly associated with a proposed licence holder or manager has committed any offence specified in section 66(2) of the Housing Act 2004, that evidence may be taken into account in determining the proposed licence holder's or manager's fitness. The purpose of this requirement is to ensure that only fit and proper persons hold licences or are in any way involved in the management of licensed properties. It would not be appropriate for a licence to be granted to someone, or for someone to be the manager of a property, if that person was merely acting as a front for someone else, who would be considered to be unfit to be the manager or licence holder.



## Duration

If someone is determined by the council to fail the fit and proper person test, this will usually remain the case for a period of 5 years. However, the council may consider it appropriate (in the event of lesser offences) to apply a condition to the licence to allow the licence to operate for a reduced term, e.g., 12 months. The conduct of the licence holder can then be monitored, and this taken into consideration in subsequent licensing applications. The council will, in doing so, have regard to this document and the applicant will need to provide sufficient evidence that they are now a fit and proper person.

If the licence holder or manager is found to not be fit and proper, the council will notify them in writing.

## What happens if the licence holder fails the fit and proper test during the duration of licence?

Should the council become aware that a licence holder or manager of an HMO commits an offence or breach which would result in the failure of the fit and proper test during the duration of the licence, the council may revoke the licence. At all times the council will consider all evidence available and make decisions in accordance with this protocol.

Should the licence holder be subject to a banning order under section 16 of the Housing and Planning Act 2016 during the duration of an existing licence, the licence holder will fail the fit and proper test and the council must revoke the licence.

## What to do if you feel you have been treated unfairly

If you feel you have unfairly been refused an HMO licence you may appeal to the Council, explaining exactly why you believe you should have been granted a licence. The Council will review your case and respond to you within a reasonable timespan.

## Residential Property Tribunal

If you are still unhappy with the response, you may appeal to the Residential Property Tribunal. This application must be made within 28 days of the notification of the Council's decision.

## Extent of any determination

Where any person involved in the management of a licensable property is deemed not to be a fit and proper person then that determination will apply not only to the licence application under consideration but to all licences to which that person is a party. This information may also be shared with other council's which may have an involvement with the persons assessed.

## Data sharing

Information obtained and used for the purpose of determining whether a licence holder or manager is a fit and proper person may be shared with other councils, council department or statutory bodies. Licence applicants agree to this when they sign the application form.

# Appendix 8: Decision to Apply for a Banning Order

This policy explains how the Council will use its powers under the Housing and Planning Act 2016 to ban non-compliant landlords and managing agents from renting out properties within the private rented sector.

This policy should be read in conjunction with the council's Corporate Enforcement Policy.

## Introduction

The Council is committed to improving standards in private sector housing, with the aim of ensuring that all private rented accommodation is well managed, properly maintained, safe and habitable. Whilst the Council acknowledges that compliant landlords do operate their business responsibly, there will be a number of irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard, or unsafe.

Part 2, Chapter 2 of the Housing and Planning Act 2016 enabled Local Authorities to apply to the First-Tier Tribunal (FTT) to impose a banning order on a landlord following conviction for a banning order offence. A banning order offence is an offence of a description specified in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018.

To utilise the banning order powers, it is best practice to have in place its own policy as to when to pursue a banning order, and to decide the most appropriate course of action on a case-by-case basis in line with that policy.

This policy gives due regard to the non-statutory guidance issued by the Ministry of Housing, Communities and Local Government, which sets an expectation that banning orders should be aimed at the most serious offenders.

## Factors in decision making

The following factors will be considered by the local authority in deciding whether to apply for a banning order, and when recommending the length of a banning order:

- the seriousness of the offence
- previous convictions/rogue landlord database
- harm caused to the tenant



- punishment of the offender
- deterrence to the offender from repeating the offence
- deterrence to others from committing similar offences
- Upper Tribunal Decisions

## The Seriousness of the Offence

All banning order offences are serious. When considering whether to apply for a banning order the local housing authority should consider the sentence imposed by the Court in respect of the banning order offence itself.

## Previous convictions/rogue landlord database

A local authority should check the rogue landlord database to establish whether a landlord has committed other banning order offences or has received any civil penalties in relation to banning order offences. A longer ban may 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.

The Council will also consider the likely effect of the banning order on the person and anyone else that may be affected by the order and will consider the following:

## The harm caused to the tenant

This is a very important factor when determining whether to apply for a banning order. The greater the harm or the potential for harm (this may be as perceived by the tenant), the longer the ban should be. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants, and could therefore be considered more harmful than other offences (such as fraud).

## Punishment of the offender

A banning order is a severe sanction. The length of the ban should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. It is, therefore, important that it is set at a high enough level to remove the worst offenders from the sector. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

## Deterring the offender from repeating the offence

The ultimate goal is to prevent any further offending. The length of the ban should prevent the most serious offenders from operating in the sector again or, in certain circumstances; help

ensure that the landlord fully complies with all their legal responsibilities in future. The length of ban should therefore be set at a long enough period such that it is likely to deter the offender from repeating the offence.

## **Deterring others from committing similar offences**

An important part of deterrence is the realisation that (a) the local authority is proactive in applying for banning orders where the need to do so exists and (b) that the length of a banning order will be set at a high enough level to both punish the offender and deter repeat offending.

## **Decision**

Having had regard to this policy, a decision to commence the banning order procedure in any case will be confirmed by the Head of Service who will also be responsible for considering any representations made by a landlord served with a notice of intention and for the decision to make an application for a banning order, including the recommended duration of the ban.

## **Publicity following a banning order**

Where a successful banning order has been made, details of all banning order offences will be published and held on a national register.

Subject to legal advice, the Council will consider publishing details of successful banning orders including the names of individual landlords/any business (managing or lettings agency), having reference to the DLUHC guidance and guidance provided by the Ministry of Justice.

Information on banned landlords will be made available to tenants where it is in the public interest to do so or at the request of the tenant.

# Appendix 9: Mobile Home Site Manager – Fit and Proper Person Determination

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter ‘the Regulations’) prohibit the use of land as a residential mobile home site unless the Local Authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.

When conducting the fit and proper person assessment, the Council will consider the following points relevant to the application:

## 1. Is the individual able to conduct effective management of the site.

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. The Council must have regard to:

- Whether the person has a sufficient level of competence to manage the site. I.e., it is a non-commercial, family occupied site under Regulation.
- The management structure and funding arrangements for the site, or the proposed management structure and funding arrangements.

### Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

### The management structure and funding arrangements for the site

The Council must consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The applicant is expected to have a robust management plan, which should address following:

- the pitch fee payment,
- proximity of the manager to the site,
- manager’s contact details for residents (including out of office and emergency contact details),
- the complaints procedure,
- maintenance, refuse/recycling removal.
- staffing.

It is advisable that the site is managed by an applicant based in the UK and that a management structure would be unlikely to be considered suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may be complex issues because of this, such as needing the court's permission to serve a claim in a foreign country.

The applicant's interest in the land will have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage to effectively manage the site.

The proposed management structure and funding arrangements in place for managing the site. The Council must consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be readily available.

## 2. Personal information relating to the applicant concerned.

This would include a criminal record check and should include evidence that the applicant:

- has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (Offences attracting notification requirements)
- has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning, or environmental health or of landlord and tenant law
- has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
- has not harassed any person in, or in connection with, the carrying on of any business
- is not or has not been within the past 10 years, personally insolvent
- is not or has not been within the past 10 years, disqualified from acting as a company director
- has the right to work in the UK
- is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place)

The Council has a duty to investigate any conduct which could amount to harassment and any evidence obtained will be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Local authorities may rely on convictions by the courts as evidence of harassing behaviour.

The Council may have records of previous harassment complaints made against a site owner, or their manager and even if no action was taken on these complaints, they will still be taken



into consideration in the fit and proper person determination. These complaints may identify further potential risks and can provide an indication of potential underlying problems with the management of the site, or the site owner's lack of experience/skills in dealing with customers.

The Council may address any underlying issues by attaching conditions to the individual's entry on the register.

### **3. Rejection of an application by other local authorities.**

Upon rejection of a person's application by any other local authority this should be centrally recorded and include the details of the person involved and the reasons for the rejection.

### **4. Other Factors**

The Regulations are drafted widely giving the opportunity for local authorities to take into consideration other relevant matters. The Council is mindful that poor management practices do not necessarily affect a person's conduct unless they are a breach of the criminal or civil law. A person cannot be deemed unfit due to conduct, simply because of poor management, although this is highly relevant to determining any question of suitability or competence. All conduct is relevant in relation to the person's fitness to hold a licence and/or manage the mobile home site.

The Council can decide the specific matters they deem relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the mobile home site, or any other mobile home site owned or managed by the site owner, or site manager, in another local authority area. Additionally, the site owner's conduct regarding other business, outside of the mobile homes sector, can have implications on the financial and management arrangements of the site in question. Any matters which the Council believe to be of relevance to the application should primarily focus on the relevant person's conduct, competence, and their suitability to manage the site.

The Council aim to obtain evidence to support any additional matters that they require to be taken into consideration for each application. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions. It is not anticipated that allegations which have not been investigated or documented will be used as evidence to support a decision.

## Appendix 10: Enforced Sale Policy

This section should be read in conjunction with our published Enforced Sale Protocol and Procedure for Long Term Problematic Empty Homes, last published in 2019.

This part of the policy confirms when we will consider using the power of enforced sale.

### Criteria for an Enforced Sale of a Long-Term Empty Home

As with most enforcement options available, an Enforced Sale will typically only be used as a last resort. Also, it is not used as a substitute for other types of informal action, but rather as a consequence of such other action failing to resolve the fundamental problems of a specific empty property. The Council will only pursue an Enforced Sale if, after having exhausted all informal and formal courses of action to resolve the issues, this presents the only viable solution.

If all appropriate steps have been taken and the property continues to remain empty, with no reasonable signs of becoming occupied, an Enforced Sale may be pursued, provided it meets all of the following criteria:

- It is an empty home that has been empty for over 6 months;
- The property or land has outstanding financial local land charges registered in Part 2 of the Local Land charges register, of over £1,000. However, if an empty property is causing a problem where the debt is below £1,000 and the owner cannot be traced or is refusing to co-operate, the use of the enforced sale could still be considered (The smaller the debt the greater the justification for initiating an Enforced Sale will need to be);
- The debt has been owed to the Council for more than three months;
- The owner is either unknown to the Council (having made all reasonable effort to ascertain ownership details) or cannot be found or is known but cannot be located. Or having been located, has been afforded every opportunity to improve the property or land or dispose of it, but has shown no inclination to do either;
- The location of the property or land and the prevailing tenure or economic conditions of the area indicates that sale and occupation would be readily achieved;
- The action is in the interests of the community and the local environment, and is the best means of ensuring that the property or land is not allowed to deteriorate again or further.

# Equality Impact Assessment Form

Name and brief description of proposal/project / policy / service being assessed:

***Private Sector Housing Enforcement Policy***

Information used to analyse the effects of equality.

Assessment Group	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups			No significant impact	
Men, women (including maternity/pregnancy impact), transgender people			No significant impact	
Disabled people or carers			No significant impact	
People from different faith groups			No significant impact	
LGBTQIA + e.g. heterosexual, homosexual, bisexual, transgender.			No significant impact	
Older or younger people			No significant impact	

Other (marriage/civil partnership. Looked after children/care experienced adults, cohesion/good relations, vulnerable children/adults)	X		Persons in lower income groups are more likely to live in poorer quality housing. Proactive enforcement in this sector will improve their quality of life.	

**Outcome(s) of Equality Impact Assessment (EIA):** *(delete as appropriate)*

No major change need

**Arrangements for future monitoring of equality impact of this policy/proposal/project:**

*Note when assessment will be reviewed (e.g. review assessment in 6 months or annual review).*

*Review when the policy is next reviewed in 2029*

**Names of officers who conducted EIA and date**

Geoff Carpenter/ Gary Pickering

**Approved by: Geoff Carpenter**

**Date: 17/6/24**



*(manager signature)*





**Cabinet**

**Tuesday, 9 July 2024**

**Financial Outturn 2023/24**

## **Report of the Director – Finance and Corporate Services**

**Cabinet Portfolio Holder for Finance, Transformation and Governance,  
Councillor D Virdi**

### **1. Purpose of report**

- 1.1. The purpose of this report is to outline the year-end financial outturn position for 2023/24, linked to the closure of accounts process and previous financial update reports.
- 1.2. To summarise, the revenue budget has an overall revenue efficiency position of £1.663m and the Capital Programme overall underspend position of £5.710m. The £1.663m is allocated for significant risks for 2024/25 onwards including biodiversity net gain, replacement finance and income management systems and housing benefits rent increases and for service demand such as Homes for Ukraine and Safer Streets. The capital underspend is largely being carried forward for the completion of existing projects.
- 1.3. The draft Statement of Accounts has been prepared and published on 31 May 2024, in accordance with statutory deadlines. The report has been to Corporate Overview Group (COG) and no significant issues were raised.

### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) notes the 2023/24 revenue position and efficiencies identified in **Table 1**, the variances in **Table 2** (and **Appendix A**);
- b) approves changes to the earmarked reserves as set out at **Appendix B** along with the carry forwards and appropriations to reserves in **Appendix E**;
- c) notes the re-profiled position on capital and approves the capital carry forwards outlined in **Appendix C** and summarised in **Appendix F**; and
- d) notes the update on the Special Expenses outturn at paragraph 4.20 and in **Appendix D**.

### **3. Reasons for Recommendations**

To accord with good financial governance and the Council's Financial Regulations.

## 4. Supporting Information

- 4.1 The Council is required to categorise its income and expenditure as either revenue or capital. The General Fund account deals with the Council's revenue income and expenditure, where spend is incurred on day-to-day expenditure or on items used within the year. Capital income and expenditure is included in the Capital Programme. The Financial Outturn, for both revenue and capital, is presented below.

### *Revenue Outturn*

- 4.2 The net revenue position in Table 1 below shows a transfer to reserves of £1.958m (originally planned to be a transfer to reserves of £1.082m (adjusted to £0.295m largely reflecting carry forward commitments from 2022/23) a net increase of £1.663m.
- 4.3 When setting the budget for 2023/24, inflation and pay increases were included; however, the national pay award was higher than anticipated at £2,125 per employee (average 6%) compared to budgeted 4% driven mainly by elevated levels of inflation. Revenue budget efficiencies from 2022/23 were carried forward to support these cost pressures. During 2023/24, the Council has continued to closely monitor the budget position, particularly as inflation has not reduced as quickly as anticipated and to identify efficiencies that may help in balancing the increased costs going into 2024/25.
- 4.4 There has been a sharp increase in the number of councils under pressure from increasing costs and the table below shows a positive outcome in what is a very challenging economic environment. There are continued cost of living pressures impacting on the Council's residents which also impact the Council's budget. The Council has continued to identify service efficiencies during the year to balance the additional pressures. A number of transfers were agreed by Cabinet on 12 March 2024, which are included in the final carry forward request totalling £0.294m shown in **Appendix E**. It is worth noting the service budgets have an efficiency position of £0.315m, with increased Business Rates income and additional grants accounting for further efficiencies of £1.16m and £0.219 respectively. Note there is a change since COG met, with £75k required by Environmental Health due to ongoing work pressures largely funded from their 2023/24 in-year underspend. This also meant a corresponding reduction in the amount committed to bio-diversity net gain potential land acquisition, reducing to £0.425m (previously reported to COG as £0.5m).

**Table 1: Revenue Outturn Position**

	Original Budget £'000	Revised Budget £'000	Revised Outturn £'000	Revised Variance £'000
<b>Chief Executive</b>	2,314	2,319	2,807	488
<b>Finance &amp; Corporate</b>	4,100	4,078	3,431	(647)
<b>Development and Economic Growth</b>	(155)	55	432	377
<b>Neighbourhoods</b>	7,649	8,243	7,766	(477)
<b>Sub Total</b>	<b>13,908</b>	<b>14,695</b>	<b>14,436</b>	<b>(259)</b>
<b>Capital Accounting Reversals</b>	(1,895)	(1,895)	(1,895)	0
<b>Minimum Revenue Provision</b>	1,311	1,311	1,255	(56)

<b>Total Net Service Expenditure</b>	<b>13,324</b>	<b>14,111</b>	<b>13,796</b>	<b>(315)</b>
<b>Grant Income (including New Homes Bonus)</b>	<b>(2,054)</b>	<b>(2,054)</b>	<b>(2,273)</b>	<b>(219)</b>
<b>Business Rates (including SBRR)</b>	<b>(4,905)</b>	<b>(4,905)</b>	<b>(6,065)</b>	<b>(1,160)</b>
<b>Council Tax</b>	<b>(7,953)</b>	<b>(7,953)</b>	<b>(7,953)</b>	<b>0</b>
<b>Collection Fund Deficit</b>	<b>506</b>	<b>506</b>	<b>537</b>	<b>(31)</b>
<b>Total Funding</b>	<b>(14,406)</b>	<b>(14,406)</b>	<b>(15,754)</b>	<b>(1,348)</b>
<b>Net Transfer to/(-)from Reserves</b>	<b>1,082</b>	<b>295</b>	<b>1,958</b>	<b>1663</b>
<b>Carry forward requests (Appendix E)</b>				<b>(369)</b>
<b>Reserves required</b>				<b>(1,294)</b>
<b>Net Surplus after c/fwds and reserve transfers</b>				<b>0</b>

- 4.5 The main revenue variances are shown in **Table 2** (with more detail at **Appendix A**) some of which are requested to be carried forward. In the case of adverse variances if these trends do continue then it will place further pressure on the budget and services will have to identify further budget efficiencies.

**Table 2: Main Items Impacting on the Current Revenue Budget**

<b>Main Variances</b>		<b>£'000</b>
<b>Adverse Variances</b>		
<b>Legal Services</b>	Property related legal claim and associated solicitors' fees	445
<b>Planning</b>	Planning fees income reduced due to reduction in demand from new developments	351
<b>Crematorium</b>	Income target not achieved in first year	213
<b>Streetwise</b>	Legacy hire of vehicles £264k offset by salary savings due to in year vacancies and staff turnover £118k	131
<b>Total</b>		<b>1,140</b>
<b>Favourable Variances</b>		
<b>Financial Services</b>	Higher rates of interest	(528)
<b>Environmental Health</b>	Homes for Ukraine £168k (carry forward required) and Homelessness £150k funding	(326)
<b>Utilities</b>	Savings due to pessimistic budget set at height of price volatility	(261)
<b>Economic Development</b>	Strategic Growth Board underspend £92k and Development Corporation £100k (carry forward, £50k in 2024/25 and £50k in 2025/26)	(192)
<b>Depot &amp; Contracts</b>	Diesel savings due to falling prices and delay in introduction of HVO £91k, increased income from Garden Waste £50k and Edwalton Golf £22k	(163)
<b>Total</b>		<b>(1,470)</b>
<b>Other minor variances</b>		<b>71</b>
<b>Total Variances</b>		<b>(259)</b>

- 4.6 Additional savings arise from Nottinghamshire Business Rates Pool surplus £0.588m (plus savings on levy budgeted £0.599m), additional Government grants £0.219m.

- 4.7 The global pandemic, followed by the war in Ukraine and recent troubles in the Middle East has meant the economic environment remained volatile and as a result the capital value of some of the Council's Treasury Investments has fluctuated. This has been reported to Council, Cabinet and to Governance Group as part of the Council's normal reporting process. At 31 March 2024, the value of the investments shows an overall increase in value of £0.272m. There remains an overall decrease in capital value since the initial investment was made, although over time this is expected to improve. The Council has created a reserve totalling £1.173m to mitigate the potential impact on the General Fund. The position will be closely monitored as part of ongoing monitoring of the Council's Treasury Management position.

*Business Rates and Council Tax*

- 4.8 The Council ensured that applicable Business Rates reliefs were applied, resulting in 2,113 businesses benefitting from over £10.6m of additional rates relief.
- 4.9 As a result of two severe flooding events in the Borough, the Council has administered flood relief and grants to affected properties. In total £50k relief, as awarded to 87 Council Tax properties and £23k relief to 11 businesses. Grants totalling £86k were also processed in addition to the relief awarded.
- 4.10 A review of Council Tax single person discounts was undertaken in year generating additional Council tax revenue £0.175m (Councils share £17.5k).

*REPF (Rural England Prosperity Fund) and UKSPF (UK Shared Prosperity Fund)*

- 4.11 Over a three year period, the Council has received £2.571m UKSPF (capital and revenue funding) and £0.596m REPF (capital only). Schemes have commenced on both communities and place and business support projects, and a grant funding pot for local organisations and local businesses was launched for projects taking place in 2024/25, with applications closing on 19th January 2024 for projects to be delivered by the end of March 2025, 32 projects have been identified to be supported and grant contracts are being finalised. In addition a number of projects have been identified to be commissioned/delivered by the Council as agreed by Cabinet in February 2024. Once projects are finalised these will be incorporated into the Council's budget and monitored through usual financial reporting.

*Streetwise*

- 4.12 Following the decision to bring back in house the Streetwise service in September 2022, the service is set to deliver £200k transformational savings by 2024/25. As stated in Table 2 the anticipated 2023/24 efficiencies have been eroded by other pressures in addition, significant changes have taken place involving recruitment, works scheduling and revisiting income generating business as well as significant investment in plant, vehicles and office upgrades. A summary report was delivered in March 2024 to the Communities Scrutiny Group highlighting all the good work over the last 12 months.

### *Rushcliffe Oaks Crematorium*

- 4.13 Rushcliffe Oaks Crematorium opened on 3 April 2023. To the end of 2023/24 505 cremations were carried out, 32 of which were direct (no service). Income has not been as high as projected; however, the service has covered its costs in its first year with an overall net surplus of £61k. The original business plan has been amended due to the impact of Covid which changed the anticipated demand assumptions, and this has been revisited for 2024/25 budget. The facility and team have received incredibly positive feedback from industry colleagues and people who have attended services. It will take time for the facility to become established and the team are working hard on building key relationships and growing the business.

### *Carbon Reduction*

- 4.14 The Council is committed to achieving carbon neutral status by 2030 and has adopted a Carbon Management Action Plan to monitor progress. Set across eight broad themes, several projects are already underway to decarbonise the Council's property assets, fleet vehicles and update the Council's policy and regulation framework. Within the framework, there is a requirement for some carbon offsetting through the establishment of a range of habitats to promote ecological recovery. In the first instance this will be explored through the Council's own portfolio and collaboration with partner organisations, however, it may be necessary to, for example, purchase additional land, and an appropriation of £0.425m has been set aside from 2023/24 efficiencies for this purpose.

### *Reserves*

- 4.15 There are a number of movements in revenue reserves largely agreed as part of the budget setting process and budget monitoring for 2023/24. A net transfer to earmarked reserves of £1.274m comprises: £1.958m transferred to reserves from revenue less £0.684m reserves used for capital. The overall net movement on revenue reserves are detailed at **Appendix B**. The key points to note are:
- There are a number of 'transfers out' or use of reserves totalling £3.111m including: £1.311m from the New Homes Bonus (NHB) reserve (used to offset the Minimum Revenue Provision (MRP), this is a requirement by legislation to make a charge to the revenue budget for the recovery of internal borrowing for capital expenditure £1.037m transferred from the Organisation Stabilisation Reserve for approved carry forwards from 2022/23; and £0.353m appropriated to meet the Collection Fund deficit.
  - There are a number of 'transfers in' totalling £5.069m that increases reserves. Significant items comprise: £1.663m net efficiencies to cover carry forward and reserve commitments; £1.414m NHB receipts; £1.267m for regeneration and community projects to support capital spending going forward.

### *Specific Reserves*

#### 4.16 Commentary on earmarked reserves:

- The NHB Reserve balance of £9.652m is used to fund internal borrowing in relation to capital projects (MRP Minimum Revenue Provision).
- The Collection Fund Reserve balance of £1.085m is earmarked for: prior year deficits; risks associated with the decommissioning of the Ratcliffe-on-Soar Power Station; and pending reforms to the Business Rates system.
- The Organisation Stabilisation Reserve Balance of £3.261 will partly be used to fund the carry forward requests of £0.369m and the transfers to reserves of £1.294m (Appendix E). This includes the ongoing impact of cost of living and inflation increases.
- The Climate Change Reserve (£0.201m) is proposed to be further boosted with £0.425m from 2023/24 underspends towards improving biodiversity net gain and this reserve also continues to contribute to the Council's ambitions to become carbon neutral. The Council has begun major re-enhancement works at Cotgrave and Keyworth Leisure Centres which will incorporate energy efficiency technologies and some funds have been used in year to match fund this work and for the Cenex fleet review. In addition, HUG 1 (Home Upgrade Grant) 1 and LAD 3 (Local Authority Delivery) green energy grant awards to owner/occupiers have been completed, this is fully funded with no recourse to draw from the reserve.

#### 4.17 Overall, whilst the level of Earmarked Reserves is a healthy £20.947m (22/23 was £19.673m), there continue to be risks going forward with both inflationary cost pressures, the cost of living coupled with delayed reforms and uncertainty over funding in the longer term and the funding of future capital (exemplified in the MTFS with reserves anticipated to reduce to around £12m by 2028/29). The Council has its own targets to reduce carbon emissions and to grow the Borough and this comes at a cost to be funded from reserves. The repayment of internal borrowing (MRP) has been reliant on NHB receipts, and these are anticipated to cease at the end of 2024/25. The General Fund balance of £2.604m accords with the Council's approved MTFS.

### *Revenue carry forward requests and Reserve Commitments*

#### 4.18 The Council's robust financial position enables it to fund service demand or cost pressures not identified in the budget. Some of these have already been mentioned above (eg biodiversity net gain) but other pressures include replacing and upgrading the Council's finance and income systems and rising housing benefit costs (see paras 6.3 and 6.4). These will also put further pressure on the Council's budget going forward (at least £0.4m) and are outside of the Council's control. Even more efficiencies will be required going forward in updating the Council's MTFS. Other requests are where the Council has received external funding and the service delivery spans more than one year. Requests for the use of reserves in 2024/25 (from 2023/24 efficiencies) to support continuing cost pressures and delivery of the Council's priorities are shown in **Appendix E**.

## Capital

- 4.19 The year-end Capital Programme provision totalled £12.462m (see Table 3 and Appendix C). Actual expenditure in relation to this provision totalled £6.752m (54% of the budget) giving rise to a variance of £5.710m, £4.168m of which is recommended to be carried forward.

The main underspends are as follows:

- The Crematorium £1.197m underspend; the final account has yet to be fully agreed however at least £0.797m is a recognised saving. £0.4m carry forward is requested for post opening enhancements and a potential VAT liability relating to partial exemption.
- Bingham Arena and Offices £0.928m underspend; the account is being finalised with indicated potential savings of £0.678m (this is in addition to the £0.730m underspend already diverted to support Cotgrave and Keyworth Leisure Centre upgrades), the remaining £0.250m is requested to be carried forward for post opening enhancements.
- Support for Registered Housing Providers £0.763m, carry forward is requested with meetings taking place with developers and Homes England to explore opportunities to commit the provision.
- Retrofit Grants £0.480m, this is a new initiative funded through Midlands Net Zero Hub to retrofit properties with energy saving measures and carbon reduction technologies. A contract for provision is in place and works will commence 2024/25, a carry forward is requested.

A summary of the main variances can be found in **Appendix E and F** including savings of £1.558m, overspends of £16k, and a net carry forward request of £4.168m. Details of all variances can be found in **Appendix C**.

**Table 3: Capital Summary**

EXPENDITURE SUMMARY	Original Budget £000	Current Budget £000	Actual £000	Variance £000
<b>Development and Economic Growth</b>	1,470	2,885	431	(2,454)
<b>Neighbourhoods</b>	7,796	9,044	6,095	(2,949)
<b>Finance &amp; Corporate Services</b>	160	353	226	(127)
<b>Contingency</b>	150	180	0	(180)
<b>Total Expenditure</b>	<b>9,576</b>	<b>12,462</b>	<b>6,752</b>	<b>(5,710)</b>
<b>Financing Analysis</b>				
<b>Capital Receipts</b>	(3,387)	(6,115)	(3,026)	3,089
<b>Government Grants</b>	(795)	(3,111)	(2,540)	571
<b>Use of Reserves</b>	(1,450)	(842)	(684)	158
<b>Grants/Contributions</b>	0	(73)	(83)	(10)
<b>Section 106 Monies</b>	(2,944)	(2,321)	(419)	1,902
<b>Borrowing</b>	(1,000)	(0)	(0)	0
<b>Total Funding</b>	<b>(9,576)</b>	<b>(12,462)</b>	<b>(6,752)</b>	<b>5,710</b>
<b>Net Expenditure</b>	-	-	-	-

- 4.20 **Appendix D** shows the Outturn position on the **Special Expenses** budget. Budgets within the Special Expenses area are also exposed to cost-of-living risks as costs increase and income from facility hire impacted by the cost-of-living pressure of household income. The Special Expenses outturn budget deficit for West Bridgford is £8k. The total net deficit in the notional West Bridgford Fund as at 31 March 2023, is £0.134m comprising of an opening deficit of £0.138m adjusted for reduced annuity charges of £12k and the in-year deficit of £8k. The budgets are set using estimates and the timing of expenditure can result in variances against the budget and has resulted in the £8k deficit. The budget going forward will aim to ensure deficits are recovered.

#### *Financial Outturn Conclusion*

- 4.21 Despite the financial challenges experienced, prudent budgeting has negated the need to draw on reserves or to externally borrow. Inflation has now begun to fall; however, there remains a risk to both Council expenditure and to income receipts as household income contracts. Government funding reviews add a further level of uncertainty and risk making financial planning even more challenging. There are warning signs for the budget going forward with pressures on areas like planning and Streetwise and the impact of inflation impacting on contracts in areas such as finance and housing benefit payments affected.
- 4.22 The Council continues to drive efficiency and innovation and the Transformation and Efficiency Plan (now also incorporated into the Productivity Plan) includes projects over the medium term that continually challenge Council processes. Given the identified additional pressures the ability for the Council to drive more productivity is an increasing prerequisite.
- 4.23 Whilst the Council currently has a healthy reserves balance, this is a finite resource and reserves will diminish with unknown challenges on the horizon and the need to maintain the Council's assets. Reserves are necessary to insulate the Council against significant financial risks and enable the Council to deliver its corporate priorities, to improve services and invest and grow the Borough.
- 4.24 The year-end Financial Statements are subject to audit by Mazars and are anticipated to be considered by the Governance Scrutiny Group in September 2024.

### **5. Alternative options considered and reasons for rejection**

There are no other options identified, subject to the views of Cabinet.

### **6. Risks and Uncertainties**

- 6.1 Failure to comply with Financial Regulations in terms of reporting on both revenue and capital budgets could result in criticism from stakeholders, including both Councillors and the Council's external auditors.
- 6.2 The transfer of the net surplus to reserves will relieve pressure on Council budgets such as system upgrades and service pressures arising post budget setting (as discussed in paragraphs 6.3 and 6.4 below) and carry forward of



budget efficiencies will assist the Council to meet its priorities to support and grow the Borough.

- 6.3 There is a need to replace key finance systems including the Income Management System and the main Financial Management System with projects commencing in 2024/25. Appropriations from underspends have been included in transfers to reserves in Appendix E totalling £0.331m; however, until the projects have been fully scoped and procured the resources required may alter, with the potential to increase further.
- 6.4 As a result of an increase in rent charges by a supported housing provider in the Borough, there is a pressure on the housing benefit budget as not all of this increase can be claimed through the Housing Benefits Subsidy. This is currently estimated to be a pressure of £0.235m per annum, however this is dependent upon a rent review by the Valuation Office Agency (VOA). An appropriation of £0.235m has been set aside from 2023/24 efficiencies to cover the expected 2024/25 shortfall. This is however, an ongoing pressure for future years and will need to be included in budget setting for 2025/26 onwards.
- 6.5 Changes in Central Government policy influences Business Rates received and their timing, for example policy changes on small Business Rates relief. There is also a risk from Government reform although as mentioned this is unlikely before 2026/27.
- 6.6 There is a continued risk from inflation to expenditure the Council incurs such as fuel and utilities but also on income from fees and charges. This is being closely monitored and if necessary, included in our normal financial reporting arrangements to Cabinet and Corporate Overview Group.
- 6.7 Recruitment continues to be challenging in the sector and this increases the pressure on the pay budgets and agency costs and the ability to deliver high quality services.
- 6.8 The Council needs to be properly insulated against such risks hence the need to ensure it has a sufficient level of reserves, as well as having the ability to use reserves to support projects where there is 'upside risk' or there is a change in strategic direction. The Council continues to ensure it is financially resilient at this most difficult of times.

## **7. Implications**

### **7.1. Financial Implications**

Financial implications are contained within the body of the report.

### **7.2. Legal Implications**

There are no direct legal implications arising from this report.

### **7.3. Equalities Implications**

There are no direct equalities implications arising from this report.

#### 7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no direct Crime and Disorder implications arising from this report.

#### 7.5. Bio Diversity Net Gain Implications

It is proposed to transfer funds in relation to bio diversity net gain (para 4.16) to help manage this risk in the future.

### 8. Link to Corporate Priorities

The Environment	The budget resources the Corporate Strategy and therefore resources all Corporate Priorities.
Quality of Life	
Efficient Services	
Sustainable Growth	

### 9. Recommendation

It is RECOMMENDED that Cabinet:

- a) notes the 2023/24 revenue position and efficiencies identified in **Table 1**, the variances in **Table 2** (and **Appendix A**);
- b) approves changes to the earmarked reserves as set out at **Appendix B** along with the carry forwards and appropriations to reserves in **Appendix E**;
- c) notes the re-profiled position on capital and approves the capital carry forwards outlined in **Appendix C** and summarised in **Appendix F**; and
- d) notes the update on the Special Expenses outturn at paragraph 4.20 and in **Appendix D**.

<b>For more information contact:</b>	Peter Linfield Director – Finance and Corporate Services 0115 914 8439 <a href="mailto:plinfield@rushcliffe.gov.uk">plinfield@rushcliffe.gov.uk</a>
<b>Background papers Available for Inspection:</b>	Council 2 March 2023 – 2023-24 Budget and Financial Strategy; Cabinet September 2023 – Revenue and Capital Budget Monitoring Q1 Cabinet December 2023 – Revenue and Capital Budget Monitoring Q2 Cabinet March 2024 – Revenue and Capital Budget Monitoring Q3
<b>List of appendices:</b>	<b>Appendix A</b> – Revenue Variance Explanations <b>Appendix B</b> – Movement in Reserves <b>Appendix C</b> – Capital Variance Explanations <b>Appendix D</b> – Special Expenses Position <b>Appendix E</b> – Carry forward and reserve commitments <b>Appendix F</b> – Summary Capital carry forwards

**Revenue Variance Explanations (over £25k)**

Service	Income / Expenditure Type	Reason	Outturn Variance £'000
Legal Services	Supplies & Services	Property related legal claim and associated solicitors' fees	445
Planning	Income	Planning fees income reduced due to reduction in demand from new developments	351
Crematorium	Income	Income target not achieved in first year	274
Property Services	Income	Capitalisation of salaries associated with slippage in the capital programme	157
Depot & Contracts	Premises Related	Joint use agreement and utilities at Toothill	153
Streetwise	Transport Related and Employees Expenses	Legacy hire of vehicles £264k offset by salary savings due to in year vacancies and staff turnover £118k	131
Economic Development	Income	Service charges, these are offset by associated savings including utilities	104
Depot & Contracts	Employee related	Agency	90

<b>ICT</b>	Supplies & Services	Cost of implementing the outsourcing contract (salary savings less agency and first year contract cost)	60
<b>Depot &amp; Contracts</b>	Transport Related	Price of rubber has increased, and replacement levels of tyres continue to be a budget pressure	56
<b>Depot &amp; Contracts</b>	Supplies & Services	£33k car park SLA 22/23, increased charges partly offset by increase in income	52
<b>Crematorium</b>	Supplies & Services	Grounds maintenance works	46
<b>Property Services</b>	Supplies & Services	Tree works to be funded from reserves	45
<b>Central Mail</b>	Supplies & Services	Postage	40
<b>Home Alarms</b>	Supplies & Services		33
<b>Home Alarms</b>	Income	Delays during year in implementation of digital alarms which have higher service charge	32
<b>TOTAL ADVERSE VARIANCES &gt; £25k</b>			<b>2,069</b>

**Revenue Variance Explanations (over £25k)**

Service	Income / Expenditure Type	Reason	Outturn Variance £'000
Financial Services	Income	Higher interest rates	(528)
Utilities	Premises Related	Savings due to pessimistic budget set at height of price volatility	(261)
Environmental Health	Income	Homes for Ukraine funding £168k requested to carry forward	(176)
Economic Development	Supplies & Services	Strategic Growth Board underspend £92k and Development Corporation £100k, both requested to carry forward (£50k in 2024/25 and £50k 2025/26)	(192)
Depot & Contracts	Income	Parkwood contract savings £91k, additional income for Garden Waste £50k and Edwalton Golf Course £22k	(162)
Strategic Housing	Income	Additional funding for homelessness applied in year	(150)
Depot & Contracts	Transport Related	Diesel prices have come down and delay in implementation of HVO conversion	(91)

Service	Income / Expenditure Type	Reason	Outturn Variance £'000
<b>Community Development</b>	Income	AGP pitches additional income £61k, Bio-diversity net gain grant £28k	(89)
<b>Economic Development</b>	Income	Rents in excess of budget mainly due to Bingham £27k (fully occupied), Hollygate Lane £19k (rent inc and 100% occupation), Bardon £14k (rent review)	(87)
<b>Depot &amp; Contracts</b>	Third Party Payments	East Leake Leisure Centre utilities savings £70k, Eastcroft Depot rental £50k	(70)
<b>Financial Services</b>	Supplies & Services	Unrequired contingency	(65)
<b>Safer Streets (External Funding)</b>	Supplies & Services	Delays to some works around CCTV carry forward required	(60)
<b>Financial Services</b>	Employee Expenses	Revenues & Benefits disestablished post, Customer Services in year vacancies now filled	(52)
<b>Planning</b>	Supplies & Services	Uniper funding required to be carried forward	(50)
<b>Licensing</b>	Income	Taxi income above budget	(50)

Service	Income / Expenditure Type	Reason	Outturn Variance £'000
Planning	Employee Related	Secondment backfilled part time	(43)
Depot & Contracts	Supplies & Services	Savings on equipment and materials	(34)
Environmental Health	Employee Related	Staff changes resulting in vacancies and lower pay scales, offset by agency	(31)
Revenues & Benefits	Income	Costs recovered	(30)
TOTAL FAVOURABLE VARIANCES > £25k			(2,221)
OTHER MINOR VARIANCES			(107)
TOTAL VARIANCE			(259)



## Movement in Reserves

Movement in Reserves	Balance at 31.03.23	Transfers in	Transfers out	Balance at 31.03.24	Transfers in notes	Transfers out notes
	£000	£000	£000	£000		
<b>Investment Reserves</b>						
Regeneration and Community Projects	2,112	1,267	(153)	3,226	Special expenses play area £75k, annuity charges £63k, regeneration and community projects capital £1m and Sinking funds; Hook £20k and, RCP £20k for skateboard parks, Cremator £14k, Edwalton Golf Course £25k, Gresham Pitches £50k	Transfer out for Boundary Road Play Area, Adbolton Play Area and Gamston Enhancements
Investment Properties Sinking Fund	549	325	(79)	795	To reserves from Investment Properties income	Tfr out to cover works at the Point and Colliers Business Park
New Homes Bonus	9,549	1,414	(1,311)	9,652	Receipt in year	To offset the impact of MRP
<b>Corporate Reserves</b>						
Organisation Stabilisation	2,635	1,663	(1,037)	3,261	From in-year efficiencies to meet c/f and reserve appropriations	£270k budgeted general fund deficit plus £502k agreed carry forwards cabinet 2022 and £265k trf from reserves (£10k

Movement in Reserves	Balance at 31.03.23	Transfers in	Transfers out	Balance at 31.03.24	Transfers in notes	Transfers out notes
						elections holiday pay, £204k payaward, £33k Council Tax Support Fund)
Climate Change	329	0	(128)	201		CLC enhancements 50% match funding £108k, £20k Cenex Review
Treasury Capital Depreciation Reserve (IFRS 9)	973	200	0	1,173	Top up reserve	
Collection Fund S31 Reserve	1,438	0	(353)	1,085		Planned release of grant to cover deficit in collection fund
Development Corporation	365	0	(165)	200		Transfer to revenue to cover expenditure incurred, £100k is requested to be returned in 23/24 trf to reserves £50k for 24/25 and £50k for 25/26
Risk and Insurance	100	0	0	100		
Planning Appeals	349	0	0	349		
Elections	201		(150)	51		Released to revenue to cover local council elections
<b>Operating Reserves</b>						
Planning	131	0	(75)	56		Intended for £25k Transport Assessment, £50k Design Code, this was funded from in year

Movement in Reserves	Balance at 31.03.23	Transfers in	Transfers out	Balance at 31.03.24	Transfers in notes	Transfers out notes
						budgets and required to be returned from underspend.
Leisure Centre Maintenance	57	15	(44)	28	Create a sinking fund for the athletics track and Hockey Pitch at Bingham Leisure Centre	Old Bingham Leisure Centre decommissioning
Vehicle Replacement Reserve	885	185	(300)	770	Top up for Streetwise vehicle replacement reserve	Acquisition of vehicle and plant from Streetwise
<b>TOTAL</b>	<b>19,673</b>	<b>5,069</b>	<b>(3,795)</b>	<b>20,947</b>		
<b>General Fund Balance</b>	<b>2,604</b>			<b>2,604</b>		

## Capital Programme Summary March 2024

	Original Budget £000	Current Budget £000	Actual YTD £000	Variance £000	Carry fwd (C)/ Saving (S)/ Overspend (O)/ Acceln (A)	Notes
<b>DEVELOPMENT AND ECONOMIC GROWTH</b>						
Compton Acres Fencing Special Expense	30	30	21	(9)	S	Works complete £9k saving
Quantock Grove Bingham POS	20	0	0	0		Works accelerated and completed in 2022/23
REPF (Rural England Prosperity Fund) Capital Grants	0	149	76	(73)	C	REPF nearly wholly committed, two grants totalling £71k now due to be released in 24/25
UKSPF (UK Shared Prosperity Funding) Capital Grants	0	147	129	(18)	C	Grants committed
Manvers Business Park Enhancements	0	100	0	(100)	C	Roller Shutter vehicle doors tender early 2024; works to follow in 24/25, carry forward required.

U10 Moorbridge Enhancements	0	30	38	8	O	Additional enhancement works required including provision of accessible toilet and shower. Flooring work complete. Overspend arises from new signage and furniture. Further works identified as part of HSE review may require a future Capital Contingency allocation
Bridgford Park Kiosk	25	25	0	(25)	C	Planning approval obtained to construct a dedicated staff toilet for the kiosk. Building regs application to be made and works to be tendered. Carry forward required.
Colliers Business Park Enhancements	0	40	24	(16)	C	Contract let to install new water supply pipework to mitigate liability issues primarily completed. Additional Barriers and Bollards to be assessed (£10k). Carry forward required.
Abbey Circus Fencing Special Expense	35	35	23	(12)	S	Works complete £12k saving.
Highways Verges: Cotgrave/Bingham/CB	100	0	0	0		Officer investigation of sites continues to prioritise work plan. Highways Authority will need to be consulted. No commitments yet and £100k provision reprofiled to 24/25
Traveller Site Acquisition	1,000	0	0	0		The capital programme contained £1m for site acquisition and development. This has now been reprofiled to 24/25. A second call for sites in the Borough has been requested.
Cotgrave Phase 2	0	50	12	(38)	C	Main contract completed 21/22. Peripheral works still to be commissioned for the Public Realm: new path, landscaping, seating, and trees. These works to be tendered. Carry forward will be required to meet commitments.
Bingham Arena	0	833	(95)	(928)	C/S	Opened 20 February.2023. Final account agreed. £730k of this year's provision originally earmarked for post opening enhancements has been reprofiled to 24/25 and redirected to support works at CLC. Carry forward £250k required for

						post opening enhancements, remaining £678k released as a saving
Water Course Improvements	210	0	0	0		Works originally re-profiled to 2023-24 and packaged together with 2023-24 provision to achieve efficiencies. Potential to fund from UKSPF in 24/25 so has been rephased. Rugby Road bank planned.
The Point	50	95	55	(40)	C	Balcony work completed; common area lighting and ramp roller shutter to be done. Carry forward required.
Bingham Market Place Improvements	0	68	62	(6)	C	Works complete; paving enhancements may be needed in 24/25 carry forward required.
West Bridgford Town Centre Environmental Improvements	0	10	10	0		Upgrade to WBTC Railings fully funded from UKSPF.
Rushcliffe Oaks Crematorium	0	1,273	76	(1,197)	C/S	Total provision including purchase of the land £8.5m. Building operational early Apr. Credit arises from over accrual for Cremator 22/23. This year's programme included a provision of £783k for the potential repayment of VAT in the event that we breached the partial exemption threshold. The threshold will not now be breached giving rise to a saving. There may be a potential VAT liability in 24/25 of approx. £150k which will need to be carried forward - this will continue to be monitored. A carry forward sum of £250k also be required sum for post opening enhancements. The remaining £797k is a saving (based on accrual of worst case final account figure) so this may be more.
Keyworth Cemetery	0	0	0	0		Surveys undertaken. Works to be agreed with the Diocese. Quotes to be sourced. No commitments yet. £25k provision rephased to 24/25.

	1,470	2,885	431	(2,454)		
<b>NEIGHBOURHOODS</b>						
Vehicle Replacement	1,150	2,521	2,328	(193)	C	9 Refuse Collection vehicles acquired; 1 sweeper procured for Streetwise operations plus 1 to be delivered 24/25; plant and equipment for Streetwise bought outright from leasing arrangement. Carry forward required to meet commitments.
Support for Registered Housing Providers	2,623	1,179	416	(763)	C	Payments: £56k practical completion 7 units affordable housing on Garage Sites Ph 2 (£24k due in 24-25 for remaining 3 units); £340k for 4 units Nicker Hill; Meetings taking place with RPs/Developers and Homes England to explore opportunities to commit the provision. Carry forward balance to future years.
Discretionary Top Ups	0	98	102	4		Due to spending pressures on Mandatory DFGs, Cabinet 12.07.22 approved amendment of the policy to temporarily suspend use of the Discretionary pot until a review of the national formula allocation is undertaken. £4k overspend to be covered by underspend on DFGs.
Disabled Facilities Grants	945	1,202	894	(308)	C	There is continued pressure on the Mandatory DFG provision. An additional allocation of £66k was made by DLUH for 23/24 but RBC has had to commit its own resources to support service delivery. The underspend is committed to grants approved and a net carry forward of £304k is needed.
Hound Lodge Enhancements	250	0	0	0		The future of Hound Lodge is currently being assessed. Sum not committed. £250k provision rephased to 24/25.
Arena Enhancements	28	128	59	(69)	C/S	Some work required to upgrade reception and corridor floors. Work also to be undertaken on fire dampers. Carry forward of £65k required. £4k saving realised.

Car Park Resurfacing	0	96	17	(79)	C	Bridgford Road works now to commence early 24-25. Carry forward required.
Cotgrave & Keyworth Leisure Centre Enhancements	1,395	1,526	1,265	(261)	C	Work in progress. Salix Grant Funding of £1.215m awarded which needs 12% match funding £146k from the Climate Change Reserve. £1.5m of provision rephased to 24/25.
Edwalton Golf Club Enhancements	30	0	0	0		Sum not yet committed. £30k provision to convert flat rephased to 24/25. However, flooding issues need to be addressed first and are currently being assessed with a view to establishing a costed action plan for the proposed works.
Old Bingham Leisure Centre Improvements	0	42	44	2	O	£30k re-profiled to 23-24 pending options assessment.
SAFE4HEARTS UK Shared Prosperity Funded	0	18	15	(3)	C	New initiative supported by UKSPF funding. Provision of defibrillators to Community and other buildings. Carry forward required to meet commitments.
Gresham Sports Park Redevelopment	100	139	71	(68)	C	Swale works being undertaken. £10k expenditure on core cable replacement to lighting. CCTV cameras need replacing and quotes obtained. Carry forward of £60k required plus £8k to be redirected to RCP Play Area.
RETROFIT Grants	0	480	0	(480)	C	New Initiative funded through Midlands Net Zero Hub. Contract in place. Works will commence in 24/25 carry forward required.
Gamston Community Centre Enhancements Special Expense	50	6	3	(3)	S	To support any carbon reduction work, to be lead by the environmental energy audit. £3k spent on electric replacement of gas water heater. Potential government grant funding to be made available for Community Halls. £50k of the provision rephased to 24/25.
Lutterell Hall Enhancements Special Expense	0	77	0	(77)	C/S	Sum not yet committed £50k carry forward requested, £27k released as a saving



HUG1 (Home Upgrade Grants) and LAD3 (Local Authority Delivery) Green Energy Grants	0	455	435	(20)	S	New initiative, fully funded by Government Grants. Funds were to be spent by 31 March 2023 but deadlines extended: HUG1 31 May 2023 and LAD3 30 Sept 2023. Schemes complete £20k underspend.
HUG2 (Home Upgrade Grants) Green Energy Grants	0	356	0	(356)	C	New initiative, fully funded by Government Grant. Works to commence in 24/25 carry forward required.
Gresham Sports Pavilion	50	73	79	6	O	Flooring works complete at £7k. Changing Places Toilet works complete £55k. Overspend. Risk and cost pressure associated with Legionella investigation.
Rushcliffe Country Park Play Area	100	100	3	(97)	C	Tendered and works to commence Q1 24/25. Carry forward required plus £8k from the underspend on Gresham Spots Park Redevelopment.
Rushcliffe Country Park Visitor Centre	0	161	161	0		Development works complete, opening ceremony took place Oct 22. Footpath now complete; £28k for Sail Canopies funded from a Will Benefactor. Zero discharge toilet completed. Additional path work undertaken funded from UKSPF.
External Door/Window Upgrades Various Sites	0	46	0	(46)	C	To be undertaken ad hoc, U10 Moorbridge is next. Carry forward required.
Sharphill Wood Paths	0	17	10	(7)	C	New scheme to create stone footpath fully funded from UKSPF.
Capital Grant Funding	0	15	15	0		Grant scheme now closed.
Edwalton Community Facility Spec Exp	500	2	0	(2)	C	Planning application fee processed Oct Planning Committee. Works have to align with the build out of the site. £498k of the provision already rephased to 24/25. Negotiations about the build/acquisition ongoing.

Adbolton Play Area Spec Exp	0	87	87	0		Works complete.
Greythorn Drive Play Area Spec Exp	75	105	3	(102)	C	Scheme to be funded from S106 Contribution. Works to start Q1 24/25. Carry forward required.
Bridgford Park Play Area Spec Exp	0	10	0	(10)	C	Minor expenditure written off to revenue. £10k to be carried forward to support Play Area Special Expense schemes in 24/25.
Boundary Road Play Area	0	70	63	(7)	S	Work completed. Carry forward balance to support Play Area Special Expense schemes in 24/25
West Park Julien Cahn Pavilion Special Expense	500	35	25	(10)	C	£15k enhancements carried out. £10k additional budget from English Cricket Board for Cricket Wicket. £475k of the provision rephased to 24/25.
	<b>7,796</b>	<b>9,044</b>	<b>6,095</b>	<b>(2,949)</b>		
<b>FINANCE &amp; CORPORATE SERVICES</b>						
Information Systems Strategy	160	353	226	(127)	C	Rollout of the ICT Alignment Strategy to meet business needs and embrace changing technology. Cloud Based Solutions now being assessed. £126k carry forward required.
	<b>160</b>	<b>353</b>	<b>226</b>	<b>(127)</b>		
<b>CONTINGENCY</b>						
Contingency	150	180	0	(180)	C	Budget movement: Original Budget £150k £100k brought forward from 22-23 £30k allocation U10 Moorbridge; £40k allocation Colliers BP.
	<b>150</b>	<b>180</b>	<b>0</b>	<b>(180)</b>		
<b>TOTAL</b>	<b>9,576</b>	<b>12,462</b>	<b>6,752</b>	<b>(5,710)</b>		

## Special Expenses Outturn 2023/24

	Original Budget £	Outturn Actuals £	Outturn Variance £	Reasons for variance
<b><u>West Bridgford</u></b>				
Parks & Playing Fields	438,100	442,222	4,122	Maintenance works including benches
West Bridgford Town Centre	92,100	95,442	3,342	Christmas lights switch on
Community Halls	96,900	104,962	8,062	Mainly due to shortfall in room hire at Gamston offset by small savings
Contingency	14,700	5,900	(8,800)	unrequired contingencies spend was for illegal encampment
Annuity Charges	100,100	100,100	0	
RCCO	75,000	75,000	0	
Sinking Fund (The Hook)	20,000	20,000	0	
<b>Total</b>	<b>836,900</b>	<b>843,626</b>	<b>6,726</b>	
<b><u>Keyworth</u></b>				
Cemetery & Annuity Charges	12,700	11,507	(1,193)	
<b>Total</b>	<b>12,700</b>	<b>11,507</b>	<b>(1,193)</b>	
<b><u>Ruddington</u></b>				
Cemetery & Annuity Charges	11,100	13,273	2,173	
<b>Total</b>	<b>11,100</b>	<b>13,273</b>	<b>2,173</b>	
<b>TOTAL SPECIAL EXPENSES</b>	<b>860,700</b>	<b>868,406</b>	<b>7,706</b>	

Carry Forwards and Reserve Commitments

Carry forward to 24/25		£'000
	Safer Streets (externally funded)	57
	Homes 4 Ukraine (external funding)	168
	Streetwise sale of equipment replacements required	13
	Uniper (external funding)	50
	Household Support Fund 4 (external funding)	6
	<b>Environmental Health Agency Staff</b>	<b>75</b>
	<b>Total carry forwards</b>	<b>369</b>
Appropriation to/(from Reserves)		
	Tree survey repair works	(45)
	Climate change reserve – Arena CHP & PV survey	(8)
	Land acquisition for biodiversity net gain	425
	Housing benefit supported accommodation rent increase potential subsidy loss	235
	Finance system replacement	200
	Development Corporation	100
	Planning reserve transfer underspend	75
	Income management replacement	131
	New Homes Bonus (MRP underspend)	56
	Increase sinking fund Cremator	36
	Relocation of customer contact centre	25
	Bridgford Hall fire doors remedial works	25
	Woodland Planting (match external funding)	16
	Smoke Control Grants (external funding)	12
	Edwalton Golf Course flood prevention measures	11
	<b>Total Reserves Appropriations</b>	<b>1,294</b>
	<b>Total Carry Forwards and Reserves Commitments</b>	<b>1,663</b>

## Summary capital variances

Variance Analysis 23-24		£000
<b>CARRY FORWARDS:</b>		
REPF Capital Grants		(73)
UKSPF Capital Grants		(18)
Manvers Business Park Enhancements		(100)
Bridgford Park Kiosk		(25)
Colliers Business Park Enhancement		(16)
Cotgrave Phase 2		(38)
Bingham Arena		(250)
The Point		(40)
Bingham Market Place Improvements		(6)
Rushcliffe Oaks Crematorium		(400)
Vehicle Replacement		(193)
Support for Registered Housing Providers		(763)
Disabled Facilities Grants		(304)
Arena Enhancements		(65)
Car Park Resurfacing		(79)
Cotgrave & Keyworth Leisure Centre Enhancements		(261)
Safe4Hearts – UKSPF funded		(3)
Gresham Sports Park Redevelopment		(68)
RCP Play Area		(97)
Retrofit Grants		(480)
Lutterell Hall Enhancements Special Expense		(50)
HUG Green Energy Grants		(356)
External Door/Window Upgrades		(46)
Sharphill Wood Paths – UKSPF funded		(7)
Edwalton Community Facility Special Expense		(2)
Greythorn Drive Play Area Special Expense		(102)
Bridgford Park Play Area Special Expense		(10)
West Park Sir Julien Cahn Pavilion Special Expense		(10)
Information Systems Strategy		(126)
Contingency		(180)
<b>Sub-total</b>		<b>(4,168)</b>
<b>SAVINGS:</b>		
Compton Acres Fencing Special Expense		(9)
Abbey Circus Fencing Special Expense		(12)
Bingham Arena		(678)
Rushcliffe Oaks Crematorium		(797)
Arena Enhancements		(4)
Gamston Community Centre Enhancements Special Expense		(3)
Lutterell Hall		(27)
HUG1 and LAD3 Grants		(20)
Boundary Road Play Area		(7)
Information Systems Strategy		(1)
<b>Sub-total</b>		<b>(1,558)</b>
<b>OVERSPEND:</b>		
U10 Moorbridge Enhancements		8
Old Bingham Leisure Centre Improvements		2
Gresham Sports Pavilion		6
<b>Sub-total</b>		<b>16</b>
<b>ACCELERATION:</b>		
<b>Sub-total</b>		<b>0</b>
<b>TOTAL</b>		<b>(5,710)</b>

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