

Public Document Pack

Date of meeting Wednesday, 7th June, 2017
Time 6.00 pm
Venue Committee Room 1, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG

Cabinet

AGENDA

PART 1 – OPEN AGENDA

- 1 APOLOGIES**
- 2 DECLARATION OF INTEREST**
To receive declarations of interest from Members on items included in the agenda.
- 3 MINUTES** (Pages 3 - 6)
To consider the minutes of the previous meeting.
- 4 DOCUMENT MANAGEMENT RENEWAL** (Pages 7 - 12)
- 5 FINANCIAL AND PERFORMANCE MANAGEMENT REPORT TO
END OF QUARTER FOUR (JANUARY-MARCH) 2016** (Pages 13 - 20)
- 6 SHARED LEGAL SERVICE WITH STOKE ON TRENT CITY
COUNCIL** (Pages 21 - 24)
- 7 CRACKLEY LOCAL LETTINGS PLAN** (Pages 25 - 28)
- 8 IMPLEMENTATION OF NEW PROVISIONS UNDER THE
PLANNING AND HOUSING ACT 2016** (Pages 29 - 38)
- 9 CONFIRMATION OF DECISION TAKEN UNDER DELEGATION** (Pages 39 - 40)
- 10 URGENT BUSINESS**
To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act 1972.

11 ATTENDANCE AT CABINET MEETINGS

Councillor attendance at Cabinet meetings:

- (1) The Chair or spokesperson of the Council's scrutiny committees and the mover of any motion referred to Cabinet shall be entitled to attend any formal public meeting of Cabinet to speak.
- (2) Other persons including non-executive members of the Council may speak at such meetings with the permission of the Chair of the Cabinet.

Public attendance at Cabinet meetings:

- (1) If a member of the public wishes to ask a question(s) at a meeting of Cabinet, they should serve two clear days' notice in writing of any such question(s) to the appropriate committee officer.
- (2) The Council Leader as Chair of Cabinet is given the discretion to waive the above deadline and assess the permissibility if the question(s). The Chair's decision will be final.
- (3) The maximum limit is three public questions at any one Cabinet meeting.
- (4) A maximum limit of three minutes is provided for each person to ask an initial question or make an initial statement to the Cabinet.
- (5) Any questions deemed to be repetitious or vexatious will be disallowed at the discretion of the Chair.

Members: Councillors Beech, Kearon, Turner (Vice-Chair), J Williams, Shenton (Chair), Rout and Robinson

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

FIELD_TITLE

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

CABINET

Wednesday, 22nd March, 2017
Time of Commencement: 6.00 pm

Present:- Councillor Elizabeth Shenton – in the Chair

Councillors Beech, Kearon, Turner, J Williams, Rout and Robinson

Officers Executive Director (Operational Services) - David Adams,
Executive Director (Regeneration and Development) - Neale Clifton,
Geoff Durham,
Phil Jones - Head of Communications
Chief Executive - John Sellgren and
Executive Director (Resources and Support Services) - Kelvin Turner

1. MINUTES

Resolved: That the minutes of the meeting held on 8 February, 2017 be agreed as a correct record.

2. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

3. OPEN SPACE AND GREEN INFRASTRUCTURE STRATEGIES

A report was submitted to Cabinet to review the consultation feedback and seeking agreement for the adoption of the Open Spaces and Green Infrastructure Strategies.

- Resolved:**
- (i) That the Open Spaces and Green Infrastructure Strategies (as amended following the outcome of the consultation with stakeholders as detailed in this report) be adopted.
 - (ii) That an annual report on progress with the Strategies be brought to future meetings of the Cabinet.
 - (iii) That the aims and objectives of the strategies be noted and their use as part of the evidence base for the emerging joint Local Plan, including the consequential updating of other elements of the evidence base such as the Strategic Housing Land Availability Assessment be agreed.
 - (iv) That the content of the Strategies be noted and

officers be authorised to take appropriate steps to both:

- (a) report back to Cabinet upon the implications of these Strategies for the Council's Asset management Strategy, and;
- (b) to take all reasonable and proportionate steps to protect the Council's interests in the future management and maintenance of Council-owned land in the overall public interest.

4. ADOPTION OF A SPORT AND ACTIVE LIFESTYLES STRATEGY FOR THE BOROUGH

Members were advised that this Item had been deferred.

5. CONTRACT EXTENSION FOR DEBT AND BENEFIT ADVICE SERVICE 2017-18

A report was submitted to Cabinet to advise on the current situation with the continuing delivery of a Generalist Debt Advice in the borough and the potential impact from the County decisions on the service. In addition, approval was sought for a contract extension to allow further review.

- Resolved:**
- (i) That the allocation of funding as set out in paragraph 3(iii) of this report be approved and that officers be authorised to engage and develop a short term agreement as stated with the service provider
 - (ii) That a review of future advice service provision by officers where the impact of Welfare Reform and expected changes to how users access services are considered be agreed.

6. TRAFFIC REGULATION ORDER

A report was submitted to Cabinet to review the progress with the implementation of the changes to the car parking charges and the proposed adoption of the Traffic Regulation Order.

Members were advised that the business rates on car parks had risen substantially and therefore the extra costs need to be covered.

- Resolved:**
- (i) That the information arising from the consultation responses be received.
 - (ii) That the Executive Director for Regeneration and Development in conjunction with the Portfolio Holder for Town Centres, Property and Business be authorised to make any minor modifications to the Traffic Regulation Order and proceed to adoption.
 - (iii) That the fees and charges be amended to incorporate a 10% discount for the purchase of 10 permits or more and a 20% discount for the purchase of 20 permits or more.

7. **MANAGEMENT OPTIONS FOR NEWCASTLE MARKET**

A report was submitted to Cabinet setting out options for the future management of the town centre market and seeking a decision on the preferred option.

The matter had been examined by the Economic Development and Enterprise Scrutiny Committee and the Chair, Councillor Allison Gardner had been invited to this meeting of Cabinet to update Members.

Councillor Gardner advised members that four areas for investigation had been reviewed:

- 1) How can the performance of Newcastle market be improved
- 2) What do customers want from Newcastle market
- 3) How can new traders be attracted to Newcastle market
- 4) How can current traders be encouraged to work with the Council for the benefit of Newcastle market.

Surveys and interviews had been carried out with various interested parties and a 'walk about' had been undertaken around the market.

Different types of management models had been looked at and presentations had been given looking at possible ways of improving the current situation.

A report had been produced, in draft form, but it had not yet been to a meeting of the Economic Development and Enterprise Scrutiny Committee. Approximately twenty suggested recommendations are listed within the draft report.

- Resolved:**
- (i) That an external partner be sought to operate and manage the Council's town centre Markets and that officers be authorised to prepare a tender pack at the earliest opportunity and to take all the necessary steps to procure such an operator.
 - (ii) That officers be authorised to prepare an outcome-based specification for the service in consultation with the relevant Portfolio Holder(s) taking account of the views of the Economic Development and Enterprise Scrutiny Committee.
 - (iii) That the results of this tendering exercise be reported back to a future meeting of Cabinet with a view to appointing an external market operator for Newcastle town centre market as soon as practically possible.

8. **RENEWAL OPTIONS FOR MICROSOFT ENTERPRISE AGREEMENT**

A report was submitted to Cabinet seeking approval for the renewal of the Council's Microsoft Enterprise Agreement for a further three year period.

- Resolved:** That the Microsoft Enterprise Subscription Agreement for the supply of Microsoft products, including software and maintenance be renewed for a further three years.

9. **IRRECOVERABLE ITEMS**

Prior to the consideration of this report, Members were asked if they wished to make reference to specific items contained within the confidential appendix attached to this report. Members agreed that there was no requirement to do so, therefore it was not necessary for the Cabinet to go into closed session.

A report was submitted to Cabinet providing details of items deemed irrecoverable from debtors and seeking approval to write off the balances as shown in the appendix.

Resolved: That the items detailed within the confidential appendix be considered irrecoverable for the reasons stated and be written off.

10. **URGENT BUSINESS**

There was no Urgent Business. However, the Chair, Councillor Elizabeth Shenton expressed her concerns in respect of the events that had taken place at Westminster earlier today. The thoughts of the Cabinet were with all those who had been caught up in the shocking events and also with the families of those who had lost their lives.

COUNCILLOR ELIZABETH SHENTON
Chair

Meeting concluded at 6.45 pm

NEWCASTLE-UNDER-LYME BOROUGH COUNCILREPORT TO CABINETDate 7th June 2017CONTRACT OPTIONS FOR THE COUNCIL'S DOCUMENT MANAGEMENT SYSTEM**Submitted by:** Executive Director – Resources and Support Services**Portfolio:** Finance, IT & Customer**Ward(s) affected:** All Wards - Indirectly**Purpose of the Report**

To seek approval for the renewal of the Council's Electronic Document and Records Management System (EDRMS) maintenance contract with Northgate Public Sector for a further three year period.

Recommendations

- a) *The Council renew its support and maintenance contract for its EDRMS with Northgate Public Sector for a further period of three years.*
- b) *The Council conduct a full re-procurement exercise for its EDRMS software to commence approximately one year before the renewed contract ends.*
- c) *The Council procures additional licences for the Northgate Office Connect product.*
- d) *The Council waives its own standing orders regarding procurements over £50,000.*

Reasons

- a) Northgate are the only economic operator who can provide a complete application support service for the Information@Work software.
- b) The Council has a legal obligation to ensure that its software is appropriately licensed.
- c) A three year contract will give ICT and the services it supports sufficient time to accurately specify and undertake a full re-procurement exercise.
- d) The Council will continue to have access to the latest updates and technical support services.

1. Background

- 1.1. An Electronic Document and Record Management System (EDRMS) is a system used to track, manage and store documents. Newcastle under Lyme Borough Council has been an avid user of electronic document management software for more than 20 years, with the first system introduced to the Revenues and Benefits team in 1996.
- 1.2. The Council's EDRMS, Northgate Images@Work, is used extensively to store digital copies of documents, images, sound recordings and videos in a secure, reliable and efficient centralised data repository. The EDRMS autonomously keeps a record of the various versions of created documents, any modifications made, controls access and provides workflow functionality.

- 1.3. Since its introduction, the EDRMS has grown significantly and now underpins the work of many services such as Planning, Environmental Health, Licensing and Human Resources to name but a few. It also serves documents to external users, being the primary mechanism for presenting redacted planning application information on the Council's website and has the potential to underpin further digital delivery initiatives.
- 1.4. Usage of the EDRMS is growing rapidly as services prepare for the move to Castle House. Increasingly, the system is being seamlessly integrated with back office applications to not only handle bulk, repeatable, templated documents, but also bespoke, individual content. The integration of the EDRMS with common office tools such as Outlook and Word is altering how services store, search and retrieve information, in a very positive way.
- 1.5. At present, the Council maintains and develops its EDRMS using a maintenance contract with Northgate Public Sector Limited, the authors of the software. The agreement ensures that the Council has access to specialist support services and software updates, which are essential in maintaining our cyber security status. However, this is now outside of its initial contract period which exposes the authority to a number of potentially negative factors.
- 1.6. This report outlines the options the Council now has, how these may benefit services in the longer term, the potential costs and the possible impacts of not entering into a new agreement, together with recommendations for moving forward.

2. Issues

- 2.1. The Council's contract for Northgate Images@Work is now outside of its initial five year term. Whilst this does not stop the Council from using the Images@Work software, it does mean that we are now subject to additional, variable charges when our maintenance is renewed each year. It also means that we receive less favourable discounts on any additional software or professional services.
- 2.2. A number of additional components and licences are required in order to ensure that the EDRMS can continue to effectively meet the requirements of the Council's services. Opportunities exist to introduce technologies that would greatly assist both agile and mobile working, but this cannot be done if the Council does not make a firm commitment to its EDRMS platform.
- 2.3. The Council is under licensed for the Office Connect element of the EDRMS system. This is add-on software for the Microsoft Office suite that allows users to create, retrieve and save documents into the EDRMS in the same way as they would a normal file. This software has been key in securing departmental buy in, as it makes the process of storing documents with the EDRMS no more difficult than storing a regular file. Without it, staff have to use a manual interface which is difficult and slow.

3. Options Considered

3.1. 1. Do Nothing

- 3.2. The Council could allow its EDRMS contract to run-on, as it is currently. However this means that the authority would be paying more each year for its licences at a time when fiscal resources are limited. It also makes the justification of any investment in EDRMS technology very difficult as this is typically both expensive and resource intensive; not something that should be undertaken on a system that could be retired.
- 3.3. Doing nothing would also mean that ICT would no longer be able to roll out further Office Connect licences. This could negatively impact the Council's ongoing drive to get services using the platform as a means of controlling and managing information.
- 3.4. Whilst continuing with a run-on contract is unlikely to cause the Council any significant problems, it will not achieve best value and as such, this is not considered as the best option.

3.5. **2. Full Re-Procurement**

3.6. It would be possible for the Council to draw up a specification and go out to the whole of the market for a re-procurement exercise. It should be considered however that the Council has a number of systems that are deeply integrated with Images@Work and migration to an alternative platform would not be a simple, quick or inexpensive task. A number of our interfaces have been created especially for us and are not available "off the shelf".

3.7. Images@Work continues to have a significant presence within the marketplace and continues to be developed by Northgate. The potential benefits of procuring an alternative are unlikely to outweigh the costs and disruption. As such it is not considered that a full re-procurement to be the best option, at this time.

3.8. **3. Move to Cloud Based provisions**

3.9. The adoption of Cloud services within the public sector has been rapidly accelerated by central government's "Cloud First" ICT policy. Cloud based EDRMS platforms are available, however, migrating to a cloud based solution would have the same implications as option 2; full re-procurement.

3.10. It is feasible (and probable) that a cloud hosted solution would actually increase revenue costs. In addition, the Council has recently refreshed its ICT infrastructure in preparation for the move to Castle House and there is no immediate need to migrate our EDRMS to a cloud service. Given the financial and resource implications, it is not currently consider a cloud replacement is the best option.

3.11. **4. Renew our Agreement with Northgate**

3.12. The Council has the option to renew its Northgate support contract for a further period of three years, without having to undertake a significant and resource intensive procurement exercise.

3.13. A technical exemption is available under Public Procurement Regulations 2015 - Regulation 32(2) (b) as detailed below:

"The negotiated procedure without prior publication may be used for ...public supply contracts and public service contracts in any of the following cases:

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons

(ii) competition is absent for technical reasons

(iii) the protection of exclusive rights, including intellectual property rights,"

but only, in the case of paragraphs (ii) and (iii), where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;"

3.14. The Council could legitimately enter into a new contract with Northgate to secure the future of our EDRMS platform and fix our costs for a suitable period. The Council could also procure the necessary Office Connects licences as part of the same exercise, which are only available directly from Northgate.

3.15. It is not recommended that the Council extend the contract beyond three years and it is also recommended that a full re-procurement exercise is undertaken at least 12 months before the renewed contract expires.

4. Proposal

- 4.1. In order to ensure the continued reliable and legal provision of EDRMS software, option 4 is recommended.
 - a) The Council renew its support and maintenance contract for its EDRMS with Northgate Public Sector for a further period of three years.
 - b) The Council conduct a full re-procurement exercise for its EDRMS software, to commence approximately one year before the renewed contract ends.
 - c) The Council procures additional licences for the Northgate Office Connect product.
 - d) The Council waives its own standing orders regarding procurements over £50,000.

5. **Reasons for Preferred Solution**

- 5.1. Northgate are the only economic operator who can provide a complete application support service for the Information@Work software, for both technical and intellectual property reasons. No other supplier can provide these particular services and there is no reasonable alternative.
- 5.2. The Council has a legal obligation to ensure that its software is appropriately licensed and entering into a replacement support and maintenance contract will help to fulfil this obligation. It also puts the Council in a very good position in the medium financial term as our pricing will be fixed for three years allowing greater budget control.
- 5.3. A three year contract will give ICT and the services it supports sufficient time to undertake a full re-procurement exercise. Renewing the agreement will also mean that our Images@Work contract expires at the same time as our Revenues and Benefits software (also Northgate); which is a key influencing factor in determining the platform the Council uses.
- 5.4. Critically, the Council cannot avoid using its EDRMS platform. It is integrated into a significant number of services and its usage is increasing. Having a fixed length support contract in place ensures that the Council is in a good position to continue benefiting from the systems development and that it has access to all the latest updates and technical support services.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1. A number of key services are either directly or indirectly dependent upon the EDRMS. As such, this proposal either directly or indirectly links to all corporate priorities, targets and strategies.

7. **Legal and Statutory Implications**

- 7.1. The Council would be entering into a new contract without consulting the whole of the market. This would normally be required by the Council's own standing orders and the Public Procurement Regulations, 2015.
- 7.2. As outlined in 3.13, a technical exemption is available under Public Procurement Regulations 2015 - Regulation 32(2) (b) if there are no reasonable alternative providers. The Council would however have to waive its own standing orders with regards to contracts over £50,000 requiring a full tender.
- 7.3. This procurement approach has been discussed with the Council's procurement officer, who has confirmed that under the circumstances, this is an acceptable use of the exemption.

8. **Financial and Resource Implications**

8.1. The expected agreement costs are as follows:

Item	Cost Per Year	Cost over 3 year Contract
Images@Work Software Maintenance	£16,346.58	£49039.74
Additional Office Connect Licensing	£5,800.00 (one off)	£5,800.00
Office Connect Support	£1,160.00	£3,480.00
	Total	£58,319.74

8.2. The costs of the Images@Work software maintenance and Office Connect support can be met from ICT's existing revenue budgets, as these are already accounted for. The purchase of the Office Connect software licensing and the first years support can be met from the Council's Castle House budget as an allocation for EDRMS related activities has been included to cover this.

9. **Major Risks**

9.1. A complete risk assessment is held within the Council's corporate risk management system. However, highlights include:

- a) *The Council does not renew its contract*
This could result in additional financial costs or the disruption of Council services.
- b) *The Council does not procure sufficient licences*
This will adversely affect services ability to use the EDRMS efficiently and could result in legal action being taken by the supplier if sufficient licensing were not in place.

10. **Earlier Cabinet/Committee Resolutions**

10.1. There are no earlier Cabinet/Committee Resolutions available within the last five years.

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FINANCIAL AND PERFORMANCE MANAGEMENT REPORT TO END OF QUARTER FOUR (January-March) 2016

Submitted by: Executive Management Team

Portfolio: Policy, People & Partnerships
Finance, IT & Customer

Wards Affected: All

Purpose

To provide Cabinet with the Financial and Performance Review report with the Financial and Performance Review report - fourth quarter 2016/17.

Recommendations

- (a) That Members note the contents of the attached report and agrees to the recommendation that the Council continues to monitor performance alongside the latest financial information for the same period.

Reasons

The Financial and Performance Management monitoring reports provide information on a quarterly basis regarding the performance of individual council services, alongside related financial information on the organisation.

1. Background

- 1.1 This quarterly report provides Members with a detailed update on how the Council has performed during the fourth quarter of 2016/17 by presenting performance data set within a financial context.
- 1.2 This report provides broad financial information (Appendix A) and also details performance which is reported by exception (Appendix B) for the fourth quarter of 2016/17.
- 1.3 A summary of the overall performance picture is presented in section 3 of this report and members will note that performance is generally progressing well.

2. 2015/16 Revenue and Capital Budget Position

- 2.1 The Council approved a general fund revenue budget of £14,138,550 on 24 February 2016. Further financial information is provided in Appendix A.

3 Performance

- 3.1 The latest performance information for quarter two has been analysed.
- 3.2 Any indicators failing to meet the set targets are reported, by exception, in the table found in Appendix B.
- 3.3 The list of indicators monitored has been reviewed for 2016-17 with four of the indicators removed as they were not key indicators and one new one added. For this report a total of 21 indicators were monitored, and the proportion of indicators which have met their target during this period stands at 81%.

- 3.4 There is a slight increase in indicators off target this quarter, and officers consider that the performance against these indicators does not give rise to serious cause for concern at present. The management of each of the service areas concerned continue to monitor and take steps to deal with under achievement of targets where possible and/or appropriate.

Further quarterly updates will be provided for Members in future reports.

- 3.5 Positive performance can be seen in a range of services and members will note that some services are affected by both seasonal and external factors. It should also be noted for consideration that some indicators have stretched targets set and local targets that are higher than the national ones.

4. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 4.1 All indicators link to corporate priorities set out in the Council Plan and/or Service Plans.

5. Legal and Statutory Implications

- 5.1 The Council has a duty to set targets for performance of a range of functions and needs to monitor these closely.

6. Equality Impact Implications

- 6.1 There are no differential equality issues arising directly from this monitoring report.

7. Financial and Resource Implications

- 7.1 Any positive variance for the full year on the General Fund Revenue Account will enable that amount to be transferred to the Budget Support Fund and will be available in future years for use as the Council considers appropriate. Conversely, if there is an adverse variance, the amount required to cover this will have to be met from the Budget Support Fund.

8. Major Risks

- 8.1 The ongoing changing market conditions represents the greatest risk to the revenue budget, particularly with regard to the impact it may have upon income receivable in relation to services where customers may choose whether or not to use Council facilities or in the case of the waste/recycling service where the volume of recycled materials is liable to fluctuate. The situation will be monitored through the normal budget monitoring procedures.
- 8.2 The capital programme will require regular monitoring to identify any projects which are falling behind their planned completion dates. This will be carried out by the Capital Programme Review Group, which meets on a monthly basis together with quarterly reports to Cabinet.
- 8.3 The above represents a high level view of risk. There are detailed risk registers available if members wish to see them.

9. List of Appendices

Financial information (Appendix A) and the performance information (Appendix B).

10. Background Papers

Working papers held by officers responsible for calculating indicators.

11. Management sign off

Each of the designated boxes need to be signed off and dated before going to Executive Director/Corporate Service Manager for sign off.

	Signed	Dated
Financial Implications Discussed and Agreed		
Risk Implications Discussed and Agreed		
Legal Implications Discussed and Agreed		
H.R. Implications Discussed and Agreed		
ICT Implications Discussed and Agreed		
Report Agreed by: Executive Director/ Head of Service		

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Financial Position Quarter Four 2016/17**1. General Fund Revenue Budget**

- 1.1 The Council approved a General Fund Revenue Budget of £14,138,550 on 24 February 2016. The actual position compared to this budget is monitored by managers, EMT and Portfolio Holders in order to detect any significant variances of expenditure or income from the approved amounts contained in the budget.
- 1.2 The unaudited outturn in respect of the General Fund Revenue Account was a surplus of £6,037 compared to the budget of £14,138,550. Whilst there were adverse variances against some budget heads, these have been offset by positive variances against others. The Audit and Standards Committee agenda for its meeting on 3 July 2017 contains a commentary on the outturn in the report in relation to the Statement of Accounts for 2016/17 which can be referred to for further details such as areas where variances occurred. The formal external audit of the Statement of Accounts commences on 10 July 2017.

2. Capital Programme

- 2.1 The revised budget for capital projects in 2016/17 as shown in the Revenue and Capital Budgets report approved by Council in February totals £11,744,000.
- 2.2 The position at the end of the fourth quarter is as follows:-

	£
Budget	11,744,000
Actual Expenditure	(8,725,678)
Committed orders and carry forwards for existing projects	(646,437)
Funds to be carried forward regarding S106 projects	(42,816)
Budget to be carried forward regarding Castle House project	(2,248,363)
Variance	(80,706)

- 2.3 During the year discussions have taken place regarding the need to carry out a full Stock Condition Survey on all the Council's assets. The works resulting from this survey could amount to a considerable sum. It is proposed to finance the survey by using additional "Right to Buy" sale proceeds. The Council has received an additional £83k during 2016/17 over and above the amount budgeted for part funding the Castle House project and it is recommended that this is earmarked for the survey.
- 2.4 It should be noted that the Council's Capital Balance is at a minimum. The contingency funds available for any urgent/essential works only amount to £381k. It is imperative that the sites earmarked for disposal within the Asset Management Strategy are progressed as soon as possible as any delays will only worsen the Council's overall financial position.

3. Investment Counterparties





- 3.1 Investment counterparties with whom money is invested, as at 31 March 2017 are as follows (with the parent company shown in brackets, where applicable):

Santander

- 3.2 With regard to the Council's frozen investment in Heritable Bank the total amount repaid now totals £2,457,623, which is 98% of the total that was frozen.

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Appendix B: Qtr 4 Performance indicators reported by exception

Exception Report Quarter 4, 2016-17 (January-March)						
Ref	Indicator	Result	Target	Status	Officer	Portfolio holder
1.6	The amount of residual waste per household	112.02kgs (est.) Qtr 4 (449 kgs annual estimate)	103.75k gs Qtr 4 (415 kgs annual)		Trevor Nicoll	Cllr. A. Beech
Comment for 1.6	Residual waste has increased this year, particularly in quarter 4. Newcastle-Under-Lyme Borough Council is not unique in this and it appears to be a national trend having had a large number of years where quantities were falling, ours included. The reasons are complex, but an improving economy may be a key factor, with people having more disposable income, and therefore buying more. The key moving forward is to try and identify how we could easily pull more recycling and especially food out of the residual waste stream.					
1.7	Percentage of household waste sent for reuse, recycling and composting:	43.95% (est.) Qtr 4 49.51% (annual estimate)	52% Qtr 4 and annual		Trevor Nicoll	Cllr. A. Beech
Comment for 1.7	Overall recycling and composting has not increased from last year's outturn, however when we break the figures down it is clear that Dry Waste recycling has gone up significantly following the introduction of the new recycling service in quarter 2 2016, following a poor quarter 1 performance with the old service. Organics are where we have seen a decrease in tonnage. Garden waste is down this year compared with last overall, due to weather conditions, and food waste has seen a decrease, possibly due to operational issues with the new service when it commenced. However, the Borough Council is in the top 25% of highest performing authorities in the country for recycling.					
2.3	Average stall occupancy rate for markets	59%	65%		Jo Halliday	Cllr. J. Williams
Comment for 2.3	The result this quarter suffers from the 'normal' seasonal peak of unoccupied stalls for the winter trading period. On a broader note members will recall Cabinet has resolved that the council should seek to appoint a private market operator to improve the Newcastle Market offer and to increase occupancy (as well as the market's broader viability). This process has begun and it is anticipated that the outcome will be reported to your meeting in July. The current expectation is that any new service will be in operation by early autumn 2017.					
4.4	% Unmet demand (number of calls not answered as a % of total call handling volume)	14.36%	8%		Kelvin Turner	Cllr. T. Turner
Comment for 4.4	The result is off target this quarter due to an increase in calls caused by the following: <ul style="list-style-type: none"> • Introduction of the Recycling & Waste Service Standards. • Election enquiries throughout February and March due to the recent County Council elections and the impact of Individual Electoral Registration (IER), where individuals are now in control of their registration instead of the household. 					

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE CABINET

1. **REPORT TITLE** Shared legal service with Stoke-on-Trent City Council

Submitted by: Chief Executive

Portfolio: Policy, People and Partnerships

Wards affected: All

Purpose of report

To seek approval for the council to enter into a shared service agreement with Stoke-on-Trent City Council for the provision of legal services.

Recommendation

The Option 2 to create a shared legal service with Stoke-on-Trent City Council is progressed.

Reason for decision

To ensure that the council maintains a high quality legal service capable of meeting the council's current and anticipated future requirements.

1. **Background**

1.1 As part of a restructure in the Chief Executive's and Regeneration and Development Directorates which took place in January 2017 it was agreed that the council would seek to enter into a shared service arrangement with Stoke on Trent City Council for the delivery of legal services. In the restructure the legal and democratic services teams have been brought under the management of a Legal and Democratic Services Manager. This post holder is also the council's principal solicitor.

1.2 There are currently two vacancies in professional legal posts within the legal team that of Senior Solicitor and of Solicitor. It is proposed that rather than replace these roles that the resources for these posts in the approved budget be used to fund a shared service with Stoke-on-Trent City Council.

2. **Shared service**

2.1 Extensive discussions have taken place with the Assistant Director for Governance at the City Council. Further, whilst the post of Senior Solicitor has been vacant the City Council has been providing an officer to the Borough Council to support the work of this post for which the Borough Council pays a fee to the City Council. This arrangement has worked very well over a period of many months.

- 2.2 Under the shared service the council would retain an in-house legal team located at the council's offices. The in-house team would provide much of the day-to-day legal work particularly that relating to freehold and leasehold conveyancing, contract, s106 work, routine internal legal enquiries and servicing of the Council's regulatory committees. This resource would be complemented by the shared service agreement through which the Borough Council would have access to the wider range of professional legal support within the City Council's legal team.
- 2.3 In addition the Borough Council would have access to call-off additional legal support from the City Council at an agreed hourly rate.
- 2.4 In addition the agreement makes provision for the Borough Council to share access to legal documentation and to use the facilities of the City Council's legal case management system as added value services which are not part of the initial agreement but can be included subsequently if this was confirmed to be mutually beneficial to both councils.

3. **Legal form of agreement**

- 3.1 It is therefore considered that the Borough Council should now enter into a formal agreement with the City Council for the ongoing provision of legal services as a shared service. A form of agreement has been formulated between the Borough Council and the City Council which would see the two authorities enter into a shared service agreement under the provisions of best value provisions of the Local Government Act 1999 and other relevant legislation referred to below.
- 3.2 It is proposed that this should be a long term agreement but with suitable break clauses to allow both councils to reappraise the situation at regular intervals.

4. **Options considered**

Option 1 Status quo

It would be possible for the Borough Council to recruit to the vacant posts and to retain a wholly internal legal team.

Option 2 Shared service

The option to create a shared service with the City Council adds to the resilience of the Borough Council's legal service. The shared service which has been formulated seeks to balance the best of an in-house service with legal staff still located within the council's own office whilst being part of a larger legal team which gives access to a wider range of skills and expertise than can be delivered in a comparatively small in-house team. The major advantage of the shared service for the Borough Council is to be able to access the wider range of professional legal expertise in the City Council's legal team. Partnering with another local government legal team brings

advantages of the existing local government expertise which exists within another Council's in-house legal team.

Option 3 Commercial service

Consideration has been given to all of the legal work of the council being put out to external legal firms. It should be noted that the council already places a volume of work with external legal firms where there is not the in-house expertise to undertake the work. It is envisaged that this would still be the case under the shared service.

Whilst there is a level of specialist expertise in relation to local government law within private practices this area of work forms far less of the routine work than is the case for in-house local government legal teams. It is therefore considered that there is greater benefit for the Borough Council to partner with a local government legal team through a shared service than by commissioning all legal services from a private legal practice.

5. **Outcomes linked to Sustainable Community Strategy and Corporate Priorities**

6. **Legal and statutory implications**

The shared service would be operated under the provisions of:

- the Local Government Act 1972;
- the Localism Act 2011;
- the Local Authorities (Goods and Services) Act 1970;
- the Local Government Act 1999

Local authorities being statutory bodies may only act as provided for in legislation. Any act outside the scope of its statutory power would be ultra vires and therefore unlawful.

If there is a risk of conflict of interest then the Council's in-house team would decide upon the best course of action to resolve the issue which may include outsourcing to other professionals.

7. **Equality impact implications**

The City Council is subject to the same employment and other equalities legislation as the Borough Council.

8. **Financial and resource implications**

Under this arrangement the Borough Council would pay to the City Council the sum of £65,000 for the core services provided under the agreement.

9. **Major risks**

That the authorities may be unable to work together at some future point. This is however dealt with in the agreement by virtue of the break clauses.

Cases of conflict of interest will be dealt with as referred to in the report.

Local authorities can be exempt from the procurement rules but care needs to be taken that the structure of the arrangement does not become a service contract.

The level of demand for legal work by the council could exceed the resource provided for under the shared service. This risk also applies in relation the existing in-house service. Under the shared service agreement this risk will be mitigated by the Borough Council's Principal Solicitor acting as the client manager who will allocate work and case files to the City Council staff to deliver. There are provisions in the agreement for additional work to be taken on beyond the core service at an agreed hourly rate.

10. **Background papers**

None

11. **Earlier Cabinet / Committee resolutions**

None

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO CABINET

Date **7th June 2017**

1. **HEADING** **Crackley Local Lettings Plan**

Submitted by: **Abid Razaq**

Portfolio: **Planning and Housing**

Ward(s) affected: **Chesterton**

Purpose of the Report

To enable Cabinet to consider implementing a Crackley Local Lettings Plan in partnership with Aspire Housing, to allocate properties on the proposed development at Birch House Road, Crackley.

Recommendations

- (a) **That the disposal of the land at Birch House Road, Crackley to Aspire Housing for the development of affordable housing progresses alongside further discussions with Aspire on the nominations process and possible Local Letting Plan.**

- (b) **That the Executive Director for Regeneration and Development is authorised in conjunction with the Portfolio Holder for Planning and Housing to finalise the Local Lettings Plan and nominations process with Aspire Housing.**

Reasons

To review progress with discussions with Aspire Housing for the transfer of the site to enable the comprehensive development of affordable housing. Thus enabling the Portfolio Holder to consider the key points around the nominations and proposed local lettings plan prior to the disposal of the site.

1. **Background**

- 1.1 In January 2017 Cabinet considered progress with the delivery of the approved Asset Management Strategy. Part of this consideration was given to the consultation responses to the potential disposal of the former Crackley Community Centre and it was agreed that disposal could proceed. As members will be aware Aspire Housing own the adjoining cleared land which previously housed small retail units and a closed public house. Aspire Housing have been preparing proposals to regenerate the area (which has suffered with antisocial behaviour) and are proposing redevelopment of the area for affordable housing. Should the Council dispose of its site to Aspire Housing this will enable a more comprehensive redevelopment to support the regeneration objectives. Subject to planning permission, indicative plans show that the development could be for 30 affordable housing units, consisting 10 x 2 Bed 2 person house; 12 x 3 Bed 3 person house; 2 x 2 Bed 3 person bungalows; 6 x 1 Bed 2 person flats. The flats and bungalows are designed for older people.

- 1.2 The Council has a Housing Allocations Policy, which was reviewed and updated in 2015. This policy is used to prioritise applicants who register on the housing waiting list and is used as a basis to make nominations to social and affordable rented properties.

- 1.3 The allocation policy follows the statutory guidance and gives priority to applicants who are in 'statutory reasonable preference categories'; these are groupings of people that are recognised in law to be in greatest housing need. However, in certain limited instances, councils and housing providers are permitted to use 'local lettings plans' to make allocations outside of their general allocation policy. This is done where there are 'wider policy' reasons; such as the promotion of greater choice and wider options, or the utilisation of existing housing stock to its full potential, or the creation of more mixed and sustainable communities.

2. **Issues**

- 2.1 As part of the approval of the updated Asset Management Strategy, Officers were authorised to proceed with certain disposals in liaison with the relevant Portfolio Holder. On consideration of the site at Birch House Road officers consider that disposal to Aspire Housing is the most appropriate way forward because it will facilitate delivery of a comprehensive redevelopment solution to bring forward much needed affordable housing. Normally the Council would request 100% nominations on a new build affordable housing site; however as the proposals are to develop the Council and Aspire sites comprehensively the nominations could be calculated over the whole site. As part of the emerging plans for the site it is proposed that further discussions take place with Aspire Housing to consider reasonable nomination rights.
- 2.2 Aspire Housing have requested that a local lettings plan is implemented to create sustainable tenancies that both enhance the quality of life for existing residents, nearby neighbours and help to create a balanced community that blends in with and complements the existing local population. Aspire Housing intend to have a Local Letting Plan on their part of the development, it is therefore appropriate to discuss suitable allocations and management of the properties being developed on the land transferred from the Council.
- 2.3 Both the Council and Aspire Housing are mindful of the best practice that surrounds the formulation of a local letting plan; and have carefully considered the publication by the Chartered Institute of Housing; "Allocations and Local Flexibility" 2010. This states that although Local lettings plans can be an important tool in response to specific local circumstances, if used:
- their nature and scope must be published. This is the requirement to be transparent and to show a rational link between the objectives that the local letting policy intends to achieve and its' criteria of allocation.
 - it must carefully consider any equalities implications likely to arise from the policy, whereby direct or indirect discrimination is likely to occur.
 - it should be for a limited time period, after which should be reviewed to assess whether the policy objectives have been achieved.
- 2.4 Through discussions with Aspire Housing the Council will seek to ensure that any Local Lettings Plan will support the sustainability of the new development by ensuring allocations are made to suitable families and older people are supported to down size.
- 2.5 Aspire Housing have spoken with the resident groups and key stakeholders within Chesterton who are supportive of the principles contained within the plan. Furthermore, Aspire Housing will also formally consult with their Customer Panel in June 2017 and the responses of this consultation will be incorporated into the final published plan.

3. **Proposal and Reasons for Preferred Solution**

3.1 To proceed with the disposal of the site to Aspire Housing to enable the development of affordable housing for local people.

3.2 To authorise officers in conjunction with the Portfolio Holder for Planning and Housing to discuss a potential Local Lettings Plan for the site and suitable nominations process to ensure a balanced and proportionate approach to meeting local needs.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

4.1 Managing effective housing nominations and allocations contributes to the Council's corporate priorities to provide a borough of opportunity, a healthy and active community and becoming a co-operative Council, delivering high quality community driven services.

5. **Legal and Statutory Implications**

5.1 It is a statutory requirement that Local Authorities have an Allocations Policy under Part VI of the Housing Act 1996. Any local lettings plans should have regard to this legislation.

The Allocation of Accommodation: Guidance for Local Housing Authorities in England (DCLG), June 2012 states:

"4.21 Section 166A(6)(b) of the 1996 Act enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall the authority is able to demonstrate compliance with the requirements of s.166A(3). This is the statutory basis for so-called 'local lettings plans' which may be used to achieve a wide variety of housing management and policy objectives."

5.2 Section 123 of the Local Government Act 1972 (as amended) requires that Councils achieve 'best consideration' when disposing of their land.

5.3 The Local Government Act 2000 (as amended) provides Councils with powers to achieve the social, economic or environmental well-being of their area.

6. **Equality Impact Assessment**

6.1 The Council and Aspire Housing will consider the impact of the proposed plan as part of the development of the process.

7. **Financial and Resource Implications**

7.1 Due to the location of the site and the risks associated with offering properties for sale in this market there are no shared ownership or market sale units proposed. The development of the affordable housing on the site will require significant investment from Aspire Housing as part of their place-shaping development in a priority neighbourhood. To support this approach and to ensure that the scheme can be delivered on commercially realistic terms it is proposed that the site is transferred to Aspire at nil cost.

8. **Major Risks**

8.1 The purpose of implementing a Local Lettings Plan is to ensure that the newly developed properties are sustainable and to reduce the risks that the site becomes a future target for antisocial behaviour and further deprivation.

9. **Key Decision Information**

9.1 This is not a key decision.

10. **Earlier Cabinet/Committee Resolutions**

10.1 January 2017 – Cabinet approval of the disposal of the site. <http://moderngov.newcastle-staffs.gov.uk/ieListDocuments.aspx?CId=118&Mid=2773&Ver=4>

11. **List of Appendices**

11.1 None

12. **Background Papers**

12.1 DCLG guidance on allocations <https://www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england>

12.2 Part VI of the Housing Act 1996 - <http://www.legislation.gov.uk/ukpga/1996/52/part/VI>

12.3 Information on the possible issues to be covered in the draft Local Lettings Plan as available from Housing Strategy on request.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE CABINET

Date 7th June 2017

REPORT TITLE Implementation of new provisions under the Planning and Housing Act 2016

Submitted by: Gill Taylor

Portfolio: Planning & Housing

Ward(s) affected: All

Purpose of the Report

To advise Cabinet of the opportunity to impose civil penalties for certain housing offences under the Housing and Planning Act 2016 and decide on the charging scheme.

Recommendations

- a) To adopt civil penalties for housing offences in appropriate circumstances.
- b) To approve the charging system set out in appendix A, which sets a civil penalty of £5000 for a first offence with multipliers of up to £30, 000 for serious offences and reductions for some special circumstances.
- c) Amend the scheme of delegation to “Power to authorise the institution / enforcement of civil proceedings under section 126 and Schedule 9 Housing and Planning Act 2016” to Head of Housing Regeneration and Assets and appropriately qualified housing officers.
- d) To approve the updated Housing Enforcement Guidance 2017, set out in Appendix B, to include use of civil penalties and rent repayment orders also introduced by the Housing and Planning Act 2016.

Reasons

To ensure full use of new provisions aimed at regularising landlords and property agents who do not provide homes which are free from hazards to safety and health.

1. **Background**

- 1.1 There is a strong private rented sector in the borough serving the housing needs of approximately 10% of our residents. The Council is responsible for ensuring good standards in the sector protecting the health, welfare and rights of tenants. This report discusses two new provisions in the Housing and Planning Act 2016. Imposing civil penalties on landlords who do not comply with certain provisions in the Housing Act 2004 and applying for rent repayment orders where certain offences have been committed.

2. **New Legislation – Housing and Planning Act 2016**

2.1 **Civil Penalties**

- 2.1.1 Non-compliance with certain housing act notices, regulations and licensing requirements can result in a prosecution case being instigated against the offender. Section 126 and schedule 9 of the Housing and Planning Act 2016 now adds an alternative option of allowing a civil penalty to be imposed by a local housing authority. The amount is to be determined by the local housing authority with a maximum set at £30,000. The Newcastle-under-Lyme proposed charging system is set out in appendix A. In determining the system regard has been had to government guidance and to ensuring consistency with other Staffordshire authorities.
- 2.1.3 A civil penalty is an alternative to prosecution so both cannot be applied. A civil penalty requires the same burden of proof as a prosecution so can only be embarked on when there would be a realistic prospect of conviction were it to go to court. Local Authorities are guided to consult the Crown Prosecution Service Code for Crown prosecutors for guidance on evidence. This includes two stages (i) the evidential stage ensuring there is sufficient reliable, credible evidence, and (ii) assessing that it is in the public interest to proceed.
- 2.1.4 Local housing authorities are expected to develop and document their own policy on when to prosecute and when to issue a civil penalty and decide on which option on a case-by-case basis. The Housing Enforcement Guidance has been updated to include these details and is attached as Appendix B for approval.
- 2.1.5 Recipients of a civil penalty have the right to appeal to the Residential Property Tribunal where the soundness of the decision to impose a civil penalty, the decision relating to the amount and deviations from the prescribed process can be rigorously reviewed.

2.2 Charging System

- 2.2.2 A civil penalty should not be seen as a lesser option compared to prosecution. It should be set sufficiently high to have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- 2.2.3 The charging system therefore proposes a civil penalty of £5000 for a first offence going up to £30,000 depending on the circumstances of the case. Factors taken into account will be:
- severity of the offence
 - culpability and track record of the offender,
 - the harm caused to the tenant,
 - deterring the offender from repeating the offence,
 - deterring others committing similar offences,
 - removing any financial benefit the offender may have obtained as a result of committing the offence,
 - the financial means of the offender.
- The impact of these factors is set out in the table in Appendix A.

2.3 Process

- 2.3.1 There is a prescribed process for levying a fine which must be followed precisely, this is laid out in the Statutory Guidance to Local Authorities. There is also guidance on chasing the civil penalties if they are not paid.

2.4 Database of Rogue Landlords and Banning Orders

- 2.4.1 There are still times when Prosecution will be a preferred option to a civil penalty.

This will be when the authority is seeking to apply for a Banning Order. These were introduced under the Housing and Planning Act 2016 (scheduled to come into force on 1st October 2017) and prevent a landlord who is found guilty of certain offences in a Magistrates Court continuing to trade. Where it is considered that a banning order should be pursued prosecution rather than civil penalties will be undertaken.

2.4.2 Factors that will determine whether to prosecute or impose a civil penalty are the seriousness of an offence, history of previous offences, culpability i.e. planned or premeditated actions, likelihood of offences being continued, repeated or escalated, vulnerability of the tenant and the potential impact on the wider community. The policy on when to prosecute and when to issue a civil penalty is set out in the updated Housing Enforcement Guidance 2017 in Appendix B.

2.5 **Rent Repayment Orders**

2.5.1 Rent repayment orders can be applied for following offences of not complying with an improvement or prohibition notice under the Housing Act 2004 or offences relating to using violence to secure entry to a property or illegal eviction / harassment. An application is made to the First Tier Tribunal and if granted requires a landlord (person entitled to keep the rent) to repay a specified amount of rent, up to a maximum of 12 months. An application can be made by a tenant where they paid the rent themselves or a local housing authority if the rent was paid through Housing Benefit or the housing element of Universal Credit.

2.5.2 Similar to civil penalties the landlord does not have to have been found guilty of the offence but there must be evidence to satisfy the tribunal beyond reasonable doubt that the offence has been committed.

2.5.3 The updated Housing Enforcement Guidance sets out more information on their use. Following an offence to which rent repayment orders apply, the first consideration will be whether there is sufficient evidence to secure a conviction. If there is a decision will be made between a civil penalty or prosecution. Following that consideration will be given to applying for a rent repayment order or advising the tenant on applying. Further information on rent repayment orders is in the Housing Enforcement Guidance 2017 in Appendix B.

3. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

3.1 The adoption of these duties will contribute to:

- creating a healthy and active community by improving the safety of the private rented sector and enhancing tenants' rights;
- our Co-operative Council aims to protect the interests of our citizens and;
- demonstrate effective Partnership Working with neighbouring authorities.

4. **Legal and Statutory Implications**

4.1 The recommendations are brought about by the duty placed on local authorities to enforce relevant legislation. Section 126 and schedule 9 of the Housing and Planning Act 2016 comes into force on 6 April.

5. **Equality Impact Assessment**

5.1 There are no negative impacts that have been identified. The positive impacts will directly benefit tenants in the private rented sector.

6. **Financial and Resource Implications**

- 6.1 As civil penalties are an alternative to prosecution with the same burden of proof they should not create additional workload. However there will be additional administration with them and it is highly likely that a landlord receiving a civil penalty will apply to the Residential Property Tribunal.
- 6.2 Income received from a civil penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

7. **Major Risks**

- 7.1 None identified from the recommendations identified in this report

8. **Key Decision Information**

- 8.1 This is a key decision as it could affect all wards.

9. **List of Appendices**

- 9.1 Appendix A Charging System
- 9.2 Appendix B Housing Enforcement Guidance 2017

10. **Background Documents**

- 10.1 Civil penalties under the Housing Act 2016. Statutory guidance for local authorities on the new powers on civil penalties
<https://www.gov.uk/government/publications/civil-penalties-under-the-housing-and-planning-act-2016>

Section 126 and schedule 9 of the Housing and Planning Act 2016.

Appendix A
Charging system for determining value of civil penalties imposed under Housing Act 2004 and Housing and Planning Act 2016

Failure to comply with an Improvement Notice (Section 30) <i>(note 1)</i>	£
1st offence	5000
2nd offence by same person/company	15000
Subsequent offences by same person/company <i>(note 2)</i>	25000
Premiums (use all that apply)	
Large housing portfolio (10+ properties) <i>(note 3)</i>	+2500
Multiple Category 1 or high Category 2 Hazards <i>(note 4)</i>	+2500
Vulnerable occupant and/or significant harm occurred as result of housing conditions <i>(note 5)</i>	+2500
Perpetrator demonstrates Income to be less than £440/week <i>(note 6)</i>	-50%

Offences in relation to licensing of HMOs under Part 2 of the Act (Section 72) <i>(note 1)</i>	£
Failure to obtain property Licence (section 72(1))	10000
subsequent offence by same person/company <i>(note 2)</i>	20000
Breach of Licence conditions - Section 72(2) and (3) - Per licence breach	
	5000
Premiums (use all that apply)	
Large housing portfolio (10+ properties) <i>(note 3)</i>	+2500
Vulnerable occupant and/or significant harm occurred as result of housing conditions <i>(note 5)</i>	+2500
Perpetrator demonstrates Income to be less than £440/week <i>(note 6)</i>	-50%

Offences in relation to licensing under Part 3 of the Act (Section 95) <i>(note 1)</i>	£
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Failure to Licence - section 95(1)	10000
subsequent offence by same person/company (note 2)	20000
Breach of Licence conditions - Section 95(2) - Per licence breach	5000
Premiums (use all that apply)	
Large housing portfolio (10+ properties) (note 3)	+2500
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 5)	+2500
Perpetrator demonstrates Income to be less than £440/week (note 6)	-50%

Offences of contravention of an overcrowding notice - section 139 (note 1)	£
1st relevant offences	2500
subsequent offence by same person/company (note 2)	10000
Premiums (use all that apply)	
Large housing portfolio (10+ properties) (note 3)	+2500
Vulnerable occupant and/or significant harm occurred as result of overcrowding (note 5)	+2500
Perpetrator demonstrates Income to be less than £440/week (note 6)	-50%
Knowingly breach of notice (note 7)	+2500

Failure to comply with management regulations in respect of HMOs (Section 234) (note 1)	£
relevant offences (per regulation)	1000
subsequent offence by same person/company (note 2)	+2500
Premiums (use all that apply)	
Large housing portfolio (10+ properties) (note 3)	+2500
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 5)	+2500

Perpetrator demonstrates Income to be less than £440/week (note 6)	-50%
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Note 1 – Offences that may be dealt with by way of imposing a financial penalty

The starting point for a financial penalty is based on the number of previous convictions or imposition of a financial penalties for the same type of offence in the previous four years.

After the starting point has been determined, relevant Premiums are added to the starting amount to determine the full financial penalty to be imposed

No single financial penalty may be over £30,000. Where the addition of all relevant premiums would put the penalty above the maximum, it shall be capped at £30,000

Note 2 - 2nd and subsequent offence by same person/company

The Council will take into account any such convictions or financial penalties irrespective of the locality to which the offence relates.

Note 3 - Large housing portfolio (10+ properties)

The premium is applied where the perpetrator has control or manages of 10 or more residential properties. It is considered appropriate to set a higher penalty for landlords who operate a large number of properties as they are effectively operating a business and in failing to comply with statutory provisions are gaining a competitive advantage over law-abiding landlords.

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 4 - Multiple Category 1 or high Category 2 Hazards

This premium will apply where the failure to comply with the Improvement Notice relates to three or more Category 1 or D or E Category 2 hazards associated with different building deficiencies. Where two hazards are present but relate to the same property defect, they are counted as one hazard for purposes of this calculation.

The purpose of this premium is to reflect the severity of the offence, in that several defects have not been addressed, and to ensure there is no financial benefit in not complying with a notice with multiple works.

Note 5 - Vulnerable occupant and/or significant harm occurred as result of housing conditions

This premium will be applied if the property is occupied by a vulnerable person or if significant harm has occurred as a result of the housing conditions. A statement may be obtained from the tenant relating to harm caused.

A vulnerable person is someone who forms part of the identified vulnerable group for each hazard under the Housing Health and Safety Rating System. Or an occupant or group of occupants considered by the Council to be at particular risk of harm that the perpetrator ought to have had regard to. The table below identifies the vulnerable group for each hazard.

Significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm under the Housing Health and Safety Rating System Operating Guidance. At the time of publication this document can be found at www.gov.uk .

Hazard	Vulnerable age group (age of occupant)
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Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
Falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

Note 6 - Perpetrator demonstrates Income to be less than £440/week

This premium will be applied after all other relevant premiums have been included and if applicable will reduce the overall financial penalty by 50%.

To be applicable, the person served by the Notice of Intent must provide sufficient documented evidence of income.

The figure of £440/week is to be calculated after omission of income tax and national insurance. The threshold for such a reduction was determined by reference to the Magistrates Courts sentencing guidelines and could be amended as necessary to take into account inflation etc.

The Council reserves the right to request further information to support any financial claim, and where this is incomplete or not sufficiently evidenced may determine that the premium should not be applied.

Note 7 - Knowingly breach of notice

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless manner in not complying with the overcrowding notice.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Date 7th June 2017

DECISIONS TAKEN UNDER DELEGATED AUTHORITY

Portfolio: Finance, IT and Customer

Ward(s) affected: All

Expenditure for printing in relation to Parliamentary Election 2017.

- Approval for waiver to extend current provision to the existing provider.

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