

AGENDA

CABINET MEETING

Date: Wednesday, 2 September 2015
Time: 7.00 pm
Venue: Council Chamber - Swale House

Membership:

Councillors Bowles (Chairman), Mike Cosgrove, Duncan Dewar-Whalley, Gerry Lewin (Vice-Chairman), Ken Pugh, David Simmons, Mike Whiting, Ted Wilcox and John Wright.

Quorum = 3

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	Pages
1. Apologies for Absence	
2. Minutes	
To approve the Minutes of the Meeting held on 15 July 2015 (Minute Nos. 101 - 110) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act	

2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

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Issued on Monday, 24 August 2015

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Cabinet, please visit www.swale.gov.uk

Corporate Services Director, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Cabinet Meeting	Agenda Item: 4
Meeting Date	2 September 2015
Report Title	Teynham Car Park – Community Asset Transfer
Cabinet Member	Cllr Mike Whiting, Cabinet Member for Localism, Sport, Culture and Heritage
SMT Lead	Mark Radford
Head of Service	Anne Adams
Lead Officer	Kent Parker
Key Decision	No
Classification	Open
Forward Plan	Reference number:
Recommendation	1. That Cabinet agrees to enter into a new 125 year lease with Teynham Parish Council on the terms set out in the report.

1 Purpose of Report and Executive Summary

- 1.1 This report sets out the proposals for a new 125 year lease of Teynham car park to Teynham Parish Council on the terms set out in the report. The transfer will be carried out in accordance with the provisions set out in the Community Asset Transfer policy.

2 Background

- 2.1 The car park is currently let to the Parish Council on a lease which expired on 4 August 2015 and was for a term of six years at a nominal rent. The site, which extends to approximately 340 sq.m/3,660 sq.ft., has been managed by the Parish Council as a free car park since 1979 initially under a Licence Agreement, when the site was unsurfaced, and then under consecutive six year leases since 2001 when the Parish Council paid for the site to be surfaced and marked up with 17 parking spaces, including one reserved for the adjacent doctors surgery.
- 2.2 It is believed the land was originally held as a potential vehicular access point from the A2 London Road for possible future development of the agricultural land to the north of Frognaal Gardens. In the latest draft Local Plan access to the residential development land is now further to the west along the A2 London Road.

2.3 The existing use as a public car park is well established and is important in providing parking for the local facilities. The Planning Officer has advised that residential development may be permitted on this site if an applicant could demonstrate that there would be adequate parking facilities elsewhere for the existing services and facilities nearby. It is, however, considered that there is no alternative parking facilities nearby that could replace the loss of this car park and therefore alternative use of the site seems unlikely.

3 Proposals

3.1 Rather than continue to grant short term leases it is proposed that the Parish Council be granted a new 125 year lease under the Community Asset Transfer policy. This reflects the agreed terms of the Community Asset Transfer policy and has regard to the length of time that the Parish Council has effectively managed the site.

3.2 The terms of the proposed lease will be as follows:

- 125 years (excluded from the L&T Act)
- The tenant will be responsible for all repairs insurance and other outgoings,
- The rent will be a nominal £1 per annum (subject to rent reviews as set out in the CAT Policy)
- Assignment of the lease and sub-letting will be prohibited
- Use of the premises will be restricted to the provision of a free car park for light vehicles only and no other use will be permitted without the express consent of the landlord.

3.3 In accordance with the Community Asset Transfer policy an independent valuation of the site has been obtained. The valuer's advice is that the **restricted** value of the asset (ie. the value subject to the proposed terms) is £10,000 and the **unrestricted** value (ie. the value with vacant possession but assuming the existing car parking use would continue) is £48,000. This means that the amount of **under-value** is £38,000.

4 Alternative Options

4.1 The site could be sold on the open market, either at auction or by private treaty. This has been discounted due to the fact that, while it has been in the ownership of the Council, the site has been operated by the Parish Council as an important local community facility alleviating parking on the busy A2 London Road. It is therefore considered important to retain the asset for the benefit of the local community and to support the local economy.

4.2 The Council could continue to lease the site to the Parish Council on a short term basis but given that the site is not considered to have a realistic alternative use it is not considered that this is the best option for either authority. It is now possible for local authorities to grant leases for longer than seven years for less than the best consideration without specific consent from the Secretary of State where the

transaction will help to secure the promotion or improvement of the economic, social or environmental wellbeing of its area and the amount of undervalue does not exceed £2 million.

5 Consultation Undertaken or Proposed

- 5.1 The Parish Council, local ward members and the Cabinet Members for Localism and Finance have been consulted and support this proposal.

6 Implications

Issue	Implications
Corporate Plan	The transfer of the car park to the Parish Council is being proposed in accordance with the Community Asset Transfer Policy and supports the Localism priority in the Corporate Plan.
Financial, Resource and Property	There will minimal financial implications as the car park is already operated by the Parish Council under a short term peppercorn lease. The proposal will, however, end the need to periodically renew the lease.
Legal and Statutory	Legal services will be required to prepare the new lease.
Crime and Disorder	None anticipated at this stage.
Sustainability	None anticipated at this stage.
Health and Wellbeing	None anticipated at this stage.
Risk Management and Health and Safety	None anticipated at this stage.
Equality and Diversity	None identified at this stage

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Site Plan

8 Background Papers

None

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Appendix I - Teynham Car Park



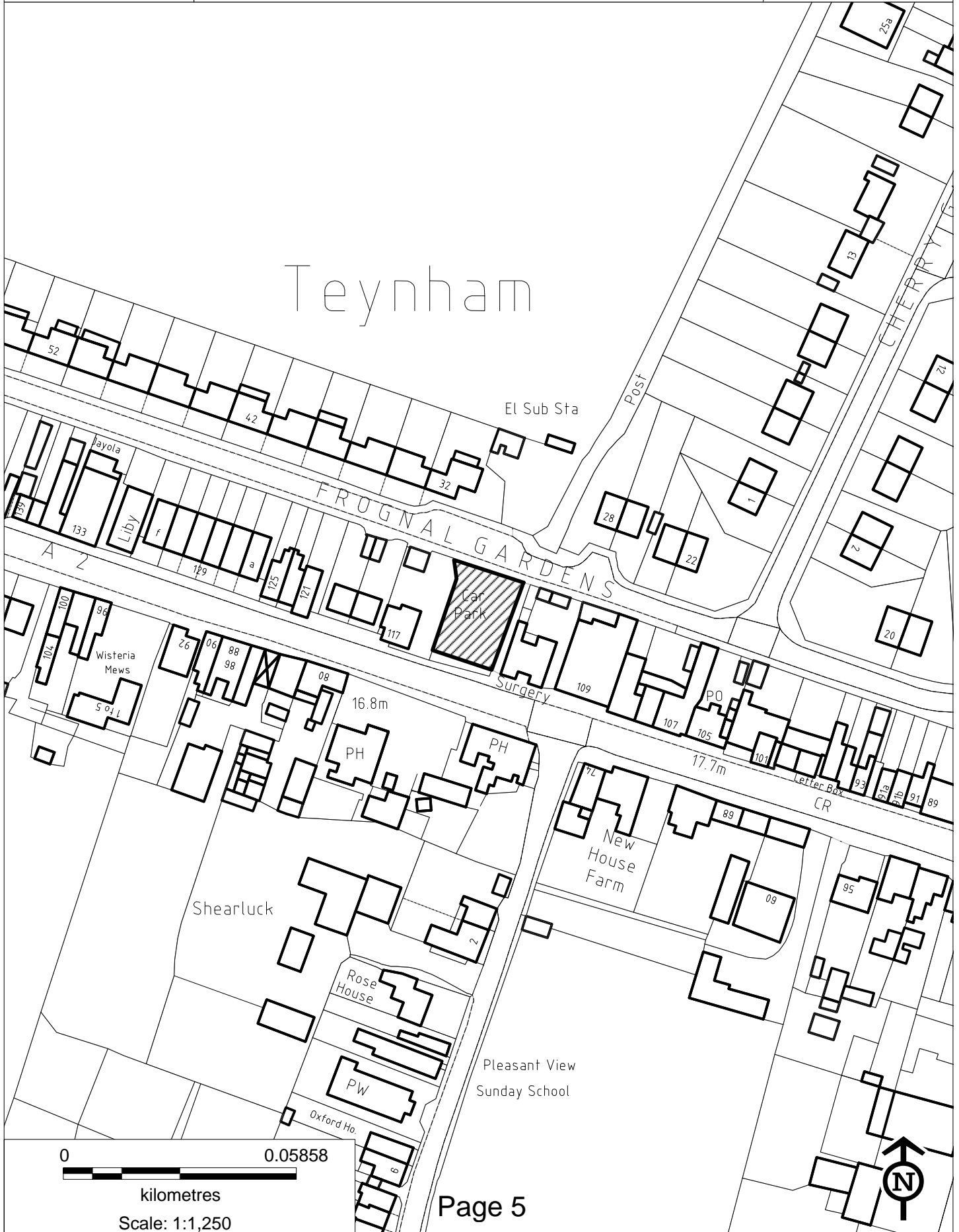
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Address:
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Teynham
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Kent

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Cabinet Meeting		Agenda Item: 5
Meeting Date	2 September 2015	
Report Title	Discretionary Rate Relief Policy	
Cabinet Member	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance	
SMT Lead	Pete Raine	
Head of Service	Amber Christou	
Lead Officer	Zoe Kent	
Recommendations	1. That the Discretionary Rate Relief policy is adopted	

1 Purpose of Report and Executive Summary

- 1.1 In 1997 Schedule 1, Local Government and Rating Act 1997 was passed to amend the Local Government and Finance Act 1988 (LGFA 1988). This introduced a scheme of relief for village shops from non domestic rates that are situated in rural settlements in England and Wales. The scheme began on 1 April 1998 as a result of the passing of the Local Government Rating Act 1997 (Commencement No.2) Order 1997 S.I 2792. Certain criteria must be satisfied before a rate payer can be considered for relief, which is made up of two parts, a mandatory and a discretionary scheme.
- 1.2 In April 2013 there was a change in the base-line funding to the authority. Prior to this Swale Borough Council reviewed the discretionary rate relief (DRR) policy to ensure it met the needs of the Borough in light of the changes to funding. This report analyses the cost of the scheme to the Council since April 2013.

2 Background

- 2.1 Under Section 47 of the Local Government Finance Act 1998 rating authorities are given the discretion to award relief to businesses in the following circumstances:
- registered charities and Community and Amateur Sports Clubs (CASCs) are entitled to mandatory relief of 80%. The Council has the discretion to award a further rate relief of up to 20%;
 - rural properties are entitled to mandatory relief of 50% providing the relevant qualifying criteria are met. The Council has the discretion to award a further rate relief of up to 50%; and
 - the Council has the discretion to award relief up to 100% to organisations which are established not for profit and which meet the relevant criteria.

- 2.2 The amount of discretionary relief awarded is entirely at the discretion of the Council.
- 2.3 The Localism Act 2011 gave rating authorities the power to decide locally to award relief in any circumstances if it would be reasonable to do so having regard to the interests of council tax payers in its area. Guidance issued by the Secretary of State must be followed when granting this relief.
- 2.4 Under European Union competition rules, Government subsidies are restricted to businesses (state aid). Relief from taxes, including business rates, could be considered state aid.
- 2.5 Since April 2013 the major change to the base-line funding for local authorities meant that the income from the business rates collected in the Borough was divided as follows:
- Central Government – 50%
 - Swale Borough Council – 40%
 - Kent County Council – 9%
 - Kent & Medway Fire & Rescue – 1%
- 2.6 The income received from business rates is then reduced to allow for the receipt of the revenue support grant. This means the actual amount retained is 10%.
- 2.7 The reduction on the gross rates from the award of mandatory and discretionary relief has been reduced as set out in table 1.

Table 1: Award of rate relief under the previous funding arrangements

Type of relief	DCLG 50%	SBC 40%	KCC 9%	K&MFRS 1%
Mandatory 2013/14	£1,377,976	£1,102,381	£248,036	£27,560
Discretionary 2013/14	£213,539	£170,831	£38,437	4,271
Mandatory 2014/15	£1,406,656	£1,125,325	£253,198	£28,133
Discretionary 2014/15	£220,281	£176,225	£39,651	4,406
Mandatory 2015/16 as @ 01.08.2015	£1,458,894	£1,167,115	£262,601	£29,178
Discretionary 2015/16 as @ 01.08.2015	£232,352	£185,882	£41,823	£4,647

- 2.8 As at 1 April 2013 the base-line funding was set using figures from business rates from 2012/13. Since 1 April 2013 any increase in awards of these reliefs will have an effect on the Council's budget.

- 2.9 The amount of mandatory relief cannot be influenced by the policy set by the Council. However, a very generous discretionary relief policy could encourage businesses entitled to claim mandatory relief to move to the Borough to gain the extra discretionary relief.

3 Proposal

3.1 It is proposed that the Discretionary Rate Relief Policy is adopted. The Policy will give guidance on the award of the following discretionary reliefs:

- discretionary relief for charities and non-profit making organisations who provide services for residents of the Borough;
- discretionary relief to businesses in rural areas. Relief can be awarded to businesses such as local stores and garages in rural areas that provide services to residents who may have limited access to transport. The award of rural relief can encourage rural businesses to continue to trade in small communities;
- Section 44a relief, which is awarded to businesses that are partially occupied for a temporary period. This can help businesses that are gradually moving in or out of a property;
- the Policy provides the discretion to award hardship relief to a business that is suffering hardship, and if the business was to close it would have a detrimental effect on the community; and
- retail relief, which is a temporary relief for a two year period (ending in March 2016) awarded to retail premises in town centres. It was brought in to help local high streets.

4 Alternative Options

4.1 The alternative option is to continue to use the current policy which is not recommended as it is out of date.

5 Consultation Undertaken or Proposed

5.1 A public consultation was carried out between January and March 2015. The consultation was promoted on the website and emails were sent out to all businesses who receive e-alerts from the Council. Disappointingly only four responses were received.

5.2 All those who responded are currently in receipt of Discretionary Rate Relief and were happy with the draft Policy and the relief that they currently received. All expressed hope that relief would continue to be awarded in a similar manner in the future. No specific suggestions for amendments to the Policy were received.

6 Implications

Issue	Implications
Corporate Plan	A Council to be proud of – the award of discretionary rate relief helps charities, non-profit making organisations and rural businesses to provide services to residents that may be harder to provide if the relief was not awarded.
Financial, Resource and Property	Review of this Policy is necessary to ensure that the budget is monitored effectively and the relief is awarded to help local businesses appropriately.
Legal and Statutory	Local Government Finance Acts 1998 and 2012.
Crime and Disorder	None.
Sustainability	An increase in the DRR budget could improve the sustainability of businesses that are already established in the Borough, and those that may be set up in the future.
Health and Wellbeing	None.
Risk Management and Health and Safety	The award of DRR needs to be monitored with a clear policy in place so that the budget does not increase significantly.
Equality and Diversity	Reviewing this Policy will ensure that we are continuing to meet the needs of the communities within the Borough.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Discretionary Rate Relief Policy Draft 2015
- Appendix II: CIA Discretionary Rate Relief Policy 2015

SWALE BOROUGH COUNCIL- REVENUES AND
BENEFITS SERVICE- POLICIES AND
PROCEDURES

BUSINESS RATES
DISCRETIONARY
AND
HARDSHIP RELIEF
DRAFT POLICY

Version Control

Version	Date	Comments	Name
1.0	30.11.2012	First draft	ZDK
1.1	06.03.2013	Amended	ZDK
1.2	25.03.2014	Amended	ZDK
1.3	19.01.2015	Amended	ZDK
1.4	05.08.2015	Amended	ZDK
1.5	24.08.2015	Amended	ZDK

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- 2.6 Period of rate relief
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8. Promotion of availability of relief

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1. Introduction and purpose of policy document

1.1 Powers

1.1.1 The power to award discretionary relief for Business Rates and Council Tax is allowed under the following Regulations:

- Business Rates – Sections 44a, 47 and 49 of the Local Government Finance Act 1998

1.2 Purpose

1.2.1 This policy has been written to;

- set guidelines for the factors that should be considered when making a decision to award or refuse relief;
- set out the delegated authority to award relief in appropriate circumstances;
- establish an appeals procedure for customers dissatisfied with Swale Borough Council's decision; and
- safeguard the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.

1.3 Legal requirements – State Aid

1.3.1 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid. A number of wards in the Swale Borough Council area have been awarded Assisted Area Status. The wards granted assisted area status are:

- Chalkwell;
- Iwade and Lower Halstow;
- Milton Regis;
- Murston;
- Queenborough and Halfway;
- Sheerness East;
- Sheerness West; and
- Woodstock.

1.4 Contact details

1.4 If you would like further advice before applying for any relief from payment, including on how the award of any discretionary relief that could be affected by state aid rules will differ for areas with assisted area status, please contact the Business Rates section on 01795 41 7454.

2. Business Rates – Relief for Charities, Not for Profit Organisations, Community Amateur Sports Clubs (CASC), Rural properties and under Section 69 of the Localism Act 2011

2.1 Legal Requirements

2.1.1 Section 47 of the Local Government Finance Act 1988 (amended under Section 69 of the Localism Act 2011) provides the discretion to award relief in the following circumstances:

- the customer is a registered charity or a charitable organisation and the property is used for charitable purposes;
- the organisation is not established or conducted for profit and the main objects are philanthropic, religious or concerned with education, social welfare, science, literature or fine arts;
- the property is used for recreational purposes and all or part is occupied for the purposes of a club, society or an organisation not established or conducted for profit;
- the property is within a Rural Settlement List for the chargeable financial year and the rateable value does not exceed the amount prescribed by the Secretary of State; and
- the property is used for the benefit of the community and it would be reasonable for Swale Borough Council to make a decision having taken the considerations of persons liable to pay Council Tax.

2.1.2 Under Section 69 of the Localism Act 2011 discretionary relief may also be used to encourage business which may help to regenerate the Borough. Discretionary relief will be considered for any request that may bring exceptional regeneration benefits.

2.1.3 Registered Charities and CASCs are entitled to Mandatory Relief of 80%. Swale Borough Council has the discretion to award further rate relief of up to 20%, which is commonly referred to as a 'top-up'.

2.1.5 Rural properties are entitled to Mandatory Relief of 50% providing the relevant qualifying criteria are met. Swale Borough Council has the discretion to award a further rate relief of up to 50%.

2.1.6 Swale Borough Council has the discretion to award relief of up to 100% to organisations which are not established for profit and which meet the relevant criteria.

2.1.7 The amount of relief awarded is entirely at the discretion of Swale Borough Council.

2.2 Legal Requirements – State Aid

2.2.1 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.

2.2.2 Rate relief for charities and non-profit making bodies is not normally considered state aid because the recipients are not in market competition with other businesses. However, if they are engaged in commercial activities, compete with commercial bodies, or have a commercial partner, rate relief could constitute state aid. In such cases it would be unlikely that the customer would be considered for rate relief.

2.3 Financial Impact

2.3.1 From April 2013 Discretionary Relief will be funded partly by the billing authority, the major preceptors (excluding the Police), and partly by the Government through the Non-Domestic Rates Pool.

2.3.2 The percentage of Discretionary Relief that must be funded by each Local Authority is as follows;

Type of Relief	% Cost to Central Government	% SBC (Billing authority)	Kent County Council	Kent & Medway Fire & Rescue
'Top Up' Discretionary Relief	50%	40%	9%	1%
Other Discretionary Relief (where Mandatory Relief is not applicable)	50%	40%	9%	1%

2.3.3 The cost to each Local Authority for funding 100% Discretionary Relief is greater than that for 20% 'top-up' Relief. To minimise the cost to each Local Authority, ratepayers that may be entitled to Mandatory Relief must endeavour to qualify for such relief before an application for Discretionary Relief can be considered.

2.3.4 Swale Borough Council will set an annual budget for awards of Discretionary Rate Relief. It is to be noted that awarding Discretionary Relief is not on a first come, first served basis i.e. refusing applications once the annual budget is used up is not permitted. In the event that the annual budget proves to be insufficient, then Swale Borough Council must either increase the annual budget or re-visit this Policy to amend the criteria for granting such relief. The budget will be monitored closely throughout the year and reports on successful and unsuccessful applications will be reported quarterly to Members.

2.4 Persons who can make application

2.4.1 Applications must be made by the ratepayer.

2.4.2 Where the ratepayer is an organisation, the application must be made by a person with the authority to act on behalf of the organisation. Swale Borough Council may ask for evidence that the person making the application is entitled to act in that capacity.

2.5 The Decision Making Process

- 2.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will act as a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process.
- 2.5.2 All applications will be considered on an individual basis. Consideration for awarding Discretionary Relief is based on the organisation's ability to meet its Business Rate liability. Therefore, copies of the last three years' audited accounts are to be submitted with the application form. Where audited accounts are not available, financial statements prepared by, or approved by, an appropriate representative shall be considered. For a new organisation 12 months' projected cash flow forecast are required. Any award will be based on the organisation's recent income/expenditure results.
- 2.5.3 Where an organisation has retained funds, or built up reserves, for a purpose related to the aims and objectives of the organisation, provided that the works are completed within three years of the date of application, those funds/reserves may be disregarded for the purposes of the award of relief. It is accepted that funds may have to be accrued over many years to fund major projects e.g. replacing an ageing building, and consideration to this will be given on an individual basis.
- 2.5.4 Relief is likely to be awarded where it is clear that the activities of the applicant are of direct benefit to the local community.
- 2.5.5 Relief may be refused or capped if it is considered that the financial cost to Swale Borough Council or the local community outweighs the benefits generated through the award of relief.
- 2.5.6 Organisations with unallocated reserves or substantial assets (taken to mean 12 months or more of operating costs) will be excluded from qualification if it is determined that those reserves or assets could reasonably be used to provide financial support.
- 2.5.7 To ensure there is a fair and consistent approach to the award of Discretionary Relief, all applications will be considered within the guidelines of this Policy, and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.
- 2.5.8 Swale Borough Council will consider applications within 15 working days of the application and all supporting information being received, and will notify the customer should there be a delay in processing the application.
- 2.5.9 Swale Borough Council will notify the applicant of the decision in writing, and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given.

2.5.10 Swale Borough Council will not consider applications where the customer has failed to provide information within the timescales provided to them, and will notify the customer in writing that the application has been refused.

2.5.11 Where an application has been refused either initially or through an appeal, further applications will not be considered within the same financial year unless:

- the use of the property changes; or
- the objectives of the organisation change; or
- there have been other changes that may affect Swale Borough Council's decision e.g. where an organisation has taken action to address an issue which had previously precluded an award of relief.

2.5.12 There is no time limit for an organisation to make application for Discretionary Relief. Swale Borough Council must determine applications within six months after the end of the financial year (between 1 April and 30 September) for which the application for relief is made. After this time applications are invalid.

2.6 Period of Rate Relief

2.6.1 Discretionary Rate Relief will be awarded for one financial year (from 1 April to 31 March) except in circumstances where consideration is being given to awarding relief for a previous financial year within the qualifying timescales outlined in paragraph 2.5.12.

2.6.2 Customers receiving relief will be contacted and invited to reapply for relief on an annual basis, or as specified by Swale Borough Council.

2.7 Calculation of relief

2.7.1 Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Discretionary Rate Relief is granted, the relief will be reduced proportionately.

2.7.2 If the Business Rates bill increases within the period Discretionary Rate Relief is granted i.e. there is an increase in rateable value, the amount awarded will not automatically be increased. In such cases, Swale Borough Council, upon request of the customer, will reconsider the application and may award additional relief.

2.8 Authority to process applications and award Relief

2.8.1 In the interests of efficiency, the authority to consider applications is delegated as set out in the table below.

Thresholds – Annual Cost to Local Authority	Position of Authority	Counter Authority
Up to £30,000	Revenues and Benefits Manager – Financial & Technical	Not required
Over £30,000	Revenues and Benefits Manager – Financial & Technical	Head of Service
Where relief applied will exceed annual budget	Revenues and Benefits Manager – Financial & Technical	Head of Finance and Portfolio holder for Finance

2.9 Special Provisions

- 2.9.1 The full 20% ‘top up’, discretionary relief may be applied to charities and other premises (apart from charity shops) but will normally only be awarded if the charity is a local one, not a national one (a local charity is defined to be one who only operates in the particular Council area or who are part of a national charity but whose accounts and finances are specific to a local area). If the premises are operated by a national charity that does not exist to wholly or mainly benefit the residents of the local area, then discretionary relief will not normally be awarded to ‘top up’ the 80% mandatory award. If the charity can provide proof that part of their time is spent providing services to residents of Swale, the 20% ‘top up’ may be allocation in proportion to the amount of their work that is provided for Swale residents.
- 2.9.2 Swale Borough Council will consider the contribution and benefit that the charity has made to the local community.
- 2.9.3 Discretionary Relief for clubs will normally be granted at a lower rate if the organisation operates a licensed bar. Membership must be active rather than social membership, and wholly or mainly benefit the residents of the local area. Consideration to award relief will only be given if the club is able to fully demonstrate that the bar is not the primary or significant attraction for the majority of the members.
- 2.9.4 Schools with Academy status will not normally be awarded Discretionary Relief to top up the mandatory award.

2.10 Backdating Applications

- 2.10.1 Legislation allows claims received between 1 April and 30 September in any year to be backdated to 1 April of the previous year. Requests for a backdated award of relief i.e. for the previous year, will be dealt with in the same way as applications for the current year.
- 2.10.2 Applications outside of the qualifying period in 2.10.1 will not be backdated beyond 1 April of the year in which it is awarded.

2.11 Right of appeal

2.11.1 There is no statutory right of appeal against a decision regarding discretionary relief made by Swale Borough Council. However, Swale Borough Council recognises that customers should be entitled to have a decision objectively reviewed if they are dissatisfied with the outcome. For further information on how to appeal please refer to Section 6 of this Policy.

DRAFT

3. Business Rates - Relief for properties that are partially unoccupied for a temporary period (Section 44a)

3.1 Legal Requirements

- 3.1.1 Under section 44a of the Local Government Finance Act 1988 a Local Authority has the discretion to allow rate relief where a property is partly occupied for a short period. Each case will be decided on its own merits.
- 3.1.2 The definition of a 'short period' is not prescribed with the law, and therefore Swale Borough Council has discretion to decide the period relief should be awarded. In the guidance issued by the Office of the Deputy Prime Minister in 2002 it is suggested that this could be a period of weeks or months.
- 3.1.3 Partially occupied rate relief (also referred to as Section 44a Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating part of the property.

3.2 Financial Impact

- 3.2.1 From April 2013 there will be a cost to Swale Borough Council and major preceptors of such relief, as set out in the table below.

Organisation	Central Government	Swale Borough Council	Kent County Council	Kent & Medway Fire & Rescue
Share of the cost	50%	40%	9%	1%

- 3.2.2 Swale Borough Council recognises that awarding this relief is beneficial to local businesses. Therefore Section 44a Relief will be awarded in all cases that meet the statutory requirements. All other cases will be considered on their merits.

3.3 Persons who can make application

- 3.3.1 Applications must be made by the ratepayer.
- 3.3.2 Swale Borough Council will require a written application, and the ratepayer must supply a plan of the property, with the unoccupied portions clearly identified.

3.4 The decision making process

- 3.4.1 There are no restrictions in the provisions of a Section 44a Relief regarding the type of property or circumstances in which relief can be awarded.

- 3.4.2 Once Swale Borough Council has received an application, providing the application meets the qualifying criteria, relief will be awarded.
- 3.4.3 Swale Borough Council will require accompanied access to the property during normal working hours in order to verify the application. Further access will be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded.
- 3.4.4 Relief will not be awarded under any circumstance where it is not possible to verify the application.
- 3.4.5 Swale Borough Council will consider applications within 15 working days of the application and all supporting information being received, and will notify the customer should there be a delay in processing the application.
- 3.4.6 Swale Borough Council will notify the applicant of the decision in writing, and where the relief is refused, an explanation of the reasons why will be given.
- 3.4.7 Swale Borough Council will not consider applications where the customer has failed to provide information within the timescales provided to them, and will notify the customer in writing that the application has been refused.
- 3.4.8 To ensure there is a fair and consistent approach to the award of Section 44a Relief, all applications will be considered within the guidelines of this Policy, and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

3.5 Period of Section 44a Relief

- 3.5.1 Section 44a Relief will only be applied to a property that is partly occupied for a short period. The relief will normally only be awarded to properties that are being progressively occupied or progressively vacated.
- 3.5.2 Section 44a Relief will end under the following circumstances:
- at the end of a financial year, regardless of the date relief was applied;
 - where all or part of the unoccupied area becomes occupied; or
 - where the person liable for Business Rates changes.
- 3.5.3 A new application may be submitted immediately by the customer if relief ends for any of the reasons outlined in 3.5.1.

3.6 Calculation of Section 44a Relief

- 3.6.1 Where Swale Borough Council agrees to award a Section 44a Relief, we will notify the Valuation Officer to seek a reduction in the rateable value.

3.6.2 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided to Swale Borough Council by the Valuation Office Agency.

3.7 Authority to Award Section 44a Relief

3.7.1 In the interests of efficiency, the authority to consider applications is delegated to Swale Borough Council Business Rates Officers.

3.8 Backdating Section 44a Applications

3.8.1 Where a backdated application is received, the customer will be required to produce evidence to prove the area was unoccupied for the period the relief relates to. Acceptance of such evidence is at the discretion of Swale Borough Council.

3.9 Right of appeal

3.9.1 There is no statutory right of appeal against a Section 44a decision made by Swale Borough Council because the award is discretionary. However, Swale Borough Council recognises that customers should be entitled to have a decision objectively reviewed if they are dissatisfied with the outcome. For further information on how to appeal please refer to Section 6 of this Policy.

4. Business Rates - Hardship Relief

4.1 Legal Requirements

- 4.1.1 Section 49 of the Local Government Finance Act 1988 provides a Local Authority with the discretion to reduce or remit payment of rates under the grounds of hardship.
- 4.1.2 Swale Borough Council can reduce or remit the payment of rates where it is satisfied that the customer would sustain hardship if we did not do so, and that it is reasonable to award relief having taken into account the interests of the Council Tax payers.
- 4.1.3 There is no statutory definition of 'hardship', and so it is for Swale Borough Council to decide on the facts of each case as to whether to exercise our discretion. Swale Borough Council may adopt rules for the consideration of hardship, but are unable to adopt a blanket policy, and so each case will be considered individually.
- 4.1.4 It is the Government's guidance that remission of business rates on the grounds of hardship is the exception rather than the rule.

4.2 Legal Requirements – State Aid

- 4.2.1 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.
- 4.2.2 Hardship Relief for customers engaged in commercial activities, which compete with commercial bodies or have a commercial partner, could constitute state aid. In such cases it would be unlikely that the customer would be considered for Hardship Relief.

4.3 Financial Impact

- 4.3.1 Discretionary Hardship Relief is funded partly by the billing authority, major preceptors (excluding Kent Police), and partly by Central Government.
- 4.3.2 The percentage of Discretionary Hardship Relief that must be funded is as follows.

Type of Relief	% Cost to Central Government	% cost to Swale Borough Council	% cost to Kent County Council	% Cost to Kent & Medway Fire & Rescue
Hardship Relief	50%	40%	9%	1%

4.4 Persons who can make application

- 4.4.1 Applications must be made in writing by the ratepayer or their agent.
- 4.4.2 Applications for hardship relief must be accompanied by the following:
- the most recent accounts and the last audited accounts;

- an up to date trading statement showing the current financial position of the business;
- details of the amount of relief being requested and the period of time it is being requested for; and
- an explanation of the benefits to the community arising from an award of hardship relief.

4.5 The Decision Making Process

- 4.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will act as a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process.
- 4.5.2 All applications will be considered on an individual basis, and decisions will be made in accordance with this Policy. The following examples indicate circumstances where it may be appropriate to award Hardship Relief. They are included in this Policy in the form of broad, general guidelines and are not intended to be prescriptive:
- the customer will suffer hardship if the relief is not granted;
 - there is a direct benefit to the ratepayer or the community or no adverse impact to other ratepayers or the community as a result of awarding relief;
 - the cost to local Council Tax payers is proportional to the benefits to the community;
 - the ratepayer's business has been detrimentally affected by circumstances beyond the ratepayer's control and that do not constitute part of the normal risks in running a business e.g. a natural disaster or an unusual or uncontrollable event in the neighbourhood of the business;
 - by refusing to award the relief may result in the loss of the business. The impact on local amenities must be considered if the business is the sole provider of a service in the local area e.g. the only village shop; and
 - by refusing to award the relief may result in the loss of the business. The impact on employment prospects in the local area must be considered i.e. if the closure results in a large number of redundancies, the social aspect of increasing unemployment and the possible negative impact in attracting further investment in the area must be considered.
- 4.5.3 Swale Borough Council will only grant Hardship Relief for a period where there is clear evidence of hardship for the ratepayer concerned. This will ordinarily be for short period of time and not on an on-going basis.
- 4.5.4 Hardship Rate Relief may not be awarded if there are alternative facilities within the area or if the business is situated in an area with adequate public transport links to alternative businesses. Relief should be in the interests of the community as a whole. If the decision is that it is not in the interests of the community as a whole to grant Hardship Relief, then the decision will be final, with no rights to appeal.

- 4.5.5 Swale Borough Council will also consider applications from new businesses as well as established businesses. We recognise that a new business could also be the sole provider of a service in our local area which contributes to the health and quality of life of the Council Tax payers generally.
- 4.5.6 Swale Borough Council recognises that there may be occasional circumstances in which the use of this power is beneficial to either an individual ratepayer or the community. However, in accordance with Government guidelines, it accepts that this power should be used sparingly and only in the most exceptional of circumstances.
- 4.5.7 Swale Borough Council will consider applications within 15 working days of the application and all supporting information being received, and will notify the customer should there be a delay in processing the application.
- 4.5.8 Swale Borough Council will notify the applicant of the decision in writing, and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given.
- 4.5.9 Swale Borough Council will not consider applications on the grounds of hardship where the customer has failed to provide information within the timescales provided to them, and will notify the customer in writing that the application has been refused.
- 4.5.10 To ensure there is a fair and consistent approach to the award of Hardship Relief, all applications will be considered within the guidelines of this Policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

4.6 Period of Hardship Relief

- 4.6.1 Swale Borough Council will normally only award Hardship Relief retrospectively. However, where the applicant can show that the circumstances will remain the same for a period up to the end of the current financial year, relief may be award for the remainder of the year.
- 4.6.2 In all cases Hardship Relief will end in the following circumstances:
- at the end of a financial year;
 - a change of liable person;
 - the property becomes empty or unoccupied;
 - the customer enters any form of Insolvency proceedings; and
 - the customer's financial circumstances change. The customer must inform Swale Borough Council if their circumstances change.

4.7 Calculation of Hardship Relief

4.7.1 Hardship Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Hardship Rate Relief is granted, the relief will be reduced proportionately.

4.7.2 If the Business Rates bill increase within the period Hardship Relief is granted, i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, Swale Borough Council, upon request of the customer, will reconsider the application and may award additional relief.

4.8 Authority to process applications and award relief

4.8.1 In the interests of efficiency, the authority to consider applications is delegated as set out below;

Thresholds – Annual Cost to Local Authority	Position of Authority	Counter Authority
Up to £30,000	Revenues and Benefits Manager- Financial & Technical	Head of Service
Over £30,000	Revenues and Benefits Manager – Financial & Technical	Head of Finance
Where relief applied will exceed annual budget	Revenues and Benefits Manager – Financial & Technical	Head of Finance and Cabinet Member for Finance

4.9 Backdating Applications

4.9.1 Legislation allows claims received between 1 April and 30 September in any year to be backdated to 1 April of the previous year. Customers requesting hardship relief to be backdated i.e. for the previous year will be dealt with in the same way as applications for the current year.

4.9.2 Applications outside of the qualifying period in 4.9.1 will not be backdated beyond 1 April of the year in which it is awarded.

4.10 Right of appeal

4.10.1 There is no statutory right of appeal against a decision to award hardship relief made by Swale Borough Council because the award is discretionary. However, Swale Borough Council recognises that customers should be entitled to have a decision objectively reviewed if they are dissatisfied with the outcome. For further information on how to appeal please refer to Section 6 of this Policy.

5. Retail Relief

5.1 Introduction and Purpose

5.1.1 The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16. This increased to £1,500 from 1 April 2015.

5.1.2 This section provides guidance about the operation and delivery of that policy, including:

- factors that should be considered when making a decision to award or refuse relief;
- arrangements to delegate authority to award relief in appropriate circumstances; and
- appeals procedure for customers dissatisfied with the Council's decision.

5.2 How will the relief be provided?

5.2.1 As this is a measure for 2014/15 and 2015/16 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse the Council where it uses its discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief.

5.2.2 It is for Swale Borough Council to decide on the scheme which they chose to adopt, and decide in each individual case when to grant relief under section 47.

5.3 Properties that may benefit from the relief

5.3.1 Properties that will benefit from the relief will be occupied properties listed for rating (a hereditament) with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.

5.3.2 To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

5.3.3 We consider shops, restaurants, cafes, and drinking establishments to mean the following.

<p>Hereditaments that are being used for the sale of goods to visiting members of the public:</p>	<ul style="list-style-type: none"> ▪ Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc) ▪ Charity shops ▪ Opticians ▪ Post offices ▪ Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors) ▪ Car/ caravan show rooms ▪ Second hand car lots ▪ Markets ▪ Petrol stations ▪ Garden centres ▪ Art galleries (where art is for sale/hire)
<p>Hereditaments that are being used for the provision of the following services to visiting members of the public:</p>	<ul style="list-style-type: none"> ▪ Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc) ▪ Shoe repairs/ key cutting ▪ Travel agents ▪ Ticket offices e.g. for theatre ▪ Dry cleaners ▪ Launderettes ▪ PC/ TV/ domestic appliance repair ▪ Funeral directors ▪ Photo processing ▪ DVD/ video rentals ▪ Tool hire ▪ Car hire
<p>Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:</p>	<ul style="list-style-type: none"> ▪ Restaurants ▪ Takeaways ▪ Sandwich shops ▪ Coffee shops ▪ Pubs ▪ Bars

5.3.3 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide as to the types of uses that Swale Borough Council considers for this purpose to be retail. Swale Borough Council will determine whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

5.4 Properties that will NOT qualify for relief

5.4.1 The list below sets out the types of uses that Swale Borough Council does not consider to be retail use for the purpose of this relief. Again, the Borough will determine whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

<p>Hereditaments that are being used for the provision of the following services to visiting members of the public:</p>	<ul style="list-style-type: none"> ▪ Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers) ▪ Other services (e.g. estate agents, letting agents, employment agencies) ▪ Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors) ▪ Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors) ▪ Post office sorting office
<p>Hereditaments that are not reasonably accessible to visiting members of the public or used for gambling for example bingo halls or amusement arcades.</p>	

5.5 How much relief will be available?

5.5.1 The total amount of retail relief available for each property for each of the years under this scheme is £1,000, increasing to £1,500 from 1 April 2015. The amount does not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000.

5.5.2 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the relief on that day.

5.5.3 The following formula should be used to determine the amount of relief to be granted for a particular hereditament in the financial year:

$$\text{Amount of relief to be granted} = \text{£1000 or £1,500} \times \frac{A}{B}$$

Where:

A is the number of days in the financial year that the hereditament is eligible for relief; and

B is the number of days in the financial year

5.5.4 The relief will be applied against the net bill after all other reliefs. Where the net rate liability for the day after all other reliefs but before retail relief is less than the retail relief, the maximum amount of this relief will be no more than the value of the net rate liability. This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

5.5.5 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid de minimis limits.

5.6 State Aid

5.6.1 State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However, Retail Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)¹.

5.6.2 The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).

5.6.3 To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid.

5.6.4 Where Swale Borough Council makes an award based on an assumption that the undertaking will not be in receipt of more than €200,000 of De Minimis aid, an explanatory note will be provided and the undertaking requested to contact the Borough where they believe they have may or have reached the De Minimis threshold. In such instances Swale Borough Council reserves the right to withdraw the relief.

5.7 Period of Award and Backdating

5.7.1 This is a measure for 2014/15 and 2015/16 only. Where the Council has reason to believe (based on the information held) that the criteria for relief has been met, it will make an annual award at the start of each financial year 2014/15 and 2015/16.

5.7.2 Where liability starts, ends or changes part way through a year, entitlement to relief will be reviewed in line with the guidance set out above.

5.7.3 Swale Borough Council will not accept any backdated requests for relief beyond the end of financial year for which relief is being claimed.

5.8 Decision making

- 5.8.1 Where Swale Borough Council has reason to believe (based on the information held) that the criteria for relief has been met, it will award relief without the need for an application.
- 5.8.2 In all other circumstances an application will be required in writing setting out how the criteria for relief have been met.
- 5.8.3 In the interests of efficiency, the authority to consider applications is delegated to the Business Rates Officer, who will ensure that a decision and notified in writing within 15 working days of receipt of application, or as soon as is reasonably practical thereafter.

5.9 Right of Appeal

- 5.9.1 There is no statutory right of appeal against a decision to award retail relief made by Swale Borough Council because the award is discretionary. However, Swale Borough Council recognises that customers should be entitled to have a decision objectively reviewed if they are dissatisfied with the outcome. For further information on how to appeal please refer to Section 6 of this Policy.

6. Business Rates Discretionary Relief - Right of Appeal

6.1 Overview

- 6.1.1 There is no statutory right of appeal against a decision regarding discretionary relief made by Swale Borough Council. However, Swale Borough Council recognises that customers should be entitled to have a decision objectively reviewed if they are dissatisfied with the outcome.
- 6.1.2 Swale Borough Council will give consideration to all appeals in accordance with this Policy, and agrees to abide by the following appeals process. Aggrieved customers should make an appeal in accordance with the process.
- 6.1.3 Customers will be notified of the appeals process by Swale Borough Council in writing at the time that they are notified of the outcome of their request for discretionary relief.
- 6.1.4 Appeals against decisions to award discretionary relief will not be considered by the same officers administering the application for relief, and will instead normally be considered by an Appeals and Liaison Officer.
- 6.1.5 Decisions made after the appeals process has been followed will be final. Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

6.2 Persons that can appeal

- 6.2.1 Appeals may only be made by the original applicant. An appellant may appoint a third party to act on their behalf, and in such cases Swale Borough Council will require written authorisation from the appellant.
- 6.2.2 Customers may appeal against the decision to award or not award relief, or against the level of relief awarded. An appeal must be made within four weeks of the issue of the letter notifying them of Swale Borough Council decision.
- 6.2.3 Any appeals received outside of the four week period will only be considered if Swale Borough Council is satisfied that exceptional circumstances led to the delay in submitting the appeal.

6.3 Applications for appeal

- 6.3.1 Appeals must be in writing and include the following:
- the reasons why it is believed the decision should be amended; and
 - any new or additional information relevant to the decision making process.

- 6.3.2 The appellant does not have a right to appear in person, but may make a request to present evidence in person. Such requests will be considered at the discretion of Swale Borough Council, as appropriate.
- 6.3.3 Swale Borough Council can request a meeting with the customer to hear evidence in person.

6.4 Notification of the final decision following appeal

- 6.4.1 Swale Borough Council will consider appeal applications within 15 working days of the application and all supporting information being received, and will notify the customer should there be a delay in the consideration of the appeal.
- 6.4.2 Swale Borough Council will notify the applicant of the final decision in writing within the 15 working days period, and whether an appeal is refused or accepted a full explanation of the decision making process will be given. A written record will be kept on file of the decisions and factors considered in the process.
- 6.4.3 For Business Rates, both Discretionary Relief and Hardship Relief is the subject of separate applications. Should a Swale Borough Council Officer decide to reject the appeal in respect of Discretionary Relief they cannot offer Hardship Relief as an alternative. However, the applicant can be invited to make a separate application.

6.5 Discontinuation of Applications or Appeals

- 6.5.1 If Swale Borough Council have requested further evidence from the customer and this has not been received within the specified time given, the appeal will not be considered.
- 6.5.2 Customers will be advised in writing the reason why their application has been discontinued.

6.6 Cancellation of relief

- 6.6.1 Relief will be cancelled if:
- the applicant ceases to be the ratepayer or taxpayer;
 - the property becomes empty or becomes occupied, or all or part of the unoccupied area becomes occupied;
 - the use of the property changes;
 - the aims or objectives of the ratepayer changes; or
 - the financial circumstances for a customer changes.
- 6.6.2 Where relief is cancelled for any of the reasons above, a new application may be made by customers straight away.

7. Action to recover unpaid Business Rates whilst a decision is pending

- 7.1 Once an application for discretionary relief is received, action may still be taken to recover any unpaid Business Rates until after the decision has been notified to the customer.
- 7.2 In the case where the customer has been notified of a decision and they exercise their rights to appeal, payment cannot be withheld pending an appeal decision. In the event that an appeal is successful, any overpayment will be refunded.
- 7.3 For circumstances where an application is being discontinued, recovery action will commence after the ratepayer has been notified of the discontinuation in writing.

8. Promotion of the availability of relief

- 8.1 Swale Borough Council will proactively promote the availability of discretionary relief, in the following ways:
- all Business Rates will have include accompanying information explaining the availability of relief;
 - Swale Borough Council employees who deal with enquiries from customers will be trained in all aspects of this Policy and will actively promote the availability of relief when responding to customer enquiries;
 - Swale Borough Council will work in partnership with other organisations to promote the availability of relief;
 - information regarding the availability of reliefs will be published on our web site; and
 - a copy of this Policy will be placed on our website, and printed copies will be made available to ratepayers and other stakeholders on request.

9. Equalities Statement

- 9.1 An Equality Impact Assessment has been completed in relation to this Policy and has found that there is no negative impact arising.

10. Policy Review

- 10.1 This Policy will be reviewed on an annual basis in order to ensure it remains valid, effective, and relevant.

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Community Impact Assessment

A Community Impact Assessment (CIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in decision-making.

When to assess

A CIA should be carried out when you are changing, removing or introducing a new service, policy or function. The assessment should be proportionate; a major financial decision will need to be assessed more closely than a minor policy change.

Public sector equality duty

The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- 1) Eliminate discrimination, harassment and victimisation;
- 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are known as the three aims of the general equality duty.

Protected characteristics

The Equality Act 2010 sets out nine protected characteristics that apply to the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

We also ask you to consider other socially excluded groups, which could include people who are geographically isolated from services, with low literacy skills or living in poverty or low incomes; this may impact on aspirations, health or other areas of their life which are not protected by the Equality Act, but should be considered when delivering services.

Due regard

To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question. The greater the relevance and potential impact, the higher the regard required by the duty. The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others.

Collecting and using equality information

The Equalities and Human Rights Commissions (EHRC) states that 'Having due regard to the aims of the general equality duty requires public authorities to have an adequate evidence base for their decision making'. We need to make sure that we understand the potential impact of decisions on people with different protected characteristics. This will help us to reduce or remove unhelpful impacts. We need to consider this information before and as decisions are being made.

There are a number of publications and websites that may be useful in understanding the profile of users of a service, or those who may be affected.

- The Office for National Statistics Neighbourhoods website <http://www.neighbourhood.statistics.gov.uk>
- Swale in 2011 http://issuu.com/swale-council/docs/key_data_for_swale
- Kent County Council Research and Intelligence Unit http://www.kent.gov.uk/your_council/kent_facts_and_figures.aspx
- Health and Social Care maps <http://www.kmpho.nhs.uk/health-and-social-care-maps/swale/>

At this stage you may find that you need further information and will need to undertake engagement or consultation. Identify the gaps in your knowledge and take steps to fill these.

Case law principles

A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- The general equality duty is not a duty to achieve a result, it is a duty to have due regard to the need achieve the aims of the duty.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Examples of case law can be found here [EHRC relevant case law](#). They include examples of why assessing the impact **before** the decision is made is so important and case law around the need to have due regard to the duty

Lead officer:	<i>Zoe Kent</i>
Decision maker:	<i>Full Council</i>
People involved:	<i>Revenues Service</i>
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	<ul style="list-style-type: none"> • <i>Discretionary Rate Relief (DRR) Policy</i> • <i>The policy is being reviewed</i>
Date of decision: The date when the final decision is made. The CIA must be complete before this point and inform the final decision.	<i>The policy will be going to Council in September 2015</i>
Summary of the decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p><i>The DRR policy aims to:</i></p> <ol style="list-style-type: none"> <i>1. To ensure the discretionary rate relief budget is used effectively and is awarded appropriately</i> <i>2. To help charities and non-profit making organisations provide services for those in need in the community</i> <i>3. To encourage businesses to work in rural communities providing services that may not otherwise be available</i> <p><i>What are the key actions?</i> <i>Ensuring the policy covers all charitable, non-profit making and small rural businesses that may pay business rates.</i> <i>Reviewing and recommending how to best to deliver the DRR budget.</i> <i>Expanding user feedback, engagement and consultation.</i></p> <p><i>What are the expected outcomes?</i> <i>The policy should ensure that the DRR budget is available to charities and non-profit making organisations providing services in the Borough. It should also help businesses to provide services to rural communities.</i></p> <p><i>Who will be affected?</i> <i>Any residents who use services provided by charities and non-profit making organisations. Residents living in rural communities.</i></p> <p><i>How many people will be affected?</i> <i>There are currently around 250 businesses receiving DRR (23 in rural areas). It is difficult to equate how many people would be affected by the loss of these services. For example a sports club may help local young people in an area. A museum may be visited by residents from all parts of the community and also from people from outside of the Swale area.</i></p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. • Include information on how 	<p><i>What research have you undertaken during the process of writing the policy?</i></p> <p><i>Researching other DRR policies</i> <i>Consulting with local businesses, Members, other local authorities and businesses who receive DRR.</i></p>

the decision will affect people with different protected characteristics.	The businesses that are claiming DRR will be providing services to people who come from a variety of groups with different characteristics. As long as a business is non-profit making and providing services for local people those providing services for people with different characteristics will not be treated differently.
Consultation: <ul style="list-style-type: none"> Has there been specific consultation on this decision? What were the results of the consultation? Did the consultation analysis reveal any difference in views across the protected characteristics? Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p><i>A consultation was carried out between January and March 2015, the consultation asked respondents for their comments on the DRR policy. Disappointingly only 4 people responded to the consultation, an email was sent out to all businesses that are signed up to receive e-alerts (around 600), all community groups, sports group and museums. The consultation was also available on the website.</i></p> <p><i>Those that responded were in receipt of DRR and hoped that it would continue to be awarded under the same guidelines as previously.</i></p> <p><i>The consultation analysis did not reveal any difference in views across the protected characteristics. No conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics.</i></p>

Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's PSED Technical Guidance .	
Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.		
When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.		
Characteristic	Relevance to decision High/Medium/Low/None	Impact of decision Positive/Negative/Neutral
Age	None	Neutral
Disability	None	Neutral
Gender reassignment	None	Neutral
Marriage and civil partnership	None	Neutral
Pregnancy and maternity	None	Neutral
Race	None	Neutral
Religion or belief	None	Neutral
Sex	None	Neutral
Sexual orientation	None	Neutral
Other socially excluded groups ¹		

Conclusion: <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see PSED) 	Summarise this conclusion in the body of your report <p>In the writing of this policy we have considered whether we are giving more due regard to one group with protected characteristics over another. As all charities and non-profit making organisations are able to apply for DRR it is not felt that the policy will have a negative effect on any group.</p> <p>¹ Other socially excluded groups include literacy issues, people living in poverty or on low incomes or people who are geographically isolated from services</p>
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<p>Technical Guidance). Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p>	
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Timing

- Having 'due regard' is a state of mind. It should be considered at the inception of any decision.
- Due regard should be considered throughout the development of the decision. Notes should be taken on how due regard to the equality duty has been considered through research, meetings, project teams, committees and consultations.
- The completion of the CIA is a way of effectively summarising the due regard shown to the equality duty throughout the development of the decision. The completed CIA must inform the final decision-making process. The decision-maker must be aware of the duty and the completed CIA.

Full technical guidance on the public sector equality duty can be found at:

http://www.equalityhumanrights.com/uploaded_files/PSD/technical_guidance_on_the_public_sector_equality_duty_england.pdf

This Community Impact Assessment should be attached to any committee or SMT report relating to the decision. This CIA should be sent to the Website Officer (Lindsay Oldfield) once completed, so that it can be published on the website.

Action Plan

Issue	Action	Due date	Lead Officer	Manager	Cabinet Member

Actions in this action plan will be reported to the CIA group once a quarter, so updates will be required quarterly.

Cabinet Meeting	Agenda Item: 6
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Meeting Date	2 September 2015
Report Title	Discretionary Housing Payment Policy
Cabinet Member	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance
SMT Lead	Pete Raine
Head of Service	Amber Christou
Lead Officer	Zoe Kent
Recommendations	<ol style="list-style-type: none"> 1. That the Discretionary Housing Payment policy is adopted 2. That the policy should include a further stage of review by the Head of Resident's Services

1 Purpose of Report and Executive Summary

1.1 The Benefits section is awarded an annual budget from central government to provide payments to those Housing Benefit customers who have a shortfall between their rent and their Housing Benefit. Due to the changes that have been brought in by Central Government for welfare reform our Discretionary Housing Payment (DHP) budget almost doubled to £323,270 in 2013/14, increasing again in 2014/15 to £346,325. In 2015/16 the budget was then reduced to £247,614 however, following the latest announcements concerning the latest welfare reforms it is likely that our budget will increase again from 2016/17. It was therefore considered an appropriate time to review the policy.

2 Background

1.2 Prior to April 2013 DHPs had only been paid to claimants who had a shortfall between their Housing Benefit and rent, for reasons such as a higher than average rent for example, working so not receiving full Housing Benefit but high expenses or living in larger than necessary accommodation due to a claimant being pregnant. Since the implementation of the welfare reform changes the budget has increased due to the reduction in the Local Housing Allowance (LHA) rates which had restricted the amount we can pay in Housing Benefit, the spare room subsidy reductions and the benefit cap.

1.3 In 2013 an analysis was carried out of the numbers of benefit claimants affected by welfare reform and the estimated amount of DHP payments that were likely to be made. The claimant's affected were broken down into 3 main groups, those affected by the size criteria in the social rented sector, the benefit cap and LHA reforms. Table 1 provides a guide as to what was considered to be the likely impact of the changes being made in the housing benefit system and the amount of the DHP budget expected to support those affected.

- 1.4 As can be seen from table 2-4 the predicted overspend of the DHP budget has not occurred. DHP claims have only been turned down where it has been felt that claimants had enough excess income to cover any shortfall between their Housing Benefit and rent. 2015/16 has been the first year where we are spending the full amount per month pro-rata to the budget. What is not known is whether claimants are underspending on necessities such as food or other living expenses to meet the shortfall in their rent.
- 1.5 Tables 2 – 4 also show that since 2014/15 around half of the budget is being spent on the welfare reform changes including the LHA restrictions. The other half of the budget is being used for claimants who have a shortfall between their rent and Housing Benefit.

Table 1: *Predicted changes from April 2013*

Type of Change	Households	Reduction in HB	Estimated DHP expenditure
Spare Room Subsidy	857	£733,096	£139,006
Benefit Cap	61	£218,504	£48,490
LHA Reforms	2785	£339,247	£135,774
Total	3703	£1,290,847	£323,270

Table 2: *Actual DHP expenditure 2013/14*

Impact of Welfare Reforms 2013/14	Number of awards	£
Benefit Cap	45	37,787
Removal of spare room subsidy	333	156,461
LHA Restriction	50	20,103
Combination of reforms	1	122
No welfare reform impact i.e. awarded under previous rules	252	114,759
Total	681	£329,232
Purpose of DHP		Number of awards
To help secure and move to alternative accommodation e.g. rent deposit		29
To help with short-term rental costs while the claimant secures and moves to alternative accommodation		121
To help with short-term rental costs whilst the claimant seeks employment		48
To help with on-going rental costs for a disabled person in adapted accommodation		8
To help with on-going rental costs for any other reasons		475
Total		681

Table 3: *Actual DHP expenditure 2014/15*

Impact of Welfare Reforms 2014/15	Number of awards	£
Benefit Cap	50	35,966
Removal of spare room subsidy	305	114,331
LHA Restriction	41	14,965
Combination of reforms	4	1,382
No welfare reform impact i.e. awarded under previous rules	353	184,434
Total	753	£351,078
Purpose of DHP		Number of awards
To help secure and move to alternative accommodation e.g. rent deposit		144
To help with short-term rental costs while the claimant secures and moves to alternative accommodation		214
To help with short-term rental costs whilst the claimant seeks employment		68
To help with on-going rental costs for a disabled person in adapted accommodation		14
To help with on-going rental costs for a foster carer		3
To help with on-going rental costs for any other reasons		310
Total		753

Table 3: *Actual DHP expenditure 2015/16 up to 01.08.2015*

Impact of Welfare Reforms 2015/16 up to 01.08.2015	Number of awards	£
Benefit Cap	14	4,155
Removal of spare room subsidy	147	308,58
LHA Restriction	14	2867
Combination of reforms	4	1,381
No welfare reform impact i.e. awarded under previous rules	161	53,671
Total	340	£92,932
Purpose of DHP		Number of awards
To help secure and move to alternative accommodation e.g. rent deposit		78
To help with short-term rental costs while the claimant secures and moves to alternative accommodation		89
To help with short-term rental costs whilst the claimant seeks employment		25
To help with on-going rental costs for a disabled person in		9

adapted accommodation	
To help with on-going rental costs for a foster carer	1
To help with on-going rental costs for any other reasons	138
Total	340

- 1.6 The draft DHP report was taken to Scrutiny in November 2014 and a consultation was carried out in the last quarter of 2014/2015, the full consultation results can be found in appendix III – Discretionary Housing Payments draft policy consultation. The order of objectives for awarding DHP payments has produced different outcomes from Scrutiny and the consultation as follows:

Scrutiny

- prevent homelessness;
- help alleviate poverty;
- support vulnerable households;
- provide support at a time of crisis;
- encourage employment.

Consultation

- help alleviate poverty;
- prevent homelessness;
- provide support in a time of crisis;
- encourage employment;
- support vulnerable households.

As there was very little difference between the suggested order of objectives in the consultation and the view of scrutiny, due to the increase in residents presenting as homeless to Housing Options the order suggested by Scrutiny has been used in the DHP policy.

- 1.7 Scrutiny also suggested that there should be a further review stage by an independent reviewer, this has been considered and a recommendation has been added proposing that the Head of Resident's Services should be included as a further stage of review.
- 1.8 Following an appeal (Hardy, R (on the application of) v Sandwell Metropolitan Borough Council (2015)) the High Court stated that authorities should not be using blanket policies when considering DHP applications. In particular they felt that policies should not state that an income such as Disability Living Allowance would or would not be taken into account. The policy therefore does not suggest that a particular income should or should not be taken into account.

3 Proposal

- 1.9 It is proposed that the DHP policy is adopted by Full Council with the order of objectives as listed in the policy – appendix I DHP Policy – Draft August 2015.
- 1.10 The aim of the policy is to ensure that each claim is looked at on its own merits. For this reason the policy only gives general guidance on the objectives behind the award of a DHP. It does not suggest levels of income or expenditure that should be taken into account, nor does it suggest the length of time that DHPs should be awarded for.
- 1.11 The adoption of this policy should help DHP payments to be awarded following the objectives within the policy such as preventing homelessness, for example evictions from properties where claimants may have built up rent arrears. Such cases can cause added stress to the most vulnerable members of the Borough and increase costs if families have to be rehoused.

4 Alternative Options

- 1.12 DHPs could be awarded just following the DWP DHP guidance manual; however as further welfare reform measures are brought in it may be more likely that an increased level of claims may be received. It is recommended as the award of DHPs are discretionary a policy should be in place so that awards are made based on the needs of the Borough.

5 Consultation Undertaken or Proposed

- 1.13 A consultation was carried out in the last quarter of 2014/15. The views of those who completed the consultation have been included in the policy and have been considered in the community impact assessment, appendix II - CIA DHP Policy 2015. The report from the consultation can be found at appendix III – Discretionary Housing Payment draft policy consultation. Disappointingly only 8 people responded to the consultation, a link was sent out asking claimants to complete the consultation in over 5,000 letters. Stakeholders were also asked for their views. As we have only had to turn down DHPs where claimants have a surplus in their income above their expenditure it is possible that those in the most need have received a DHP and so did not feel the need to respond.

6 Implications

Issue	Implications
Corporate Plan	Making Swale a better place – by using the DHP budget to help those who need extra help towards payment of their rent or a deposit to move home, we are able to help them to build a settled life in our community.

	A council to be proud of – the DHP budget can be used to help those most in need to either stay in their current dwelling or to move to more appropriate housing for the needs. This can also help us to free up properties that may be more suitable for other residents who are currently bidding for housing.
Financial, Resource and Property	The DHP funding is an annual grant from the DWP. If the grant is not spent in full, any funding left at the end of the financial year must be repaid to the DWP. It is therefore imperative that the use of the grant is monitored throughout the year. The Housing Benefit team therefore work with the Housing Options team and landlords to ensure that the grant is used to provide support to those most in need.
Legal and Statutory	Discretionary Financial Assistance Regulations 2001 (as amended 2008 and 2013) give the Borough the discretion to decide how to award discretionary payments. The regulations were amended in 2013 to include the award of DHP payments to those residents in receipt of Universal Credit.
Crime and Disorder	By providing DHP payments it may stop some claimants from committing crime in order to meet any shortfall between their Housing Benefit and rent payments. The risk of this happening is likely to be minimal.
Sustainability	None
Health and Wellbeing	Using the DHP budget appropriately to reach those residents most in need will help to improve the health and wellbeing of people whose health may be suffering. This could include stress they may be under due to living in unsuitable housing or because of rent arrears they may have built up.
Risk Management and Health and Safety	None
Equality and Diversity	A community impact assessment has been carried out. This has found that those claimants who are likely to claim a DHP payment have a high probability of coming from a group with a protected characteristic. As all claims are based on a claimant's income and expenditure each claim will be treated on its own merits.

7 Appendices

The following documents are to be published with this report and form part of the report

- Appendix I: DHP Policy – Draft 02.09.2015
- Appendix II: CIA DHP Policy 2015
- Appendix III: DHP Survey Summary 2015

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Swale Borough Council Discretionary Housing Payments Policy

Revenues & Benefits Service

Draft January 2015

1. Introduction

This policy sets out how Swale Borough Council will operate its Discretionary Housing Payment (DHP) scheme.

Since April 2013 DHP awards have played an important part in helping people to adjust to changes in the welfare system. However, the level of funding to award DHPs is much lower than the reduction that was made in other benefits through the welfare reform changes, and will therefore, in most cases, only be made in the form of short term support whilst any underlying issues are addressed. Such issues may include taking employment, moving to affordable or suitably sized accommodation, or seeking help to address money and debt issues.

In administering the scheme and considering any application, the Council will expect those that are able to help themselves to do so. DHP should not be seen as an alternative to welfare reform.

Since 1 April 2013 the Borough has lost in excess of £1.3 million per year from the benefit spend it receives. By way of contrast, for 2015/16 we have only received £247,614 towards DHP expenditure, from which we are expected to consider claims to cover the on-going reductions from the LHA rates, and since April 2013 reductions in Housing Benefit for the spare room subsidy followed by the benefit cap. If the grant provided by the DWP does not cover the claims that we consider need help, we are also allowed to spend using our own funds up to a limit of £619,035. Any spending above the grant provided by the Department for Work and Pensions may have an effect on other services provided by the Borough.

From March 2015 the funding will also be used to help those claiming housing costs through Universal Credit.

2. Objectives of the Scheme

The Council will consider making a Discretionary Housing Payment (DHP) to households who meet the criteria outlined in this Policy. Due to the changes in welfare provision and the reductions in benefit awarded to claimants there has been an increase in local residents presenting as homeless. By using the DHP budget to help claimants to meet the shortfall between Housing Benefit and their rent or to move to a more affordable home, we can alleviate some of the pressure on the homelessness budget.

We will treat all claims on their individual merits, and seek through the operation of this and associated policies to:

- Prevent homelessness
- Help alleviate poverty;
- Support vulnerable households;
- Provide support in a time of crisis; and
- Encourage employment.

Discretionary Housing payments can only be made to help with housing costs and cannot not be paid to cover other costs such as service charges or Council Tax.

3. The DHP scheme

The DHP scheme is intended to be flexible and can cover a range of different housing costs or scenarios. These include:

Meeting the shortfall between rent and housing benefit where:

- a property has been especially adapted to meet the needs of a disability and it would be impractical to move;
- the householder has planned to move to more affordable accommodation and needs some short term assistance until they actually make the move into their new home;
- the property is currently classed as too big for the household but the circumstances are expected to change e.g. expecting a baby, a significant birthday or awaiting placement of a foster child or taking in a lodger;
- the householder is struggling to pay their rent because of other debts but can demonstrate that they are seeking help or have arranged their finances to enable them to pay the shortfall in the future; or
- short term support to help with the move back into work.

Help to move to an affordable property where:

- the customer wants to move to a property which may be more suitable to their needs and is currently or in the future may lead to a cost to the homelessness budget and needs some help to pay the rent in advance and/or deposit; or
- the customer has to pay rent on two properties for a short period and it cannot be met by housing benefit.
- The customer needs help with the cost of removals

DHPs are made at the discretion of the Council and are not governed by the same rules as housing benefit; however, to qualify the person making a claim must also be receiving housing benefit.

The starting point of any application will also be to consider whether there is a need for a DHP or if the amount can be met through the other income and savings within the household. The Council will also look where appropriate to see what action the person is taking to help themselves.

4. Claiming a DHP

A claim for a DHP will generally be expected to be made in writing using the form provided by the Council. The form asks for details of all income and expenses, as well as details of wider circumstances which the Council needs to be aware of to make an informed decision.

Where the customer would rather discuss their circumstances in person, a private interview can be arranged or, where the customer cannot attend the office, a home visit made.

In considering an application the Council may request evidence to support the application, or take steps to verify the information provided to ensure that they are accurate.

5. Period of Award

The period of award will be dependent on the individual circumstances and whether the award is to help to meet a one-off cost, temporary shortfall, or longer term need.

At the point of making a decision the Council will set the period of award, which will be notified along with the decision. Decisions will normally start from the Monday after receipt of the claim; however, awards may be backdated if there is a good reason why the claim could not have been made sooner and the circumstances continued throughout that period.

6. Changes of Circumstances

In receiving a DHP the applicant provides an undertaking to notify the Council of any change in the circumstances declared within their application. The Council may revise and recover any overpayment where the claimant's circumstances have materially changed.

7. Payment

The Council will decide the most appropriate person to pay based upon the circumstances of each case. This could include paying:

- the claimant
- their partner;
- an appointee;
- their landlord (or an agent of the landlord); or
- any third party to whom it might be most appropriate to make payment.

Payments will be made by BACS and at the same frequency as any housing benefit, subject to any special requirements.

8. Notification

The Council will aim to advise claimants of the outcome of their claim within 14 days of receipt of their claim and any evidence requested. The notification will include;

- the weekly amount of DHP awarded;
- the income and expenditure used in the calculation;
- the period of award;
- whom it will be paid to; and

- the requirement to report a change of circumstances.

9. Review of Decisions

The Council will operate the following policy, in dealing with a request for a decision to be reviewed about a refusal to award a DHP or the amount or period of award:

- a request for a review should be in writing within one month of the decision, stating why the decision is believed to be wrong and providing any additional evidence;
- the decision, along with any new evidence from the claimant, will be reviewed by the Council's nominated Appeals Officer, who will aim to either make a new decision or confirm the earlier decision within 14 days;
- the claimant will be notified of the outcome in writing and informed of their right to escalate their appeal to the Revenues and Benefits Manager – Financial & Technical if they remain unhappy with the decision made;
- the Revenues and Benefits Manager- Financial & Technical will review the decision and write to confirm the outcome within 14 days informing them of their right to escalate their appeal to the Head of Resident's Services if they still remain unhappy with the decision made;
- the Head of Resident's Services will review the decision and will write to confirm the outcome within 21 days. That decision will be final with no further right of appeal.

10. Publicity

The Council will promote the availability of DHPs when notifying individuals of their housing benefit entitlement, when communicating any change or restriction in housing benefit awards, and through the information made available on-line and at customer access points.

11. Information Sharing

The Council will use the information provided within the application and any supporting evidence for the purpose of verifying benefit entitlement and making a decision on the claim. In addition, it may share information with other departments within the Council and with partner organisations for the purpose of the planning and/or delivery of services or fraud prevention.

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Community Impact Assessment

A Community Impact Assessment (CIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in decision-making.

When to assess

A CIA should be carried out when you are changing, removing or introducing a new service, policy or function. The assessment should be proportionate; a major financial decision will need to be assessed more closely than a minor policy change.

Public sector equality duty

The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:

- 1) Eliminate discrimination, harassment and victimisation;
- 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are known as the three aims of the general equality duty.

Protected characteristics

The Equality Act 2010 sets out nine protected characteristics that apply to the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

We also ask you to consider other socially excluded groups, which could include people who are geographically isolated from services, with low literacy skills or living in poverty or low incomes; this may impact on aspirations, health or other areas of their life which are not protected by the Equality Act, but should be considered when delivering services.

Due regard

To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question. The greater the relevance and potential impact, the higher the regard required by the duty. The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others.

Collecting and using equality information

The Equalities and Human Rights Commissions (EHRC) states that 'Having due regard to the aims of the general equality duty requires public authorities to have an adequate evidence base for their decision making'. We need to make sure that we understand the potential impact of decisions on people with different protected characteristics. This will help us to reduce or remove unhelpful impacts. We need to consider this information before and as decisions are being made.

There are a number of publications and websites that may be useful in understanding the profile of users of a service, or those who may be affected.

- The Office for National Statistics Neighbourhoods website <http://www.neighbourhood.statistics.gov.uk>
- Swale in 2011 http://issuu.com/swale-council/docs/key_data_for_swale
- Kent County Council Research and Intelligence Unit http://www.kent.gov.uk/your_council/kent_facts_and_figures.aspx
- Health and Social Care maps <http://www.kmpho.nhs.uk/health-and-social-care-maps/swale/>

At this stage you may find that you need further information and will need to undertake engagement or consultation. Identify the gaps in your knowledge and take steps to fill these.

Case law principles

A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- The general equality duty is not a duty to achieve a result, it is a duty to have due regard to the need achieve the aims of the duty.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Examples of case law can be found here [EHRC relevant case law](#). They include examples of why assessing the impact **before** the decision is made is so important and case law around the need to have due regard to the duty

Lead officer:	<i>Zoe Kent</i>
Decision maker:	<i>Council</i>
People involved:	<i>Revenues and Benefits Service, Housing Options</i>
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	<ul style="list-style-type: none"> • <i>Discretionary Housing Payment (DHP) Policy</i> • <i>The policy is being reviewed</i>
Date of decision: The date when the final decision is made. The CIA must be complete before this point and inform the final decision.	<i>The policy will be going to Council in September 2015</i>
Summary of the decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p><i>The DHP policy aims to:</i></p> <ol style="list-style-type: none"> <i>1. To ensure the extra funding from the DWP is used effectively and is awarded appropriately</i> <i>2. To help people to be housed appropriately</i> <i>3. Support vulnerable people</i> <i>4. Tackle disadvantage and improve quality of life</i> <p><i>What are the key actions?</i></p> <ul style="list-style-type: none"> • <i>Ensuring the policy covers all areas of the community who may require access to a DHP payment</i> • <i>Reviewing and recommending how best to deliver the DHP budget</i> • <i>Ensuring the policy is covering all groups who may be vulnerable appropriately.</i> • <i>Expanding user feedback, engagement and consultation</i> <p><i>What are the expected outcomes?</i> <i>The policy should ensure that the DHP budget is delivered to those most in need of extra help towards their housing costs. It should also help people on low incomes to move to appropriate housing.</i></p> <p><i>Who will be affected?</i> <i>Any resident of Swale who claims Housing Benefit who has a shortfall between their rent and their Housing Benefit is able to put in a claim for a DHP payment. The claim is means tested against their income and expenditure.</i></p> <p><i>How many people will be affected? There are currently 10,500 Housing Benefit claimants in Swale. Around 5,000 people receive Housing Benefit but pay something towards their rent.</i></p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. • Include information on how the decision will affect people 	<p><i>What research have you undertaken during the process of writing the policy?</i></p> <p><i>Researching other DHP policies</i> <i>Consulting with claimants, landlords, partners and the local voluntary sector.</i></p> <p><i>Many Housing Benefit claimants with different characteristics for</i></p>

with different protected characteristics.	<i>example people with disabilities or lone parents may have higher living expenses because of their different characteristics. However, the benefit system is set up to ensure those with higher needs should also receive more help in a higher level of benefits, for example Disability Living Allowance/ Personal Independence Payments or Child Tax Credits to help towards the higher living costs. This can mean that a single person with no protected characteristics could have less income to use towards rent expenditure than a person with protected characteristics.</i>
Consultation: <ul style="list-style-type: none"> • Has there been specific consultation on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p><i>A consultation was carried out between January and March 2015, the consultation asked respondents to rank various conditions for awarding a DHP payment. Disappointingly only 8 people responded to the consultation, a link was sent out with all Housing Benefit correspondence issued during the period of the consultation, it was promoted on our website, during Housing Benefit interviews and through all our major stakeholders such as landlords, CAB and Age UK. In excess of 5,000 letters would have been issued during the period of the consultation promoting the link.</i></p> <p><i>Of those that responded 5 answered that they felt that all vulnerable groups should be treated equally. Of the three that answered no, each one chose a different group that they felt should receive more help, namely people who are disabled, carers and single claimants with no children who are under 35 who receive a lower amount of Housing Benefit.</i></p> <p><i>As so few people responded we are unable to analyse whether those with different protected characteristics have different views concerning the policy. We are also unable to draw any conclusions from the responses on how the policy could affect those people with different protected characteristics.</i></p> <p><i>A copy of all responses can be found in Appendix III DHP survey summary.</i></p>

Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's PSED Technical Guidance .	
Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	No

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.		
When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.		
Characteristic	Relevance to decision High/Medium/Low/None	Impact of decision Positive/Negative/Neutral
Age	Medium	Neutral
Disability	None	Neutral
Gender reassignment	None	Neutral
Marriage and civil partnership	None	Neutral

Pregnancy and maternity	Medium	Neutral
Race	None	Neutral
Religion or belief	None	Neutral
Sex	None	Neutral
Sexual orientation	None	Neutral
Other socially excluded groups ¹		

<p>Conclusion:</p> <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see PSED Technical Guidance). <p>Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p>	<p>Summarise this conclusion in the body of your report</p> <p>In the writing of this policy we have considered whether we are giving more due regard to one group with protected characteristics over another. As the policy is advising that claims should be considered on a person's income and expenditure those who fall into some protected characteristics may have higher income and also higher expenditure. Each claim will be treated individually on its own merits and circumstances. Those who do not receive extra income because of a protected characteristic may be assessed as needing a higher DHP payment however consideration will also be given as to whether their ability to move to cheaper accommodation or find employment is higher so a DHP may not be awarded for such a long period.</p>
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Timing

- Having 'due regard' is a state of mind. It should be considered at the inception of any decision.
- Due regard should be considered throughout the development of the decision. Notes should be taken on how due regard to the equality duty has been considered through research, meetings, project teams, committees and consultations.
- The completion of the CIA is a way of effectively summarising the due regard shown to the equality duty throughout the development of the decision. The completed CIA must inform the final decision-making process. The decision-maker must be aware of the duty and the completed CIA.

Full technical guidance on the public sector equality duty can be found at:

http://www.equalityhumanrights.com/uploaded_files/PSD/technical_guidance_on_the_public_sector_equality_duty_england.pdf

This Community Impact Assessment should be attached to any committee or SMT report relating to the decision. This CIA should be sent to the Website Officer (Lindsay Oldfield) once completed, so that it can be published on the website.

¹ Other socially excluded groups could include those with literacy issues, people living in poverty or on low incomes or people who are geographically isolated from services

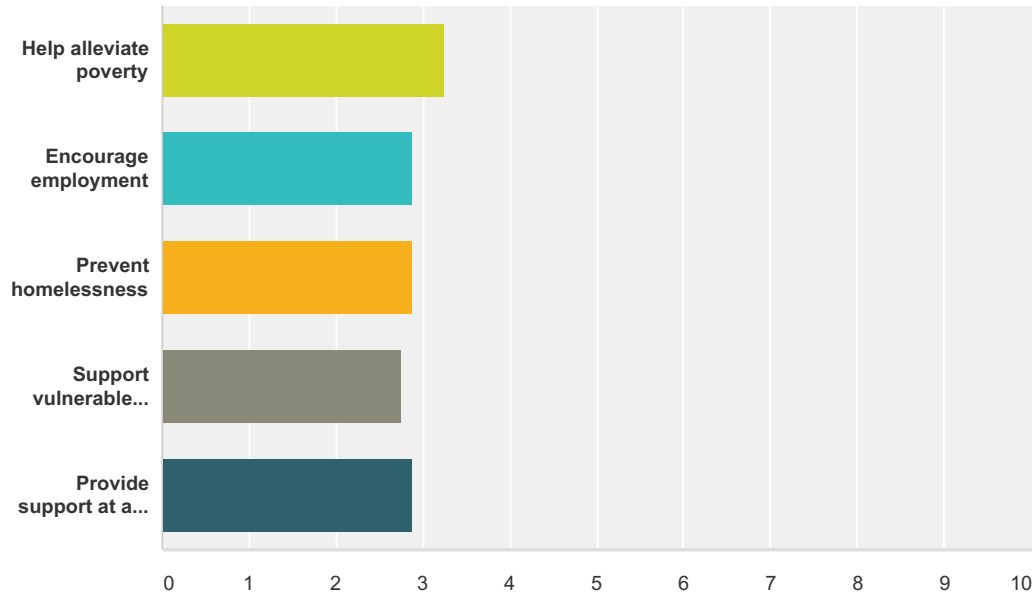
Action Plan

Issue	Action	Due date	Lead Officer	Manager	Cabinet Member

Actions in this action plan will be reported to the CIA group once a quarter, so updates will be required quarterly.

Q1 A DHP payment is awarded where a person meets certain conditions, please rank the statements from 1 to 5 below, in order of importance when awarding a DHP payment.

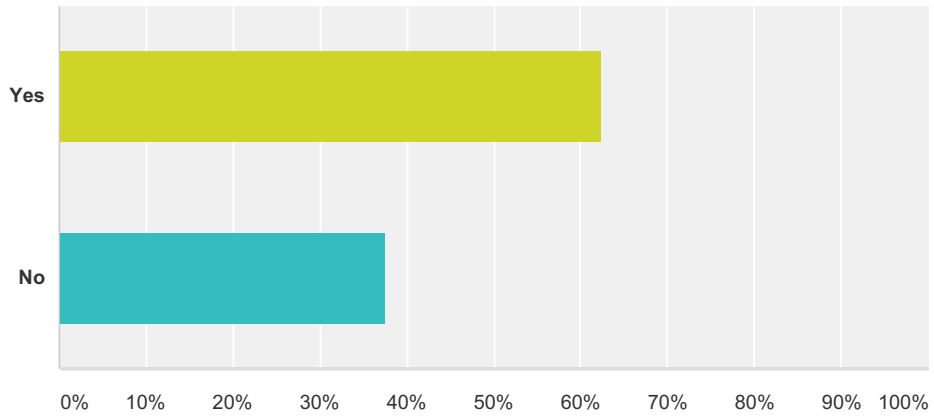
Answered: 8 Skipped: 0



	1	2	3	4	5	Total	Weighted Average
Help alleviate poverty	37.50% 3	0.00% 0	0.00% 0	25.00% 2	37.50% 3	8	3.25
Encourage employment	25.00% 2	25.00% 2	12.50% 1	12.50% 1	25.00% 2	8	2.88
Prevent homelessness	25.00% 2	25.00% 2	12.50% 1	12.50% 1	25.00% 2	8	2.88
Support vulnerable households	12.50% 1	37.50% 3	25.00% 2	12.50% 1	12.50% 1	8	2.75
Provide support at a time of crisis	25.00% 2	25.00% 2	0.00% 0	37.50% 3	12.50% 1	8	2.88

Q2 DHP payments are often awarded to customers who are classed as vulnerable. Do you think all vulnerable groups should be awarded the same amount of help?

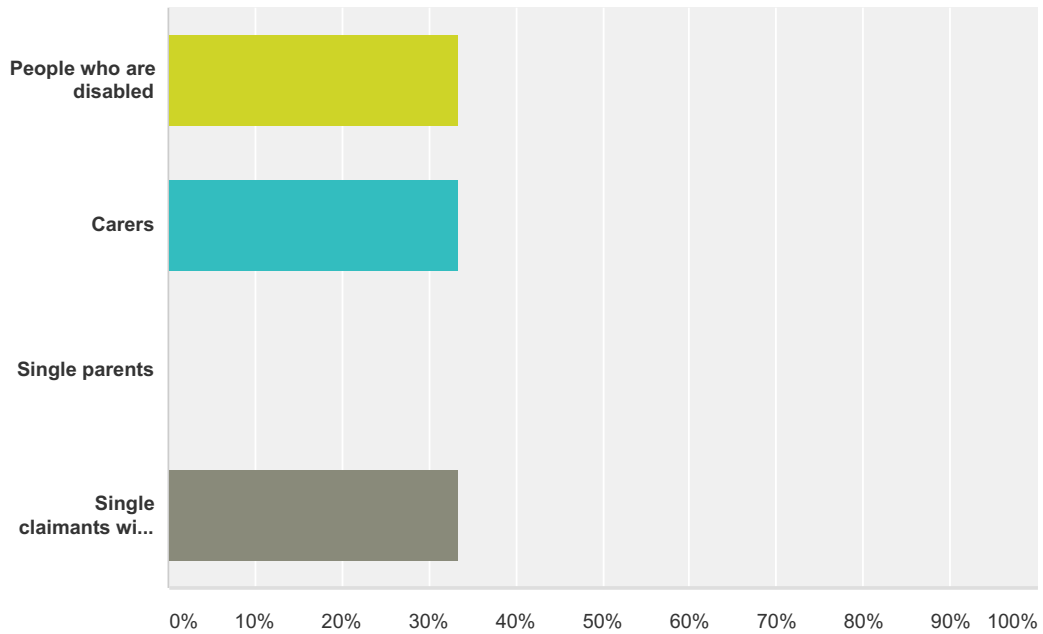
Answered: 8 Skipped: 0



Answer Choices	Responses
Yes	62.50% 5
No	37.50% 3
Total	8

Q3 If you have answered no to question 2 which of the following groups do you think should be awarded more help?

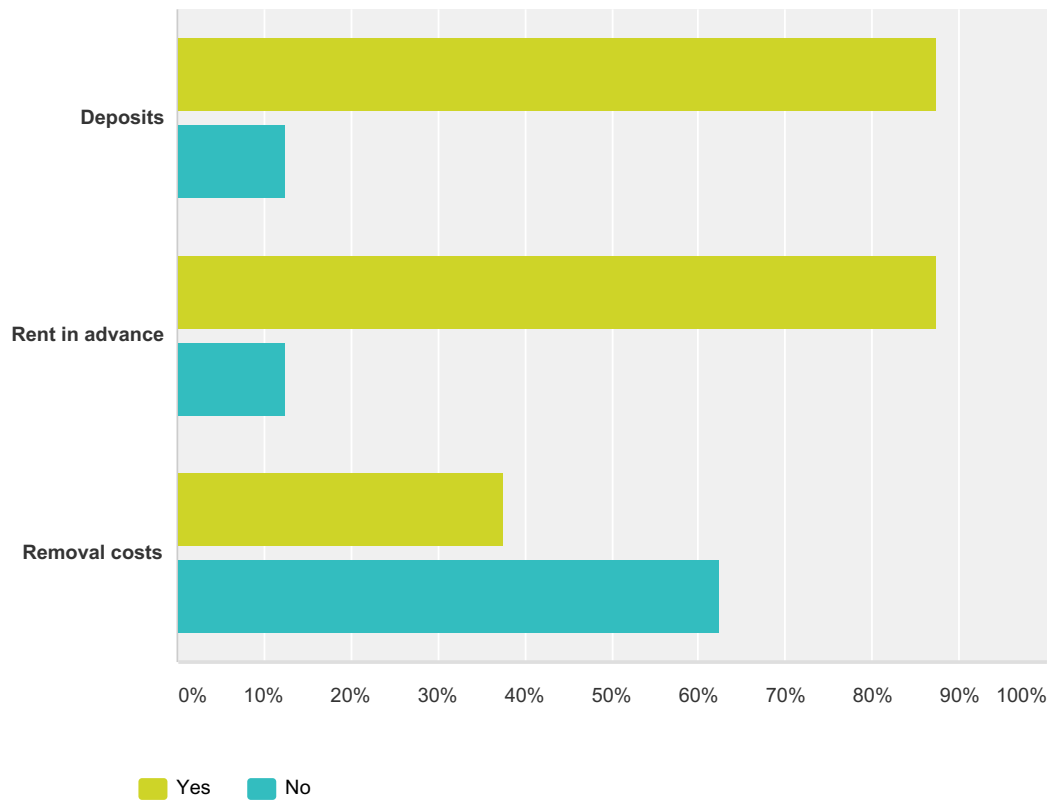
Answered: 3 Skipped: 5



Answer Choices	Responses
People who are disabled	33.33% 1
Carers	33.33% 1
Single parents	0.00% 0
Single claimants with no children who are under 35 who receive a lower amount of Housing Benefit	33.33% 1
Total	3

Q4 As there is a limited amount of social housing properties available in the Swale Borough Council area each year to encourage those who are over accommodated to move or to help claimants find suitable accommodation do you think we should use the DHP budget for:

Answered: 8 Skipped: 0



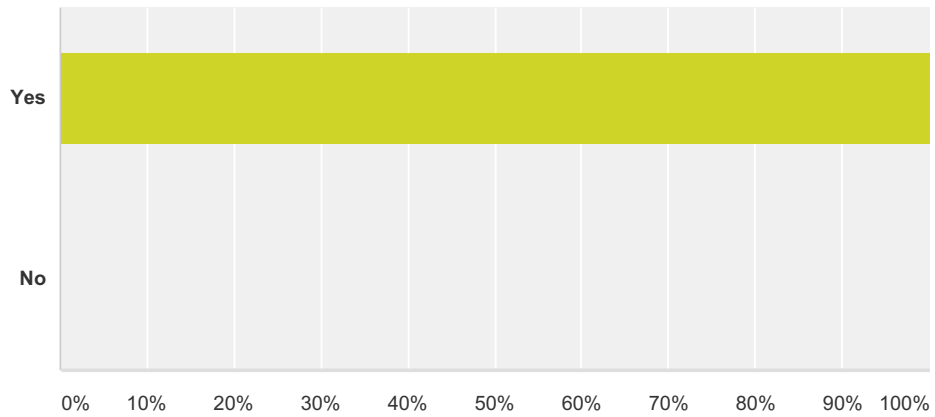
	Yes	No	Total
Deposits	87.50% 7	12.50% 1	8
Rent in advance	87.50% 7	12.50% 1	8
Removal costs	37.50% 3	62.50% 5	8

Q5 Are there any other comments you would like to make about our Discretionary Housing Payment Policy?

Answered: 2 Skipped: 6

Q6 Do you have access to a computer?

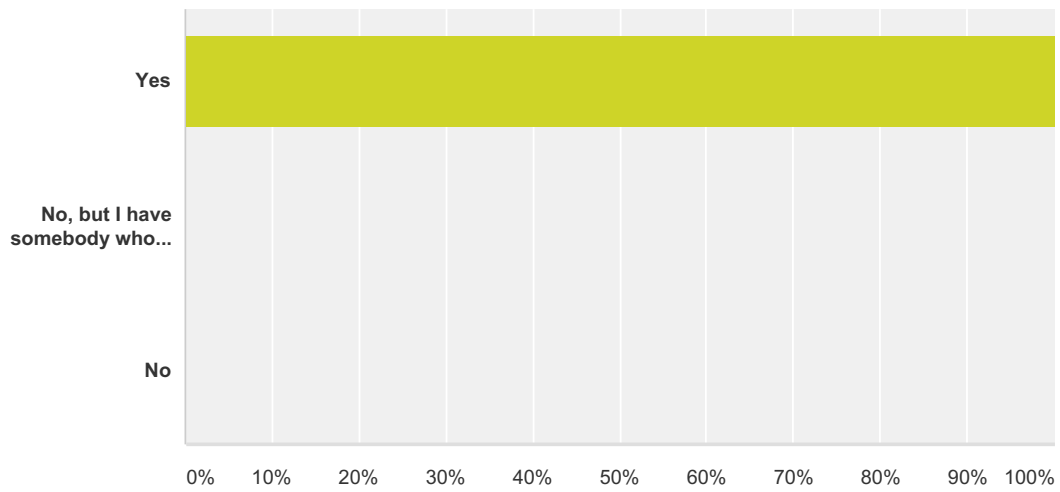
Answered: 5 Skipped: 3



Answer Choices	Responses
Yes	100.00% 5
No	0.00% 0
Total	5

Q7 Are you able to complete forms on a computer?

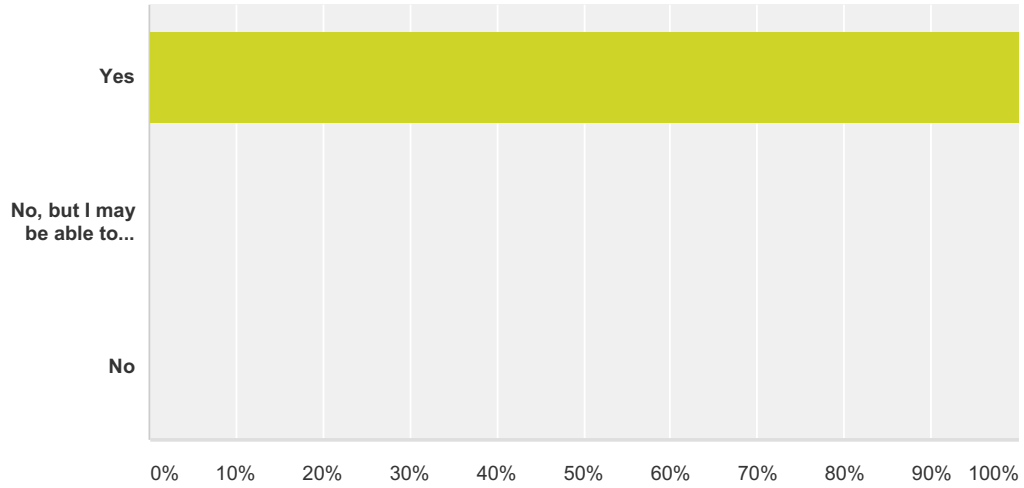
Answered: 5 Skipped: 3



Answer Choices	Responses
Yes	100.00% 5
No, but I have somebody who can help me	0.00% 0
No	0.00% 0
Total	5

Q8 Universal Credit is paid monthly, will you be able to manage your money if you are paid your benefit once a month?

Answered: 5 Skipped: 3



Answer Choices	Responses
Yes	100.00% 5
No, but I may be able to manage if I receive some budgeting help	0.00% 0
No	0.00% 0
Total	5

Cabinet Meeting	Agenda Item: 7
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Meeting Date	2 September 2015
Report Title	Combating Fraud – Council Tax & Business Rates
Cabinet Member	Clr Duncan Dewar-Whalley, Cabinet Member for Finance
SMT Lead	Pete Raine
Head of Service	Amber Christou
Lead Officer	Zoe Kent
Recommendations	<ol style="list-style-type: none"> 1. To approve, subject to the agreement of Kent County Council, Maidstone and Tunbridge Wells Borough Councils, the continuation of a counter fraud team to reduce the level of customer fraud and error in relation to council tax and business rates. 2. To authorise the Revenues and Benefits Manager to make the necessary operational arrangements as set out in this report. 3. To delegate authority to the Director of Regeneration to enter into a collaboration agreement with Kent County Council, Maidstone and Tunbridge Wells Borough Councils for the continued delivery of a counter fraud service for council tax and business rates. 4. That a review of the service is undertaken in 18 months with a further report to be provided detailing the impact of the service on fraud and error.

1 Purpose of Report and Executive Summary

1.1 Maidstone, Swale and Tunbridge Wells Borough Councils (the councils) award council tax and business rates discounts/exemptions totalling £72.7 million per annum. This report and the supporting business case - appendix I outlines how the councils, Kent County Council, Kent Police and Kent and Medway Fire and Rescue services can work together to minimise losses through customer fraud and error and maximise the collection rate.

1.2 The proposal includes provision for joint funding for:

- a dedicated team of fraud investigators;
- a programme of proactive exercises to identify and detect fraud;
- a responsive service to investigate reported allegations of fraud; and
- fraud awareness training for frontline staff.

2 Background

- 1.3 The councils entered into a shared service for the delivery of counter fraud services in 2014 recognising the future challenge of maintaining an effective service after the transfer of housing benefit fraud investigation to the Department for Work and Pensions (DWP), Single Fraud Investigation Service (SFIS) in March 2016.
- 1.4 The transfer of housing benefit fraud investigation to the DWP allows for 4 of the 6 investigation team (excluding 2 visiting/compliance officers) within the current investigation team to transfer to the DWP and would mean the councils losing the specialist skills and capacity to protect the councils and preceptors, against fraud and error within the wider system.
- 1.5 The team operates at a total annual cost of £237,000 (£310,000 inclusive of accommodation and service on-costs) with £93,003 of that cost being met by the Borough. The Borough has met that cost through an administration grant from the DWP, which is expected to end on the transfer to SFIS. The exact date and amount of reduction in grant is still to be confirmed.
- 1.6 With the function funded through the DWP the focus of the team has until this point been fraud and error within the housing benefit and council tax support scheme, with the team identifying benefit reductions of £891,500 during 2014/15.
- 1.7 Prior to the introduction of the business rates retention scheme in April 2013 there was little incentive for councils to investigate incorrectly claimed business rates exemptions or reliefs because the rates collected were handed over to central government and therefore had no effect on the income of the councils. Now that this income represents a significant amount of the councils' budget there is a direct implication and benefit in monitoring the award of these exemptions and reliefs, which for the 3 councils total £24.8 million. The cost of rate relief in Swale alone is £8.4 million.

3 Proposal

- 1.8 The councils should retain the existing team of specialist investigators and widen the scope of their activity to include other areas of council tax and business rates administration. It is proposed that the cost of the service £207,000 is shared between the councils and preceptors based on the expected benefit to each organisation. That would represent a cost to the Borough of £18,200 and provide a projected income of £60,000.
- 1.9 The localisation of council tax support and business rates has changed the financial risk to the councils and preceptors, which to date has not been addressed within the resourcing or work plan for the councils' fraud team. Whilst there has been some activity to address the risk associated with single person discounts, the service has otherwise primarily focused its efforts on housing benefit and council tax support fraud.
- 1.10 The transfer of the housing benefit fraud function to SFIS creates both a risk and opportunity to the councils. With the administration of housing benefit and council

tax support being directly linked the councils have in effect been able to police the two systems at the same time. With the removal of housing benefit and potentially the investigation resource that was deployed with it, this will leave council tax support and therefore council tax exposed to fraud with no identified resource to investigate or deter fraud.

- 1.11 SFIS also creates an opportunity in realising a team of experienced specialist staff, with good local knowledge, to both manage the ongoing risk of council tax support and deliver capacity to expand their work into other areas both within the council tax and business rates system.
- 1.12 The value of discounts and exemptions (see appendix I) is significant and the risk of customer fraud and error high. As such it is incumbent on the councils to provide proper resources to address that risk. In maintaining and funding locally the continued operation of the councils' fraud team the councils would have the resources available to mitigate that risk and reduce the loss caused through fraud and error.
- 1.13 An example of the service plan for the next 2 years is provided within appendix I, along with estimated costs and benefits.

4 Alternative Options

- 1.14 The councils could allow for the transfer of fraud investigation staff to the DWP and in doing so lose the specialist skills within the counter fraud team.
- 1.15 It is expected that the reduction in the DWP grant will be equivalent to the cost of the staff employed and would therefore be neutral in terms of service budget. The council would however lack the capacity and skills to investigate customer fraud and error within the remaining council support function or other council tax and business rate discounts and exemptions.

5 Consultation Undertaken or Proposed

- 1.16 The councils have obtained agreement from Kent County Council (acting on behalf of Kent Police and Kent and Medway Fire and Rescue Services) to contribute to the cost of operating the service. Further details regarding the proportionate cost for each partner is provided within appendix I.
- 1.17 The Head of Revenues and Benefits – Shared Service based at Maidstone Borough Council where the fraud team are located has discussed the proposal with fraud investigation staff employed across the councils who have expressed a preference to remain employed by the councils rather than transfer to the DWP. A formal consultation process would however be undertaken regarding the proposed change to the function of the team.

6 Implications

Issue	Implications
Corporate Plan	BVPI 9 and 10 – effective operation and collection of council tax and business rates. A council to be proud of – reduction of fraud and error should improve revenue collection to provide services.
Financial, Resource and Property	<p>The proposals contained within this report will require funding of £18,200 + on costs. This represents a proportionate share of the total cost of £207,000 + on costs and is considered to represent value for money.</p> <p>The transfer of housing benefit fraud investigation function and proposed service represents a significant change to the terms and conditions of staff employed within the service. Formal consultation with trade unions and the staff affected is therefore planned.</p>
Legal and Statutory	The council has powers within the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and Theft Act 1978 to investigate and prosecute council tax and business rates fraud.
Crime and Disorder	No impact.
Sustainability	No impact.
Health and Wellbeing	No impact.
Risk Management and Health and Safety	Fraud in council tax support and business rates exemptions and discounts presents a risk to the Council in protecting its income streams, remaining a credible partner for precepting authorities and the wider public perception of the Council(s) as valuing good governance and pursuing those that would seek to fraudulently exploit its resources. Establishing and maintaining an effective counter fraud capability is a key control used to mitigate the likelihood of these risks becoming realised. Risks arising from the creation and operation of the team will be managed in line with the Council(s) risk management policies.
Equality and Diversity	No impact.

7 Appendices

The following documents are to be published with this report and form part of the report

- Appendix I: *Combating fraud and error 2015*

Combating Fraud – Council Tax & Business Rates Business Case

Filmer Wellard, Fraud Manager,
Mid Kent Services (Maidstone, Tunbridge Wells & Swale BC)
01622 602940
Filmer.Wellard@MidKent.gov.uk

30 July 2015

1. Business summary.

Maidstone, Tunbridge Wells and Swale BC (the councils) award council tax support and council tax and business rates discounts/exemptions totalling £72.7 million per annum. This business case outlines how the councils, Kent County Council, Police and Fire & Rescue services can work together to minimise losses through customer fraud and error and maximise the collection rate.

The proposal includes:

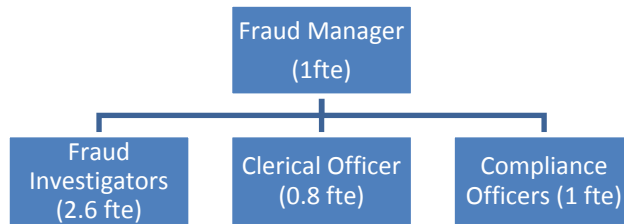
- Joint funding for a dedicated team of fraud investigators;
- A programme of proactive exercises to identify and detect fraud;
- A responsive service to investigate reported allegations of fraud; and
- Fraud awareness training for front line staff.

2. Background

The councils entered into a shared service for the delivery of counter fraud services in 2014 recognising the future challenge of maintaining an effective service after the transfer of Housing Benefit Fraud Investigation to the DWP, Single Fraud Investigation Service (SFIS) in March 2016.

The transfer of housing benefit fraud investigation to DWP allows for the current investigation team (5.42FTE) transferring to DWP but would mean the councils losing the specialists skills and capacity to protect the councils and preceptors, against fraud and error within the wider system.

The team currently consists of 6.42 FTE (reducing to 5.42 FTE January 2016) and operates at an annual cost of £237,000 (£310,000 including corporate recharges). That cost has until this point been met through an administration grant from DWP, which is to end on the transfer to SFIS.



The focus of the team has until this point been fraud and error within the housing benefit and council tax support scheme, with reductions to the public purse of £891,500 during 2014/2015.

Prior to the introduction of the rates retention scheme in April 2013 there was no direct incentive for authorities to investigate any incorrectly claimed business rates exemptions or reliefs because the rates collected were handed over to central government and therefore had no effect on the income of councils. Now that part of this income makes up our budgets and as this proportion is likely to increase over future years councils will need to monitor the award of these exemptions and reliefs, which for the 3 councils total £24.8 million.

This proposal concerns the maintenance of a counter fraud team principally focussed on revenues and benefits. This is to keep consistency with current provision and directly address the scope of DWP SFIS and potential funding from precepting bodies. However, following publication of the *CIPFA Counter Fraud Code* in October 2014 the Council is considering its wider fraud response (that is, non-revenues and benefits fraud, referred to as corporate counter fraud). The Councils' proposals for tackling corporate counter fraud will come forward separately later in the year, but whatever approach is decided in that field, the Councils' ability to combat fraud of any type will be enhanced by the retention of skilled and experienced counter fraud staff proposed in this business case.

3. Financial summary.

The councils currently award discounts and exemptions totalling £72.7million. By targeting the skills and experience of the fraud team to the wider risk of fraud within the tax base, the councils expect to deliver reductions in the award of Council Tax exemptions and discounts in the region of £600,000 per year. This will increase the amount of council tax that is collectable. The reduction has been based on a removal rate of 2-3%. In recent Single Person Discount (SPD) reviews there has been a removal rate of between 4% and 7%. The councils have been cautious in their predictions because it is acknowledged that when reviews are carried out on a frequent basis the removal rate will diminish.

	Maidstone	Swale	Tunbridge Wells	Total	Predicted reduction in CTS/exemptions
Council Tax	£	£	£	£	£
Empty property discounts	115,429	225,439	49,178	390,046	-
Exemptions	1,477,814	1,285,706	851,135	3,614,655	72,000
Disregards	362,515	307,154	210,012	879,681	-
Disabled reductions	71,628	48,560	59,785	179,973	-
Single person discounts	7,465,260	5,674,531	5,594,662	18,734,453	562,000
Council tax support	8,971,396	9,778,758	5,384,667	24,134,821	482,700
Business Rates	£	£	£	£	£
Exemptions	2,384,635	1,570,644	999,010	4,954,289	99,000
Small Business Rates relief	2,475,263	3,287,636	2,366,767	8,129,666	162,000
Mandatory & Discretionary relief	4,113,540	3,373,611	4,239,254	11,726,405	234,000
	27,437,480	25,552,039	19,754,470	72,743,989	1,654,000

The increases in Council Tax and Business Rates from the removal of awards of Council Tax Support, Council Tax and Business Rates exemptions will be retained by the billing authority to which they relate, with KCC, Fire and Police to receive their share based on the level of their precept. The cost of the service is apportioned based on the projected level of collectable council tax and Business Rates to be achieved by each organisation.

Authority and precept charge	KCC, Police & Fire (75%)	Maidstone BC (10%)	Tunbridge Wells BC (7%)	Swale BC (8%)	Total
Costs	155,250	19,519	14,053	18,178	207,000

Benefit	511,923	64,362	46,339	59,939	682,563
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4. Current Position

The councils currently focus fraud investigation on the payment of housing benefit and council tax support, reflecting the level of spend, risk of fraud and central funding from DWP. The service operates at two levels with “compliance activity” through home visits and more formal investigations potentially leading onto a sanction in the form of prosecution, administrative penalty and formal caution.

Due to the up and coming change over to SFIS the councils saw an opportunity for the fraud team to become involved with council tax and business rates. This has started with the review of single person discounts, specifically matches through the National Fraud Initiative.

5. Proposed Service

The localisation of council tax support and business rates has changed the financial risk to the councils and preceptors, which to date has not been addressed within the resourcing or work plan for the councils’ fraud team. Whilst there has been some activity to address the risk associated with single person discounts, the service has otherwise primarily focused its efforts on housing benefit and council tax support fraud.

The transfer of the housing benefit fraud function to SFIS creates both a risk and opportunity to the councils. With the administration of housing benefit and council tax support being directly linked the councils have in effect been able to “police” the two systems at the same time. With the removal of housing benefit and potentially the investigation resource that was deployed with it, this will leave council tax support and therefore council tax exposed to fraud with no identified resource to investigate or deter fraud.

SFIS also creates an opportunity in releasing a team of experienced specialist staff, with good local knowledge, to both manage the ongoing risk within council tax support and deliver capacity to expand their work into other areas both within the council tax and business rates system.

The value of discounts and exemptions (see point 3) is significant and the risk of customer fraud and error high. As such it is incumbent on the councils to provide proper resources to address that risk. In maintaining and funding locally the continued operation of the councils’ fraud team the councils would have the resources available to mitigate that risk and drive further savings within the council tax base.

An example of the service plan for the next 2 years if funding is secured could be as follows.

Year 2016/2017	Type of Review	
Council Tax	Council Tax Support – review of cases that are high risk	Annual review programme using risk profiling software to identify for high risk cases.
Council Tax	Single Person discount review	Annual review of entitlements, predominantly through the use of an online review facility with discrepancies investigated.
Business Rates	NNDR Small Business Rate Relief	Review of cases carried out with further fuller investigation of a sample of cases.
Council Tax	Review of other Council Tax disregards / exemptions.	Continuous rolling review of all discounts
2017/18	Type of Review	
Council Tax	Council Tax Support – review of cases that are high risk	Annual review programme using risk profiling software to identify high risk cases.
Council Tax	Single Person discount review	Bi-annual risk based review through the use of data matching. High risk cases investigated where customer claims continued entitlement.
Business Rates	Mandatory/discretionary relief	Review that premises are occupied and used for charitable purposes.
Council Tax	Review of disabled bandings	Review which will include

		visiting the property and checking any blue badge awards.
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6. Key outcomes.

This project will deliver a number of key outcomes:

- Investigation and recovery of losses through fraud
- Visible deterrent to reduce fraud
- Programmed reviews to identify the level of risk and actions to mitigate that risk
- Awareness created of the risk of fraud and implementing measures implemented to mitigate that risk.

7. Recommendation.

That the changes outlined in point 5 are approved for a two year period with the cost met through financial contribution from each of the councils, including preceptors KCC, Police and Fire & Rescue.

That the arrangement is reviewed in 18 months time to determine whether the service has proved to represent value for money, before a decision is made to extend, reuse or cease the arrangement.

Financial Summary

The annual saving to the public purse reflects the fact that the service will review the range of discounts and exemptions through a 2 year rolling programme, with 50% of the additional business rates generated retained by central government.

	Maidstone Discounts and Exemptions	Estimated Reduction	Swale Discount and Exemptions	Estimated Reduction	Tunbridge Wells Discounts and Exemptions	Estimated Reduction	Total value of Discounts and Exemptions	Total Estimated Reduction	Assumed Reduction
Council Tax									
Empty property discounts	115,429		225,439		49,178		390,046	-	Nil
Exemptions	1,477,814	29,556	1,285,706	25,714	851,135	17,023	3,614,655	72,293	2%
Disregards	362,515	-	307,154	-	210,012	-	879,681	-	Nil
Disabled reductions	71,628	-	48,560	-	59,785	-	179,973	-	Nil
Single person discounts	7,465,260	223,958	5,674,531	170,236	5,594,662	167,840	18,734,453	562,034	3%
Council tax support	8,971,396	179,428	9,778,758	195,575	5,384,667	107,693	24,134,821	482,696	2%
	18,464,042	432,942	17,320,148	391,525	12,149,439	292,556	47,933,629	1,117,023	
Business Rates									
Exemptions	2,384,635	47,693	1,570,644	31,413	999,010	19,980	4,954,289	99,086	2%
Small Business Rates relief	2,475,263	49,505	3,287,636	65,753	2,366,767	47,335	8,129,666	162,593	2%
Mandatory & Discretionary relief	4,113,540	82,271	3,373,611	67,472	4,239,254	84,785	11,726,405	234,528	2%
	8,973,438	179,469	8,231,891	164,638	7,605,031	152,101	24,810,360	496,207	
	27,437,480	612,411	25,552,039	556,163	19,754,470	444,657	72,743,989	1,613,230	
Costs and Benefit									
	Maidstone		Swale		Tunbridge Wells		Kent County		
Costs	£19,519		£18,178		£14,053		£155,250		207,000
Benefit	£64,362		£59,939		£46,339		£511,922		682,563

Mid Kent Counter Fraud Risk Register (27 July 2015)

Service	Ref	Risk (short title)	Risk (full description)	Risk Owner	Key Existing Controls	Inherent rating			Treat?	Controls planned	Effective Date	Mitigated rating			Further Action
						Impact	L'hood	Grade				Impact	L'hood	Grade	
Mid Kent Counter Fraud	MKCF1	Withdrawal from partnership	One of more authorities chooses to withdraw from the counter fraud partnership	Steve McGinnes	None at present	3	3		Y	- Collaboration agreement to be agreed, setting out period of operation & sharing of costs	31/12/2015	3	1		Review at effective date
Mid Kent Counter Fraud	MKCF2	Insufficient savings	Failure to achieve target reduction in discounts, potentially leading to dissolution of team	Steve McGinnes	- Regular review of performance levels	4	4		Y	- Ongoing review of NNDR in particular (untested area)	31/12/2015	3	3		Review at effective date
Mid Kent Counter Fraud	MKCF3	Customer complaints	Counter fraud activity resulting in complaints received from those under investigation, harming council reputation	Steve McGinnes	- Well organised initiatives - Clear communication with residents and businesses	2	2		N						Annual review
Mid Kent Counter Fraud	MKCF4	Legislative change	Having insufficient skills in the team to meet the needs of authorities & the service	Steve McGinnes	- Comprehensive/flexible planning - Information on LA plans - Maintaining info on training opportunities	4	1		N						Annual review

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Cabinet		Agenda Item: 8
Meeting Date	2 September 2015	
Report Title	Financial Management Report – April – June 2015	
Cabinet Member	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance	
SMT Lead	Nick Vickers, Head of Finance	
Head of Service	Nick Vickers, Head of Finance	
Lead Officer	Phil Wilson, Chief Accountant	
Key Decision	Yes	
Classification	Open	
Forward Plan	Reference number:	
Recommendations	<ol style="list-style-type: none"> 1. To note the projected revenue underspend on services of £319,390. 2. To note the capital expenditure of £119,800 to end of period 3. 	

1. Purpose of Report and Executive Summary

1.1 This report shows the revenue and capital projected outturn for 2015/16 as at the end of period three, covering the period April to June 2015. The report is based on service activity up to the end of June 2015, and is collated from monitoring reports from budget managers.

1.2 The headline figures are:

- total forecast revenue underspend of £319,390; and
- capital expenditure of £119,800 to end of period 3.

2. Background

2.1 The Council operates a monthly budget monitoring process at Head of Service level, with reports each month to the Strategic Management Team.

2.2 Financial monitoring reports are presented to Cabinet on a quarterly basis, as well as to Scrutiny Committee.

3. Proposal

Revenue Outturn

3.1 Table 1 shows the projected outturn position by service, with most services showing an underspend. The line-by-line variations are explained in Table 2.

3.2 The main areas of underspend are as follows (items over £50,000 not attributable to grants):

- Waste contract – Refuse & recycling underspend £74,060
- “ “ – Street Cleansing underspend £39,170
- “ “ – Enabling payments additional income £53,900
- “ “ – Garden Waste brown bins additional income £101,250
- Grounds Maintenance Contract
 - Sports Facilities and Open Spaces underspend £42,170

Table 1: Underspend by Service

	Service Manager	Working Budget	Projected Outturn 2015/16	Projected Variance
		£	£	£
Chief Executive	A. Kara	258,450	248,030	(10,420)
Policy	D. Clifford	204,010	199,290	(4,720)
Economy & Communities	E. Wiggins	2,092,760	2,092,760	0
Communications	S. Toal	254,920	254,920	0
Resident Services	A. Christou	1,468,620	1,468,620	0
Planning	J. Freeman	876,210	876,210	0
Commissioning & Customer Contact	D. Thomas	5,799,640	5,481,150	(318,490)
Director of Corporate Services & Director of Regeneration	M. Radford / P. Raine	335,650	335,650	0
Information Technology	A. Cole	1,038,270	1,038,270	0
Audit	R. Clarke	155,520	155,520	0
Environmental Health	T. Beattie	470,900	474,650	3,750
Finance	N. Vickers	1,398,940	1,397,790	(1,150)
Human Resources	D. Smart	339,110	339,110	0
Legal	J. Scarborough	347,790	347,790	0
Democratic Services	K. Bescoby	820,230	843,230	23,000
Property	A. Adams	527,550	504,190	(23,360)
Variances to be met from underspend		0	12,000	12,000
Minimum Revenue Provision		655,180	655,180	0
Corporate Items		882,250	882,250	0
SERVICE EXPENDITURE		17,926,000	17,606,610	(319,390)
Financed by:				
Revenue Support Grant		(2,929,000)	(2,929,000)	0
Business Rates		(5,053,000)	(5,053,000)	0
Collection Fund Surplus		(176,200)	(176,200)	0
New Homes Bonus		(2,811,000)	(2,811,000)	0
Council Tax Freeze Grant		(159,000)	(159,000)	0
Council Tax Requirement		(6,855,800)	(6,855,800)	0
NET EXPENDITURE		(58,000)	(377,390)	(319,390)
Contribution to General Fund		58,000	58,000	0
NET EXPENDITURE		0	(319,390)	(319,390)

Table 2: Main Variations by Service

Projected Net (Under)/Overspend / Income Shortfall as at end of June 2015		
Service – Cabinet Member (Head of Service)		
	£'000	Explanation
CHIEF EXECUTIVE – Cllr A. Bowles (Abdool Kara)		
Chief Executive & Corporate Costs	(10)	Mainly a projected underspend on special projects.
Policy	(5)	Projected underspend on salaries.
TOTAL	(15)	
ECONOMY AND COMMUNITIES – Cllrs M. Cosgrove, M. Whiting & K. Pugh (Emma Wiggins)		
Environmental Initiatives	1	Loss of income re graffiti cleaning to Third Party property.
Pest Control	(1)	Additional income.
TOTAL	0	
COMMUNICATIONS – (Sara Toal)		
Communications	0	No variance reported.
TOTAL	0	
RESIDENT SERVICES – (Amber Christou)		
Housing Development and Strategy	0	No variance reported.
Private Sector Housing	0	No variance reported.
Stay Put Scheme	0	No variance reported.
Housing Options	0	No variance reported.
Revenues & Benefits	0	No variance reported.
TOTAL	0	
PLANNING – Cllr G. Lewin (James Freeman)		
Building Control	0	No variance reported.
Development Control	0	No variance reported.
Development Services	0	No variance reported.
Local Land Charges	0	No variance reported.
Local Planning & Conservation	0	No variance reported.
Planning Mid Kent Planning Service (MKPS)	0	No variance reported.
TOTAL	0	

Projected Net (Under)/Overspend / Income Shortfall as at end of June 2015		
Service – Cabinet Member (Head of Service)		
	£'000	Explanation
COMMISSIONING & CUSTOMER CONTACT – (Dave Thomas)		
Grounds Maintenance Contract	(37)	Savings on reduced area/no. of sports pitches £20k, open spaces £5k and cemeteries £12k.
Cleansing	(34)	Savings on salaries, reduced hours £24k and officers not in pension scheme £10k.
Public Conveniences	(13)	Savings from retendered hygiene contract £11k and closed PC's £2k.
Recycling & Waste Minimisation	(155)	Additional income from Garden Waste brown bins £101k and 'Enabling Payments' £54k. (Under the new Waste contract, 'Enabling Payments' have compensated SBC for the income previously received from KCC re Recycling Credits.)
Refuse Collection / Street Cleansing	(104)	Waste contract savings (including Street Cleansing) £113k largely due to negative indexation, additional income Special Collections £25k, overspend for additional wheeled bins (not covered by waste contract) £20k and other net minor overspends £14k. £100k to be committed to a major communication programme to improve recycling rates.
Minor net variances	24	Overspend re disabled parking bays & other highway maintenance £10k, ex-contract grounds maintenance on closed churchyards £10k and other net overspend on minor items £4k.
TOTAL	(319)	
DIRECTOR OF CORPORATE SERVICES – (Mark Radford)		
Corporate Costs	0	No variance reported.
Licensing	0	Additional staff resource is being deployed but this will be funded from the Performance Fund.
TOTAL	0	
EMERGENCY PLANNING – (Della Fackrell)		
Emergency Planning	0	No variance reported.
TOTAL	0	
DIRECTOR OF REGENERATION – (Pete Raine)		
Strategic Directors	0	No variance reported.
TOTAL	0	
IT SERVICES – Cllr D. Dewar-Whalley (Andy Cole)		
IT MKIP	0	No variance reported.
GIS	0	No variance reported.

Projected Net (Under)/Overspend / Income Shortfall as at end of June 2015		
Service – Cabinet Member (Head of Service)		
	£'000	Explanation
TOTAL	0	
ENVIRONMENTAL HEALTH – Cllr. D. Simmons (Tracey Beattie)		
Cemeteries & Closed Churchyards	4	Projected overspend on funeral costs.
TOTAL	4	
INTERNAL AUDIT – Cllr D. Dewar-Whalley (Rich Clarke)		
Audit Services	0	No variance reported.
TOTAL	0	
FINANCE – Cllr D. Dewar-Whalley (Nick Vickers)		
Financial Services	(1)	Net interest from funds.
TOTAL	(1)	
HUMAN RESOURCES – (Dena Smart)		
Organisational Development	0	No variance reported.
TOTAL	0	
LEGAL – (John Scarborough)		
External Legal Fees	0	No variance reported.
Legal MKLS	0	No variance reported.
TOTAL	0	
DEMOCRATIC SERVICES – (Katherine Bescoby)		
Democratic Process	23	Increased National Insurance on members travel following changes in HMRC taxation legislation as reported in the 3 rd quarter 2014/15 monitoring report to Cabinet.
TOTAL	23	
PROPERTY – (Anne Adams)		
Property Management	(23)	Additional depot rental income.
TOTAL	(23)	
OTHER VARIANCES		
Remembrance & Commemoration	12	Commemorations in respect of the 30,000 th Last Post (large-scale participative event re the Last Post – blown on 9 July 2015 under the Menin Gate in Ypres).
TOTAL	12	
	(319)	NET EXPENDITURE (Projected Variance)

Sensitivity Analysis

3.3 The Council has a small number of large and volatile budgets which will be the main cause of any significant variation in the Council's final outturn.

Table 3: Sensitivity Analysis

Budget Head	2015/16 Working Budget	Current Forecast	Current Projected Variance (as per table 2)	Range of Variance Options (increased/ decreased cost or income)		Notes
				Min	Max	
	£'000	£'000	£'000	£'000	£'000	
Car Park Income	(1,498)	(1,498)	0	0	(57)	Additional income
PCN Income	(475)	(475)	0	0	(16)	Additional income
Planning Fees Income	(754)	(754)	0	20	(120)	Loss of income/ additional income (see note (i) below)
Bed & Breakfast costs	127	127	0	0	150	Additional expenditure (see note ii below)
Housing Benefits Costs	56,840	56,840	0	(100)	100	Reduced expenditure/ additional expenditure (see note iii below)

- (i) Planning Fees – We have currently received slight increase above forecast but budget subject to income from small number of major applications and S106 contributions received;
- (ii) Bed & Breakfast - There is potentially an increased risk to this volatile budget due to the known increases in homelessness and the announced welfare reform changes for housing benefits for under 21 year olds;
- (iii) Housing Benefits - This is an extremely volatile budget and could vary by +/- £100,000 at year-end on a gross budget of £57m.

Business Rates

3.4 The headline figures for total Business Rates income are:

2014/15 NNDR3 (outturn)	£45,056,000
2015/16 Budget	£44,960,000
2015/16 NNDR1 (Forecast)	£46,494,000

This shows a strong growth in projected business rates.

- 3.5 The Council retains about 10% of total business rates and 40% of any growth over the 1 April 2013 base position. The Council has agreed to budget a year in arrears for business rates growth and any surplus goes into the Business Rates Volatility Reserve. The reserve currently stands at £1.1m.
- 3.6 The Council also has set aside £4.7m for business rates appeals.
- 3.7 At this early point in the financial year we do expect to over-achieve the 2015/16 budget figure but the very high level of appeals does introduce a large degree of uncertainty. In the six-month monitoring report we will present more detailed information on the performance.

Improvement and Regeneration Funds

- 3.8 Table 4 below details the balance as at the end of June 2015 on the Improvement and Regeneration Funds:

Table 4: Improvement and Regeneration Funds

	Balance Unallocated as at 1 April 2015	Transfers from reserve in year	Balance Unallocated as at 30 June 2015
Funds:	£	£	£
Performance	519,208	34,000	485,208
Regeneration	347,647	47,000	300,647
Localism	39,027	28,068	10,959
Transformation	193,338	0	193,338
Local Loan Fund	250,000	0	250,000
TOTAL	1,349,220	109,068	1,240,152

- 3.9 Further details of the approved allocations to the end of June 2015 are available in Appendix I.

Capital Expenditure

- 3.10 This report details the latest position on the 2015/16 capital programme and highlights any variations between the revised 2015/16 capital budget and expenditure to the end of June 2015.
- 3.11 Actual expenditure to end of June 2015 is £119,803. This represents 6.4% of the revised budget. Further details are set out in Appendix II.
- 3.12 At Cabinet on 15 July Members approved a number of capital rollover requests totalling £319,550 to be spent in 2015/16 to be released from the underspend of 2014/15.

Funding of the 2015/16 Capital Programme

3.13 The 2015/16 capital programme expenditure to end of June 2015 is to be funded as set out in Table 5.

Table 5: Capital Programme Funding

	2015/16 Revised Budget	2015/16 Actual to end of June 2015
	£	£
Use of partnership funding (including S106 Grants) to fund capital expenditure	1,284,740	85,477
Use of earmarked reserves to fund capital expenditure	15,000	0
Use of long term debtors / third party loans to fund capital expenditure	0	14,175
Use of capital receipts to fund capital expenditure	563,680	20,151
Total Funded	1,863,420	119,803

Payment of Creditors

3.14 The latest monitoring position is shown in Table 6.

Table 6: Invoice payment

	Target 2015/16	Cumulative year to date	June 2015	June 2014
Invoices paid in 30 days	97.00%	98.91%	99.48%	97.82%

Debtors

3.15 Tables 7, 8 and 9 analyse the debt outstanding.

3.16 The debt over six years old relates to charges on property, i.e. where the debt cannot be collected until the property concerned is sold. It should be noted that the number of debts raised is increasing as we are now required to formally raise debts for all of our grants receivable from Kent County Council, NHS etc.

3.17 As can be clearly seen, on the measure of collectable debt less than two months old, the position has improved substantially.

Table 7: Debt outstanding by due date (not including Rent Deposit Scheme)

	June 2015	June 2014
	£'000	£'000
0-2 Months	299	166
2-6 Months	175	243
6-12 Months	36	18
1-2 Years	15	21
2-3 Years	4	15
3-4 Years	10	25
4-5 Years	24	13
5-6 Years	11	4
6 Years +	15	28
Total	589	533
Total over two months	290	367
% Total over two months	49%	68%

Table 8: Debt outstanding by due date (including Rent Deposit Scheme)

	June 2015	June 2014
	£'000	£'000
0-2 Months	303	164
2-6 Months	176	206
6-12 Months	44	37
1-2 Years	18	43
2-3 Years	15	21
3-4 Years	15	51
4-5 Years	47	258
5-6 Years	186	4
6 Years +	15	28
Total	819	812
Total over two months	516	648
% Total over two months	63%	79%

Table 9: Debt outstanding (including Rent Deposit Scheme) by Head of Service

	June 2015	June 2014
	£'000	£'000
Rent Deposit Scheme	231	279
Commissioning & Customer Contact	32	232
Property	196	164
Residents Services	66	51
Legal (MKLS)	2	36
Economy & Communities	12	30
Planning	20	14
Regeneration	45	0
Communications	1	0
Environmental Health	4	0
Finance	0	9
Policy	3	0
Other	207	(3)
Total	819	812
Total over two months	516	648
% Total over two months	63%	79%

4. Alternative Options

4.1 None identified – this report is largely for information.

5. Consultation Undertaken or Proposed

5.1 Heads of Service and Strategic Management Team have been consulted in preparing this report.

6. Implications

Issue	Implications
Corporate Plan	Good financial management is key to achieving our Corporate Plan priority of being “A council to be proud of”
Financial, Resource and Property	As detailed in the report
Legal and Statutory	None identified at this stage
Crime and Disorder	None identified at this stage
Sustainability	None identified at this stage
Health & Wellbeing	None identified at this stage
Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	None identified at this stage

7. Appendices

7.1 The following documents are published with this report and form part of the report:

Appendix I – Improvement and Regeneration Fund allocations as at end of June 2015;

Appendix II – Capital Programme – Projected outturn as at end of June 2015.

8. Background Papers

8.1 The Budget 2015/16 and Medium Term Financial Strategy 2015/16 to 2017/18

IMPROVEMENT AND REGENERATION FUND ALLOCATIONS (PERIOD 3)

	Amount £
Performance Fund	
Fixed Penalty Notices pilot tackling anti-social behaviour	25,000
Cabinet Member ICT Equipment	9,000
Total Approved as at June 2015	34,000
Regeneration Fund	
Members Regeneration Grants	47,000
Total Approved as at June 2015	47,000
Localism Fund	
Swale Trustee Network Event 2015/16	4,400
Volunteers' Week Billboards 2015/16	1,168
Meads Community Centre Grant	22,500
Total Approved as at June 2015	28,068

	Funding SBC / P	2015/16 Original Budget £	Approved Rollovers £	Other Adjustments £	2015/16 Working Budget £	2015/16 Actual to End of period 3 £	2015/16 Variance to end of period 3 £
SUMMARY							
<u>PARTNERSHIP FUNDING SCHEMES</u>							
<i>Economy & Communities</i>	<i>P</i>	0	0	4,870	4,870	12,143	7,273
<i>Commissioning & Customer Contact</i>	<i>P</i>	0	129,810	0	129,810	0	-129,810
<i>Residents Services</i>	<i>P</i>	1,058,000	92,060	0	1,150,060	70,689	-1,079,371
<i>Property</i>	<i>P</i>	0	0	0	0	0	0
TOTAL PARTNERSHIP FUNDING SCHEMES	P	1,058,000	221,870	4,870	1,284,740	82,832	-1,201,908
<u>SWALE BOROUGH COUNCIL FUNDING SCHEMES</u>							
Commissing & Customer Contact	SBC	30,000	74,920	36,000	140,920	15,351	-125,569
Economy & Communities	SBC	15,000	0	0	15,000	0	-15,000
Residents Services	SBC	0	0	0	0	16,820	16,820
Finance	SBC	0	22,760	0	22,760	4,800	-17,960
Regeneration	SBC	0	0	400,000	400,000	0	-400,000
TOTAL SBC FUNDING SCHEMES	SBC	45,000	97,680	436,000	578,680	36,971	-541,709
TOTAL CAPITAL PROGRAMME		1,103,000	319,550	440,870	1,863,420	119,803	-1,743,617

	Funding SBC / P	2015/16 Original Budget £	Approved Rollovers £	Other Adjustments £	2015/16 Working Budget £	2015/16 Actual to End of period 3 £	2015/16 Variance to end of period 3 £
REGENERATION - P RAINE							
The Mill Project, Sittingbourne Skate Park	SBC	0	0	200,000	200,000	0	-200,000
Faversham Creek Basin Regeneration Project	SBC	0	0	200,000	200,000	0	-200,000
TOTAL REGENERATION		0	0	400,000	400,000	0	-400,000
ECONOMY & COMMUNITIES - E.WIGGINS							
CCTV - Repairs & Renewals Reserve	SBC	15,000	0	0	15,000	0	-15,000
<i>Kemsley Community Facilities - S106</i>	<i>P</i>	<i>0</i>	<i>0</i>	<i>4,870</i>	<i>4,870</i>	<i>4,866</i>	<i>-4</i>
<i>Easthall Farm Community Centre</i>	<i>P</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>7,277</i>	<i>7,277</i>
TOTAL ECONOMY & COMMUNITIES		15,000	0	4,870	19,870	12,143	-7,727
COMMISSIONING & CUSTOMER CONTACT - D.THOMAS							
Cemeteries - Capital Receipts	SBC	0	22,040	0	22,040	0	-22,040
Milton Creek Footpath & Viewing platform - Capital Receipts	SBC	0	5,190	11,000	16,190	0	-16,190
High Risk Tree Works - Capital Receipts	SBC	30,000	7,690	0	37,690	0	-37,690
Medium Risk Tree Works - Capital Receipts	SBC	0	0	0	0	15,351	15,351
Customer Service Centre telephony system	SBC	0	40,000	25,000	65,000	0	-65,000
<i>Thistle Hill Community Woodland - Trim Trail - S106</i>	<i>P</i>	<i>0</i>	<i>35,000</i>	<i>0</i>	<i>35,000</i>	<i>0</i>	<i>-35,000</i>
<i>New Play Area - Iwade Schemes - S106</i>	<i>P</i>	<i>0</i>	<i>92,200</i>	<i>0</i>	<i>92,200</i>	<i>0</i>	<i>-92,200</i>
<i>Faversham Recreation Ground Improvements- S106</i>	<i>P</i>	<i>0</i>	<i>2,610</i>	<i>0</i>	<i>2,610</i>	<i>0</i>	<i>-2,610</i>
TOTAL COMMISSIONING & CUSTOMER CONTACT		30,000	204,730	36,000	270,730	15,351	-255,379

	Funding SBC / P	2015/16 Original Budget	Approved Rollovers	Other Adjustments	2015/16 Working Budget	2015/16 Actual to End of period 3	2015/16 Variance to end of period 3
<u>RESIDENTS SERVICES - A. CHRISTOU</u>							
<i>DFG Mandatory Grants (CLG)</i>	<i>P</i>	1,058,000	92,060	0	1,150,060	70,689	-1,079,371
HRG - Housing Repair Grants Over 60	SBC	0	0	0	0	2,645	2,645
RHB2 - Decent Home Loans Owner Occupier	SBC	0	0	0	0	14,175	14,175
TOTAL HOUSING		1,058,000	92,060	0	1,150,060	87,509	-1,062,551
<u>FINANCE - N. VICKERS</u>							
Cash Receipting System Replacement - Capital Receipts	SBC	0	22,760	0	22,760	4,800	-17,960
TOTAL FINANCE AND PERFORMANCE PORTFOLIO		0	22,760	0	22,760	4,800	-17,960

Cabinet Meeting		Agenda Item: 9
Meeting Date	2 September 2015	
Report Title	Bearing Fruits: Swale Borough Local Plan: Request for Delegated Authority to facilitate Examination In Public	
Cabinet Member	Cllr Gerry Lewin, Cabinet Member for Planning	
SMT Lead	Pete Raine	
Head of Service	James Freeman	
Lead Officer	Gill Harris	
Key Decision	Yes/No	
Classification	Open	
Forward Plan	Reference number: Urgent Item	
Recommendations	<p>1. Members are requested to give delegated authority for Head of Planning Services in consultation with the Cabinet Member for Planning to agree the following for publication and debate at the Local Plan EIP:</p> <ul style="list-style-type: none"> a) draft responses to representations made on the publication version of the plan; b) draft modifications to the plan which may arise from consideration of the above; c) draft modifications which may arise from discussions during the course of the EIP; d) Statements of Common Ground which may be issues jointly by SBC and other official bodies (such as Kent CC and Highways England); and e) delegated authority to respond to matters arising from adjoining local authorities' plan making processes and any other issues considered urgent and necessary. 	

1 Purpose of Report and Executive Summary

- 1.1 In response to recommendations from the Local Plan Inspector to provide as much information as possible and to keep a rolling schedule of possible draft responses and modifications to the objections to the Local Plan, delegated authority is sought to enable this and facilitate constructive discussion at the Examination in Public (EIP) which commences in November. It will not commit the Council to modifying the Plan - any modifications recommended by the Inspector to make the Plan sound will be subject to Council approval and public consultation in the New Year.

- 1.2 Given the timescales involved it has not been possible to include the item on the Council's Forward Plan, as the scope of delegated authority needed was still being established through additional research. Consequently, in accordance with the Access to Information Procedure Rules (Rule 19), the Chairman of the Scrutiny Committee has been informed and indicated his agreement to this report being brought straight to Cabinet as an appropriate course of action.

2 Background

- 2.1 Bearing Fruits 2031: The Swale Borough Local Plan was submitted to the Planning Inspectorate in April 2015 for EIP. The submitted Plan has a preferred housing target which is lower than objectively assessed need due to Members' concerns over poor market delivery in the recent past, and viability and deliverability of a higher target. It attracted significant objections by the development industry as unsound and not compliant with national planning policy.
- 2.2 The Inspector appointed to deal with the EIP has indicated that she found the arguments advanced in the Plan and supporting documents for this position weak, and has indicated that further research would need to be undertaken in respect of need and viability to inform debate and potential for modifying the Plan at EIP. She has also indicated that a rolling 'live' schedule of the Council's draft responses to objections should be published, along with any modifications arising.
- 2.3 Additionally, the Council has sought to prepare Statements of Common Ground where appropriate, with statutory consultees on the Plan (in particular Highways England and Kent County Council in respect of infrastructure matters). The Inspector has advised that these should be signed-off by the participating bodies (and indeed this was also the case at the recent Canterbury Local Plan EIP).
- 2.4 Currently there is no delegated authority to enable the Head of Planning Services to progress these matters in consultation with the Cabinet Member for Planning. It is clearly impracticable to refer constantly to LDF Panel and Cabinet for approval of multiple matters on a rolling basis in the run up to the EIP, and during the hearings themselves.
- 2.5 Therefore, in order to respond in an effective and timely manner where the Council is a consultee on another authority's plan; and where it needs to give the Inspector confidence that all the necessary research has been undertaken, and what scope there may be to modify its own local plan to achieve soundness, delegated authority is requested.
- 2.6 Additionally, the Borough Council may be called upon to comment on matters arising from other local authorities' plan making processes (such as Kent Minerals and Waste Plan and neighbouring districts' local plans). Consultation periods are typically now only six weeks (and at certain parts of the process are statutorily prescribed as such), in order to facilitate progress of plans through the system to adoption. This may not enable reporting to a convenient LDF Panel and Cabinet cycle for agreement of a suitable response.

- 2.7 In order to make a full contribution to those matters where they could impact on the Borough's own plan-making or other interests; and mindful of the need to comply with Duty to Cooperate with other authorities in the plan-making process, the ability to make at least a holding response in the time available is needed, for which delegated authority is sought.

3 Proposal

- 3.1 Members are requested to give delegated authority for Head of Planning Services and the Cabinet Member for Planning to agree the following for publication and debate at the Local Plan EIP:

- draft responses to representations made on the publication version of the plan;
- draft modifications to the plan which may arise from consideration of the above;
- draft modifications which may arise from discussions during the course of the EIP;
- Statements of Common Ground which may be issues jointly by SBC and other official bodies (such as Kent CC and Highways England); and
- delegated authority to respond to matters arising from adjoining local authorities' plan making processes.

- 3.2 Members should be aware that any response or agreement to modify the Swale Local Plan will be in draft format and will be considered by Members via the Local Development Framework Panel and Cabinet early in 2016. At this point in time we anticipate that there will be at least an interim Inspector's report or letter indicating what main modifications will be needed to render the Plan sound and therefore adoptable. Members will then be able to examine all proposed modifications before approving them for public consultation, and subsequent re-submission to the Inspector.

- 3.3 In the interim, however, the Council does need to demonstrate that it is at least open to consideration of these matters, and thereby give the Inspector some confidence that there is a practical way to modify the Plan to achieve soundness, and these proposals provide the option to do so.

- 3.4 In order to provide appropriate response to other authorities' plans and to engage in Duty to Co-operate matters, it is important officers can respond flexibly in short timescales. Although any formal responses would be sent in consultation with the Cabinet member for Planning, these responses will be forwarded to the LDF Panel and Cabinet for ratification as timetables allow.

4 Alternative Options

- 4.1 There is not considered to be any practical alternative to the means suggested of progressing the Swale Borough Local Plan. Members could refuse to enable

officers to respond in a constructive way to enable consideration of modifications to the Plan, but this is highly likely to result in an early verdict of unsoundness on the Local Plan and the need to restart the process from scratch. This would place the Council in a very vulnerable position for refusing inappropriate development proposals for a further two to three years until such time as a plan can be redrafted and resubmitted. Current evidence suggests that development pressures will continue to escalate during that time, especially as plan reviews for London and neighbouring authorities also progress during that time. This course of action is therefore not recommended.

5 Consultation Undertaken or Proposed

- 5.1 As explained in para 3.2 above, any potential draft modification discussed during the local plan EIP will be subject to Council ratification and public consultation in due course.

6 Implications

Issue	Implications
Corporate Plan	Adoption of the Local Plan assists with all objectives of the Corporate Plan, but particularly the priority of 'A Borough to be Proud of'.
Financial, Resource and Property	Failure to provide the context to consider modification of the Local Plan could result in it being found unsound, with consequent costs of redrafting, and potential further costs arising from any Appeals against refusal of planning permission.
Legal and Statutory	There is a Duty to Cooperate with other local authorities on strategic planning matters under Section 33A of the Planning and Compulsory Purchase Act 2004 (inserted via the Localism Act 2011). Compliance with this is required through the National Planning Policy Framework, and the National Planning Practice Guidance.
Crime and Disorder	None anticipated at this time
Sustainability	Any draft modifications to the Local Plan will be subject to Sustainability Appraisal and Habitat Regulation Assessment.
Health and Wellbeing	None anticipated at this time
Risk Management and Health and Safety	Failure to provide the context to consider modification of the Local Plan could result in it being found unsound, with consequent costs and implications for development management decisions.
Equality and Diversity	None anticipated at this time.

7 Appendices

7.1 None

8 Background Papers

8.1 None

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Cabinet	Agenda Item: 10
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Meeting Date	2 September 2015
Report Title	Local Engagement Forums June 2015
Portfolio Holder	Cllr Mike Whiting, Cabinet Member for Localism
SMT Lead	Pete Raine
Head of Service	Emma Wiggins
Lead Officer	Brooke Buttfield
Key Decision	No
Classification	Open
Forward Plan	Reference number:

Recommendations	1. To note and consider the discussion and outcomes of the three Local Engagement Forums held during June 2015.
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Purpose of Report and Executive Summary

- 1.1 The report draws together notes of the discussion, outcomes and recommendations for Cabinet to consider following the recent Swale Local Engagement Forums (LEFs) of Sheppey (2 June 2015), Faversham (9 June 2015), and Sittingbourne (23 June 2015).
- 1.2 The purpose of this report is to formalise the reporting relationship and encourage greater connectivity between the LEFs and Swale Borough Council's (SBC) Cabinet.
- 1.3 The report demonstrates to residents the potential of their forums to advise and influence local public services.
- 1.4 The next Swale Local Engagement Forums are being held during September 2015; Faversham (8 September 2015), Sheppey (15 September 2015), and Sittingbourne (29 September 2015). Cabinet is also asked to consider and suggest agenda items for future LEFs.

2 Background

- 2.1 The LEFs are one of the key consultation methods for the Council, providing a route for residents as a group to advise on the shape and future of public services in the borough. This report summarises the You Said We Did reports that are compiled after each LEF, including discussion and outcomes from the LEF for noting and discussion by the SBC Cabinet. It is hoped that this report will foster a two way dialogue. This report summaries the You Said We Did reports which are available online: <http://www.swale.gov.uk/LEF/>.

3 Proposal

3.1 To note the outcomes from each meeting (shown in Table 1) and feedback to the LEF chairmen as appropriate.

3.2 To suggest topics as agenda items for future Local Engagement Forums.

Table 1

Sheppey LEF 2 June 2015 – Chairman Cllr Ken Pugh
<p>Issues:</p> <ul style="list-style-type: none"> • Kent Police led a discussion about the current preparations taking place in advance of the usual increase in crime due to the busy summery period, particularly on the Isle of Sheppey. • A representative from the South East Coast Ambulance Service raised several issues currently being faced within the service due to further increase of pressures on the NHS and the affect this has had on the services available in Swale. • A representative from the Home and Communities Agency, gave a presentation and answered questions from residents and Members’ on Queenborough and Rushenden Regeneration.
<p>Outcomes:</p> <ul style="list-style-type: none"> • Following the discussion led by Kent Police, the community were reassured about the precautions in place with regards to the potential rise in crime, and were informed of the proactive detectives and research teams. • Awareness was raised with the local community around the actions which are due to happen to improve the service and were also reassured by discussing the safety measures already in place which are helping to deliver an effective service. • The community and members were made aware of the current situation in relation to future developments and also the work that has been completed, and also the work being completed by HCA/SBC.
Faversham LEF 9 June 2015 – Chairman Cllr Anita Walker
<p>Issues:</p> <ul style="list-style-type: none"> • Kent Police began by discussing the recent incident taking place on the Brent Estate, outlining what Kent Police did about the situation, and how the issue is being resolved/followed up. • James Freeman, Head of Development Services provided an update in relation to Faversham Housing Development and residents and members raised issues. • An update was provided by James Freeman in relation to the Neighbourhood Plan and the current stage of assessment.
<p>Outcomes:</p> <ul style="list-style-type: none"> • Residents and members were reassured about the situation, and were also made aware of the support that has been made available following the problem. • The issues raised by residents and members regarding housing development in Faversham were answered by James Freeman, and any unable to be answered were reported back in the You Said We Did, for further clarification at the next Faversham LEF. • Residents and members were made aware of the current stage of assessment and were able to receive answers to any queries they had.
Sittingbourne LEF 23 June 2015 – Chairman Cllr Sue Gent

Issues:

- Graeme Tuff, Greenspaces Manager, provided an update on the Kemsley Fishing Lakes after residents raised concerns.
- James Freeman, Head of Development Services, discussed the current stage of Sittingbourne Town Centre Regeneration.
- A representative from the South East Coast Ambulance Service raised several issues currently being faced within the service due to further increase of pressures on the NHS and the affect this has had on the services available in Swale.

Outcomes:

- Residents were informed that policing of the area has increased and the environmental response team have also provided additional patrols which may increase further in the future.
- Residents and members were informed of the current stage of the regeneration and were able to raise questions with regards to particularly areas of development due to take place.
- Awareness was raised with the local community around the actions which are due to happen to improve the service and were also reassured by discussing the safety measures already in place which are helping to deliver an effective service.

4 Alternative Options

- 4.1 Not applicable as this is an update report for noting and consideration.

5 Consultation Undertaken or Proposed

- 5.1 The public were given the opportunity at each LEF to question and challenge public sector representatives about the issues discussed at the meeting.

6 Implications

Issue	Implications
Corporate Plan	The LEFs contribute towards the SBC corporate priority of Embracing Localism as they are one of the key projects for empowering local residents. In particular they contribute to the aims of enabling members to champion communities and improving local consultation and engagement.
Financial, Resource and Property	LEFs administered through officer resource.
Legal and Statutory	<i>None.</i>
Crime and Disorder	Residents can engage directly with senior police officers at the meetings.
Risk Management and Health and Safety	<i>None.</i>
Equality and	One of the aims of the You Said We Did is to report the issues

Diversity	raised and questions asked at the meeting as accurately as possible, so as not to discriminate against anyone who raises an issue at the meeting. The reports remain live and residents can challenge it they are incorrect. If the amendment is approved, they are then updated on the online version of the report.
Sustainability	<i>None.</i>

7 Appendices

7.1 There are no additional documents to be published with this report.

8 Background Papers

8.1 [LEF Terms of Reference](#)