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Date: 9 November 2016

Dear Councillor,

**Environmental and Development Services Committee**

A Meeting of the **Environmental and Development Services Committee** will be held in the **Council Chamber**, on **Thursday, 17 November 2016 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

Councillor Watson (Chairman), Councillor Muller (Vice-Chairman) and Councillors Mrs Brown, Coe, Ford, Mrs Hall, Mrs Patten, Roberts and Stanton.

**Labour Group**

Councillors Chahal, Shepherd, Taylor and Tilley.



## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To receive the Open Minutes of the Meeting held on 29th September 2016.  
Environmental and Development Services Committee 29th September 2016 Open Minutes **4 - 8**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by members of the public pursuant to Council Procedure Rule No.10.
- 5** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 6** Reports of Overview and Scrutiny Committee
- 7** CORPORATE PLAN 2016-21 - PERFORMANCE REPORT (1 JULY - 30 SEPTEMBER 2016) **9 - 47**
- 8** KEY PERFORMANCE INDICATORS - LICENSING DEPARTMENT **48 - 49**
- 9** VEHICLE MANAGEMENT STRATEGY AND VEHICLE REPLACEMENT PLAN **50 - 52**
- 10** DRIVING AT WORK POLICY **53 - 79**
- 11** CORPORATE ENFORCEMENT POLICY **80 - 100**
- 12** QUARTERLY ENFORCEMENT REPORT **101 - 105**

<b>13</b>	PUBLIC SPACES PROTECTION ORDERS UNDER THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014	<b>106 - 112</b>
<b>14</b>	COMMITTEE WORK PROGRAMME REPORT	<b>113 - 118</b>

**Exclusion of the Public and Press:**

- 15** The Chairman may therefore move:-
- That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 16** To receive the Exempt Minutes of the Meeting held on 29th September 2016.
- Environmental and Development Services Committee 29th September 2016 Exempt Minutes
- 17** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 18** A REVIEW OF THE LAND CHARGES UNIT



ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

29<sup>th</sup> September 2016

**PRESENT:-**

**Conservative Group**

Councillor Watson (Chairman), Councillor Muller (Vice-Chairman) and Councillors Mrs Brown, Ford, Mrs Hall, Mrs Patten, Mrs Plenderleith (substituting for Councillor Roberts), Stanton and Wheeler (substituting for Councillor Coe)

**Labour Group**

Councillors Chahal, Shepherd, Taylor and Tilley

**In attendance**

Councillor Atkin (Conservative Group)

EDS/29 **APOLOGIES**

Apologies for absence from the meeting was received from Councillors Coe and Roberts (Conservative Group)

EDS/30 **MINUTES**

The Open Minutes of the Meetings held on 18<sup>th</sup> August 2016 were noted, approved as a true record and signed by the Chairman.

EDS/31 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

EDS/32 **QUESTIONS FROM MEMBERS OF THE PUBLIC UNDER COUNCIL PROCEDURE RULE NO 10**

The Committee was informed that no questions from Members of the Public had been received.

EDS/33 **QUESTIONS BY MEMBERS OF THE COUNCIL UNDER COUNCIL PROCEDURE RULE NO 11**

The Committee was informed that no questions from Members of the Council had been received.

**EDS/34 REPORTS OF THE OVERVIEW & SCRUTINY COMMITTEE**

The Committee was informed that there were no Overview & Scrutiny Committee reports for it to consider.

**MATTERS DELEGATED TO COMMITTEE****EDS/35 ADOPTION OF MODEL CONDITIONS AND GUIDANCE FOR DOG BOARDING ESTABLISHMENTS UNDER THE ANIMAL BOARDING ACT 1963****RESOLVED:**

*Members approved the conditions and guidance contained in Appendix 1 to the report relating to dog boarding establishments, to come into effect upon adoption by Council.*

**EDS/36 KEY PERFORMANCE INDICATORS – LICENSING DEPARTMENT****RESOLVED:**

*Members noted the performance of the Licensing Department in relation to the Key Performance Indicators.*

**EDS/37 SOUTH DERBYSHIRE ECONOMIC DEVELOPMENT STRATEGY 2016-2021**

The Economic Development Manager presented the report to Committee.

Councillor Ford commended the report, but queried the impact of the Burton Technical College's non-opening. The Economic Development Manager confirmed that this was an unfortunate development, given the growing demand for engineering courses, being met locally in Derby and Uttoxeter.

Councillor Taylor stated that whilst economic development has a good record, he had concerns regarding its sustainability, given the supply of sites for industrial / employment use, rather than residential. The Planning Services Manager confirmed that although such sites could be targeted for residential development, Planning tried to protect a number of such sites for industrial / employment use.

Councillor Mrs Brown queried Assisted Area Awards. The Economic Development Manager clarified that these were recommended by national government and backed by the European Union, allowing for a higher level of assistance where grants were made. Award status had been made to three areas within the District, but that to date no applications had been made for assistance.

Councillor Stanton requested an update on the broadband project. The Economic Development Manager confirmed that the project was still rolling out across the county, with more funding being applied for, but acknowledged that it was still difficult for isolated businesses in rural areas.

Councillor Tilley referred to the Young Enterprise Challenge, enquiring if, as many Derbyshire schools participate in the Staffordshire Challenge, they could also participate within Derbyshire. The Economic Development Manager stated that this was not an issue, adding that the scheme had been successfully piloted with the William Allitt School.

**RESOLVED:**

***Members approved the new South Derbyshire Economic Development Strategy 2016-2021.***

EDS/38 **RIVER MEASE DEVELOPER CONTRIBUTION SCHEME 2**

The Planning Policy Manager presented the report to Committee.

Councillor Atkin queried the sums of monies expected against those sums collected and where the monies were spent. The Planning Policy Manager confirmed that monies were due once development commenced and were spent on primarily short-term mitigation projects (longer term measures falling to Severn Trent). The Planning Services Manager added that the sums contributed to a group fund, targeted at sites along the River Mease, not necessarily within South Derbyshire, but on mitigation measures that benefited South Derbyshire development. Councillor Mrs Brown queried the phosphate levels quoted in the report. The Planning Services Manager referred to information supplied by Natural England and the Environment Agency, responsible for this matter.

**RESOLVED:**

- 1) Members considered the content and scope of the River Mease Developer Contribution Scheme 2 (DCS2) and the representations received through the consultation on the Draft DCS2.***
- 2) Members agreed that the River Mease Programme Board be informed that the Authority continues to endorse the principle of levying a charge at the rates set out in the DCS2 for new development which reflect the costs of mitigation to offset the impacts of new development consistent with Policy SD3 Aiv) (Sustainable Water Supply, Drainage and Sewerage Infrastructure) of the Adopted Local Plan Part 1.***
- 3) Members approved the publication of the charging schedule on the Council's website following adoption of the Scheme.***

EDS/39 **PLANNING POSITION STATEMENT**

**RESOLVED:**

***Members endorsed the content of the Planning Position Statement at Appendix 1 to the report and agreed to its publication on the Council's website.***

EDS/40 **DRAFT LOCAL PLAN PART 2 CONSULTATION RESPONSES**

The Planning Policy Manager presented the report to Committee.

The Chairman commended the contents of the report, finding it useful information that could be relayed at Parish Council Meetings.

Councillor Mrs Brown queried how influential responses were in making revisions to the proposals. The Planning Policy Manager confirmed that all comments were considered, some taken forward, with reasons given as to why others were not, all available on the website in summarised form.

**RESOLVED:**

***Members noted the content of the report.***

EDS/41 **LOCAL PLAN PART 2 – REGULATION 19 CONSULTATION**

The Planning Policy Manager presented the report to Committee, highlighting two amendments to the report – to remove item 1 at 3.5 and to also add, for the Hilton site, up to 43 dwellings, not 40.

Councillor Mrs Plenderleith queried the position in relation to green spaces. The Planning Policy Manager confirmed that further correspondence was due to be issued, outlining the revised timetable.

The Chairman confirmed that the aim was to submit the Local Plan Part Two to Council in January, for referral on to the Planning Inspectorate.

**RESOLVED:**

***Members approved the Pre-Submission Local Plan Part 2 at Appendix 1 to the report, for the purposes of a six week public consultation period from 14<sup>th</sup> October to 25<sup>th</sup> November 2016.***

EDS/42 **WORK PROGRAMME 2016/17**

**RESOLVED:**

***That the Committee considered and approved the updated work programme for 2016/17.***

EDS/43 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the***

*remainder of the Meeting as it would be likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.*

### **MINUTES**

*The Exempt Minutes of the Meeting held on the on 18<sup>th</sup> August 2016 were received.*

### **EXEMPT QUESTIONS FROM MEMBERS OF THE COUNCIL UNDER COUNCIL PROCEDURE RULE NO 11**

*The Committee were informed that no exempt questions from Members of the Council had been received.*

### **SOUTH DERBYSHIRE BUILDING CONTROL SERVICE**

*Members approved the recommendations contained in the report.*

The meeting terminated at 7.05pm.

COUNCILLOR P WATSON

CHAIRMAN

<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES</b>	<b>AGENDA ITEM: 7</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>CORPORATE MANAGEMENT TEAM</b>	<b>OPEN DOC:</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>MIKE HAYNES (EXT. 5775) STUART BATCHELOR (EXT. 5820)</b>	
<b>SUBJECT:</b>	<b>CORPORATE PLAN 2016-21: PERFORMANCE REPORT (1 JULY – 30 SEPTEMBER 2016)</b>	
<b>WARD (S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: G</b>

## 1.0 Recommendations

1.1 That progress against performance targets is considered.

## 2.0 Purpose of Report

2.1 To report progress against the Corporate Plan for the period 1 July to 30 September under the themes of People, Place, Progress and Outcomes.

## 3.0 Detail

3.1 The Corporate Plan 2016 – 2021 was approved following extensive consultation into South Derbyshire's needs, categorising them under four key themes: People, Place, Progress and Outcomes. The Corporate Plan is central to our work – it sets out our values and vision for South Derbyshire and defines our priorities for delivering high-quality services.

3.2 This Committee is responsible for overseeing the delivery of the following key aims:

### **People**

- *Use existing tools and powers and take appropriate enforcement action*
- *Reduce the amount of waste sent to landfill*
- *Develop the workforce of South Derbyshire to support growth*

### **Place**

- *Facilitate and deliver integrated and sustainable housing and community infrastructure*
- *Enhance understanding of the planning process*
- *Help maintain low crime and anti-social behaviour levels in the District*
- *Connect with our communities, helping them feel safe and secure*
- *Deliver services that keep the District clean and healthy*

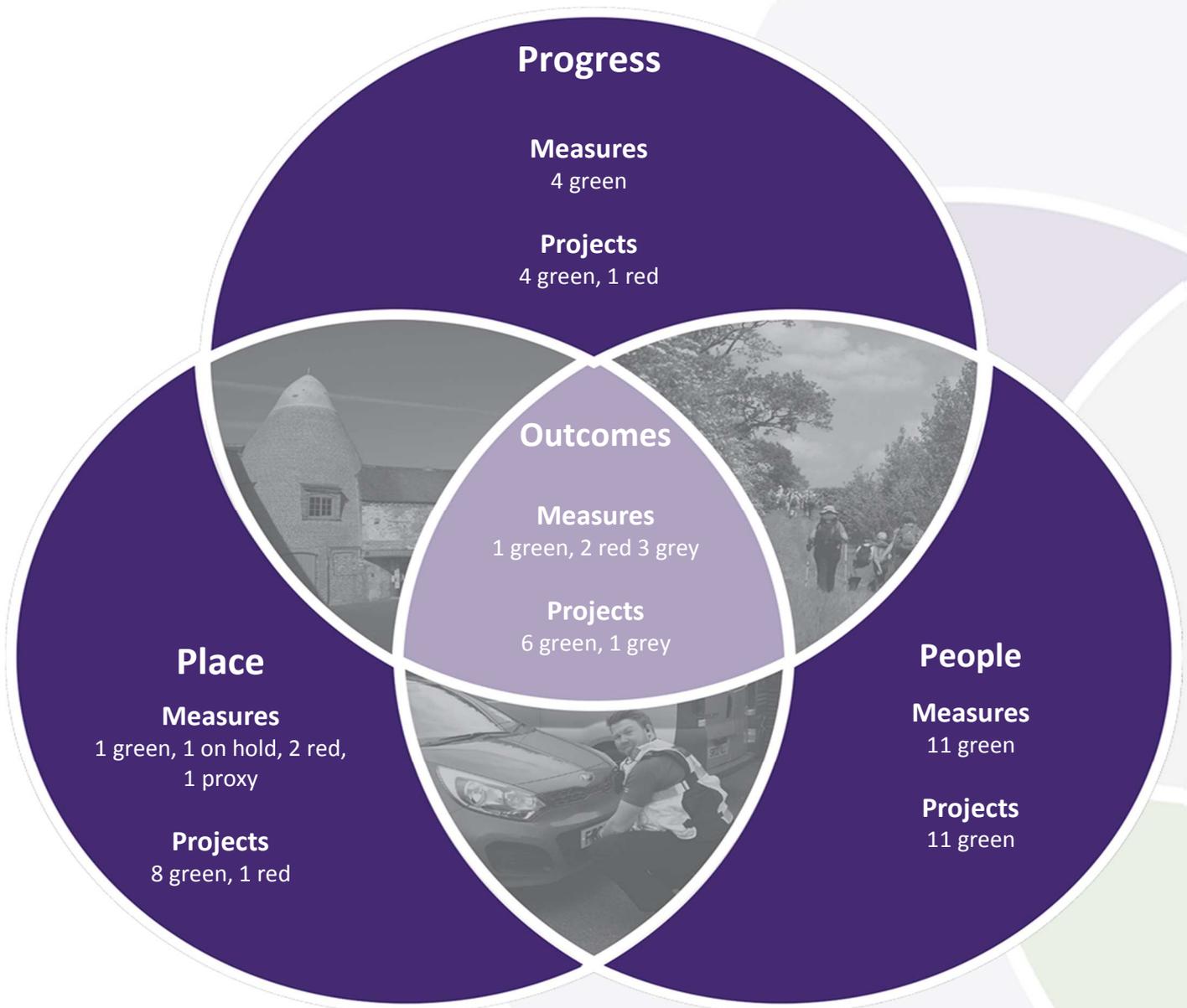
### **Progress**

- *Work to attract further inward investment*
- *Unlock development potential and ensure the continuing growth of vibrant town centres*
- *Work to maximise the employment, training and leisure uses of The National Forest by residents and increase the visitor spend by tourists*
- *Help to influence and develop the infrastructure for economic growth*
- *Provide business support and promote innovation and access to finance*

3.3 These aims are underpinned by outcomes including financial health, improved customer focus, good governance, enhanced environmental standards and maintaining a skilled workforce. Of the 26 measures and projects under the jurisdiction of the Environmental and Development Services Committee, 20 are showing green and five are red. One is a proxy measure.

3.4 More information can be found in the Performance Board in **Appendix A**. A detailed breakdown of performance for Environmental and Development Services is available in the Success Areas and Performance Action Plan documents (**Appendices B and C respectively**), while associated risks are contained in the risk registers in **Appendices D, E and F**.

**4.0 Overall Council performance – Quarter one (July 1 to September 30, 2016)**



**5.0 Financial and Corporate Implications**

5.1 None directly.

## **6.0 Community Implications**

6.1 The Council aspires to be an “excellent” Council in order to deliver the service expectations to local communities. This report demonstrates how priorities under the People, Place and Progress and Outcomes themes contribute to that aspiration.

## **7.0 Appendices**

Appendix A – Performance Board

Appendix B – Environmental and Development Services: Success Areas

Appendix C – Environmental and Development Services: Action Plan

Appendix D – Chief Executive’s Risk Register

Appendix E – Community and Planning Risk Register

Appendix F – Housing and Environmental Services Risk Register

# Appendix A - Performance Board

## Quarter 2 (July 1 to September 30, 2016)

People Measures						
Action	Measure	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PE1: Enable people to live independently</b>						
Provide an efficient and well-targeted adaptation service	% of adapted properties allocated on a needs basis <b>PE1.1</b>	88.24% <b>Target &gt;90%</b>	>90%	91.60%	>90%	11 out of 12 properties with adaptations were let on an adapted needs basis. However, we are still slightly under target for the year – 89.6%. <b>H&amp;CS</b>
	% of residents very or fairly satisfied with the quality of their new home <b>PE1.2</b>	90% <b>Target &gt;88%</b>	>88%	91%	>88%	49 tenants indicated they were satisfied with their home. Three expressed dissatisfaction, with each of these followed up by the Repairs Manager. <b>H&amp;CS</b>
<b>PE2: Protect and help support the most vulnerable, including those affected by financial challenges</b>						
Maintain regular contact with tenants, with a focus on those identified as	Total number of tenancy audits completed <b>PE2.1</b>	298 <b>Target 250</b>	500	500	1,000	The new 'Tenancy Visits' module is currently being tested. This will enable even more efficient

'vulnerable'						recording and monitoring of tenancy visits. <b>H&amp;CS</b>
	% of successful introductory tenancies <b>PE2.2</b>	98% <b>Target &gt;85%</b>	>85%	95.55%	>85%	43 of 45 tenancies successfully transferred from introductory to secure tenancies. <b>H&amp;CS</b>
Process Benefit claims efficiently	Average time for processing new Benefit claims <b>PE2.3</b>	33 days <b>Target &lt;18 days</b>	<18 Days	17.59 Days	<18 days	After a spike in claims in Q1, performance returned to normal levels. The automation process continues to consolidate performance. <b>F&amp;M</b>
	Average time for processing notifications of changes in circumstances <b>PE2.4</b>	7.8 days <b>Target &lt;8 days</b>	<8 days	7.99 days	<8 days	In October, the Finance and Management Committee approved the introduction of Risk Based Verification for processing "changes" and this should help to strengthen performance. <b>F&amp;M</b>
<b>PE4: Increase levels of participation in sport, health, environmental and physical activities</b>						
Delivery of sport, health and physical and environmental activity opportunities	Number of sport, health, physical activity and play scheme participations <b>PE4.1</b>	10,445 <b>Target 5,450</b>	11,500	13,394	37,845	On track, even with one week of activity in the summer holidays cut. The exceeded target could be attributed to good weather. <b>H&amp;CS</b>

	Number of Environmental Education participations <b>PE4.2</b>	4,103 <b>Target 1,250</b>	1,500	2,523	5,250	The Waste less, Save more project added more than 1,000 participations. <b>H&amp;CS</b>
	Number of Parklife opportunities <b>PE4.3</b>	780 <b>Target 100</b>	150	1,650	500	Opportunities offered include outdoor table tennis (280 participations); Bark in the Park (600); wildlife talks and events (280); and Newhall Memorial Garden opening (150). <b>H&amp;CS</b>
<b>PE5: Reduce the amount of waste sent to landfill</b>						
<b>Minimise waste sent to landfill</b>	Household waste collected per head of population <b>PE5.1</b>	120kgs <b>Target &lt;125kgs</b>	<125kgs	120kgs	<510 kg	Figure estimated. Continues to exceed target. <b>E&amp;DS</b>
	% of all collected waste recycled and composted <b>PE5.2</b>	52.9% <b>Target &gt;55%</b>	>52%	53.10%	>50%	Figure estimated. Above target for quarter, cumulative to date is slightly below target. <b>E&amp;DS</b>

# People Projects

Action	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PE1: Enable people to live independently</b>					
<b>Support the voluntary and community sector to enable people to maintain living independently</b>	Members appointed to voluntary sector bodies.	Support promotion of voluntary and community sector to Elected Members.	On track. See Detail column.	Maintain SDDC grant funding to the voluntary and community sector. <b>PE1.3</b>	SDDC has supported Goseley Festival as well as community development with the Hatton Centre. <b>F&amp;M</b>
<b>Continue to contribute to the county wide review of Disabled Facilities Grants (DFGs)</b>	Final confirmation from DCC of 2016/17 budget was pending. Estimated budget requirement submitted to DCC was £350K.	Implementation of appropriate recommendations.	On track. See Detail column.	All recommendations implemented by April 1, 2017. <b>PE1.4</b>	Budgets confirmed for 2016/2017. SDDC has been allocated £336,000 for the DFGs. Working with DCC to complete DFG review process. <b>H&amp;CS</b>
<b>Expand the use of Telecare services to increase independence</b>	GP services mapped to assess localities covered. Meetings held with GP groups to discuss referral routes.	Evaluate and assess recommendations of review of products and services.	On track. See Detail column.	Provide a value for money Supported Housing product. <b>PE1.5</b>	The Supported Housing Service is currently under review with external support. This is likely to continue into Q3 but the overall target will be met. <b>H&amp;CS</b>
<b>PE2: Protect and help support the most vulnerable, including those affected by financial challenges</b>					
<b>Approval and implementation of South Derbyshire as a Dementia friendly District</b>	SDDC Dementia Action Plan developed and approved at Committee.	Deliver Elected Member and staff dementia awareness sessions.	On track. See Detail column.	Work progressed towards Dementia Friendly Community status. <b>PE2.5</b>	71 SDDC Staff/Elected Members have so far become 'Dementia Friends'. More sessions planned for Q3. <b>H&amp;CS</b>

<p><b>Provide a service for homeless applicants which is nationally recognised as delivering 'best practice'</b></p>	<p>North East Derbyshire visited and assessed. Learning disseminated to SDDC action plan for National Practitioner Support Service (NPSS) accreditation.</p>	<p>Introduce good practice identified from review.</p>	<p>On track. See Detail column.</p>	<p>To attain NPSS Standard for Homelessness <b>PE2.6</b></p>	<p>Good practice has been identified and implemented. This includes National Homelessness Advice Service leaflets being issued as standard, confirming advice in writing and advising applicants what they need to bring to appointments. <b>H&amp;CS</b></p>
<p><b>Develop a Community Champion Scheme through volunteer development</b></p>	<p>Draft SDDC volunteering policy and action plan produced.</p>	<p>Develop volunteering scheme and consult with partners.</p>	<p>On track. See Detail column.</p>	<p>Establish approved scheme <b>PE2.7</b></p>	<p>Initial scheme plan drawn up. Discussions held with CVS CEO about setting up a community champion scheme. <b>H&amp;CS</b></p>
<p><b>PE3: Use existing tools and powers to take appropriate enforcement action</b></p>					
<p><b>Publish and annually review a single Enforcement Policy covering all SDDC regulatory activity</b></p>	<p>All services relevant to the project were scoped and contacted. A draft Enforcement Policy has been issued for internal consultation.</p>	<p>Production of first draft of a corporate policy. Consultation with key stakeholders on the draft.</p>	<p>On track. See Detail column.</p>	<p>Develop and publish a Corporate Enforcement Policy. <b>PE3.1</b></p>	<p>A final draft of the policy has been produced following consultation. Committee approval will be sought in Q3. A draft of the proposed quarterly report has been discussed with the Chairman of E&amp;DS with a view to taking the first to Committee in Q3. <b>H&amp;CS/ E&amp;DS</b></p>

**PE4: Increase levels of participation in sport, health, environmental and physical activities**

<p><b>Develop a Healthy Communities approach for SD</b></p>	<p>SDDC successfully awarded Healthy Communities Status and is now a full member of the Healthy Cities network.</p>	<p>Work with partners to deliver healthy communities plan.</p>	<p>On track. See Detail column.</p>	<p>Work towards Healthy Communities Accreditation. <b>PE4.4</b></p>	<p>Work ongoing to support two main priority areas - physical activity and urban planning and growth. Family 'Parklife' activities in development to support priority physical activity area. <b>H&amp;CS</b></p>
<p><b>Develop a Sport, Health and Physical Activity Strategy</b></p>	<p>Strategy timeline and framework agreed at H&amp;CS Committee and at South Derbyshire Sport.</p>	<p>Progress strategy preparation and consultation.</p>	<p>On track. See Detail column.</p>	<p>Strategy developed and implemented. <b>PE4.5</b></p>	<p>Research and data gathering undertaken. Further consultation to take place in Q3. <b>H&amp;CS</b></p>

**PE6: Develop the workforce of South Derbyshire to support growth**

<p><b>Stage a careers fair for young people and jobseekers</b></p>	<p>Fair staged: 50 exhibitors. 644 adults and 238 young people attended.</p>	<p>Start work on planning 2017 event.</p>	<p>On track. See Detail column.</p>	<p>Deliver event, review and plan for 2017 fair. <b>PE6.1</b></p>	<p>Work underway on planning for 2017 event. <b>E&amp;DS</b></p>
<p><b>Increasing school engagement to raise aspirations</b></p>	<p>Progress update scheduled for the next South Derbyshire Partnership Board meeting.</p>	<p>Identify SDDC support for secondary schools.</p>	<p>On track. See Detail column.</p>	<p>Schools agree to work with SDDC. <b>PE6.2</b></p>	<p>Raising Aspirations project update delivered at the July South Derbyshire Partnership Board. <b>H&amp;CS</b></p>

## Place Measures

Action	Measure	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PL1: Facilitate and deliver a range of integrated and sustainable housing and community infrastructure</b>						
<b>Increase the supply and range for all affordable housing provision</b>	Increased supply of affordable homes. <b>PL1.1</b>	45 Council homes delivered in Linton, Overseal and Swadlincote.	Proxy	23	Proxy	Homes delivered by Trent & Dove in Rose Hill, Woodville. Meeting with landlords due in November to explore increasing affordable housing provision. <b>H&amp;CS/E&amp;DS</b>
<b>Deliver Housing Asset Management Strategy</b>	Deliver against targets set out in the Asset Management Strategy Action Plan. <b>PL1.2</b>	Targets to be finalised in Q3	Not possible to set targets in Q2.	N/A	Targets to be finalised once strategy is adopted.	Asset Management Strategy approved by Committee. Action Plan will be drafted in October so performance measures can be extracted. <b>H&amp;CS</b>
<b>PL3: Help maintain low crime and anti-social behaviour levels in the District</b>						
<b>Deliver a programme of proactive interventions to reduce environmental crime</b>	Downward trend in fly-tipping incidents. <b>PL3.1</b>	142 <b>Target &lt;168</b>	<338 (cumulative)	349	<676	See Action Plan. <b>E&amp;DS</b>
<b>PL4: Connect with our communities, helping them to feel safe and secure</b>						
<b>Reduce number of noise complaints</b>	Reduce number of noise complaints. <b>PL4.1</b>	5.7 <b>Target &lt;5.2 complaints per 1,000 people.</b>	<5.5 complaints per 1,000 people.	7.1	Q2 <5.5 Q3 <4.8 Q4 <4.6	See Action Plan. <b>E&amp;DS</b>

**PL6: Deliver services that keep the District clean and healthy**

<p><b>Reduce contaminated risk rating of land</b></p>	<p>Number of contaminated land assessments. <b>PL6.1</b></p>	<p>1 <b>Target 1</b></p>	<p>One Completed</p>	<p>2</p>	<p>Four contaminated land assessments completed.</p>	<p>Phase I site appraisal undertaken at the former Dilks garage site, in Hill Street, Swadlincote - a potential Council housing new build site. <b>E&amp;DS</b></p>
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## Place Projects

Action	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PL1: Facilitate and deliver integrated and sustainable housing and community infrastructure</b>					
<b>Deliver an adopted South Derbyshire Local Plan, Parts 1 and 2</b>	Main modifications consultation completed and Local Plan Part 1 adopted.	Consultation Draft Local Plan Part 2.	On track. See Detail column.	Plan adopted. <b>PL1.3</b>	Draft consultation took place from June to August 2016. Responses considered before pre-submission consultation in Q3. <b>E&amp;DS</b>
<b>Increase the supply and range of affordable housing provision</b>	Draft Supplementary Planning Document (SPD) completed and subject to due diligence.	SPD draft prepared.	On track. See Detail column.	Framework to review rural housing needs developed. Develop affordable housing SPD. <b>PL1.4</b>	Draft prepared, awaiting consultation alongside another SPD. <b>H&amp;CS</b>
<b>Consider the introduction of a Community Infrastructure Levy (CIL)</b>	Research being undertaken to enable completion of report.	Option report produced for CIL.	See Action Plan.	Informed decision made. <b>PL1.5</b>	See Action Plan. <b>E&amp;DS/F&amp;M</b>
<b>PL2: Enhance understanding of the planning process</b>					
<b>Support the development of Neighbourhood Plans</b>	Meetings held with Neighbourhood Plan groups. Draft plans being considered for Repton and Melbourne.	Provide support to interested parties.	On track. See Detail column.	Level of support provided to interested parties. <b>PL2.1</b>	Grants Panel held on October 18, on track to meet annual target. <b>E&amp;DS</b>
<b>PL3: Help maintain low crime and anti-social behaviour levels</b>					
<b>Review, publish and deliver the Safer South</b>	Plan adopted. Actions delivered. These included raising awareness	Deliver the actions and objectives within the partnership plan.	On track. See Detail column.	Plan published. Actions within the plan	Summer Scheme diversionary activities

<b>Derbyshire Community Safety Partnership Plan</b>	of hate crime, a domestic violence campaign and leaflet drops to combat acquisitive crime.			delivered. <b>PL3.2</b>	funded in urban core. Public Space Protection Order (PSPO) on Swadlincote Town Centre went live. Hate Crime drop-in sessions held. <b>H&amp;CS</b>
<b>PL5: Support provision of cultural facilities and activities</b>					
<b>Introduce and progress the Sport, Recreation and Open Space Facility Strategy</b>	Key strategy principles established and priority actions approved.	Complete facility action plan.	On track. See Detail column.	Number of facilities enhanced. <b>PL5.1</b>	Project list in production and site plans being identified. Playing Pitch Strategy update underway with Derby City Council. <b>H&amp;CS</b>
<b>Implement and manage the leisure facility capital build programme</b>	Grove Hall Active Zone fully operational with Apex Climbing Centre opened in June.	Complete Newhall Park Memorial Garden.	On track. See Detail column.	Facilities completed.  External investment and grants brought to District. <b>PL5.2</b>	Newhall Park Memorial Garden and Melbourne Sports Park officially opened. <b>H&amp;CS/F&amp;M</b>
<b>Introduce and progress the District Cycle Plan, including an annual cycle event</b>	Promotional plan and activity programme for Women's Tour produced. Event saw significant public support along the route.	Establish Stakeholder Group.	On track. See Detail column.	Develop and implement action plan. Number of opportunities offered <b>PL5.3</b>	Stakeholders identified and included. Plan adopted at Committee identifies five-year activity programme. <b>H&amp;CS</b>
<b>PL6: Deliver services that keep the District clean and healthy</b>					
<b>Ensure that food, water, housing, land and air all meet designated standards for human health</b>	Annual Status Report approved by E&DS. The report evidenced air quality across South Derbyshire met all statutory standards in 2015.	Review the air quality monitoring network in South Derbyshire.	On track. See Detail column.	Air Quality meets Directive 2008/50/EC and the Air Quality Strategy standard. <b>PL6.2</b>	Review of existing monitoring locations completed. <b>E&amp;DS</b>

## Progress Measures

Action	Measure	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PR2: Unlock development potential and ensure the continuing growth of vibrant town centres</b>						
<b>Delivery of Swadlincote Townscape project</b>	Number of target buildings offered grants. <b>PR2.1</b>	0 <b>Target 1</b>	0	0	2	Grants Panel met on October 24. On track to meet annual target. <b>E&amp;DS</b>
<b>PR3: Work to maximise the employment, training and leisure uses of The National Forest by residents and increase the visitor spend to tourists</b>						
<b>Support the development of the tourism sector</b>	Tourist centre enquiries handled. <b>PR3.1</b>	12,303 <b>Target &gt;5,000</b>	>5,000	12,622 enquiries handled	>20,000	The TIC has led and supported Council and partner initiatives including Heritage Open Days, Last Night of the Proms and the Scarecrow Hunt. It has also represented the area at Derbyshire Day and Elvaston Woodland Festival. <b>E&amp;DS</b>
<b>PR5: Provide business support and promote innovation and access to finance, including in rural areas</b>						
<b>Maximise the prosperity of businesses in South Derbyshire through the delivery of the Better Business Regulation Partnership action plan</b>	Number of food businesses which have a Food Hygiene Rating score of 5. <b>PR5.1</b>	80.6 <b>Target &gt;75%</b>	>75%	82.80	>75%	Continued progressive improvement in businesses reaching the highest standards as we develop positive working relationships. <b>E&amp;DS</b>
	Number of registered food businesses active in the District <b>PR5.2</b>	803 <b>Target &gt;790</b>	>790	805	>790	Growth in local food businesses supported through our business advice and regulatory support service. <b>E&amp;DS</b>

## Progress Projects

Action	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>PR1: Work to attract further inward investment</b>					
<b>Launch new Economic Development Strategy</b>	Substantial progress made but not complete due to competing Council priorities.	Adopt Strategy.	On track. See Detail column.	New five-year strategy launched and actions from it delivered. <b>PR1.1</b>	Strategy for period 2016-2021 adopted by E&DS on September 29, 2016. <b>E&amp;DS</b>
<b>PR2: Unlock development potential and ensure the continuing growth of vibrant town centres</b>					
<b>Delivery of Swadlincote Townscape Project</b>	Town crier post offer not completed but well advanced.	Public consultation on Heritage Trail.	On track. See Detail column.	Delivery of Activity Plan. <b>PR2.2</b>	Consultation completed via events, displays, SDDC web form and social media. <b>E&amp;DS</b>
	Consideration of tenders pending for Diana Memorial Garden.	Appoint landscape architect.	On track. See Detail column.	Enhancement of Diana Memorial Garden. <b>PR2.2</b>	Landscape architects appointed. Work has started on the plans. <b>E&amp;DS</b>
<b>Organise and/or support town centre events</b>	Events held were: Wedding Fair Farmers' Market Festival of Transport Mercia Market	Deliver one public event and two school activities based on geography/tourism.	On track. See Detail column.	Events delivered and/or supported. <b>PR2.3</b>	Events staged or supported include Farmers' and Mercia Markets, the Scarecrow Hunt and a Shopping Day. School sessions advertised and new web page set up for town centre activities. One to one planning sessions held with three Swadlincote schools. <b>E&amp;DS</b>

**PR4: Help to influence and develop the infrastructure for economic growth**

<b>Review and update the Infrastructure Delivery Plan</b>	Review underway. Assessment of amendment requirements for Part 2 to be reviewed.	Complete review of the current plan.	See Action Plan.	Plan published. <b>PR4.1</b>	See Action Plan. <b>E&amp;DS</b>
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# Outcomes Measures

Action	Measure	Last quarter	Q2 target	Q2 actual	2016/17 target	Detail
<b>O1: Maintain financial health</b>						
<b>Deliver a balanced general fund</b>	5-year General Fund reserve balance is a minimum of £1m by 2021. <b>O1.1</b>	Annual target.	Annual target.	Annual target.	General Fund Reserve Balance at £6.2m as at 31 <sup>st</sup> March 2017.	Target as per the Financial Strategy. The longer-term target will be regularly monitored as part of the MTFP. <b>F&amp;M</b>
	A balanced General Fund budget by 2018/19. <b>O1.2</b>	Annual target.	Annual target.	Annual target.	A strategy and savings plan agreed by the Council.	Target as per the Financial Strategy. The longer-term target will be regularly monitored as part of the MTFP. <b>F&amp;M</b>
<b>Maximising income</b>	Generate income from New Homes Bonus, Business Rates and sweating of assets. <b>O1.3</b>	Annual target.	Annual target.	Annual target.	Income from Business Rates/New Homes Bonus is £6m at March 2017.	Target included in the MTFP. <b>F&amp;M</b>
<b>Maximise rental income to help the Council do more with less</b>	Rent collected from current and former tenants as % rent due (excluding arrears b/f). <b>O1.4</b>	101.44% <b>Target 99.9%</b>	99.9%	100.96%	99.9%	Rent and service charges due for Q2 was £6,261,958.90. Total collected £6,261,189.23. <b>H&amp;CS/F&amp;M</b>
<b>O3: Enhance environmental standards</b>						
<b>Strive to be more energy efficient.</b>	Annual improvements in the energy consumption of public buildings. <b>O3.1</b>	5.89% <b>Target 3%</b>	3%	2.78%	3%	See Action Plan. <b>E&amp;DS</b>

O4: Maintain a skilled workforce

<p><b>To strengthen measures and support employees to reduce absence due to sickness/ill-health and to promote a healthy workforce.</b></p>	<p>The average working days lost per employee is less than 8 days per year (2 days per quarter). <b>O4.1</b></p>	<p>1.55 days <b>Target &lt;2 days</b></p>	<p>&lt;2 days</p>	<p>2.78 days</p>	<p>&lt;8 days</p>	<p>See Action Plan. <b>F&amp;M</b></p>
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## Outcomes Projects

Action	Last quarter	Q2 target	Q2 actual	2016/17 target	Details
<b>O1: Maintain financial health</b>					
Keep under review priorities into which available funds may be invested in communities	Annual target	Annual target	Annual target	Key priority areas evaluated and agreed by F&M. To be considered as part of 2017/18 Budget round. <b>O1.5</b>	To be considered as part of 2017/18 Budget Round in Q3. <b>F&amp;M</b>
Explore potential commercialisation opportunities and identify areas for competing with the private sector	Committee approval secured to establish Business Improvement team. Recruitment underway.	Establish timetable for processing reviews.	On track. See Detail column.	Deliver process reviews <b>O1.6</b>	Draft timetable completed. Officer appointed and project office established. <b>All Committees</b>
<b>O2: Achieve proper corporate governance</b>					
Maintain a proper Risk Management Framework	Updated registers shown as appendices to the Performance Board.	Update registers for next committee cycle.	On track. See Detail column.	Strategic and service risk registers reviewed, updated and reported to Committees on a quarterly basis. <b>O2.1</b>	Updated registers shown as appendices to the Performance Board. Financial Risk Register reported to the Council on October 13. <b>All Committees</b>
<b>O3: Enhance environmental standards</b>					
Maintain ISO 14001 certification in environmental management	Review postponed due to unforeseen unavailability of key site representatives.	Ensure continual compliance, progress the close out of all identified non-conformances.	On track. See Detail column.	Achieve ISO 14001 certification <b>O3.2</b>	Senior management review completed on September 7, 2016. All non conformances from previous audits have been closed out.

					External surveillance audit is programmed for 23-25 January 2017. <b>E&amp;DS</b>
<b>O4: Maintain a skilled workforce</b>					
<b>Maintain a skilled workforce</b>	N/A	Job competencies to be reviewed during Q2 and Q3 following review of current training and development programme.	On track. See Detail column.	Investors in People standard for staff development maintained. <b>O4.2</b>	Training and development programme reviewed and signed off by the Corporate Management Team. External facilitator to commence third year of approved programme. Mandatory courses for internal training agreed training dates set. <b>F&amp;M</b>
<b>O5: Maintain customer focus</b>					
<b>Design and deliver a new website that allows customers to search and find information easily and quickly</b>	Soft market testing undertaken. Formal procurement exercise in progress.	Complete tender exercise, select supplier and formulate project plan.	On target. See Detail column.	New website launched. <b>O5.1</b>	All completed as planned. Web Labs appointed as supplier. <b>F&amp;M</b>
<b>O6: Be aware of and plan for financial, legal and environmental risks</b>					
<b>Improve resilience to the local impacts of climate change and emergency responses.</b>	Programme of internal evaluation underway, timeframes established for a proposed climate change mitigation and adaptation strategy across SDDC.	Develop a programme of flood risk management mitigation and adaptation activities across at-risk communities in the District.	On target. See Detail column.	Deliver campaigns to mitigate and aid adaptation of climate change and flooding. <b>O6.1</b>	A programme of climate change adaptation activity is under development. This includes a collaborative flood support offering to Parish Councils from SDDC, DCC and the EA. <b>E&amp;DS</b>

Measures and projects outlined in green are on track.

Measures and projects outlined in grey have a single, annual target and are not measured on a quarterly basis.

Measures and projects outlined in purple are proxy.

Actions being taken on indicators currently not on target (coloured in red and amber) are outlined in the Action Plan in Appendix C.

# Environmental and Development Services Strategic and Service Success Areas Quarter 2, 2016

## Appendix B



**120kgs**

<125 target

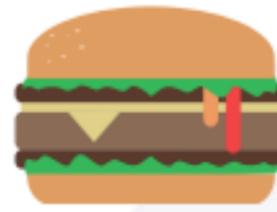
Household waste collected per head of population.



**Local Plan**

Consultation

Consultation held on the draft Local Plan Part II. Responses to be considered.



**805**

>790 target

Number of registered food businesses active in the District.



**ISO 14001**

Major review

Senior management review complete. Non conformance dealt with.



**Memorial**

New plans

Landscape architect appointed to enhance Princess Diana Memorial Garden in Swadlincote.

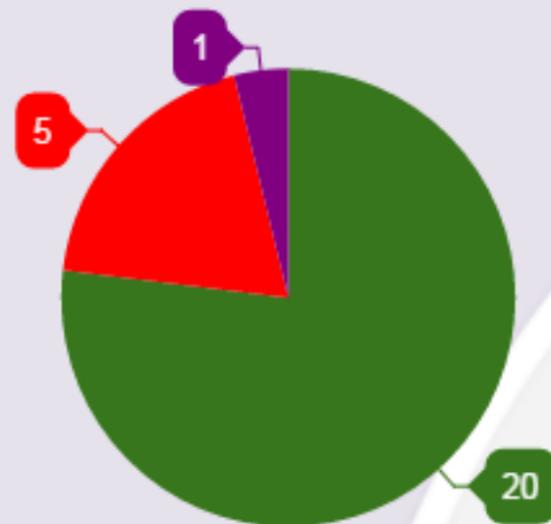


**82.80%**

75% target

Food businesses are meeting the highest possible food hygiene standards.

## E+DS Performance Overview



Green (76.92%) Red (19.23%) Proxy (3.85%)



**Strategy**

Grand vision

New Economic Development Strategy for 2016-2021 adopted by the Council.



**53.10%**

52% target

% of all collected waste recycled and composted.



**23**

Homes bonus

Affordable homes delivered by Trent and Dove Housing in Rose Hill, Woodville. This comes after 45 new Council homes were delivered in Q1.



**12,622**

5,000 target

Enquiries handled by Swadlincote Tourist Information Centre. These include Last Night of the Proms and Heritage Open Days.

## Appendix C



**349**

Reduce the amount of fly tipping

**Target 338**

Theme - Place. Action – PL3.1 Reduce the amount of fly tipping

Target: Fewer than 338 recorded incidents of fly tipping in Q1 and Q2. Actual: 349 recorded incidents.

Trend (compared to last quarter) – Until September the trend of incidents had been downward. In September there was a significant increase in recorded incidents. We have discussed the possible underlying reasons for the increase with our Clean Team to understand if they have observed any specific increase in particular types of waste or the emergence of any hot spots. They have not been able to identify any specific causes.

Key actions underway – E&DS approved the use of Fixed Penalty Notices to fine small scale fly tip offenders from May 2016. Three offenders have subsequently been issued with fines of £400. The Council has secured four successful prosecutions for waste offences since July 2015. Our proactive approach featured in the BBC East Midlands Inside Out programme in October 2016.

Safer Neighbourhood Wardens are now routinely issuing littering fines to individuals caught leaving household waste at recycling centres. 22 fines have been issued so far this calendar year. Wardens are investing more time and energy into fly tip investigations than ever before. Eleven people have been interviewed under caution so far this year in relation to potential offences.

SDDC has taken the lead in a major investigation into flytipping following an incident in Church Gresley. We have seized a 3 axle articulated HGV involved in the incident and are pursuing the investigation in partnership with national regulators.

We have invested in additional motion capture surveillance equipment to monitor for potential offences at known fly tipping hot-spots, while Clean Team staff have been trained in how to collect and retain evidence to a criminal investigation standard.

Opportunities: Enhanced co-operation between separate departments. Opportunity to show that we are well ahead of other local authorities in our use of relevant powers and interventions.

Risks: Fly tipping investigations are time consuming and therefore the more time officers spend investigating these offences the less time we have to spend on other matters such as dog control and noise nuisance. Performance may slip in these areas. Our high media profile in this area could give the incorrect perception the South Derbyshire has a significant fly tipping problem.



**0**

Review and update the Infrastructure Delivery Plan

**Target 1**

Theme - Progress. Action – Review and update the Infrastructure Delivery Plan (IDP)

Target: Complete review of the current plan. Actual: An initial review has been completed, but changes to sites following the draft consultation on part 2 means further review work needs to be undertaken.

Trend (compared to last quarter) – Last quarter was achieved, but unforeseen changes have influenced the outcomes of quarter 2.

Key actions underway – The review is continuing as the Local Plan part 2 progresses. However, the submission date has moved forward one quarter and linked to this will be the publishing of the IDP. Due to this timetable change the target for quarter three to publish the plan will not be met.

Risks: Although there is a delay in the process the IDP will need to be submitted.



**7.1**

Noise  
complaints per  
1,000 people

**Target 5.5**

Theme - Place. Action – PL4.1 Reduce the number of noise complaints

Target: 5.5 complaints per 1000 head of population. Actual: 7.1 complaints per head of population.

Trend (compared to last quarter) – Noise complaints are very seasonal, therefore it is more appropriate to compare the figures to the same period last year.

The number of people who complained about noise in Q2 2016/17 was 357 compared to a profiled target of 279. There is no single underlying cause of this increase. The increases have been in complaints about construction noise, music from domestic properties, barking dogs, noise from pubs and clubs and noise from sports and leisure activities.

The biggest single underlying factor is that since early 2016 noise complaints from SDDC tenants are now received by and investigated by the Environmental Health team. This category of complaint was not recorded prior to 2016 and has accounted for 26 complaints so far this calendar year.

Key actions underway – In May 2015 we published and publicised two guidance notes to support Noise Action Week; the first to provide some simple guidance for construction site managers to help prevent and mitigate noise complaints; the second for local residents affected by construction site noise to give advice and set expectations. The advice is online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk). We suspect that this increased profile about construction noise could have led to enhanced understanding of how to complain and contributed to the overall increase.

New tenancy conditions have been introduced which will provide officers with a more robust process for addressing noise problems. An article on noise control has been produced for the Housing News.

Opportunities/risks - This is the first year that this Performance Indicator has been introduced so the evidence base is small. Until there is more clarity about trends and underlying causes we do not consider that it is appropriate to implement significant change. We will continue to monitor trends to determine other appropriate intervention methods as the volume of data increases.



**0**

Consider the  
introduction of  
a Community  
Infrastructure  
Levy (CIL)

**Target 1**

Theme - Place. Action – Consider the introduction of a Community Infrastructure Levy (CIL)

Target: Option report produced for CIL. Actual: Draft report still under preparation pending Government announcement on future of CIL.

Trend (compared to last quarter) – Last quarter was achieved, but unforeseen changes have influenced the outcomes of quarter 2.

Key actions underway – The drafting of the report has been put on hold whilst Government announcements are awaited.

Risks: The risks are unknown at this stage without the information about Government policy.



**2.78% increase**

Annual improvements in the energy consumption of public buildings

**Target 3% reduction**

Theme – Outcomes. Action – Annual improvements in the energy consumption of public buildings

Target vs performance – Target: 3% reduction. Actual: 2.78% increase.

Failure to meet target influenced by outlying gas consumption at Green Bank Leisure Centre; a 20% increase on Q2 last year. Contributory factors are currently being investigated, but are likely to be a result of additional heat demand from the recently opened Apex Climbing Centre and operational issues with the swimming pool.

Trend (compared to last quarter) – Q1 Target: 3% reduction. Actual: 5.89% reduction.

Background – Long-term trends indicate a steady reduction in energy consumption from the Council's operational buildings. The reasons are numerous and affected by many external factors; the weather, usage/participation etc. Analysis indicates the reduction in electricity at the Civic Offices has been significant (8.5%), a likely result of lighting scheme upgrades and IT hardware changes to new more energy efficiency products.

The most significant activity affecting energy reductions has been as a result of the refurbishment work at both leisure centre sites. Green Bank and Etwell Leisure Centres have undergone significant improvement work, including the replacement of large energy intensive equipment, gym equipment and building fabric improvements to deliver better thermal performance.

Key actions underway – Complete investigations into gas increase at Green Bank Leisure Centre and respond accordingly. Report on and manage any corrective actions via the Active Nation contract management framework. Continue to develop energy efficient improvement activities across the operational buildings. The current focus at Green Bank Leisure Centre has been feasibility work into Combined Heat and Power (CHP) technology to recover heat from onsite electrical energy, potentially realising savings in both gas and electricity.

Opportunities: The Council has recently re-tendered its contract for energy procurement to the Monarch Partnership. This contract includes support and expertise in delivering energy efficiency savings. Initial meetings with Monarch to develop this are scheduled in November.

Risks: As the decarbonisation of the electricity market continues, subsidies for green/renewable energy continue to be passed on to consumers. As a result we are likely to see energy prices continue to rise. Climate change projections highlight likely increases in cooling demand for public buildings.

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**There are five actions for Environmental and Development Services.**

# Chief Executive's Risk Register

Theme/aim	Risk description	Likelihood	Impact	Risk Treatment	Mitigating action	Responsible officer
Outcomes/ Delivery of Service	Failure to meet statutory deadlines in relation to the licensing function, unable to process licences, leading to individuals unable to trade, legal issues, complaints	Low	Medium	Treat	<ul style="list-style-type: none"> <li>Processes and procedures are in place to ensure all matters are processed within statutory time-frame</li> <li>Staff trained and aware of Authority's duties</li> <li>Keep under review</li> </ul>	Ardip Kaur
Outcomes/ Delivery of service	Failure to meet statutory deadlines and/or statutory functions during litigation, contractual matters, land sales/purchases, enforcement matters	Low	High	Treat	<ul style="list-style-type: none"> <li>Qualified officers with professional training and experience</li> <li>Processes and procedures are in place to ensure compliance</li> <li>Case management reviews</li> <li>Keep under review</li> </ul>	Ardip Kaur
Outcomes/ Delivery of service	Non-performance of local government statutory duties at Committee and Council meetings	Low	Medium	Treat	<ul style="list-style-type: none"> <li>Compliance with Council's Constitution</li> <li>Processes and procedures in place</li> <li>Strict adherence to timetable</li> </ul>	Ardip Kaur

Outcomes/ Delivery of service	Failure to meet statutory deadlines for the cavass and in compiling and publishing the Register	Low	High	Treat	<ul style="list-style-type: none"> <li>• Processes and procedures in place</li> <li>• Experienced officers carry out process</li> <li>• Close Monitoring</li> </ul>	Ardip Kaur
Outcomes/ Delivery of service	Failure to meet statutory responsibilities, denying right of franchise at Election/ Referendum time	Low	High	Treat	<ul style="list-style-type: none"> <li>• Processes and procedures in place</li> <li>• Strict adherence to statutory timetable</li> <li>• Assistance from Electoral Commission available, when needed</li> <li>• Support staff employed to assist</li> <li>• Close monitoring</li> </ul>	Ardip Kaur
Progress/ Work to maximise the employment, training and leisure uses of The National Forest by residents and increase the visitor spend by tourists	Failure of National Forest & Beyond tourism partnership leading to an adverse impact on businesses in local visitor economy	Low	Medium	Treat	<ul style="list-style-type: none"> <li>• Proactive engagement in partnership and with individual partners</li> <li>• Commitment of Officer time and resources to partnership activities</li> <li>• Monitoring of projects and performance</li> </ul>	Mike Roylance
Progress/ People/ Place	Failure of the South Derbyshire Partnership leading to non- delivery of the community's vision and priorities as set out in the Community Strategy and Action Plan	Low	Medium	Treat	<ul style="list-style-type: none"> <li>• Proactive support for partnership</li> <li>• Commitment of Officer time and resources to Partnership facilitation</li> <li>• Engagement of partners in policy making and project design and delivery</li> </ul>	Mike Roylance

<p>Progress/ Work to attract further inward investment</p>	<p>Downturn in the local economy leading to a loss of jobs, business failures, and a reduction in income to the Council (e.g. Business Rate income; Take-up of commercial properties, etc)</p>	<p>Medium</p>	<p>High</p>	<p>Treat</p>	<ul style="list-style-type: none"> <li>• Monitoring of economic trends</li> <li>• Economic Development Strategy designed to increase robustness of local economy</li> <li>• Delivery of economic development activities including provision of South Derbyshire Business Advice Service</li> </ul>	<p>Mike Roylance</p>
<p>Progress/ Work to maximise the employment, training and leisure uses of The National Forest by residents and increase the visitor spend by tourists</p>	<p>Failure of Sharpe's Pottery Heritage &amp; Arts Trust, leading to a loss of service to visitors and residents through the Tourist Information Centre</p>	<p>Medium</p>	<p>High</p>	<p>Treat</p>	<ul style="list-style-type: none"> <li>• Officer advice and support available to Trust</li> <li>• Member involvement in Trust Board</li> <li>• Monitoring of services and performance</li> </ul>	<p>Mike Roylance</p>

## Community and Planning Risk Register 2016-2017

Theme/aim	Risk description	Likelihood	Impact	Risk Treatment	Mitigating action	Responsible officer
Outcomes/ Maintain Financial Health	Reduced Planning Fees (DM1)	Low	High	Treat	Careful attention to forecasts/setting budgets and budget monitoring - Forecast for 2016/17 is continued high levels of income.	Tony Sylvester
Outcomes/ Maintain Financial Health	Judicial review of Planning decisions (DM2)	Low	High	Treat	Weekly case review with all case officers for early identification of high-risk cases, legal opinion sought when necessary.  On-going review of new statutory procedures, continued advice from legal when required.  New planning officer structure in place 1/7/15 provides better capacity to monitor cases.	Tony Sylvester
Outcomes/ Maintain Financial Health	Maladministration leading to injustice via LGO (DM3/BC4/PP2)	Low	Low	Treat	Some documented process of procedures  Training in processes  Close monitoring of report recommendations	Tony Sylvester

Outcomes/ Maintain Financial Health	Judicial Review of Building Control Decision (BC1)	Med	Med	Treat	Ongoing review of new statutory procedures, continued advice from counsel when required.	Tony Sylvester
Outcomes/ Maintain Financial Health	Loss of Market share below sustainable level (BC2)	Med	High	Treat	Frequent monitoring of market share, app numbers, fee income.  Frequent marketing events /direct mail.	Tony Sylvester
Outcomes/ Maintain Financial Health	Negligence resulting in loss to personal property (BC3/DM4)	Low	High	Treat	Insurance  Professional training  Maintain sound procedures and act speedily to recover ground when mistakes are made.	Tony Sylvester
Outcomes/ Maintain Financial Health	Failure to collect financial contributions or to enforce the delivery of obligations within Section Agreements (DM5)	High	Very High	Treat	Committee approval to replace Section 106 monitoring software	Helen Frazer
Outcomes/ Maintain Financial Health	Appeal against refusal of major planning applications (DM6)	High	High	Treat	Careful consideration of all major application refusals.  Legal opinions where necessary  Members training  Employ consultants	Tony Sylvester
Outcomes/ Maintain Financial Health	High volume of planning applications (DM7)	High	Med	Treat	New planning officer structure in place 1/7/15 provides better capacity to monitor cases =	Tony Sylvester

					<p>optimum use of resources</p> <p>Closely monitor inward investment related applications</p>	
Outcomes/ Maintain Financial Health	Loss of knowledge in department relating to specialist IT solutions, GIS and others (DM8)	High	Medium		Specialist GIS knowledge outside of service e.g. specialist knowledge within IT/Corporately	Tony Sylvester
Outcomes/ Maintain Financial Health	Loss of public access to PA on website (DM9)	High	Medium	Treat	<p>Reduce reliance on single contractor</p> <p>Ensure Central IT can administer</p> <p>Seek alternative solution</p>	Tony Sylvester
Place/ Facilitate and deliver a range of integrated and sustainable housing and community infrastructure	Technical and Legal problems/threats leading to delays in the adoption of the Local Plan Documents (PP1)	High	High	Treat	<p>Early liaison with Planning Inspectorate</p> <p>Maintaining an up-to-date evidence base</p> <p>Maintaining cross boundary communication</p> <p>Taking legal advice</p> <p>On-going political engagement in process</p>	Tony Sylvester
Place/Facilitate and deliver a range of integrated and sustainable housing and community infrastructure	Judicial review of any aspect of the Local Plan affecting adoption (PP3)	High	High	Treat	<p>Up-to-date evidence base</p> <p>Continued cross boundary communication</p> <p>Obtain legal opinion when required</p>	Tony Sylvester

<p>People/ Increase levels of participation in sport, health, environmental and physical activities</p>	<p>Reduction of council funding into Sport and Health Service Unable to source external funding to service Reserve fund being depleted for other sources other than the sport and health service delivery. (SP1)</p>	<p>High</p>	<p>High</p>	<p>Treat</p>	<p>Forward Budget Planning over a number of years.</p> <p>Lobby to maintain current funding contribution that the council makes towards the service and for an increased contribution if members want the current levels of service to be maintained.</p> <p>Continually seek external funding options</p>	<p>Hannah Peate</p>
<p>Place/ Support provision of cultural facilities and activities throughout the District</p>	<p>Managing large Capital projects (CS1)</p>	<p>Med</p>	<p>V High</p>	<p>Treat</p>	<p>Ongoing dialogue with funders</p> <p>Support from internal and external specialists re legal and financial issues</p> <p>Financial monitoring/attendance of CPAM meetings</p>	<p>Malcolm Roseburgh</p>
<p>Place/ Support provision of cultural facilities and activities throughout the District</p>	<p>Failure of Contracts e.g. leisure centres (CS2)</p>	<p>Med</p>	<p>High</p>	<p>Treat</p>	<p>Contracts in place or held over.</p> <p>Regular (monthly) contract monitoring meetings for main contracts</p>	<p>Malcolm Roseburgh</p>
<p>Place/ Support provision of cultural facilities and activities throughout the District</p>	<p>Memorial monuments falling causing injury (CS3)</p>	<p>Low</p>	<p>Med</p>	<p>Treat</p>	<p>Informal checks undertaken and programme of rolling checks reintroduced</p>	<p>Malcolm Roseburgh</p>

Outcomes/ Maintain Financial Health	Accidents at Play Areas (CS4)	Med	High	Treat	<p>Inspections carried out by dedicated member of staff.</p> <p>Insurance company inspect annually</p> <p>Park keepers on some sites</p> <p>New play areas are designed to meet current standards. Need to arrange further back-up cover for inspections when Inspector is absent.</p>	Malcolm Roseburgh
Place/ Support provision of cultural facilities and activities throughout the District	Dilapidation of Leisure/Community Facilities (CS5)	Med	High	Treat	Control measure in place: - securing internal and external funding, supporting VCS and parish councils with funding, improving planned preventative maintenance, transferring assets where possible, improved monitoring	Malcolm Roseburgh
Place/ Support provision of cultural facilities and activities throughout the District	Failure of Business Plan for Rosliston Forestry Centre (CS6)	High	High	Treat	<p>Monthly performance meetings</p> <p>Annual Review of Business Plan</p> <p>Development and implementation of new strategy</p> <p>Increase involvement of Forestry Commission in business planning</p>	Malcolm Roseburgh

Place/ Support provision of cultural facilities and activities throughout the District	Urban Core Cemetery Space running out (CS7)	V High	Med	Treat	Continued internal meetings with Planning and Property Services to identify land opportunities	Malcolm Roseburgh
Place/ Support provision of cultural facilities and activities throughout the District	Failing infrastructure at Rosliston Forestry Centre. (CS8)	V High	High	Treat	Complete condition survey Seek estimates for priority work. Alert senior management team Six monthly review of risk	Malcolm Roseburgh
People/Prote ct and help support the most vulnerable, including those affected by financial challenges	Sustainability of the voluntary sector (CM1)	V High	Med	Treat	Service Development proposal to continue community partnership scheme in future years. Continue partnership working with CVS and rest of VCS	Chris Smith
Place/ Support provision of cultural facilities and activities throughout the District	Failure of Sharpe's Pottery Museum (CM2)	Med	Med	Treat	Councillor representation on board  Attendance on board meetings by Officers  Support from Community Partnership Officer when required	Chris Smith

# Housing and Environmental Services Risk Register

Risk Code	Theme/aim	Risk description	Likelihood	Impact	Risk Treatment	Mitigating action	Responsible officer
HES1	Maintain Financial Health	Loss of income to the Housing Revenue Account through 1% rent reduction for general needs tenancies	High	Major	Treat	<p>Restructure housing service to ensure resources deployed appropriately</p> <p>Revise all income policies and procedures to ensure they are fit for purpose</p> <p>Invest in I.T. solutions to maximise opportunities to collect income and support those in financial difficulty</p> <p>Review 'back office' functions to ensure frontline staff are able to work effectively</p>	Chris Holloway
HES2	To protect the most vulnerable including those affected by anti-social behaviour and domestic abuse.	Loss of income to the Housing Revenue Account through roll out of Universal Credit	High	Major	Treat	<p>Restructure housing service to ensure resources deployed appropriately</p> <p>Revise all income policies and procedures to ensure they are fit for purpose</p> <p>Invest in I.T. solutions to maximise opportunities to collect income and support those in financial difficulty</p> <p>Review 'back office' functions to ensure frontline staff are able to work effectively</p>	Chris Holloway

HES3	Keep residents happy, healthy and safe	Loss of Supporting People funding for the supported housing service	High	Severe	Treat	<p>Conduct full review of supported housing service to ensure financial viability</p> <p>Increase service delivery to private customers</p> <p>Explore new income streams working in collaboration with healthcare partners</p>	Chris Holloway
HES4	Enable people to live Independently	Loss of Supporting People funding for the sheltered housing service	High	Severe	Treat	<p>Conduct full review of supported housing service to ensure financial viability</p> <p>Increase service delivery to private customers</p> <p>Explore new income streams working in collaboration with healthcare partners</p>	Chris Holloway
HES5	To protect the most vulnerable including those affected by anti-social behaviour and domestic abuse.	Increase in homeless applications / presentations as Universal Credit rolls out	Low	Significant	Treat	<p>Restructure housing service to ensure resources deployed appropriately</p> <p>Attain National Practitioner Support Service (NPSS) standard for Homeless Service</p>	Chris Holloway
HES6	To protect the most vulnerable including those affected by anti-social behaviour and domestic abuse.	Failure to fulfil statutory homeless duty	Very Low	Significant	Tolerate	<p>Ensure policies and procedures are compliant with statute</p> <p>Ensure staff are well trained and briefed on changes to the Council's statutory obligations</p>	Chris Holloway
HES7	Maintain Financial Health	Failure to follow	Very Low	Significant	Tolerate	<p>Ensure procedures are reviewed regularly and staff are well trained</p>	Chris Holloway

		Council procedures / policies leading to Ombudsman finding of 'maladministration'					
HES8	Achieve proper Corporate Governance	Failure to fulfil Resident Scrutiny statutory duty	Very Low	Significant	Treat	Ensure Resident Scrutiny Panel in place and undertakes regular reviews of services	Martin Guest
HES9	Achieve proper Corporate Governance	Failure to meet statutory deadlines when reporting performance and statutory information to Government agencies	Very Low	Significant	Treat	Ensure deadlines are met and that ownership for each reporting deadline is identified and project managed	Martin Guest
HES10	Maintain a skilled workforce	Loss of IT Systems and lack of specialist IT knowledge in department	Very Low	Significant	Treat	Ensure IT disaster recovery plan is in place Have alternative options available with suppliers Restructure services to ensure required resources in place	Martin Guest
HES11	Maintain financial health	Failure to deliver the planned maintenance and new build programme	Medium	Significant	Treat	Ensure income team is suitably resourced to ensure maximum income. Continually review asset management data to target programme effectively.	Lee Carter
HES12	Maintain financial health	Increase in the cost of contracts	Medium	Severe	Treat	Ensure procurement of goods and services are as lucrative as possible to potential suppliers so they can see the longevity of potential contracts	Lee Carter
HES13	Maintain a skilled workforce	Failure to retain staff	Low	Significant	Treat	Ensure pay and grading review accurately remunerates staff and ensure training and development opportunities are maximised	DMT

HES14	Facilitate and deliver a range of integrated and sustainable housing and community infrastructure	Lack of funding for development and regeneration programme.	Medium	Significant	Treat	Investigate all avenues for funding new build and regeneration via differing routes to ensure stock levels are maintained or increased	Mike Haynes/Lee Carter
HES15	Facilitate and deliver a range of integrated and sustainable housing and community infrastructure	Insufficient supply of affordable homes Increase use in temporary accommodation/ increased homelessness/ loss of new homes bonus	High	Significant	Treat	Up-to-date housing needs data/ ensure maximise delivery through planning gain/ support Registered Providers with building new homes/ increase a supply through Council House building	Martin Guest/Tony Sylvester
HES16	Deliver services that keep the District clean and healthy	Major incident (disease outbreak, pollution, severe weather)	Low	Significant	Tolerate	Backfill the staff resources with agency staff	Matt Holford/ Adrian Lowery
HES17	Maintain financial health	Loss of revenue	Low	Severe	Tolerate	Main income streams are from export certificates. Volumes are entirely outside our control	Matt Holford
HES18	Achieve proper Corporate Governance	Legal challenge over statutory function	Medium	Significant	Treat	Effective governance and review of officer decisions	Matt Holford
HES19	Deliver services that keep the District clean and healthy	Failure to deliver minimum statutory service duties	Low	Minor	Tolerate	Continuously keep under review and deploy available resources based on areas of highest potential failure	Matt Holford
HES20	Deliver services that keep the District clean and healthy	Temporary loss of fuel supply at depot	Medium	Minor	Treat	Contingency suppliers in place	Adrian Lowery

HES21	Deliver services that keep the District clean and healthy	National loss of fuel supply	Low	Significant	Treat	Business continuity plan, comply with emergency planning guidance	Adrian Lowery
HES22	Deliver services that keep the District clean and healthy	Loss of vehicle fleet through theft or fire	Low	Significant	Treat	Local and national vehicle hire companies on list of suppliers	Adrian Lowery
HES23	Deliver services that keep the District clean and healthy	Loss of service delivery from contractors	Medium	Significant	Treat	Contingency plans in place to deliver service internally or back-up contractors available	Adrian Lowery
HES24	Maintain financial health	Loss of revenue	Low	Severe	Tolerate	Main income from commercial waste collections cannot compel customers to use our service	Adrian Lowery
HES25	Deliver services that keep the District clean and healthy	Loss of depot operating centre	Low	Significant	Treat	Temporary base for depot Build a new modern depot	Adrian Lowery

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 8</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: DELEGATED/ RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>CHIEF EXECUTIVE</b>	<b>OPEN/EXEMPT PARAGRAPH NO:</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>ARDIP KAUR 01283 595 715 <a href="mailto:ardip.kaur@south-derbys.gov.uk">ardip.kaur@south-derbys.gov.uk</a></b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>KEY PERFORMANCE INDICATORS – LICENSING DEPARTMENT</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE:</b>

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**1. Recommendations**

- 1.1 That Members note the performance of the Licensing Department in relation to the Key Performance Indicators

**2. Purpose of Report**

- 2.1 To provide Members with an update on the Licensing Department and the Key Performance Indicators

**3. Detail**

- 3.1 As part of the audit of the Licensing Department held in 2014, service standards were put in place with regards to target times for the processing of complete applications and dealing with any complaints received by the Department.
- 3.2 The Licensing Department will provide a quarterly update as to the Department's performance against the service standards. The results for the previous quarter are:

**Private Hire Licensing**

<b>Type of Licence Application</b>	<b>August to October 2016</b>
Private Hire Vehicles (5 days)	100%
Private Hire Drivers (10 days)	94%
Private Hire Operators (5 days)	100%

## Licensing Act 2003

Type of Licence Application	August to October 2016
Personal licence (10 days).	100%
Grant of premises licence (15 days after grant)	100%
Variation of designated (15 days after grant)	90%
Transfer of premises licence holder (15 days after grant)	100%
Variation of premises licence (15 days after grant)	100%
Minor variation of premises licence (15 days after grant)	100%
Temporary event notice (1 day)	100%

## Enforcement

Type of Application	August to October 2016
Acknowledgement of complaint within 2 days	100%
Letter detailing works required within 10 days	100%
Notify complainant of outcome of investigation within 10 days	100%

### 4. **Financial Implications**

4.1 There are no financial implications to the Council.

### 5. **Corporate Implications**

5.1 The service standards demonstrate that we support local businesses whilst protecting local residents which contribute directly to the corporate vision to make South Derbyshire a better place to live, work, and visit, and to the theme of sustainable growth and opportunity and safety and security.

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES</b>	<b>AGENDA ITEM: 9</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>MIKE HAYNES DIRECTOR OF HOUSING &amp; ENVIRONMENTAL SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>ADRIAN LOWERY, 01283 595764, ADRIAN.LOWERY@SOUTH- DERBYS.GOV.UK</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>VEHICLE MANAGEMENT STRATEGY AND VEHICLE REPLACEMENT PLAN.</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 Committee recommends approval of the Vehicle Management Strategy and the vehicle replacement plan.

## **2.0 Purpose of Report**

- 2.1 An internal audit identified the lack of a formal Vehicle Management Strategy as a weakness in the controls on the procurement and maintenance of vehicles, plant and associated equipment. This report asks for approval of the Vehicle Management Strategy and the associated vehicle replacement plan, which will form a framework for developing policies, plans and procedures for the management of vehicles, plant and associated equipment.

## **3.0 Detail**

- 3.1 The purpose of the strategy is to ensure that service needs have effective vehicle solutions that fully meet regulatory requirements, service and corporate objectives and provide clear decision making for their management and use. It is also important to raise service awareness of vehicles as a corporate asset; they have a capital value, cost money to use and maintain, require statutory safety inspections to comply with various regulations and are required to meet Health & Safety Regulations.
- 3.2 The Direct Services Manager is responsible for the purchase, maintenance, repair and disposal of all vehicles owned by South Derbyshire District Council; these being:  
Large Goods Vehicles  
Vans and pick ups  
Cars and car derived vehicles  
Heavy plant and lifting equipment

Grounds Maintenance equipment  
Depot plant  
Trailers

- 3.3 The Strategy sets out how we will maintain cost-effective and timely processes for repair and maintenance, commissioning, decommissioning and disposal of the vehicle fleet and ensure statutory requirements are adhered to.
- 3.4 The Strategy requires the reviewing of developments and opportunities in alternative vehicle technologies including fuel types, and to consider these when implementing the vehicle replacement plan, to help minimise our impact on the environment and taking a proactive role in assisting the Council to maintain its ISO140001 accreditation.

#### **4.0 Financial Implications**

- 4.1 The current and future earmarked reserves and contributions from the general fund and capital receipts are shown below.

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
Earmarked reserve	981,203	1,251,203	1,521,203	1,791,203	2,061,203
GF contribution	20,000	20,000	20,000	270,000	270,000
Capital Receipts contribution	250,000	250,000	250,000	0	0
<b>Closing balance</b>	<b>1,251,203</b>	<b>1,521,203</b>	<b>1,791,203</b>	<b>2,061,203</b>	<b>2,331,203</b>

- 4.2 The current estimated replacement costs of the fleet on outright purchased is £2.9 million. Based on a standard seven yearly programme this would equate to approximately £415,000 per annum. Some grounds maintenance vehicles will be funded from section 106 monies, the remaining shortfall between current estimates and the earmarked reserves will be bridged by sweating assets and varying the replacement programme to extend the life of vehicles beyond seven years where it is cost effective to do so.

#### **5.0 Corporate Implications**

- 5.1 The Vehicle Management Strategy will help to ensure that the Council has a fit for purpose, safe, reliable and cost effective vehicle fleet in the right place at the right time and at the right cost to support the strategic, corporate and service goals and objectives of the Council and to assist good service delivery.
- 5.2 If a decision is made to procure vehicles through contract hire we will look to retain maintenance in house, which could generate an income to the council. Any decision to outsource maintenance could put a number of employees at risk.
- 5.3 The fleet is provided to enable staff to deliver operational services on a day to day basis and make essential journeys. Vehicle users will be required to identify their operational needs prior to vehicles being procured on their behalf. Satisfaction levels with the service and support offered by the vehicle workshop will be assessed on a regular basis to ensure that user needs are being met as effectively as possible.

#### **6.0 Community Implications**

- 6.1 The fleet is currently standardised as far as possible on diesel fuel, modern diesel-engine vehicles are very efficient, generally clean (with lower emissions than petrol engines) and are capable of running on more eco-friendly biofuels. This position will be maintained over the short term whilst keeping alternative and more environmentally friendly technologies under review, particularly for heavier vehicles which currently operate at very low levels of fuel efficiency. If opportunities arise to pilot such technology at reasonable comparable cost these will be explored and decisions made on a case by case basis.

## **9.0 Conclusions**

- 9.1 The Vehicle Management Strategy takes a holistic approach to how we procure, maintain and dispose of our vehicles, plant and associated equipment, ensuring that vehicles are seen as an important Council asset.

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENTAL SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>ADRIAN LOWERY 01283 595764 adrian.lowery@south-derbys.gov.uk</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>DRIVING AT WORK POLICY</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE:</b>

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### **1.0 Recommendations**

1.1 Committee is recommended to approve the draft 'Driving at Work Policy' for consultation with service areas and employees, through the Councils Health & Safety Committee.

### **2.0 Purpose of Report**

2.1 To allow the Direct Services Manager to consult with service areas and employee representatives on the introduction of a 'Driving at Work Policy'. Following consultation via the Health & Safety committee, a further report will be submitted for the Committee to formally adopt a Driving at Work Policy.

### **3.0 Detail**

3.1 The Driving at Work Policy is supplementary to the Council's Health and Safety Policy statement and represents good practice aimed at ensuring the health and safety of drivers undertaking Council business and other persons who may be affected by activities carried out on behalf of the Council.

3.2 Drivers undertaking Council business are considered to be any person employed by the Council whether directly or indirectly (i.e. agency staff and contractors etc). Driving may be required on a regular or casual basis and this includes all management, supervisory, clerical and administrative staff that undertake driving on Council business using Council owned vehicles, leased or hired vehicles or their own personal motor vehicles within the Council's car user scheme.

3.3 The Council must carry out its vehicle operations in strict compliance with road traffic legislation.

3.4 There are sections within the Policy which cover the use of a driver's own vehicle when used for work purposes, referred to as the grey fleet.

3.5 The Policy meets legal requirements placed on the Council by various road traffic and health and safety acts and / or regulations; in particular:

- Road Traffic Act (1988) – section 87 (2) states “It is an offence for a person to cause or permit another person to drive on a road a motor vehicle of any class if that other person is not the holder of a licence authorising him to drive a motor vehicle of that class.
- The Health and Safety at Work Act 1974 (HSWA) requires the Council to ensure, so far as is reasonably practicable, the health and safety of all employees while at work. This includes a responsibility to ensure that others are not put at risk by our work-related driving activities.
- Management of Health and Safety at Work Regulations 1999 (MHSW) requires the Council to carry out (and regularly review) assessments to manage risk to our employees and other people who may be affected by their work.
- Corporate Manslaughter and Corporate Homicide Act 2007 reaffirms existing Health and Safety duties to ensure that organisations take their obligations under health and safety law seriously. The Council are committed to ensuring their health and safety management systems are fit for purpose to safeguard staff and others who may be affected by their operations.
- Provision and Use of Work Equipment Regulations 1998 (PUWER) requires the Councils to ensure that work equipment is suitable for use and fit for the purpose and conditions in which it is to be used; also, it is maintained to safeguard people’s health and safety and staff have appropriate training in its use.
- Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) requires the Councils to ensure any equipment used at work for lifting or lowering loads, including attachments used for anchoring, fixing or supporting it, are correctly maintained and tested to safeguard staff and others.

#### **4.0 Financial Implications**

4.1 The Council’s vehicle fleet is estimated for insurance purposes to be valued at £2million. Fleet vehicles and operational plant are essential and valuable assets which need to be utilised to the best possible standards at all times. Operation of fleet vehicles and operational plant present varying risks to the Council and are covered by motor liability insurance. It is therefore in the Councils’ interest to ensure effective management of fleet drivers to minimise accidents and the impact these have on annual insurance premiums.

#### **5.0 Corporate Implications**

5.1 The Council, in order to operate vehicles above 3500Kg Gross Vehicle Weight (GVW), must hold a Vehicle Operators License and appoint competent person(s) to manage and maintain its fleet. A ‘Competent Person’ is one who holds a Certificate of Professional Competence in order to meet legal requirements set out by:

- Goods Vehicles (Licensing of Operators) Act 1995.
- European Directive 74/561 (as amended by EC 89/438, EC 96/26).
- European Directive 98/76.

- 5.2 The Council must ensure that its driving and fleet operations meet the requirements of other relevant legislation, namely the Road Traffic Act 1988, Health and Safety at Work Act 1974 and the Provision and Use of Work Equipment Regulations 1996.
- 5.3 Section 87 (2) of the Road Traffic Act 1988 states “It is an offence for a person to cause or permit another person to drive on a road a motor vehicle of any class if that other person is not the holder of a license authorising him to drive a motor vehicle of that class”. The Council must therefore ensure persons undertaking driving on its behalf are properly licensed at all times.
- 5.4 The Health and Safety at Work Act requires that operators of vehicles, and employers of persons, take steps, so far as reasonably practicable to ensure the safety of employees and others who may be affected by its activities.
- 5.5 The Council must ensure its vehicle fleet is road worthy and fit for the purpose for which it intends to use it. The Council must also ensure that employees who use their own vehicles (i.e. grey fleet car users) have road worthy, licensed, tested and insured vehicles for use in the course of the Council’s business.
- 5.6 The Driving at Work Policy will be communicated to employees that are likely to undertake driving on Council business via mandatory training sessions and will be included as part of the information provided to new starters on their first day of employment.

## **6.0 Conclusions**

- 6.1 The Driving at Work Policy takes in to consideration statutory and regulatory changes; and establishes a standard position across the Council, for employees driving at work.
- 6.2 The policy includes all persons who undertake driving on Council business including drivers of council owned vehicles, own vehicle drivers (grey fleet), volunteers, contractors and sub-contractors.
- 6.3 The policy makes specific statements in order to ensure the Council can demonstrate it is taking reasonable care in its approach to the management of its employees and others who drive whilst undertaking Council business.
- 6.4 The policy should be appended to the Council’s Corporate Health and Safety Policy to demonstrate the Council’s commitment to managing its driving activities within relevant Health & Safety legislation.

# Driving at Work Policy

November 2016

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## Version Control

Version	Description of version	Effective Date
1	Draft for Approval	27 <sup>th</sup> October 2016

## Approvals

Approved by	Date

## Associated Documentation

Description of Documentation	
Vehicle Management Strategy	
Vehicle Defect Reporting Procedure	
Accident Reporting Procedure	
Driving Licence Checking Procedure	
Drivers Medical Declaration	
Recording Drivers Hours Procedure	
Overweight Vehicle Procedure	
Code of Safe Working Practice -Refuse	
Code of Safe Working Practice -Cleansing	
Code of Safe Working Practice –Grounds	

## 1.0 Introduction

- 1.1 The Driving at Work Policy is supplementary to the Council's Health and Safety Policy statement and represents good practice aimed at securing the health and safety of drivers undertaking Council business and other persons who may be affected by activities carried out on behalf of the Council.
- 1.2 The Driving at Work Policy's aim is to clearly set out standards of driving conduct for staff to ensure their own and others safety. Failure to follow the requirements of the policy may be considered misconduct and dealt with by way of the Council's Disciplinary Procedure.
- 1.3 The Council must carry out its vehicle operations in strict compliance with road traffic legislation. All drivers must follow the rules laid out in this Policy.

## 2.0 Scope

- 2.1 Drivers undertaking Council business are considered to be any person employed by the Council whether directly or indirectly (i.e. agency staff and contractors etc.). Driving may be required on a regular or casual basis and this includes all management, supervisory, clerical and administrative staff that undertake driving on Council business using Council owned vehicles, leased or hired vehicles or their own personal motor vehicles within the Council's car user scheme.
- 2.2 Council vehicles include council owned, leased or hired vehicles. There are also sections within the Policy which cover the use of a driver's own vehicle when used for work purposes, referred to as the 'Grey Fleet'.

## 3.0 Principles and Legal Requirements

- 3.1 The Policy aims to meet legal requirements placed on the Council by various road traffic and health and safety acts and / or regulations; in particular:
  - 3.1.1 Road Traffic Act (1988) – section 87 (2) states “It is an offence for a person to cause or permit another person to drive on a road a motor vehicle of any class if that other person is not the holder of a licence authorising him to drive a motor vehicle of that class.
  - 3.1.2 The Health and Safety at Work Act 1974 (HSWA) requires the Council to ensure, so far as is reasonably practicable, the health and safety of all employees while at work. This includes a responsibility to ensure that others are not put at risk by our work-related driving activities.
  - 3.1.3 Management of Health and Safety at Work Regulations 1999 (MHSW) requires the Council to carry out (and regularly review) assessments to manage risk to our employees and other people who may be affected by their work.

- 3.1.4 Corporate Manslaughter and Corporate Homicide Act 2007 reaffirms existing Health and Safety duties to ensure that organisations take their obligations under health and safety law seriously. The Council are committed to ensuring their health and safety management systems are fit for purpose to safeguard staff and others who may be affected by their operations.
- 3.1.5 Provision and Use of Work Equipment Regulations 1998 (PUWER) requires the Councils to ensure that work equipment is suitable for use and fit for the purpose and conditions in which it is to be used; also, it is maintained to safeguard people's health and safety and staff have appropriate training in its use.
- 3.1.6 Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) requires the Councils to ensure any equipment used at work for lifting or lowering loads, including attachments used for anchoring, fixing or supporting it, are correctly maintained and tested to safeguard staff and others.

## 4.0 Responsibilities

4.1 All employees at all levels have a responsibility to take care of their own and others' health and safety. Employees, specifically drivers of both council owned vehicles or their own vehicle, when being used for work purposes, have a duty to comply with all road traffic regulations including obeying speed limits. They should also be courteous to other road users and use consideration when parking, and should:

- Only drive vehicles which are licensed and insured, and they are competent to drive.
- Work in accordance with instruction and training.
- Complete the regular pre-use vehicle checks, and report any defects to their Manager/Supervisor.
- Comply with the requirements of the Highway Code
- Cooperate with health surveillance or assessment schemes.
- Report any health issues (including the taking of medication) which may affect their fitness/ability to drive safely to their line manager.
- Ensure that unattended vehicles have the engines turned off, with the brakes applied and all doors are locked and the keys removed from the vehicle.
- Report any accidents, injuries or near misses to their line manager promptly.
- Under no circumstances must keys be left inside the vehicle whilst unattended and/or the driver (lone driver) is undertaking operations (i.e. loading bins) within 10 metres of the vehicle whilst the engine is running to power auxiliary equipment.
- Report any driving convictions and any addition of points on their licences to their line manager and Human Resources immediately.
- Report any training needs to their line manager.
- Make relevant documents available when requested to do so.
- Meet specified eyesight requirements by having regular eye tests and ensure that any glasses required for driving are worn.
- Not use mobile phones whilst driving.

- Pay any fines associated with their driving actions.
- Not drive if their ability is impaired by alcohol or any other drug, whether prescription or non-prescription. Managers must be notified on all such occasions.
- Ensure any loads are loaded and unloaded safely and secured in transit.
- Not exceed the maximum loads permitted for any vehicle or trailer.
- Ensure that no personal information about members of the public or other employees (paper or computer records, including laptops, storage devices, discs, or PDA's) is left unsecured in any unattended vehicle.

4.2 The Council's 'O Licence' Holder (Competent Person) has responsibility to ensure operation of the fleet strictly in accordance with commitments of the licence and its legal requirements.

4.3 Staff undertaking driving duties on Council business must not, under any circumstances, drink alcohol during the working day, including any unpaid breaks, or use illegal drugs or any prescription or non-prescription drugs which will affect their ability to drive and work safely. Likewise, staff must not arrive for work under the influence of alcohol, prescription or non-prescription drugs to the extent that their driving ability is impaired.

4.4 Staff will observe at all times any supplementary safety requirements and procedures required by their service area, risk assessments, safety policies and procedures.

4.5 Staff who drive when undertaking Council duties are reminded they may be personally and/or criminally liable for the safety of others who may be affected by their actions. Such staff should not, therefore, fail to observe rules in an effort to save time which could result in serious injury damage or in severe circumstances, death of another living being.

4.6 No passengers other than council employees or persons approved by the Authority shall be carried in council vehicles.

## 5.0 Driver Induction

5.1 Service Managers will ensure that new staff first day induction includes where relevant, driving duties. Where necessary this will be in conjunction with the Waste & Transport Section.

## 6.0 Grey Fleet

6.1 Employees using their own vehicles for work purposes are classed as 'grey fleet' drivers. Any person driving their own vehicle whilst at work must certify that:

- They have a current valid driving licence for the vehicle they are using on Council business.
- They have business use cover with their insurance company for this vehicle
- The vehicle is in a roadworthy condition with a current MOT certificate

- The vehicle has a current road tax disc;

6.2 In addition all employees who use their own vehicles for work will be required to provide certified copies of their driving licence and insurance documents to Human Resources or Payroll on demand.

## 7.0 Driver Qualification

7.1 All staff required to drive on Council business must be legally qualified to drive the relevant class or type of vehicle and plant. It is the responsibility of Service Managers to ensure drivers hold relevant driver and / or vocational licence entitlement. Driver licence entitlements are summarised as follows:

Category Vehicle type		
Minimum	Age	Comments
AM Motorcycle	16	Light motorcycle with a design speed of less than 45 km/h (28 mph).
A1 Motorcycle	17	Light motorcycles with a cubic capacity not exceeding 125 cc and of a power output not exceeding 11 kW (14.6 bhp).
A2 Motorcycle	19	Motorcycles up to 35 kW (47 bhp) and a power to mass ratio not exceeding 0.2 kW/kg. Motorcycle combination with a power mass ratio not exceeding 0.2 kW/kg.
A Motorcycle	24	Any size motorcycle with or without a sidecar.
B1 3 or 4 wheeled light vehicles	17	Motor tricycles/quadracycles up to 550 kg (1,210 lb) unladen.
B Cars	17	<ul style="list-style-type: none"> <li>• Motor vehicles with a MAM not exceeding 3,500 kg (7,700 lb) having not more than 8 passenger seats with a trailer up to 750 kg</li> <li>• Combinations of vehicles in Category B and a trailer when combined vehicle and trailer MAM's are less than 3,500 kg.</li> </ul>
B Minibuses	21	Vehicles with between 9 and 16 passenger seats not for hire or reward. MAM not exceeding 3.5 tonnes or 4.25 tonnes including specialist equipment for the carriage of disabled passengers. No trailer of any size may be pulled. B licence must have been held for 2 years. Valid for minibuses only when used in the United Kingdom.

B (Automatic) Automatic cars	17	As cars (B), but only those with automatic transmission.
B+E Cars with trailers	17	As category B but with a heavier trailer that isn't covered in the descriptions for category B.
C Large vehicles	21	Vehicles over 3,500 kg (including those over 7,500 kg) with a trailer up to 750 kg.
C1 Medium sized vehicle	18	Vehicles between 3,500 kg and 7,500 kg with a trailer up to 750 kg.
C1+E Medium sized vehicle with trailers	21	Combinations of vehicles where the towing vehicle is in subcategory C1 and its trailer has a MAM of over 750 kg provided that the MAM of the combination thus formed does not exceed 12,000 kg and MAM of the trailer does not exceed the unladen mass of the towing vehicle.
C+E Large vehicles with trailers	21	Vehicles over 3,500 kg (including those over 7,500 kg) with a trailer over 750 kg.
D1 Minibuses	21	Vehicles with between 9 and 16 passenger seats with a trailer up to 750 kg. See also under B
D1+E Minibuses with trailers	21	Combinations of vehicles where the towing vehicle is in subcategory D1 and its trailer has a MAM of over 750 kg, provided that the MAM of the combination thus formed does not exceed 12,000 kg, and the MAM of the trailer does not exceed the unladen mass of the towing vehicle.
D Buses	24	Any bus with more than 8 passenger seats with a trailer up to 750 kg.
D+E Buses with trailers	21	Any bus with more than 8 passenger seats with a trailer over 750 kg.
f Agricultural tractors	16	N/A
g Road rollers	21	N/A
h Tracked vehicles	21	N/A
k Mowing machine or vehicle controlled by a pedestrian	16	N/A
l Electric vehicles	17	Category now deprecated – tests no longer available (since 2001) for this category. Vehicles now fit into category B1 or B.

n Vehicles used for very short distances on public roads	N/A	Category now deprecated – tests no longer available (since 2001) for this category. Vehicles now fit into category B1 or B.
p Motorcycles	16	Engine capacity must not exceed 50 cc and the maximum design speed must not exceed 50 km/h (31 mph).
q Mopeds	17	2-wheeled vehicles with engine size not more than 50 cc if powered by an internal combustion engine or maximum design speed of no more than 25 km/h (15.5 mph).

- 7.2 Staff and Elected Members undertaking driving on Council business are required to present relevant documentation on request (at least annually) to demonstrate they hold necessary entitlements to undertake their driving role.
- 7.3 Only original driving licences (Insurance and MOT documents for grey fleet) will be accepted. Line Managers, if taking copies of original documents will endorse them with their signature and date prior to forwarding to the Waste & Transport Section to demonstrate originals were reviewed. Checks will be undertaken as follows:
  - 7.3.1 The Waste & Transport Section in conjunction with Service Managers will undertake driver licence checks of staff required to undertake driving Council owned and or/hired vehicles and plant. Staff must on request present their driving licence to ensure that they hold a current licence together with relevant entitlements.
  - 7.3.2 The Human Resource Team will undertake driver licences, Insurance and MOT document checks of staff and Elected Members who undertake driving on Council business using their own private motor vehicles (grey fleet).
  - 7.3.3 Licences of new members of staff will be checked as part of the recruitment process and again on the first day induction.
  - 7.3.4 In the event of changes to staff’s licence, incurring endorsement, medical restrictions and/or any other restrictions to drive, drivers (staff) must inform their Line Manager promptly to consider any impact on their driving capability.
  - 7.3.5 Drivers must disclose full details of previous or ongoing driving offences, convictions, medical conditions and disqualifications.
- 7.4 Drivers may be subject to on-going training and familiarisation programmes as required by their service area: in particular, to meet the statutory requirement of Driver CPC training.
- 7.5 Drivers who incur 9 points or greater on their licence (subject to severity of driving offences) may be restricted from undertaking driving duties on Council business. Drivers must be aware that where driving is an essential part of their employed role, the loss of their driving entitlement may affect their continued employment with the Council.

- 7.6 Operation of vehicles over 3.5tonne is restricted to vocational professional qualified drivers holding a class C licence (see 9.7 for exception). A driver will permitted to drive only following a satisfactory occupational health assessment including eyesight examination.
- 7.7 Drivers of vans up to 3.5tonne on Council business require holding a class B licence. A driver will permitted to drive only following a satisfactory occupational health assessment including eyesight examination.
- 7.8 UK law requires all minibus drivers to be over 21 years of age and have held a class B licence for at least 2 years and hold entitlement to drive vehicles with D1 classification. All minibus drivers will be required to undertake MIDAS training, regardless of 'grandfather rights'.
- 7.8.1 Whilst the Council does not currently have any minibuses, service managers may from time to time hire them for certain activities. Prior to the use of minibuses driven by Council employees service managers should seek advice from the Waste & Transport Section to ensure that drivers are correctly licensed and / or hold the correct permit for the type of vehicle they have been allocated to drive.
- 7.8.2 Permits issued under Section 19 of The Transport Act 1985 allow certain organisations to use a passenger vehicle for hire or reward without an O Licence and a minibus for hire or reward without a PSV licensed driver. However, where charging for a service (i.e. leisure activity), which involves travel, this brings the activity into the scope of 'hire and reward'.
- 7.8.3 There are two types of PSV Permit - type 1 for vehicles with 9 to 16 passengers; and type 2 for vehicles with 17 or more passengers.
- 7.8.4 Specialist permits will be managed by the relevant service managers and whose activities require the permit, in consultation with the Waste & Transport Section and / or O Licence 'Competent Person'
- 7.8.5 In order to drive a minibus on Council business you must have less than 9 penalty points and must be authorised by your Line Manager.
- 7.9 Drivers required to utilise trailers are required to hold driving licence entitlement as follows:
- B + E – vehicles up to 3500kg plus trailer above 750 kg
  - C + E – vehicle of 3500kg plus trailer above 750 kg
  - D1 + E – minibus plus trailer above 750 kg
- 7.9.1 Drivers who gained their licence before 1st January 1997 will automatically hold this entitlement on their licence, however, this will not necessarily allow drivers to utilise trailers unless considered competent to do so or having received training or assessment.

- 7.9.2 Drivers who use trailers, unless they have a specific post 1997 qualification, will undergo specific training and assessment in trailer use, which will include pre-checks for lights and hitches, and driving characteristics of vehicles with trailers and how this may affect stopping distances, turning circles, reversing, use of reversing assistants (where applicable) and clearances.
- 7.9.3 Trailers, whilst being towed on the highway, are subject to legal requirements relating to any other vehicle in as much as they should be maintained in a roadworthy condition.
- 7.9.4 Drivers when utilising trailers must pay particular attention to the following:
- Light fittings, number plates and any relevant signs must be in good order and clearly visible.
  - The towing attachment (jaw or ball) and reversing clamp must move freely and the overrun brake must be operable. All securing pins and devices must be secured along with the emergency break snag connection to the vehicles drawbar;
  - Drivers are responsible for ensuring the effectiveness of all connections between towing vehicle and trailer.
  - The trailer door must be closed with all securing pins in place to prevent opening during transport.
  - Drivers are responsible for ensuring that any load placed on a trailer under their control (i.e. equipment and/or materials) is evenly distributed and securely lashed to prevent movement during driving or covered to prevent loss of load.
  - Drivers must ensure the legal MAM (Maximum Authorised Mass) and/or plated payload of the trailer is adhered to at all times (this can be found on the plate situated on the trailer 'A' frame of body part).
- 7.10 In the case of heavy vehicles primarily used for leisure/educational purposes, ('mobile project vehicles') there is a legal exemption for drivers who are not required to hold the above licence. In this case it is essential that the driver undergoes competency training and familiarisation training. This will be organised by the Line Manager and if required, in conjunction with the Joint Fleet & Transport Manager.
- 7.11 Drivers of mobile project vehicles will in any case need to be over 21 and have held their licence for two years, and will be deemed 'occupational drivers' for driver medical purposes.
- 7.12 Concessions to the daily duty limit may apply for drivers of leisure project vehicles who do not driver for more than 4 hours on every day of a fixed week (commencing midnight Sun/Mon). If they driver for more than 4 hours on any day in that fixed week the limit applies for every day in that week.
- 7.13 Drivers are required to produce their driving licence and driving permits for examination before commencing employment on driving duties and at any other time upon request.

## 8.0 Driver Assessment and Training

- 8.1 Driver training will normally be identified by Service Managers through annual staff PDRs' and organised in conjunction with the Waste & Transport Section.
- 8.2 Driver assessment may be influenced by factors such as the incidence and / or type of accidents incurred; or the frequency of driving undertaken and level of mileage incurred per annum. Drivers of large goods vehicles or specialist plant and equipment may also be required to undertake additional training or assessment; in particular to meet requirements of CPC Driver Training.
- 8.3 The Waste & Transport Section, in conjunction with Service Managers, will arrange for driver assessments and / or familiarisation sessions for drivers of vehicles in categories set out below.

## 9.0 Fitness to Drive

- 9.1 It is every individual's responsibility to ensure that they are medically fit to drive, including eyesight requirements.
- 9.2 Drivers of vehicles, in particular vehicle classes over 3500 kg gross weight or who drive on average for three hours or more each day, will be required to undergo a driver medical assessment with the Council's Occupational Health Provider and / or GP. This, in particular will apply to drivers who are frequently required to drive at night or who drive minibuses and vehicles requiring category C Driver Licence entitlement.
- 9.3 Driver health assessments will take place every five years. In addition to which drivers of LGV's will be required to undertake driver medicals every five years from the age of 45 and annually from the age of 65, in order to retain their vocational entitlement.
- 9.4 Employees must not drive at work under any circumstances which they know may affect their ability to drive safely. Drivers must declare to their line manager if they are suffering from any medical condition, or are taking any medication which might adversely affect their ability to drive safely, (e.g. epilepsy, diabetes, visual impairment or other relevant medical condition). In such instances referral to the Council's Occupational Health advisor may be required.
- 9.5 Employees must not drive at work when they are under the influence of drugs, (whether prescription, non-prescription, legal or not legal) or alcohol. Where a driver is deemed medically unfit to drive they will be removed from driving duties until such time as their capability is established. The Council will support individuals to ensure their fitness to drive is achieved, in particular where staff are required to drive as an essential part of their employment role.

## 10.0 Drivers Health Checks

- 10.1 Drivers will be required to undergo periodic health screening organised through the Council's Occupational Health Service and/or staff's General Practitioner. Where health conditions are identified which affect ability to drive, this will be considered by way of the Council's redeployment and/or Capability procedures.
- 10.2 The Council will meet costs associated with driver medical assessments and screening.
- 10.3 Specific medical assessment is required for occupational drivers of vehicles over 3500kg, as follows:
- 10.3.1 Class C - LGV (Large Goods Vehicle) - A medical certificate (DVLA Form D4) is to be completed by the drivers' doctor before applying for a LGV driver's licence. A further examination and completed medical certificate is required for each renewal application from the age of 45 (usually 5-yearly). After reaching 65 years a medical examination is required for each annual renewal of the entitlement.
- 10.3.2 Class C1 - Since 1st January 1997 new drivers of vehicles over 3.5 tonnes gross weight (covered by driving licence category C1) require the same medical examination as LGV drivers with 5 yearly renewals after age 45 years and annually after age 65 years.

## 11.0 Vehicle Inspection and Maintenance

- 11.1 All vehicles provided by the Council will be included in a planned preventative maintenance programme in accordance with the manufacturer's recommendations.
- 11.2 Vehicle maintenance is arranged and managed by the Waste & Transport Section in conjunction with relevant Service Managers.
- 11.3 The Waste & Transport Section will ensure Council operated fleet vehicles and plant (owned, leased or hired) have valid MOT certificate, valid tax disc and insured by way of the Council's motor vehicle insurance policy.
- 11.4 All Council vehicles will be equipped with a suitable fire extinguisher and first aid kit.
- 11.5 Drivers are required to carry out daily vehicle checks using prescribed checklists and report faults to their Line Managers which will be retained by the Waste & Transport Section.
- 11.6 Historical vehicle maintenance, defects and repairs will be recorded in the Council's Fleet Management System (FMS) to ensure demonstration of its duty of care. The Council will retain paper based records for up to 2 years.

## 12.0 Pre Use Vehicle Checks

- 12.1 Drivers of Council vehicles must ensure they undertake daily pre-use vehicle checks before commencing driving. A reasonable time will be allowed for this. Where required these will be signed off and logged with their first line manager. Pre-use vehicle checks will include:

- General cleanliness and tidiness of the vehicle.
- Seat belts.
- Fuel/Oil/Water levels.
- Fuel/Oil/Water leaks.
- Tyres for visual low pressure, wear, cuts and other damage.
- Wheel security & wheel brace (appropriate size).
- Wipers/Washers/Windscreen.
- Lights/Reflectors/Steering/Brakes.
- Body condition for damage.
- Load, racking and ladder security.
- Mirrors/Indicators (en route)
- Horn.
- Speed Limiter if fitted (en route)
- Speedometer.
- Exhaust emissions (obvious excessive noise and smoke).
- Fire extinguisher – present and in date.
- First Aid Kit – present and in date

12.2 Additionally to the above; operation of tail-lifts, bin lifts, cameras and any specialised adaptations and equipment will be included in the service area pre-use vehicle check list.

12.3 Where a Council vehicle is used, the driver must always report any suspected vehicle defects to their line manager. In the event a defect is suspected the vehicle should not be used until a competent person has assessed and rectified any identified fault. The driver will liaise first with their line manager as to whether a vehicle should be delivered to the Waste & Transport Section for repairs.

12.4 It is essential that drivers at the commencement of each working day undertake pre-use vehicle checks and complete a driver's daily defect report. If no defects are identified, drivers will still submit a NIL defect return report to their line manager, which will be retained for 15 months and made available for Audit purposes to the Waste & Transport Section.

12.5 All pre-use vehicle checks must be undertaken in accordance with the Councils Vehicle Defect Reporting Procedure. Defect reporting books are available from the Waste and Transport section.

## 13.0 Risk Assessment

13.1 Risk assessments for driving related activities will follow the same principles as risk assessments for any other work related activity undertaken by service managers which must consider:

- Types of vehicles and their suitability.
- Types of journeys and routes.
- Purpose of journeys.
- Review of accident history.

- Daily vehicle checks.
- Competence, capability and suitability of drivers (licenses, health, accidents etc.)
- Load security and weight.
- Hard to access and egress locations.
- Proximity of other highway users and persons who may be affected by the activity.
- Security of Information being transported.

## 14.0 Route Planning

14.1 In designing operational service delivery programs/routes Service Managers will give consideration to the following list, which is not exhaustive:

- Access and egress for vehicles
- Reversing and manoeuvring
- Vehicle suitability
- Route distance
- Waste disposal
- Fuelling requirements
- Timing to avoid conflicting activities
- Vehicle overloading
- Time allowance for daily vehicle check, maintenance and cleaning.

## 15.0 Drivers Hours and Working Time

- 15.1 Driver fatigue is a serious problem resulting in many thousands of road accidents each year. Sleepiness reduces reaction time, vigilance, alertness and concentration so that the risk of accidents is increased.
- 15.2 The Waste & Transport Section in conjunction with the Service Managers will monitor drivers of LGV vehicles to ensure strict compliance with European 'driver hours' and /or Transport Mobile Working Time Directive requirements.
- 15.3 The UK Domestic drivers' hours' rules apply to drivers on journeys within the UK who are exempt or excluded from the EU rules.
- 15.4 It is an offence for a driver to contravene these rules or for an employer (or anyone else to whose orders the driver) to cause or permit them to do so. The penalty (if convicted) is a fine of up to £2,500 per offence and the operator's licence (Council) and vocational licence (driver) may also be at risk.
- 15.5 Daily driving limit - You must not drive for more than 10 hours in a day. The daily driving limit applies to time spent at the wheel driving. Driving may be on or off the public road.
- 15.6 Duty time - Duty time is any working time.

- 15.7 Daily duty limit - You must not be on duty for more than 11 hours in any working day. This limit doesn't apply on any working day when you don't drive.
- 15.8 Concessions to the daily duty limit may apply to some drivers of leisure project vehicles.
- 15.9 Drivers are exempt from the duty limit on any working day they do not drive. The legislation should be referred to in this instance and drivers made aware of why they have the concession in case they are subject to a roadside check from VOSA or the Police.
- 15.10 Drivers must record hours on a weekly record sheet or by way of vehicle tachograph equipment to demonstrate the taking of breaks in accordance with EU Driver Hours and \ or Organisation of Working Time of Persons Performing Mobile Transport Operations.
- 15.11 The Directive(s) is incorporated within the Road Transport Regulations (RTR) and requires legal compliance as follows:
- An average 48 hour working week calculated over a 17 week reference period (4 months).
  - No opt out of the average 48 working week is available.
  - A maximum 60-hour working limit applies in any given week. However, the 48 hour average will not be exceeded over the 17 week reference period.
  - Night time is defined as a period between midnight and 04.00 hours for drivers and crew of goods vehicles, and between 01.00 – 5.00 hours for drivers and crew of passenger vehicles.
  - If any work, regardless of its duration, is undertaken during night time a maximum
  - 10 hour night work limit will apply in each 24 hour period. However, the night work limit can be dis-applied by a collective or workforce agreement (relevant agreement) without prejudice to EU drivers' hours rules on daily and weekly rest that must be observed.
  - If the worker is employed by two or more employers then the weekly working time is the combined total of the hours worked (excluding breaks, rest and periods of availability).
- 15.12 DVSA enforce the regulations; primarily in response to complaints they receive. Their approach will initially be to educate employers and workers, rather than look to prosecute. Nevertheless, where evidence exists that the rules are being systematically broken examiners will be at liberty to check working time records at an employer's premises.
- 15.13 A 30 minute break is required if total working time is between six and nine hours and 45 minutes if total working time exceeds nine hours. These breaks can be subdivided into minimum 15 minute periods. Total working time in respect of breaks does not include periods of availability.
- 15.14 In most instances drivers subject to EU driver hours' rules will satisfy this requirement if breaks are taken in accordance with the EU rules that will continue to take precedence.

- 15.15 However, mobile workers who are likely to clock up more than six hours duty before reaching four and a half hours driving would need to satisfy the working time break requirements as previously described.
- 15.16 Refuse 'door to door' collection is exempt from EU driver hours and will need to comply with break periods within the 6 to 9 hour band range and not the 4.5 hour EU driver hours' requirement).
- 15.17 Breaks taken in accordance with RTR may be taken at the workstation including the cab of the vehicle provided the worker is not required to undertake any activity that could be regarded as 'work'. Breaks are not regarded as working time whether paid or unpaid.
- 15.18 The Road Transport Working Time Regulations (RTR) do not make specific provision for daily and weekly rest as these requirements are set by EU Drivers' Hours Regulation 3820/85 in relation to drivers and the Horizontal Amending Regulations for other mobile workers (Refuse collection exempt).
- 15.19 The Council will keep records of working time for mobile workers for two years after the period covered. These records will include the weekly working time and time spent working at night (if applicable). Drivers must ensure they complete their drivers' hours books at a minimum every two weeks to meet this requirement.

## 16.0 Smoking

- 16.1 Smoking is not permitted by law in any work vehicle that may be used by more than one person or by different people. The Councils policy in respect of smoking at work is 'no smoking' at any time during working hours.
- 16.2 Employees must not smoke in any council vehicle at any time or in their own/others vehicles during working hours.

## 17.0 Use of Mobile Phones

- 17.1 Any driver who uses a mobile phone whilst in charge of a moving vehicle will be in breach of the Road Traffic Act 1988 and Regulation 104 of the Road Vehicles (Construction and Use) Regulations 1986, and could be prosecuted for:
- Dangerous driving; and/or
  - Careless or inconsiderate driving
  - Not exercising proper control of the vehicle at all times.
- 17.2 Drivers must not make calls unless the vehicle is stationary and are required to pull up in a safe position before accepting or making a call.

- 17.3 No employee whilst driving a Council operated vehicle will use a mobile phone whilst in control of a running vehicle. Other team members present in a vehicle may accept and make calls whilst the vehicle is mobile, but at no time must the driver accept or make calls whilst the vehicle is mobile.
- 17.4 The Council at this time do not specify 'Blue Tooth' technology for incorporation in Council owned\operated vehicles; however, it is recognised that staff that utilise their own motor vehicles (Grey Fleet Users) to undertake their duties may have 'Blue Tooth' technology in their personal vehicle.
- 17.5 In such instances, the Council acknowledges staff (Grey Fleet Users) may use 'Blue Tooth' technology; however, the Council requires that staff who use 'Blue Tooth' phones do so only when they are effectively paired with their vehicle 'Blue Tooth' equipment to ensure calls are undertaken whilst in full control of their motor vehicle whilst driving.

## 18.0 Accident and Incident Reporting

- 18.1 Whenever a Council operated or hired vehicle is involved in an accident the driver of the vehicle is responsible for carrying out the reporting procedure as soon as possible unless he/she is incapacitated as a result of injury sustained in the accident. Where a driver is incapacitated the reporting procedure will be carried out by the Line Manager.
- 18.2 In exceptional cases where someone is injured or trapped in a vehicle the driver must carry out the procedure set out below. If a Council employee is injured as a result of being involved in a traffic accident it will be necessary to complete a report using the prescribed form available.
- 18.3 Drivers must stop after an accident and are obliged to provide their name and address, registration number, and the name and address of the Authority to any person who has reasonable grounds to ask for the information. If it has not been reasonably possible to stop and follow this procedure, the accident should be promptly reported to the driver's line manager and where required, the Police within 24 hours of the event.
- 18.4 Accidents must be reported to the Police if it has caused injury to another person, certain animals (i.e. dogs, horses, sheep and cows) or property where you are unable to locate the owner and furnish details.
- 18.5 In both the driver and Authority's interests, drivers should try to obtain details of other drivers/vehicles involved in the accident and their Insurance details; also, names and addresses of witnesses and try to sketch details of the accident especially skid marks and \ or take photographs where possible.
- 18.6 No statement admitting liability should be made but the Police should be given all reasonable assistance.
- 18.7 Drivers must comply with all road transport legislation in order to protect themselves and the Authority from prosecution; therefore, it is in their own interests to read and utilise all the information and advice made available to them.

- 18.8 Managers and Supervisors have a responsibility to ensure that they comply with Transport legislation at all times and that their records are completed, maintained and certified in the prescribed manner.
- 18.9 Where an accident involves moving vehicles the following should be observed;
- Stop the vehicle and switch off the ignition.
  - If necessary contact the emergency services.
  - Exchange particulars with the driver of any other vehicles involved.
  - Take the names and addresses of any independent witnesses.
  - Make a note of site conditions such as position of vehicles, road and weather conditions etc., and if possible make a sketch of the site.
  - If the damage to the Council operated or hired vehicles renders the vehicle un-roadworthy, drivers must contact their line manager and the Waste & Transport Section. If the Vehicle is safe to drive the journey may be continued or the vehicle may be returned to its operating depot.
  - Do not accept responsibility or liability for any accident to any third party.
- 18.10 In general terms the procedure set out above applies to cases where a vehicle is damaged whilst parked and unattended. If a Council operated vehicle is damaged and the other vehicle has left the site it may not be possible to exchange details and therefore it becomes important, if possible, to obtain information from anyone who may have witnessed the incident.
- 18.11 In cases where a Council vehicle collides with and causes damage to a parked and unattended vehicle the driver must attempt to identify and locate the owner of the damaged vehicle and exchange details. If the owner cannot be located the driver of the Council vehicle must leave details attached to the damaged vehicle and notify the Police.
- 18.12 If a Council operated vehicle collides with and causes damage to property the driver of the vehicle must attempt to make contact with the owner or person in charge of the property. In cases where the owner or person in charge cannot be contacted the driver must leave details of the incident and contact details at the property and notify their Line Manager and notify the Police.
- 18.13 The driver of any Council operated vehicle is responsible for reporting any incident or accident involving the vehicle under their control except in cases where injury prevents the driver from making a report, in which case the report will be made by the service areas Line Manager.
- 18.14 Vehicle accidents must be reported on the prescribed form available on the intranet and from the Waste & Transport Section. The completed forms should be taken to the Waste & Transport Section either on the same day or within 24 hours of an accident occurring. The Waste & Transport Section will register the forms on the system and forward them to the Insurance Officer.
- 18.15 Where an incident involves any of the following the driver may be suspended from driving duties immediately:

- Endorsable Road Traffic Offences (whilst at work)
- Serious Complaints concerning driving.
- Dangerous occurrences at work or breaches of safety rules.
- Injury to Others

- 18.16 Where the incident is not considered of a minor nature the driver's Line Manager will consider (in consultation with Waste & Transport Section and \ or Health and Safety Advisor) suspension of the driver from driving duties on a "without prejudice" basis until the eventual outcome of an investigation is undertaken.
- 18.17 Whilst suspended from driving duties, pending the investigation and subsequent meeting to discuss the conclusions of the investigation, the driver's normal basic rate of pay and required level of performance will be maintained. Overtime payments which would have accrued had driving been undertaken will not be payable unless contractual. During the period of suspension from driving, the driver will be allocated other duties within his/her own service area, wherever possible.
- 18.18 Dependent upon the outcome of any initial accident investigation in consideration of accident severity in respect of loss, damage to Council/Private property, injury to staff and/or others and failure to meet requirements of this Policy and/or wider safety rules, the matter may be considered further by way of the Council's Disciplinary Policy.
- 18.19 The relevant Director will arrange for a meeting to be convened with the driver and his/her representative as soon as possible after receipt of the report, in order that the driver may be informed of the conclusions reached and of any further action to be taken against him/her as a result of the conclusions.
- 18.20 Drivers or operators of plant may be required to undertake training, re-training or assessment where it is considered that their conduct and capabilities warrant such as outlined in the Driver Training section of this policy.
- 18.21 The Council's Waste & Transport Section and Insurance Officer will monitor damage to vehicles, plant and equipment to establish any trends and areas for improvement and \ or training.
- 18.22 The Waste & Transport Sections will bring to the attention of service managers any such findings.
- 18.23 Where an employee has two or more "at fault" accidents (excluding for example minor accidents, minor dents, scratches and damage to wing mirrors and light lens) within a rolling 12 month period, or has a conviction for a road traffic offence whilst driving at work, the following will apply:
- 18.23.1 Stage 1 - The employee will be invited to a meet with their manager to discuss their driving standards and conduct. At this informal meeting the manager may arrange for Driver Assessment to determine if there is any lack of driving skills, aptitude or unacceptable risk taking behaviour, followed by driver training for those drivers where this would be beneficial. Assessments and decisions will be placed on the employee's personal file and communicated to the member of staff.

18.23.2 Stage 2 - Where further accidents occur following this, formal disciplinary action may be considered further to driving standards and conduct having been investigated.

18.24 A driver will have a right of appeal at any stage when an 'at fault' decision has been made.

18.25 If the manager feels it is appropriate to suspend the employee from driving duties at any point due to the nature or number of incidents, they must seek the approval for this suspension from their Director in advance of implementing any period of suspension.

## 19.0 Roadside Penalties

19.1 The Police and DVSA can issue fixed penalty notices at the roadside for breaches of some sections of legislation. The Police and DVSA can issue fixed penalty fines for road traffic offences, vehicle 'defect rectification' notices and demand breath samples.

19.2 Fixed penalties are normally in the region of £30 to £200 and further action may result which could result in points (from 2 to 8 points) being added to the drivers licence. In all cases the driver is responsible for payment of any fines.

## 20.0 Technological Driving and Vehicle Aids

20.1 The Council operate a web based vehicle and plant tracker system to specified fleet items for health and safety, security and operational productivity/service improvement reasons.

20.2 GIS facilitates live tracking with visual map replays as well as detailed/summary reports.

20.3 Service Managers manage the system within their respective service areas with support from the Waste & Transport Section. It is the intention that the system is used in an open and transparent manner.

20.4 The live tracking displays the current status of the vehicle i.e. geographic position, speed, direction of travel and ignition status. On certain fleet items it also provides additional information from data input relating to items such as the brush controls on a mechanical sweeper, the bin lifts on a refuse collection vehicle and the cutter position on ride-on mowers. The location, time and speed of the vehicle, as well as any additional data inputs, are reported to a central database for retention of records and reporting.

20.5 Similarly, vehicle EDV (Event Data Recorders) and CCTV (Closed Circuit Television) systems may be fitted to specialist vehicles or operational plant; for instance, refuse collection vehicles which include four cameras, one to the front, one to the rear and one on each side with hard disk recorder is fitted inside the cab.

20.6 If any poor standards of driving or conduct are identified through analysis of the systems, this will be discussed with the driver concerned in order to ascertain reasons for any variation in performance. If however, those reasons are considered to be unsatisfactory and the variation in performance considered sufficient, then the Manager may have need to investigate this issue further in accordance with the Council's disciplinary policy.

- 20.7 It is necessary for the purposes of the legitimate interests of the Council and the interests of the employee in assessing vehicle utilisation and geographical analysis of vehicle movements. Information from technological driving aids and systems is automated and unobtrusive and details of drivers operating a specific vehicle will only be used where there is evidence of low productivity, variations in performance or unexpected movement, accidents or claims against the Council.
- 20.8 Staff will be informed through management briefings and driver inductions that tracking and other systems are operated by the Council for the reasons stated. Staff will be reminded that monitoring takes place where and when incidents occur. Information provided by systems will be used in health and safety monitoring and logistical management in the planning, execution and control of the movement of vehicles, materials, goods and / or people and their interrelated supporting activities.
- 20.9 Only authorised managers have password protected access to systems and able to access specific screens for monitoring and reporting privileges.

## **APPENDIX 1 - Further Reading and Legislation**

### The Highway Code

The Stationery Office 2001 ISBN 0 11 552290 5

Can also be viewed on [www.highwaycode.gov.uk](http://www.highwaycode.gov.uk)

The Management of Health and Safety at Work Regulations 1999 SI 1999/3242

The Stationery Office ISBN 0 11 085625 2

Five steps to risk assessment Leaflet INDG163(rev1)

HSE Books 1998 (single copy free or priced packs of 10 ISBN 0 7176 1565 0)

Managing road risk. An introductory guide for employers Available from Brake

Tel: 01484 559909 e-mail: [brake@brake.org.uk](mailto:brake@brake.org.uk) or [fleetsafetyforum@brake.org.uk](mailto:fleetsafetyforum@brake.org.uk)

Managing occupational road risk Royal Society for the Prevention of Accidents available from Edgbaston Park, 353 Bristol Road, Birmingham B5 7ST Tel: 0121 248 2000

Code of Practice. Safety of loads on vehicles Third edition The Stationery Office 2002

ISBN 0 11 552547 5 available online at

[www.dft.gov.uk/stellent/groups/dft\\_roads/documents/page/dft\\_roads\\_506864.pdf](http://www.dft.gov.uk/stellent/groups/dft_roads/documents/page/dft_roads_506864.pdf)

Management of work related road safety RR018 HSE Books 2002

ISBN 0 7176 2549 4 Case studies can be viewed on

[www.hse.gov.uk/roadsafety/experience.htm](http://www.hse.gov.uk/roadsafety/experience.htm).

Successful health and safety management HSG65 (Second edition)

HSE Books 1997 ISBN 0 7176 1276 7

For specific information about driving at work and road safety, visit the Department for

Transport (DfT) website:

[www.dft.gov.uk/roadsafety](http://www.dft.gov.uk/roadsafety)

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

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 11</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>MIKE HAYNES – DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES</b>	<b>EXEMPT PARAGRAPH NO: Not Exempt</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>MATT HOLFORD – ENVIRONMENTAL HEALTH MANAGER GAYNOR RICHARDS – SENIOR PLANNING ENFORCEMENT OFFICER</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>CORPORATE ENFORCEMENT POLICY</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS14 &amp; HCS10</b>

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## **1. Recommendations**

- 1.1 That Members approve a new Corporate Enforcement Policy.

## **2. Purpose of Report**

- 2.1 To advise Members of the statutory and policy framework supporting the adoption of a Corporate Enforcement Policy.
- 2.2 To present Members with a proposed Corporate Enforcement Policy to ensure the fair and proportionate enforcement of most aspects of criminal law regulated by South Derbyshire District Council.

## **3. Background**

- 3.1 There has been a concerted effort over the past decade to ensure that the potential burden of 'red tape' does not prevent the development of a vibrant economy and this is particularly the case in the current economic climate.
- 3.2 In March 2005 a report titled "Reducing Administrative Burdens; Effective Inspection and Enforcement" was published by Lord Hampton. The report had been commissioned by the Treasury in response to a request in the 2004 budget from the Chancellor of the Exchequer for them to assess the need for reducing administrative burdens by promoting more efficient approaches to regulatory inspection and enforcement, without compromising regulatory standards or outcomes.

- 3.3 The Report, and the principle of removing or reducing burdens resulting from legislation, led to the enactment of the Legislative and Regulatory Reform Act (the Act) in 2006.
- 3.4 The Act set out five principles which any person exercising a designated regulatory function must have regard to. Those five principles are that regulatory activities should be carried out in ways which are transparent, accountable, proportionate, consistent and targeted. The designated regulatory functions in the Act are defined as those covered by environmental health, licensing, trading standards and fire safety.
- 3.5 In 2013 a Regulators Code was published which the designated regulatory functions are required to have regard to when developing policies and operational procedures. The stated aim of the Code is to develop an open and constructive relationship between regulators and those they regulate aimed to provide “a clear understanding of the services that can be expected and (those regulated) will feel able to challenge if these are not being fulfilled”. In October 2013 E&DS approved an Enforcement Policy covering the Licensing and Environmental Health functions in order to meet the requirements of the Regulators Code.
- 3.6 In January 2013 E&DS also approved a Local Enforcement Plan for the use by the Head of Community and Planning Services for the everyday application of planning enforcement policy within the District. The Plan was adopted in order for the Council to show compliance with paragraph 207 of the National Planning Policy Framework.
- 3.7 In 2015 the Deregulation Act was enacted which contained a general duty on those exercising a regulatory function to “have regard to the desirability of promoting economic growth”; and in doing so to ensure that regulatory action is taken only when it is needed, and to ensure that any action taken is proportionate.
- 3.8 The publication of, and adherence to, an Enforcement Policy is a key aspect of demonstrating compliance with the duty imposed by the Deregulation Act.
- 3.9 In 2016 South Derbyshire District Council published its revised Corporate Plan. Under the ‘People’ corporate theme of *keeping residents happy, healthy and safe*, was a specific long term aim to “Use existing tools and powers to take appropriate enforcement action”. The corporate project to support the achievement of this aim is to “publish and annually review a single Enforcement Policy covering all SDDC regulatory activity”.

#### **4. Implementation**

- 4.1 The proposed Enforcement Policy is set out in the Appendix to this report. The Policy is based on the content of a best practice template published by the Better Regulation Delivery Office (now called the Regulatory Delivery directorate) of the Department of Business Innovation and Skills. The Policy also combines much of the relevant content previously included in the 2013 Licensing and Environmental Health Enforcement Policy and the 2013 Local Enforcement Plan.
- 4.2 The combined policy covers all of the regulatory functions of licensing, environmental health, planning enforcement and building control. Civil enforcement functions such as those used by the housing, business rates and council tax services are not included.
- 4.3 Each year the Council regulates the activity of the estimated population of nearly 100,000 residents and 2,200 businesses. This entails responding to an estimated 3,000 requests for action each year and approximately 1,000 proactive inspections of

business premises and vehicles. The Corporate Enforcement Policy provides a single policy framework for all regulatory decisions, which enables anyone effected by a decision to have assurances about the transparency and consistency of decision making processes and accountability of the regulatory officers.

## **5. Financial Implications**

5.1 Minor significant implications.

## **6. Corporate Implications**

6.1 Positive. The proposed Policy offers Members and all of our clients evidence that the Council is using its enforcement powers to take appropriate enforcement action. Delivery of and adherence to the Policy is a specific commitment within the 2016-17 Corporate Plan Performance Board.

## **7. Community Implications**

7.1 Beneficial.

## **8. Conclusion**

8.1 The report seeks Member agreement for a Corporate Enforcement Policy which provides a consistent framework across the whole Council for officers to make regulatory decisions, and provides transparency and accountability against which those effected by those decisions can understand a decision and challenge it where they consider it appropriate.



**South  
Derbyshire  
District Council**

# **South Derbyshire District Council**

## **CORPORATE ENFORCEMENT POLICY AND ASSOCIATED GUIDANCE**

**September 2016**

## 1. Introduction and Scope of Policy

1.1. Fair and effective enforcement is essential to protect the health, safety and economic interests of the public, businesses and the environment. Decisions about enforcement action and in particular the decision to prosecute carry serious implications for all involved. The purpose of this policy is to provide guidance to ensure:

- Decisions about enforcement action are fair, proportionate and consistent;
- Officers apply current Government guidance and relevant codes of practice;
- Everyone understands the principles that are applied when enforcement action is considered.

1.2. This Enforcement Policy applies to the regulatory services provided by the development control, building control, environmental health and licensing service units. The Scheme of Delegation to Officers contained within Section 21 of the [South Derbyshire District Council constitution](#) describes which regulatory functions are delegated to which Director of the District Council. This enforcement policy relates to the following regulatory functions as they are described in the Constitution;

1.3. Powers delegated to the Chief Executive under Section 21, Part 3, paragraph 3.3(2) of the Constitution;

*To undertake all functions relating to licensing, including:*

- *street and house-to-house collections;*
- *amusements, lotteries and gaming;*
- *taxi and private hire licensing;*
- *alcohol, entertainment and late night refreshment;*
- *riding establishments;*
- *animal boarding;*
- *dog breeding;*
- *sex establishments;*
- *personal treatments i.e. tattoo, piercing;*
- *street trading;*
- *pet shops;*
- *zoos;*
- *dangerous wild animals;*
- *scrap metal.*

1.4. Powers delegated to the Director of Housing and Environmental Services under Section 21, Part 6 of the Constitution;

### 6.1 Housing Services

- *mobile homes;*
- *permanent gypsy/traveler sites;*
- *homelessness;*
- *crime, disorder and anti-social behavior reduction, in liaison with the Police, in council housing and in general community;*
- *harassment and unlawful eviction;*

### 6.2 Environmental Services and Health

*To undertake all functions relating to Environmental Services and Health, including:*

- *public health;*
- *food sales, safety and standards;*
- *caravan sites;*
- *Health and Safety at Work;*
- *cleansing of highways and other public areas;*
- *pollution control;*
- *exhumations;*

- *public conveniences;*
- *bus shelters;*
- *street furniture and litter bins*
- *refuse collection and disposal;*
- *pest control;*
- *shops and Sunday trading;*
- *animals;*
- *litter and fly tipping – prevention and clearance;*
- *home safety;*
- *water supply, standards and safety;*
- *housing conditions, standards and safety;*
- *housing improvement and renovation;*
- *public nuisance;*
- *high hedges;*
- *drainage and sewers;*
- *dogs;*
- *smoking prohibition;*
- *environmental management;*
- *climate change;*

1.5. Powers delegated to the Director of Community and Planning Services under Section 21, Part 7 of the Constitution;

#### 7.1 Community

(2) *To be responsible for all functions relating to the Safer South Derbyshire Partnership:*

- *community safety, crime, disorder and anti-social behavior reduction, in liaison with the Police.*

#### 7.3 Planning Enforcement

*To undertake all functions in relation to Planning Enforcement, including:*

- *to take any formal enforcement action in relation to cases of unauthorised Development, not covered by other specific delegated authority, in accordance with the Council's Adopted Local Enforcement Plan;*
- *to serve enforcement notices, stop notices and temporary stop notices under the Town and Country Planning Act 1990;*
- *to serve requisitions for information under Section 330 of the Town and Country Planning Act 1990;*
- *to serve planning contravention notices under Section 171C of the Town and Country Planning Act 1990;*
- *to serve breach of condition notices;*
- *to take action under Section 224 of the Town and Country Planning Act 1990 and the Town and Country (Control of Advertisement) Regulations in respect of unauthorised advertisements;*
- *to withdraw a planning enforcement notice where planning permission for the development has subsequently been granted;*
- *to remove or obliterate posters under Section 225 of the Town and Country Planning Act 1990;*
- *to serve notices under Section 215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land;*
- *to carry out any necessary changes to procedures/the Adopted Local Enforcement Plan in line with government guidance/statutory requirements;*
- *to enter land and buildings as authorised under:*
  - *Town and Country Planning Act 1990 (as may be amended);*
  - *Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (as may be amended);*
  - *Planning (Hazardous Substances) Act 1990 (as amended);*
  - *Planning (Hedgerow Regulation) Act 1997*

- *Local Government (Miscellaneous Provisions) Act 1976, 1982;*
- *Planning (Consequential Provisions) Act 1990 (as amended).*

#### 7.4 Building Control

To undertake all functions in relation to Building Control, including:

- *site inspection of building work in progress for Building Regulation and associated legislation compliance;*
- *determination of applications and the issue of legal certificates*
- *investigation of reports of unauthorised work and the taking of appropriate action to deal with those works, along with any contravention of the regulation;*
- *Building Act 1984, Part II notices;*
- *applications for Building Regulations dispensation or relaxation;*
- *the authority to deal with the control of dangerous structures and to act as the proper officer where such emergencies make it necessary (and to authorise Surveyors at East Staffordshire Borough Council to act on the Council's behalf in accordance with an agreed protocol;*
- *enforcement notices under the Building Act 1984;*
- *to enter land and buildings as authorised under the Building Act 1984;*
- *to take all actions prescribed by Sections 77 – 81 of the Building Act 1984;*
- *to take all actions prescribed by Sections 36 and 59 of the Building Act 1984.*

1.6. This Policy also supports three of the four of the strategic objectives in [South Derbyshire District Council's Corporate Plan 2016-2021](#).

- The Policy supports the 'Outcome' objective by contributing to the key aim to *enhance environmental standards.*
- The Policy supports the 'People' objective by contributing to both the key aim to *Protect and help support the most vulnerable, including those affected by financial challenges* and the aim to *Use existing tools and powers to take appropriate crime enforcement action.*
- The Policy supports the 'Place' objective by contributing to the key aims to *Enhance understanding of the planning process, Help maintain low crime and anti-social behaviour levels in the District* and *Connect with our communities, helping them feel safe and secure.*

1.7. This Policy also provides the strategic framework to demonstrate that South Derbyshire District Council is complying with its duties under the [Legislative and Regulatory Reform Act 2006](#). This requires that the Council in the discharge of some of its regulatory functions is to maximise efficiencies in the way Councils regulate in order to reduce the burdens on business whilst maintaining standards. The Policy is central to the way the Council deploys its regulatory services and so it ensures *"that proper arrangements are in place to enable resources to be used efficiently and effectively"*. This duty under the Legislative and Regulatory Reform Act specifically relates to the functions delivered by the environmental health and licensing services.

1.8. The Planning Enforcement function also has a separate [Local Enforcement Plan](#) which has been adopted as a local Planning Policy Statement. Where there is any duplication or discrepancy between the Local Enforcement Plan and this Enforcement Policy, the Local Enforcement Plan will have authority.

## 2. Legal Status of the Enforcement Policy

2.1. This Policy was approved by the Environment and Development Services Committee of South Derbyshire District Council on 17<sup>th</sup> November 2016 and by the Housing and Community Services Committee on 24<sup>th</sup> November 2016. Minor iterations of the Policy which have been subsequently approved are summarised in the Document Control table at the end of the document.

- 2.2. This policy is intended to provide guidance for officers, businesses, consumers and the public. Officers operating in a regulatory capacity for the Council are expected to act in accordance with this policy and any failures to do so will be investigated and addressed through the Councils Employee Code of Conduct. It does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.
- 2.3. The adoption and application of the Policy demonstrates the Council's compliance with the requirements of section 21 of the Legislative and Regulatory Reform Act 2006 and is a significant part of evidencing our compliance with the Regulators Code.
- 2.4. The [Food Law Code of Practice](#) paragraph 3.1.4 requires that a Food Authority's Enforcement Policy is readily available to food businesses and consumers. This Policy demonstrates the Council's compliance with this statutory Code.
- 2.5. The [National Local Authority Enforcement Code](#) provides direction to local authorities on how to enforce health and safety law. This Policy demonstrates the Council's compliance with this statutory Statement.

### **3. Scope and Meaning of 'Enforcement'**

- 3.1. 'Enforcement' includes any action taken by officers aimed at ensuring that individuals or businesses that the law places duties upon, (including employers, the self-employed, employees and others) are returned to compliance or encouraged to comply with the law. This is not limited to formal enforcement action such as prosecution.
- 3.2. In certain circumstances, we will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published.
- 3.3. The Council places great importance on the consistent use of enforcement action and does not measure itself by the quantities of enforcement action it takes and so does not set targets. The Council does not take enforcement for enforcement's sake. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.

### **4. General Principles**

- 4.1. Prevention is better than cure and our role therefore involves actively working with businesses and residents to advise on, and assist with compliance.
- 4.2. The principles of regulatory functions are stated in Section 2(3) of the Legislative and Regulatory Reform Act 2006. This states that regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent. It also states that regulatory activities should be targeted only at cases in which action is needed.
- 4.3. Further details about how to meet these principles is contained in the Regulators' Code published in 2013 by the Department for Business, Innovation and Skills. Compliance by regulatory officers with this Policy is a significant factor in demonstrating that we are meeting the requirements of the Regulators' Code.
- 4.4. Where it is considered that formal action is necessary, each case will be considered on its own merits. Decisions will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- 4.5. We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance, in making the decision to take formal action.
- 4.6. South Derbyshire District Council is a public authority for the purposes of the [Human Rights Act 1998](#). We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

- 4.7. This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement such as targeting enforcement actions, which improve regulatory outcomes without imposing unnecessary burdens. The policy is also intended to provide a framework which ensures that similar social, environmental and economic outcomes are achieved by less burdensome means than direct regulation. This is in accordance with the Regulators' Code.
- 4.8. In exceptional instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and be documented.

## 5. Resourcing Effective Regulation

- 5.1. The Regulators' Code section 3 requires that regulators ensure that "*Regulators should base their regulatory activities on risk*". The services covered by the Regulators Code will publish an annual Inspection Plan which will identify;
  - The frameworks used to identify the risks of relevant businesses which are subject to programmed inspections;
  - A quantification of the predicted numbers of inspections required based on the risk assessment framework and the resources necessary to deliver these;
  - A summary of service standards and performance targets for the respective services.
- 5.2. Currently the service areas which publish risk based annual inspection plans are for;
  - Food hygiene inspections;
  - Workplace health and safety inspections;
  - Industrial pollution control

## 6. Conduct of Investigations

- 6.1. All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to South Derbyshire District Council:
  - the Police and Criminal Evidence Act 1984
  - the Criminal Procedure and Investigations Act 1996
  - the Regulation of Investigatory Powers Act 2000
  - the Criminal Justice and Police Act 2001
  - the Human Rights Act 1998
- 6.2. These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.
- 6.3. Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated national and local guidance or codes of practice.

## 7. Notifying Alleged Offenders

- 7.1. If we receive information (for example from a complainant) that may lead to enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.
- 7.2. During the progression of enforcement investigations (prior to any convictions), business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and in accordance with the [Data Protection Act 1998](#).

## **8. Dealing with non-compliance and deciding what level of enforcement action is appropriate**

### **Consideration of risk in enforcement action**

8.1. The Regulators Code requires that regulatory activities should be based on risk. We use a number of different risk models to determine the speed and frequency of our regulatory intervention;

### **Proactive Inspections of Businesses**

- Proactive food inspections are based on the guidance in the Food Law Code of Practice;
- Proactive health and safety inspections are based on guidance in the National Local Authority Enforcement Code;
- Proactive environmental permit inspections are based on Environmental Permitting General Guidance;
- Licensed caravan sites are currently inspected annually;
- Private hire vehicles are currently inspected every 6 months;
- Premises holding animal licenses are currently inspected annually on renewal of license;
- Licensed premises are currently inspected on a non-risk based sequential programme.

### **Responding to Allegations of Non-Compliance**

- We respond to about 3000 complaints a year. The details of the speed and nature of response are usually dependant on the relative risk of the allegation and are published in separate service standards for each of the service areas.

### **Levels of enforcement action:**

- 8.2. There are a large number of potential enforcement options. The level of the action taken varies from no action through to proceedings in Court, depending on increasing seriousness
- No action;
  - Informal Action and Advice;
  - Voluntary undertakings
  - Fixed Penalty Notices;
  - Penalty Charge Notices;
  - Formal Notices;
  - Forfeiture Proceedings;
  - Seizure of goods/equipment;
  - Works in default following failure to comply with a formal notice;
  - Emergency works in the event of imminent risk;
  - Injunctive Actions;
  - Refusal/suspension/revocation of a licence;
  - Simple Caution;
  - Prosecution.

- 8.3. Annex B of this policy summarises the nature of each of these interventions and some general commentary on when they may be used.
- 8.4. In assessing what enforcement action is necessary and proportionate, consideration will be given to:
- The seriousness of compliance failure;
  - Past performance and current practice;
  - The risks being controlled;
  - Legal, official or professional guidance;
  - Local priorities of the Council;
  - Business size and capacity;
  - Views of a Primary Authority (where one exists).
- 8.5. When dealing with incidents of non-compliance officers are expected to clearly explain the cause of non-compliance; the actions required to rectify the non-compliance; the decision taken by the Council as a result of the non-compliance and the reasons for each of these.
- 8.6. Effective communication requires a two way flow of information. Regulatory officers are expected to behave in a way which enables the most effective possible dialogue with all relevant parties in relation to advice given, actions required and decisions taken in relation to non-compliance. The only exception to this is where immediate enforcement action is required to prevent or respond to a serious breach, or where the dialogue would be likely to defeat the purpose of the enforcement action.
- 8.7. We recognise from our consultation with the business community that that one of the biggest barriers to compliance is a fear of business operators to openly discuss matters of compliance with regulatory officers. This policy commits that the Council will not automatically trigger enforcement action where those who are regulated show a willingness to resolve a non-compliance.

#### **Outcomes of Enforcement Action**

- 8.8. Ultimately, it is the outcome of any enforcement action that is the measure of whether the activity of the regulator has been positive or not. In considering the most appropriate enforcement action the regulator should be seeking to;
- Aim to change the behaviour of the offender;
  - Aim to eliminate financial gain or benefit from non-compliance;
  - Consider what is appropriate for any particular offender and regulatory issue, such as the risk of punishment and public stigma associated with a criminal conviction;
  - Be proportionate to the nature of offence and harm caused;
  - Aim to restore the harm caused by the non-compliance;
  - Deter future non-compliance.

### **9. Determining whether a Prosecution or Simple Caution is viable and appropriate**

- 9.1. We apply two 'tests' to determine whether a Prosecution or Caution is viable and appropriate. We follow guidance set by the Crown Prosecution Service when applying the tests. This is contained in the [Code for Crown Prosecutors](#).
- 9.2. A Caution or Prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test. The principles outlined apply equally to the other types of formal enforcement action that are available.

#### **The Evidential Test**

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

#### **The Public Interest Test**

- 9.4. The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. We will balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. The message sent to the Community by a decision to prosecute or not and its potential to affect future levels of compliance will be given consideration.

### **10. Who decides what enforcement action is taken**

- 10.1. Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by South Derbyshire District Council and/or Central Government.
- 10.2. In order to ensure that decisions to prosecute are robust and consistent the Council has developed an enforcement decision template. This template requires the investigating officer(s) to take due consideration of the evidential and public interest tests before submitting the case to their Director with a recommendation to approve prosecution.
- 10.3. Where appropriate, decisions about enforcement will involve consultation between or approval from:
- Investigating Officer(s);
  - Senior Managers;
  - Legal Services;
- 10.4. The decision to prosecute must be ratified by the relevant Director.
- 10.5. Any enforcement decisions about activities directly operated by South Derbyshire District Council must be entirely free from any conflicts of interest. All decisions will be clearly evidenced and any of the actions under section 8 above will be signed off at Director level.

### **11. Liaison with other regulatory bodies and enforcement agencies**

- 11.1. Where appropriate, enforcement activities will be coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.
- 11.2. It is a statutory requirement that before any legal action is initiated against a business that has signed up to a Primary Authority partnership, that the Primary Authority is consulted about the proposed legal action. A Primary Authority partnership is a legally binding agreement between a business and a local authority that is endorsed by the Regulatory Delivery Directorate (RD) of the Department for Business Innovation and Skills (BIS). The Primary Authority provides assured advice, giving businesses consistency of regulation and reducing duplication of inspections and paperwork.
- 11.3. Details of all Primary Authority partnerships are available on the [RD](#) website. Details of the statutory notification procedures when specified enforcement action is proposed against a business in a registered primary authority partnership are contained in section 9 of the [Primary Authority Handbook](#).
- 11.4. Where an enforcement matter affects a wide geographical area beyond the boundaries of South Derbyshire District Council, or involves enforcement by one or more other local authorities or organisations, where appropriate, relevant authorities and organisations will

be informed of the matter as soon as possible and all enforcement activity coordinated with them.

11.5. We will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies. Examples include:

- Government Agencies;
- Police Forces;
- Fire Authorities;
- Statutory undertakers;
- Other Local Authorities.

## **12. Considering the views of those affected by offences**

12.1. We exercise our regulatory powers on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making enforcement decisions.

## **13. Protection of Human Rights**

13.1. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the following:

- Right to a fair trial;
- Right of respect for private and family life, home and correspondence.

## **14. Monitoring of the Enforcement Policy**

14.1. We use an number of processes to monitor compliance with this policy and we will continue to develop these;

14.2. We monitor monthly performance indicators that provide a reflection of the quality of the service delivered by the services covered by this Policy. These are reviewed annually and are either reported as Corporate Plan performance indicators (and therefore reported to Councillors) or as local indicators (and therefore reported to and scrutinised by the relevant corporate manager stated in paragraph 1.3 to 1.5 above). These indicators are reviewed annually and where appropriate published in the Service Plan produced by each relevant Director.

## **15. Review of the Enforcement Policy**

15.1. This Policy will be fully reviewed every 3 years, minor amendments or changes in law will be amended at the discretion of the relevant Directors and brought to the attention of the Chairman of the relevant Committee that oversees the services that deliver the functions covered by this Policy.

15.2. The enforcement policy covers a diverse spectrum of our services. A copy of this policy will be published on a number of appropriate locations on the Councils website. These are;

### Licensing Function

[http://www.south-derbys.gov.uk/environment/licences/enforcement\\_policy/default.asp](http://www.south-derbys.gov.uk/environment/licences/enforcement_policy/default.asp)

### Better Regulation Information

<http://www.south-derbys.gov.uk/environment/enforcement/default.asp>

### Food Safety Regulation

[http://www.south-derbys.gov.uk/environment/health\\_and\\_safety/food\\_safety\\_inspections/default.asp](http://www.south-derbys.gov.uk/environment/health_and_safety/food_safety_inspections/default.asp)

## General Council Policies

[http://www.south-derbys.gov.uk/council\\_and\\_democracy/council\\_policies\\_plans/other\\_policies\\_plans\\_and\\_strategies/default.asp](http://www.south-derbys.gov.uk/council_and_democracy/council_policies_plans/other_policies_plans_and_strategies/default.asp)

### **16. Comments and Complaints**

- 16.1. Where you are affected by a regulatory action with which you disagree, we would always encourage dialogue between all parties to ensure that the general principles of enforcement stated in section 4 and the appropriate level of enforcement action described in section 8 can be achieved.
- 16.2. Any appeals against a regulatory decision, failure to act in accordance with the Regulators' Code (where appropriate) or conduct of staff carrying out regulatory activity on behalf of the Council should be made in the first instance to the Director of the relevant service. Appeals can be made to the relevant Director via the [corporate complaint](#) process.
- 16.3. Any appeals against formal legal notices issued by the Council will need to be made through the process described on the notice. There are usually deadlines by which any appeal against a formal legal notice must be submitted and so close attention should be given to the instructions in the appeal notes.

## **ANNEX A Bibliography**

South Derbyshire District Council Constitution (Sept 2013)

South Derbyshire District Council, Scheme of Delegation to Council Officers

South Derbyshire District Council Corporate Plan, 2016-21

Legislative and Regulatory Reform Act 2006

Food Law Code of Practice (England), April 2014

Making a Difference...The Standard for Health and Safety Enforcing Authorities, HSE & LACORS, 04/02/2008.

Section 18 HSC Guidance to Local Authorities, HMSO 2002

National Local Authority Enforcement Code, Health and Safety at Work 2013

Human Rights Act 1998

Police and Criminal Evidence Act 1984

Criminal Procedure and Investigations Act 1996

Regulation of Investigatory Powers Act 2000

Criminal Justice and Police Act 2001

Data Protection Act 1998

Enterprise Act 2002

Ministry of Justice - Simple Caution for Adult Offender guidance (MoJ Guidance), revised November 2013

Proceeds of Crime Act 2002

Code for Crown Prosecutors', 2013

Primary Authority Guidance, LBRO, 2009

Work Related Deaths, a Protocol for Liaison, 09/11

## **ANNEX B Overview of Potential Regulatory Interventions**

1. Where the law has been contravened, there is a range of enforcement options available. Under normal circumstances, a process of escalation will be used until compliance is reached. Exceptions would be where there is a serious risk to public safety or the environment or the offences have been committed deliberately or negligently or involve deception, or where there is significant economic detriment.

### **No Action:**

2. In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade, or the offender is elderly and frail and formal action would seriously damage their wellbeing. In such cases, we will advise the offender of the reasons for taking no action. The decision to take no action rests exclusively with the Council and for example, the cost benefit equation described above will not rule out formal action if it is judged in the Public Interest.

### **Informal Action and Advice**

3. For minor breaches of the law, we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.
4. Sometimes we will advise offenders about 'good practice', but we will clearly distinguish between what they must do to comply with the law and what is advice only.
5. Failure to comply could result in an escalation of enforcement action.

### **Voluntary Undertakings**

6. We may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. We will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

### **Fixed Penalty Notices**

7. Certain offences are subject to fixed penalty notices where prescribed by legislation. They are recognised as a low-level enforcement tool and avoid a criminal record for the defendant. Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), the Council will normally administer a FPN on a first occasion, without issuing a warning. The decision about whether to issue an FPN having witnessed an offence will have regard to the appropriate level of enforcement action and the desired outcomes of the enforcement action described above.

### **Penalty Charge Notices**

8. Penalty Charge Notices (PCN) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the regulator in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not create a criminal record and the Council will normally issue a PCN without first issuing a warning.

### **Formal Notice**

9. Certain legislation allows notices to be served requiring the recipient to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.
10. All notices issued will include details of any applicable Appeals Procedures.
11. Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (a breach of the notice) the Council may carry out any necessary works to satisfy the requirements of the notice. Where the law allows, the Council may then charge the person / business served with the notice for any cost incurred in carrying out the work. Whenever the urgency of the notice allows, the Council will ensure any works required in default are achieved, economically, e.g. by obtaining multiple competitive quotes for the work, unless it is a matter of urgency.

### **Action Taken by Agreement**

12. Schedule 3 of the Housing Act 2004 contains a specific provision which enables the local authority to agree to undertake the work required under a Housing Improvement Notice, with the recipient of the Notice. All expenses for the work must be met by the recipient of the Notice.

### **Forfeiture Proceedings**

13. This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates Courts.

### **Seizure**

14. Certain legislation enables authorised Officers to seize goods, equipment or documents for example unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible future court proceedings. When we seize goods, we will give the person from whom the goods are taken an appropriate receipt.

### **Works in Default / Direct Action**

15. The Council will normally only directly carry out works where the recipient of a legal notice has defaulted on the work required and when;
  - There is an imminent risk to health or safety such that the consequences of not taking immediate and decisive action would be unacceptable, or;
  - Statute does not permit prosecution for non-compliance with a statutory notice, or;
  - There are other circumstances such that carrying out the work in default is the best course of action (for example the recipient of the Notice is a vulnerable person and considered incapable of organising the work necessary to comply with the statutory Notice).
16. This course of action will be considered irrespective of any prosecution action that might also be undertaken for the same offence. The action must be approved by the relevant manager with budget responsibilities. The costs of the works required, plus the Councils' reasonable administrative charges will be charged to the responsible party and recovered through the civil court.

17. The administrative charges levied will be in accordance with the fees approved by the relevant Committee and which are reviewed annually and published as part of the Councils' annual list of fees and charges.
18. Charges will be made for abortive costs in preparing to carry out any work in default where an order has been placed and the owner then carries out the work required.
19. Where there is no prospect of the revenue or capital costs of the work in default being reclaimed, the debt should, if practicable, be placed on the relevant property as a land charge. In some cases the charge will need to include annual interest – the relevant interest rates are also included in the annual list of fees and charges.

### **Emergency Works**

20. Emergency enforcement or stop powers will only be used where there is an imminent risk of serious harm or where there is explicit provision for the use of the powers within primary legislation.
21. In such circumstances the Council will take whatever remedial action it considers necessary to remove the imminent risk. As a matter of principle the action taken will be the minimum necessary to achieve the satisfactory mitigation of the risk, based on the best information available at the time of making the decision.

### **Injunctive Actions**

22. In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions may be used to deal with repeat offenders, dangerous circumstances or significant consumer detriment.
23. Action under the Enterprise Act 2002; proceedings may be brought where an individual or organisation has acted in breach of community or domestic legislation with the effect of harming the collective interests of consumers. In most circumstances, action will be considered where there have been persistent breaches or where there is significant consumer detriment. Action can range from:
  - Informal undertakings;
  - Formal undertakings;
  - Interim Orders;
  - Court Orders;
  - Contempt Proceedings.
24. Criminal Behaviour Orders (CRIMBO) and Community Protection Notices (CPN). Where the non-compliance under investigation amounts to anti-social behaviour such as persistent targeting of an individual or a group of individuals in a particular area then, following liaison with the Council's Safer Communities Team, where appropriate, a CPN or CRIMBO may be sought to stop the activity.

### **Refusal, Suspension and Revocation of Licence**

25. We issue a number of licences and permits and we have a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions that require the licence holder to take steps to ensure that, for example, a

business is properly run. Breach of these conditions may lead to a review of the licence that may result in its revocation or amendment.

26. When considering future licence applications, we may take previous breaches and enforcement action into account.
27. The Licensing Department issue a number of licence and permits under a wide range of legislation. Specific powers are contained within each piece of legislation that permits the Licensing Authority to refuse to grant a licence application or to take action to suspend or revoke once a licence is in place.
28. Under the Licensing Act 2003, an application for a premises licence must be granted unless representations are received from any of the responsible authorities or any other persons. If representations are received, the application will be determined by the Licensing and Appeals Sub-Committee who have the power to grant the application, grant with conditions or refuse whole or part of the application.
29. Under the Gambling Act 2005, applications for a premises licence will be granted unless relevant representations are received from the responsible authorities or interested parties. The Licensing and Appeals Sub-Committee will determine any application with a relevant representation. The Sub-Committee have the power to either grant or refuse the application. If the application is granted, the Sub-Committee may attach conditions to the licence and/or exclude a default condition.
30. Under the Licensing Act 2003, where a review of a premises licence application is received from a responsible authority or any other persons, the application must be determined by the Licensing and Appeal Sub-Committee. The powers available to the Sub-Committee are:
  - To modify the conditions of the licence;
  - To exclude a licensable activity from the scope of the licence;
  - To remove the designated premises supervisor;
  - Suspend the licence for a period not exceeding 3 months;
  - Revoke the licence;
  - Issue a warning letter;
  - Take no action.
31. Under the Gambling Act 2005, where a review application is received from a responsible authority or an interested party, the application must be determined by the Licensing and Appeals Sub-Committee. The powers available to the Sub-Committee are:
  - Revoke the licence;
  - Suspend the licence for a period not exceeding 3 months;
  - Exclude a default condition or remove or amend an exclusion;
  - Add, remove or amend any conditions;
  - Take no action.

32. In relation to private hire legislation, all decisions to refuse or revoke any private hire licence will be made by the Licensing and Appeals Sub-Committee. The power to suspend a private hire licence has been delegated to Officers. Each case will be decided on its own merits.
33. If it is in the interests of public safety, any decision to revoke or suspend a private hire driver's licence may take immediate effect.
34. In relation to other areas of licensing legislation, any decision to refuse or revoke any application or licence will be made by the Licensing and Appeals Sub-Committee.

### **Simple Caution**

35. A Simple Caution includes a formally documented admission of guilt, but is not a form of sentence, nor is it a criminal conviction.
36. For a Simple Caution to be issued a number of criteria must be satisfied:
- Sufficient evidence must be available to prove the case;
  - The offender must admit the offence;
  - It must be in the public interest to use a Simple Caution;
  - The offender must be 18 years or over.
37. Details on the Simple Caution process are contained in the [Ministry of Justice - Simple Caution for Adult Offender guidance \(MoJ Guidance\)](#).
38. Furthermore, South Derbyshire Policy is that the offender should not have received a simple caution for a similar offence within the last 2 years.
39. A record of the Caution will be kept on file for 5 years. If the offender commits a further offence, the Caution may influence our decision to take a prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

### **Prosecution**

40. A prosecution will normally ensue where the individual or organisation meets one or more of the following criteria:
- Deliberately, negligently or persistently breached legal obligations, which were likely to cause material loss or harm to others;
  - Deliberately or persistently ignored written warnings or formal notices;
  - Endangered, to a serious degree, the health, safety or well-being of people, animals or the environment;
  - Assaulted or obstructed an Officer in the course of their duties.
  - In the case of Food or Health and Safety where death was a result of a breach of legislation
  - Where circumstances warrant it and evidence to support a case is available we will prosecute without prior warning or recourse to alternative sanctions.

41. Where a breach of some planning control statute has occurred undetected, and therefore without any intervention, it can become lawful by the passage of time provided that it has not been deliberately concealed. The immunity timeframes are stated in the respective statutes and case law, but in brief are four years for unauthorised building, mining or engineering or change of use of a building to a single dwelling; ten years in any other case.

### **Powers of Entry**

42. Officers have various powers to enter private land. In some cases (most usually private dwellings) this requires giving prior notice. In many cases relating to entry into trade or business premises the officers have immediate power of entry provided that they can show that they are authorised to do so by the authority. The specifics of the powers of entry are contained within the specific statute.

### **Charging for Regulatory Actions**

43. In a limited number of statutes (currently only housing law) having served a legal notice the Council has the ability to make a reasonable charge to recover certain administrative and other expenses incurred in determining whether to serve the notice. The policy for determining when any such charges are applied will be agreed with the relevant Committee.

### **Proceeds of Crime Applications**

44. Applications may be made under the Proceeds of Crime Act for confiscation of assets in serious cases. Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof. Applications are made after a conviction has been secured.

### **Document Control**

<b>Version</b>	<b>Date of Issue</b>	<b>Author(s)</b>	<b>Brief Description of Change(s)</b>
1	08/09/2016	M. Holford	Final Draft

### **Document Access**

Online publically accessible locations of this Policy;

[http://www.south-derbys.gov.uk/environment/licences/enforcement\\_policy/default.asp](http://www.south-derbys.gov.uk/environment/licences/enforcement_policy/default.asp)

[http://www.south-derbys.gov.uk/council\\_and\\_democracy/council\\_policies\\_plans/other\\_policies\\_plans\\_and\\_strategies/default.asp](http://www.south-derbys.gov.uk/council_and_democracy/council_policies_plans/other_policies_plans_and_strategies/default.asp)

[http://www.south-derbys.gov.uk/housing/private\\_housing/private\\_sector\\_housing\\_and\\_strategies/default.asp](http://www.south-derbys.gov.uk/housing/private_housing/private_sector_housing_and_strategies/default.asp)

<http://www.south-derbys.gov.uk/environment/enforcement/default.asp>

[http://www.south-derbys.gov.uk/environment/health\\_and\\_safety/food\\_safety\\_inspections/default.asp](http://www.south-derbys.gov.uk/environment/health_and_safety/food_safety_inspections/default.asp)

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 12</b>
<b>DATE OF MEETING:</b>	<b>19th NOVEMBER 2016</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>MIKE HAYNES – DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES</b>	<b>EXEMPT PARAGRAPH NO: Not Exempt</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>MATT HOLFORD – ENVIRONMENTAL HEALTH MANAGER</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>QUARTERLY ENFORCEMENT REPORT</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS14 &amp; HCS10</b>

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## **1. Recommendations**

- 1.1 That Members satisfy themselves on the basis of the report that the Council is using its regulatory powers in a way proportionate to the demands for regulatory services.

## **2. Purpose of Report**

- 2.1 To provide Members with details of the Councils use of its tools and powers to take appropriate enforcement action.

## **3. Background**

- 3.1 One of the key objectives identified by Members under the 'People' theme of the 2016-21 Corporate Plan was that the Council would "*Use existing tools and powers to take appropriate enforcement action*".
- 3.2 The Council is authorised to use in excess of 100 different statutes to regulate and ensure compliance in areas of work as diverse as planning, food hygiene, licensing, pollution control, anti-social behaviour, building control, public health, waste and dog control.
- 3.3 The way in which the Council utilises these powers is governed by law, statutory guidance and previous legal precedent. Some services (notably many of the functions of Licensing and Environmental Health) also have a duty to have regard to the five governing principles of the Legislative and Regulatory Reform Act 2006, namely that all regulatory interventions are transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.4 This report provides a high level summary of the regulatory action over the past quarter and provides a comparison against historical levels of regulatory action.

## **Demands for services**

- 3.5 The demands for our services this year is illustrated by Figure 1 in the report appendix.
- 3.6 In the first 6 months of this financial year there has been a substantial increase in demand for a number of services. Complaints about abandoned vehicles are already at nearly double the number we have dealt with in previous full calendar years. We have also seen significant increases in complaints about noise (up by 28%) and increases in complaints about public health problems (up by 41%), most notably about filthy and overgrown domestic properties and about accumulations of waste on private land. Officers are therefore delivering considerably more volumes of work with the same level of resources.

## **Demands for Inspections of Businesses**

- 3.7 Food hygiene and pollution control laws require that businesses are risk assessed and then inspected with a frequency based on legal guidance. Figure 2 in the appendix to this report illustrates the number of inspections carried out.

## **Legal Interventions**

- 3.8 The Council has published enforcement policies which explain how we will go about using our various tools and powers to help our business community and residents to meet the various laws we are tasked with regulating. When we are unable to ensure compliance through persuasion we may need to resort to use of more formal means. We have powers in the form of various compliance notices which can be issued requiring some form of action to be taken (or to be stopped) by the recipient in order to more formally require compliance than through advice and guidance.
- 3.9 Figure 3 in the appendix to this report illustrates the numbers of formal notices issued and in broad terms the nature of the problem which led to the notice being served.

## **Punitive Outcomes from Offences**

- 3.10 In a small number of cases, the Council is required to resort to the courts or other forms of judicial punishment in order to seek restitution for confirmed offences. This restitution can be in one of three forms; Firstly, for a limited number of offences and where the offender admits to the offence, we can issue a fixed penalty notice. Where the offender admits the offence and there is no fixed penalty notice option available, but prosecution is not deemed to be proportionate then the offender may be given the option to sign a formal caution. Usually the most severe form of intervention is a prosecution. Table 1 below summarises the recent numbers of each of these punitive outcomes.

**Table 1 – Summary of Punitive Outcomes following Offences**

	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17 Q1&amp;2</b>
Fixed Penalty Notices	3	6	34	40
Dog offences	0	1	23	8
Fly tipping & waste offences	1	1	0	3
Litter	2	4	8	22
Community Protection Notice breach	0	0	3	7
Formal Cautions	0	3	3	1
Prosecutions	0	0	3	1

3.11 In Q2 2016/17 the Director of Housing and Environmental Services approved one recommendation by his officers to take prosecution proceedings.

### **Cases of Particular Note**

- A 42 tonne three axle articulated HGV associated with a major fly tipping incident has been seized and detained.
- A legal notice was served requiring smoke from a burning manure stockpile to be stopped.
- An injunction limiting the permitted number of motoring events per year has been issued to a landowner.
- Food inspectors have worked closely with local food businesses after 50% of ice samples were found to contain unsatisfactory levels of bacterial contamination.

## **4. Financial Implications**

4.1 None to minor adverse. Most forms of actions to achieve compliance have a cost implication. In cases of formal legal interventions we will always seek to recover costs, however most of the rest of the costs are currently established within the revenue budgets of each of the relevant departments.

## **5. Corporate Implications**

5.1 The report has been produced to provide Members with details how officers are delivering the “People” themed objective of “Keeping Residents Safe and Happy” in the 2016-21 draft Corporate Plan and in particular the aim to “Use existing tools and powers to take appropriate crime enforcement action”.

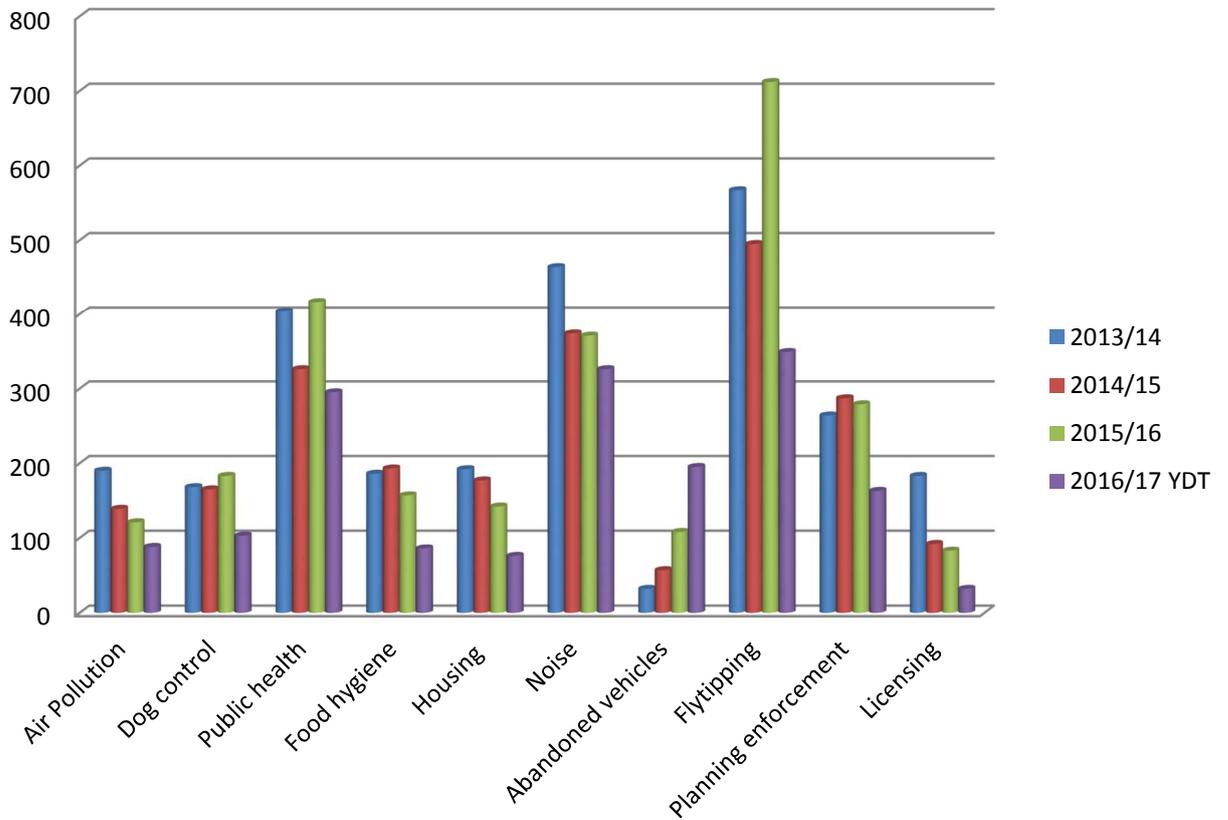
## **6. Community Implications**

6.1 Beneficial. Proportionate regulation is an important feature of ensuring community cohesion and economic growth.

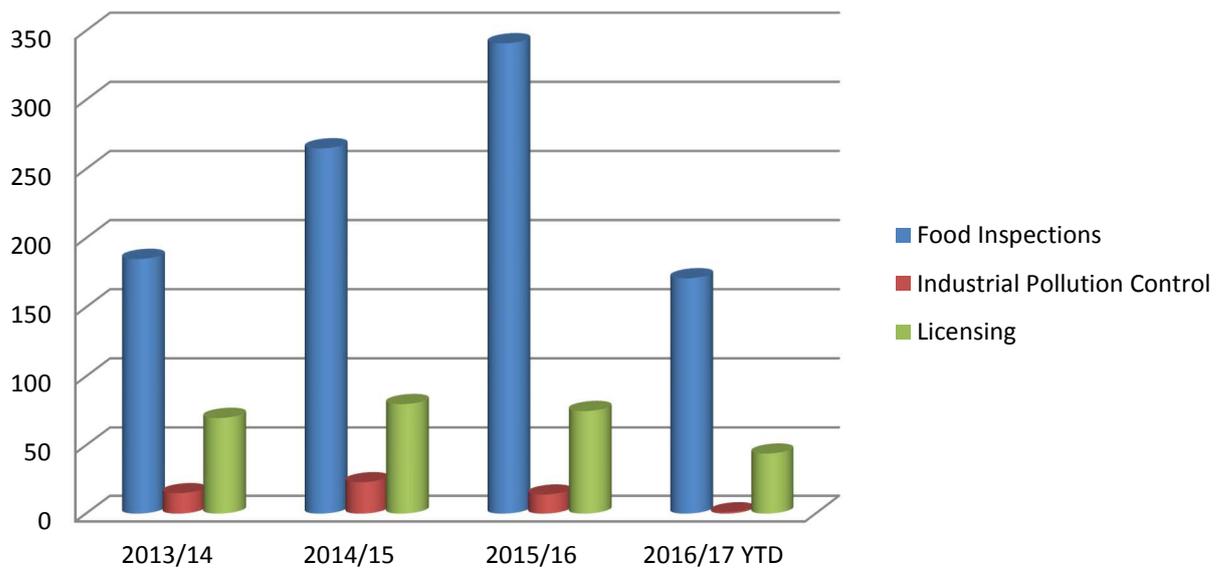
## **7. Conclusion**

7.1 That Members agree that officers are using tools and powers to take appropriate enforcement action.

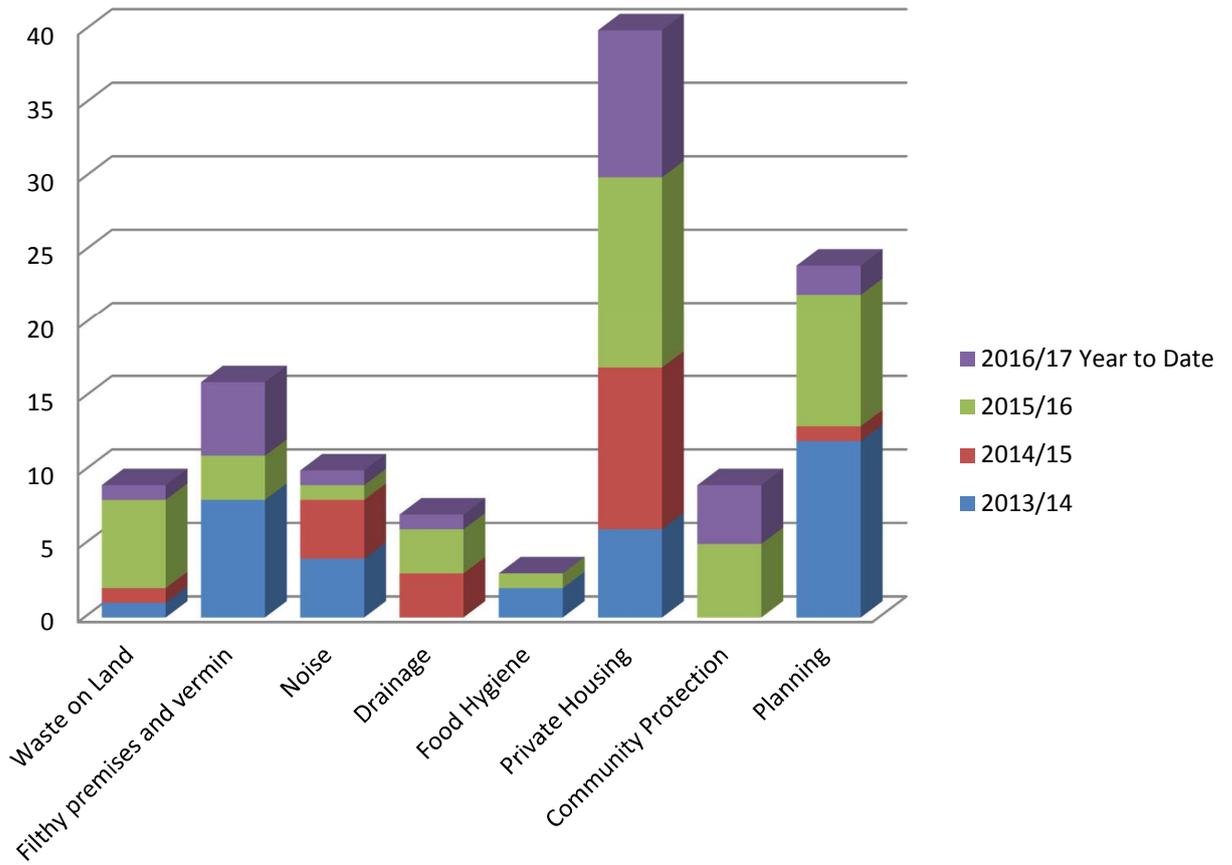
**Figure 1 - Requests for Enforcement Action**



**Figure 2 - Proactive Inspections of Businesses**



### Figure 3 - Enforcement Notices Served



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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 13</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>MIKE HAYNES – DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES</b>	<b>EXEMPT PARAGRAPH NO: Not Exempt</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>MATT HOLFORD – ENVIRONMENTAL HEALTH MANAGER</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>PUBLIC SPACES PROTECTION ORDERS UNDER THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: EDS14 &amp; HCS10</b>

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## 1. Recommendations

- 1.1 That Members approve the final consultation on a set of draft District-wide Public Spaces Protection Orders (PSPO).

## 2. Purpose of Report

- 2.1 To provide Members with the outcomes of a recent consultation on proposed Public Spaces Protection Orders;
- 2.2 To seek approval from Members to go through a final consultation on the draft PSPOs.

## 3. Background

- 3.1 The Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) introduced various new discretionary powers for the police and local authorities to take new actions to tackle anti-social behaviour.
- 3.2 The Act revokes 19 forms of legal intervention contained in previous statutes and replaces them with 6 new forms of intervention.
- 3.3 **Civil Injunctions** and **Criminal Behaviour Orders** can be issued by the courts if applied for by the local authorities. **Dispersal Powers** are only available to the Police. **Closure Powers** and **Community Protection Notices** can be applied for by the Council to deal with specific problems in specific circumstances.

- 3.4 The final power – **Public Spaces Protection Notices (PSPO)**, offer proactive powers to enable Councils to stop individuals or groups from committing anti-social behaviour in a public place. PSPOs replace various previous powers, namely;
- Dog Control Orders. These enabled specific control to be imposed on the control of dogs on specified areas of land open to the public.
  - Litter Clearing Notices. This enabled notices to be served on land-owners to require land defaced by litter to be cleaned up and kept clean.
  - Street Litter Control Notice. This enabled a notice to be served on premises considered to be contributing to the defacement of streets due to litter.
  - Graffiti / Defacement Removal Notice. This enabled a notice to be served requiring graffiti which is offensive or detrimental to local amenity to be removed.
  - Designated Public Place Order. This gave police officers discretionary powers to require a person to stop drinking and confiscate alcohol or containers of alcohol in public places
  - Gating Order. This enabled Councils to restrict public access to public rights of way to assist in the reduction of crime or anti-social behaviour.
- 3.5 Thankfully, levels of anti-social behaviour in South Derbyshire are low. Therefore, there has been little previous need to make use of the powers revoked by the Act. There are no existing Litter Clearing Notices, Street Litter Control Notices or Graffiti / Defacement Removal Notices in place, nor have there been for some years.
- 3.6 On 20<sup>th</sup> August 2015 E&DS approved that officers carry out a two phase consultation on the production of PSPOs for the whole South Derbyshire. At the same time they approved a shortened form of consultation in order to speed up the production of PSPOs for localised or short-term problems.
- 3.7 On 15<sup>th</sup> September 2016 a PSPO covering Swadlincote town centre was approved to address a localised and emerging problem of alcohol consumption in a part of the town centre. The PSPO has been published and is currently being proactively enforced by the Police and District Council.
- 3.8 There remain three current South Derbyshire Dog Control Orders. These were introduced in 2008 and revised in 2013 following E&DS approval. The three Orders require dog mess to be removed 'forthwith'; require dogs to be kept on a lead in 20 of the Districts parks and open spaces; and prohibit dogs entirely from 19 other open spaces (mainly enclosed play areas for children and multi-use game areas).
- 3.9 There is also an existing Designated Public Place Order (DPPO) in place at Eureka Park. This order was introduced in 2010. This order gives police officers the power to confiscate alcohol on request.
- 3.10 The existing Dog Control Orders and the DPPO will remain in force until revised by a PSPO. If they are not revised they will automatically transfer into a PSPO three years after the Act took effect (i.e. in October 2017).
- 3.11 Before making a PSPO the Council must be satisfied that the behaviour being restricted;
- Is having, or be likely to have, a detrimental effect on the quality of life of those in the locality;

- Is persistent or continuing in nature;
- Is unreasonable, and
- The impact of the behaviour justifies the restrictions being proposed.

3.12 The PSPO can control the unreasonable behaviour by imposing conditions on the use of a specified area which will apply to everyone. Statutory guidance issued by the Home Office advises that a PSPO is “*designed to make public spaces more welcoming to the majority of law abiding people and communities and not simply restrict access*”.

3.13 Once declared a PSPO can last up to 3 years. After this it must either be extended or it is automatically revoked. The controls contained in a PSPO can be varied or removed at any time.

3.14 Where the conditions of a PSPO are breached there are two possible sanctions. Firstly, a Fixed Penalty Notice (FPN) can be issued which, if paid, discharges the liability for the offence. If the offence is not admitted or the FPN is not paid then the offence can be taken to a magistrates court to seek a prosecution. Where a PSPO is used for restricting alcohol consumption, a FPN will only be issued to an individual if they fail to comply with a request to cease drinking or surrender the alcohol.

3.15 FPNs can be issued by Police Officers, PCSOs, Council Officers or anyone else authorised by the Council. Prosecutions can only be taken by the Council. FPN’s issued in relation to alcohol consumption will be issued by either a PCSO or Police Officer.

3.16 The contents of a PSPO can be challenged in the High Court within 6 weeks of it being made. The challenge can be either on the basis that the Council did not have the power to make the relevant restriction, that the relevant tests stated in para 3.11 above are not met or that the procedural requirements for creating a PSPO were not met.

3.17 The statutory guidance offers some indication of the potential contents of a PSPO. Specifically it mentions controlling dogs, the use of alcohol, noise or prohibiting access to certain areas of land.

#### **4. Consultation Outcomes**

4.1 We have been through two consultation phases. The first phase was an open consultation issued in late 2015 to SDDC Members, Parish Councils, the Police and Derbyshire County Council. The second phase in spring / summer 2016 was a wider consultation with members on the public based on some of the proposals which had emerged.

4.2 The consultations consisted of inviting responses via email, through face to face questions to users of the relevant spaces under consideration and also through analysing commentary from social media conversations (specifically the I love Swad facebook page)

4.3 Following the phase 1 consultation, four proposals emerged as possible candidates for inclusion in a PSPO;

4.3.1 Prohibition of dogs from Church Gresley cemetery and requiring dogs to be kept on leads on the new sports facilities at Cockshut Lane, Melbourne;

- 4.3.2 Introduce the power to confiscate alcohol from anyone thought to be consuming it on Newall and Maurice Lea Parks, plus in the recreation grounds in Hilton and Stenson.
- 4.3.3 To make it an offence for someone, when in charge of a dog on land open to the public, to fail to show to an authorised officer that they have an appropriate means to pick up dog faeces when asked to do so.
- 4.3.4 To make it an offence for any registered owner of a vehicle to allow litter to be discarded from their vehicle.

4.4 The results of the consultation on each of the proposals were as follows;

#### **Prohibition of Dogs from Church Gresley Cemetery**

- 4.5 Under the existing Dog Control Order, owners are already required to keep their dogs on a lead in Church Gresley cemetery. This proposal would prohibit dogs from the grounds.
- 4.6 This proposal produced mainly online and email responses. Of the 40 responses 80% (32) objected to the proposals and 20% (8) approved of the proposal. Some of the main reasons for the objection to the proposal were;
- Allowing graveside access to dogs provides a great deal of benefit in the grieving process if the bereaved can visit the grave of the departed with a much loved and shared pet;
  - Many visitors to the cemetery bring their dogs and the majority are respectful. The proposals would harm the majority in order to control a minority;
  - The level of mis-use of the park is relatively low. Education and individual enforcement would be a more proportionate approach;
  - The cemetery is particularly well used by elderly dog owners, where they can stay separated from youngsters, footballs, etc. that tend to be found in other parks;
  - Incidents of alleged fouling by dogs are, in part, due to urban foxes;
  - There was general acceptance that dogs should be kept on a lead in the cemetery, as is the existing requirement under a Dog Control Order.
- 4.7 Of the responses in favour of the proposal, a number cited examples of where the existing rules were not working. Specifically where they had asked owners of dogs off the lead to comply with the existing Dog Control Order and to put their dog on a lead. A number of examples were provided of rude and aggressive responses from dog walkers.
- 4.8 Given the comments received we would recommend that a prohibition on dogs in Church Gresley cemetery would have an overall adverse impact on the local community and that it would not meet the tests necessary to justify inclusion in a PSPO.
- 4.9 There are existing powers to address irresponsible individual dog owners either through the controls under the existing Dog Control Order or through the use of Community Protection Notices. We would therefore propose to respond to the concerns raised about dog control on Church Gresley cemetery using existing powers. The consultation exercise has generated a lot of local debate and interest in

the local community and so we see this as an opportunity to tap into this interest to encourage local residents to identify existing dog owners who misuse the cemetery and therefore to try to use focused enforcement activity to change their behaviour.

### **Dogs on leads at Melbourne Sports Partnership, Cockshut Lane**

- 4.10 Most of the feedback on this proposal was obtained through face to face interviews with users of the development during the opening day on 11<sup>th</sup> September 2016.
- 4.11 Of the responses received 52% (13) objected to the proposal and 48% (12) supported it. Due to the relatively close split in opinions we also sought the views of the Melbourne Sports Partnership management team on the proposal. The view expressed by the management team was that they would prefer that dog owners who use the sports grounds keep their dog on a lead.
- 4.12 Given the close split of local opinion on the matter we would propose that the view of the MSP management team take priority and that the proposed Public Spaces Protection Order include the requirement to keep dogs on a lead on the Melbourne sports grounds.

### **Extend alcohol confiscation powers to Newhall Park, Maurice Lea Park, Hilton and Stenson recreation fields**

- 4.13 Following the publication of the proposals in the Stage 2 consultation, the Communities Manager undertook further investigation to establish the evidence base to support the potential for a PSPO on extending the powers for the confiscation of alcohol.
- 4.14 Anecdotal evidence was sought from local Police officers and Council staff about the frequency and extent of adult drinking on the respective parks. Whilst periodic problems with underage drinking was reported these can already be dealt with by the Police under existing powers. No substantive evidence emerged of persistent or continuing problems associated with adult drinking in any of the parks other than the historical problems in Eureka Park which led to the creation of the original Designated Public Place Order in 2010.
- 4.15 On the basis of the evidence obtained, the proposed extension of the alcohol confiscation powers to parks other than Eureka Park is not considered to meet the tests necessary to justify inclusion in a PSPO.

### **Requiring Dog Owners to show, on request, that they have a means of collecting dog faeces**

- 4.16 Most of the feedback on this proposal was obtained through raising the proposal at the Area Forums. The proposal was also the subject of a comprehensive written submission by the Kennel Club.
- 4.17 The Senior Safer Neighbourhood Warden gave a verbal presentation on the proposal at Area Forums in spring and summer of 2016. The proposal was not the subject of a poll or voting process, however overall it was received favourably by the attendees at each of the Forum with only one objection raised.
- 4.18 The Kennel Club objected to the proposals, providing the following reasons;
- The proposal would result in punishing dog owners if they are approached at the end of a walk and have already used the bags that they have taken out for their own dog, or given a spare bag to someone who has run out;

- In certain circumstances the proposal would perversely incentivise dog walkers not to pick up after their dog if they were down to their last one or two bags;
- Provision of appropriate signage to notify communities of the offence will be problematic;
- The legal definition of 'a means' to pick up is too subjective and will be open to legal challenge;
- An irresponsible owner could simply tie one bag to his or her dog's lead or collar, but never actually use it;
- Any enforcement action based purely on the failure to have a means to pick up dog faeces would be unlikely to meet the public interest test for a criminal prosecution. Therefore there is a relatively high risk of any prosecutions for the offence failing in court.

4.19 As evidenced by independent environmental surveys, levels of dog fouling in South Derbyshire are not excessive. Given this and in the light of the objections we do not consider that the proposal meets the tests necessary to justify inclusion in a PSPO.

4.20 We are aware that this proposal has been recently been adopted in a number of other local authorities PSPOs, notably Daventry, East Herts and Harborough District Councils. We would therefore propose to monitor whether the proposals have a benefit on dog control in these authorities and to use their experience of the potential pitfalls of the requirements.

4.21 In the meantime Safer Neighbourhood Wardens will informally ask dog walkers to provide evidence that they have the means to pick up after their dog when they undertake patrols of the Districts parks and open spaces.

4.22 If the evidence from other Councils indicate that the legal uncertainties can be overcome and our own investigations establish that there is a need to require this of our local dog walking community then we would propose to come back to Committee at a future date to enable Committee to make a better informed decision.

#### **Offence for any registered owner of a vehicle to allow litter to be discarded from their vehicle**

4.23 Most of the feedback on this proposal was obtained through the Area Forums. The Senior Safer Neighbourhood Warden gave a verbal presentation on the proposal at Area Forums in spring and summer of 2016. The proposal was not the subject of a poll or voting process, however overall it was received favourably by the attendees at each of the Forum.

4.24 The proposal will enable the local authority to make the registered owner of a vehicle culpable for litter thrown from the vehicle by any passenger riding in or on it. There already exists in law the ability for enforcement officers to make the registered keeper of a vehicle culpable for flytipping incidents associated with the vehicle. The extension of this power to littering offences has been discussed at national level, however no firm proposals have yet been forthcoming to make this law.

4.25 A number of Safer Neighbourhood Warden investigations into littering offences from vehicles have been frustrated due to the inability to identify the culpable individual. In particular the proposal is seen as a potentially valuable tool in dealing with littering from stationary vehicles at known hot spots.

4.26 Officers consider that the proposal meets the tests necessary to justify inclusion in a PSPO.

### **Existing Dog Control Orders and Designated Public Places Order**

4.27 As discussed in paragraphs 3.8 to 3.10 above, a number of controls currently exist within Dog Control Orders and a Designated Public Places Order. We have seen no evidence during the operation of these Orders or during the consultation exercise that any of the existing controls are inappropriate and we therefore intend to replicate all of these in the new PSPOs.

### **5. Financial Implications**

5.1 Minor. The costs of the implementation of new PSPOs cannot be estimated until the details of the final proposals are known. We are likely to use existing staff resources to enforce the Orders and therefore do not anticipate any additional staff revenue costs. There will be additional costs associated with signage, but there may be additional income associated with revenue from penalty notices.

### **6. Corporate Implications**

6.1 The proposals align with the “safe and secure” Corporate Plan Theme.

### **7. Community Implications**

7.1 None

### **8. Conclusion**

8.1 The proposals set out a process for consulting on the contents of proposed Public Spaces Protection Orders which go well beyond the legal minimum as well as setting out a process for the creation of future PSPOs if there is an acute or local need. The proposals will also enable Council enforcement officers to utilise all of the available legal interventions contained in the Anti-Social Behaviour, Crime and Policing Act 2014.

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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM: 14</b>
<b>DATE OF MEETING:</b>	<b>17<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF COMMUNITY AND PLANNING SERVICES / DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>STUART BATCHELOR (EXT. 5820) / MIKE HAYNES (EXT.5775)</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>COMMITTEE WORK PROGRAMME</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: G</b>

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## **1.0 Recommendations**

1.1 That the Committee considers and approves the updated work programme.

## **2.0 Purpose of Report**

2.1 The Committee is asked to consider the updated work programme.

## **3.0 Detail**

3.1 Attached at Annexe 'A' is an updated work programme document. The Committee is asked to consider and review the content of this document.

## **4.0 Financial Implications**

4.1 None arising directly from this report.

## **5.0 Background Papers**

5.1 Work Programme.

**Environmental & Development Committee – 17<sup>th</sup> November 2016**  
**Work Programme 2016 onwards**

<b>Work Programme Area</b>	<b>Date of Committee meetings</b>	<b>Contact Officer (Contact details)</b>
<b>Reports Previously Considered By Last 3 Committees</b>		
Air Quality Annual Status Report - findings and implications	2 <sup>th</sup> June 2016	Matt Holford Environmental Health Manager (01283 595856)
2016/17 Service Plans	2 <sup>th</sup> June 2016	Stuart Batchelor / Mike Haynes / Frank McArdle Service Directors (01283) 595702
Street Trading	2 <sup>nd</sup> June 2016	Emma McHugh Senior Licensing Officer (01283 595716)
Key Performance Indicators – Licensing Department	2 <sup>nd</sup> June 2016	Emma McHugh Senior Licensing Officer (01283 595716)
Towards a Minerals Local Plan for Derby and Derbyshire – Towards a Vision and Objectives	2 <sup>nd</sup> June 2016	Richard Groves Planning Policy Officer (01283 595738)
Performance Reports	18 <sup>th</sup> August 2016	Keith Bull Head of Communications (01283 228705)

Update of Private Hire Licensing Policy	18 <sup>th</sup> August 2016	Emma McHugh Senior Licensing Officer (01283 595716)
Key Performance Indicators – Licensing Department	29 <sup>th</sup> September 2016	Emma McHugh Senior Licensing Officer (01283 595716)
Adoption of Dog Boarding Establishment Model Conditions	29 <sup>th</sup> September 2016	Emma McHugh Senior Licensing Officer (01283 595716)
River Mease DCS 2	29 <sup>th</sup> September 2016	Kevin Exley Planning Policy Officer (Sustainability) (01283 228717)
Local Plan Part 2 Regulation 19	29 <sup>th</sup> September 2016	Nicola Sworowski Planning Policy Manager (01283 595983)
Draft Local Plan Part 2 - consultation	29 <sup>th</sup> September 2016	Nicola Sworowski Planning Policy Manager (01283 595983)
Local Plan Position Statement	29 <sup>th</sup> September 2016	Nicola Sworowski Planning Policy Manager (01283 595983)
South Derbyshire Economic Development Strategy 2016-2021	29 <sup>th</sup> September 2016	Mike Roylance Economic Development Manager (01283 595725)

<b>Provisional Programme of Reports To Be Considered by Committee</b>		
Performance Reports	17 <sup>th</sup> November 2016	Keith Bull Head of Communications (01283 228705)
Key Performance Indicators – Licensing Department	17 <sup>th</sup> November 2016	Emma McHugh Senior Licensing Officer (01283 595716)
Vehicle Management Strategy and Vehicle Replacement Plan	17 <sup>th</sup> November 2016	Adrian Lowery Direct Services Manager (01283 595764)
Driving at Work Policy	17 <sup>th</sup> November 2016	Adrian Lowery Direct Services Manager (01283 595764)
Corporate Enforcement Policy	17 <sup>th</sup> November 2016	Matt Holford Environmental Health Manager (01283 595856)
Quarterly Enforcement Report	17 <sup>th</sup> November 2016	Matt Holford Environmental Health Manager (01283 595856)
Public Spaces Protection Order proposals	17 <sup>th</sup> November 2016	Matt Holford Environmental Health Manager (01283 595856)

Local Plan Part 2 – Submission	5 <sup>th</sup> January 2017	Nicola Sworowski Planning Policy Manager (01283 595983)
Local Development Scheme	5 <sup>th</sup> January 2017	Nicola Sworowski Planning Policy Manager (01283 595983)
Healthier Communities – Urban planning and growth	26 <sup>th</sup> January 2017	Vicky Smyth Health Partnership Manager (01283 595776)
Climate Change Adaptation and Flood Resilience	26 <sup>th</sup> January 2017	Matt Holford Environmental Health Manager (01283 595856)
Air Quality	26 <sup>th</sup> January 2017	Matt Holford Environmental Health Manager (01283 595856)
Local Green Spaces	26 <sup>th</sup> January 2017	Karen Beavin Planning Policy Officer (01283 595749)
Draft Waste Local Plan	26 <sup>th</sup> January 2017	Richard Groves Planning Policy Officer (01283 595738)
Draft Minerals Local Plan	26 <sup>th</sup> January 2017	Richard Groves Planning Policy Officer (01283 595738)

Hartshorne Conservation Area	26 <sup>th</sup> January 2017	Nicola Sworowski Planning Policy Manager (01283 595983)
Performance Reports	2 <sup>nd</sup> March 2017	Keith Bull Head of Communications (01283 228705)
The Waste (England and Wales) (Amendment) Regulations 2012	2 <sup>nd</sup> March 2017	Adrian Lowery Direct Services Manager (01283 595764)