

Public Document Pack



RUSHMOOR BOROUGH COUNCIL

CABINET

*at the Council Offices, Farnborough on
Tuesday, 6th July, 2021 at 7.00 pm*

To:

Cllr D.E. Clifford, Leader of the Council
Cllr K.H. Muschamp, Deputy Leader and Customer Experience and Improvement
Portfolio Holder

Cllr Marina Munro, Planning and Economy Portfolio Holder
Cllr A.R. Newell, Democracy, Strategy and Partnerships Portfolio Holder
Cllr M.L. Sheehan, Operational Services Portfolio Holder
Cllr P.G. Taylor, Corporate Services Portfolio Holder
Cllr M.J. Tennant, Major Projects and Property Portfolio Holder

Enquiries regarding this agenda should be referred to Chris Todd, Democracy and
Community, on 01252 398825 or e-mail: chris.todd@rushmoor.gov.uk

A G E N D A

1. DECLARATIONS OF INTEREST –

Under the Council's Code of Conduct for Councillors, all Members are required to disclose relevant Interests in any matter to be considered at the meeting. Where the matter directly relates to a Member's Disclosable Pecuniary Interests or Other Registrable Interest, that Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation (see note below). If the matter directly relates to 'Non-Registrable Interests', the Member's participation in the meeting will depend on the nature of the matter and whether it directly relates or affects their financial interest or well-being or that of a relative, friend or close associate, applying the tests set out in the Code.

NOTE:

On 27th May, 2021, the Council's Corporate Governance, Audit and Standards Committee granted dispensations to Members appointed by the Council to the Board of the Rushmoor Development Partnership and as Directors of Rushmoor Homes Limited.

2. **MINUTES** – (Pages 1 - 8)

To confirm the Minutes of the meeting held on 8th June, 2021 (copy attached).

3. **2020/21 REVENUE AND CAPITAL BUDGET OUTTURN - UPDATE** – (Pages 9 - 16)

(Cllr Paul Taylor, Corporate Services Portfolio Holder)

To consider Report No. FIN2111 (copy attached), which sets out the draft outturn position for 2020/21.

4. **ELECTRICAL SAFETY STANDARDS POLICY** – (Pages 17 - 36)

(Cllr Maurice Sheehan, Operational Services Portfolio Holder)

To consider Report No. OS2106 (copy attached), which sets out a proposed policy in relation to electrical safety standards.

5. **MINIMUM ENERGY EFFICIENCY STANDARDS POLICY** – (Pages 37 - 54)

(Cllr Maurice Sheehan, Operational Services Portfolio Holder)

To consider Report No. OS2108 (copy attached), which sets out a proposed policy in relation to minimum energy efficiency standards.

6. **SOUTHWOOD SANG VISITOR CENTRE AND CAFÉ DESIGN DEVELOPMENT** – (Pages 55 - 60)

(Cllr Martin Tennant, Major Projects and Property Portfolio Holder)

To consider Report No. RP2105 (copy attached), which sets out the next stages in the development of the Southwood SANG Visitor Centre and Cafe.

7. **EXCLUSION OF THE PUBLIC** –

To consider resolving:

That, subject to the public interest test, the public be excluded from this meeting during the discussion of the undermentioned item to avoid the disclosure of exempt information within the paragraph of Schedule 12A to the Local Government Act, 1972 indicated against such item:

Item No.	Schedule 12A Para. No.	Category
8	3	Information relating to financial or business affairs

8. **UNION YARD, ALDERSHOT - IDENTIFICATION OF PREFERRED AFFORDABLE HOUSING PURCHASER** – (Pages 61 - 90)
(Cllr Martin Tennant, Major Projects and Property Portfolio Holder)

To consider Exempt Report No. RP2104 (copy attached), which sets out a proposal to proceed with the leasehold disposal of the affordable housing units contained within the Union Yard scheme.

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CABINET

Meeting held on Tuesday, 8th June, 2021 at the Council Offices, Farnborough at 7.00 pm.

Voting Members

Cllr D.E. Clifford, Leader of the Council
Cllr K.H. Muschamp, Deputy Leader and Customer Experience and Improvement Portfolio Holder

Cllr Marina Munro, Planning and Economy Portfolio Holder
Cllr A.R. Newell, Democracy, Strategy and Partnerships Portfolio Holder
Cllr M.L. Sheehan, Operational Services Portfolio Holder
Cllr P.G. Taylor, Corporate Services Portfolio Holder
Cllr M.J. Tennant, Major Projects and Property Portfolio Holder

The Cabinet considered the following matters at the above-mentioned meeting. All executive decisions of the Cabinet shall become effective, subject to the call-in procedure, from **21st June, 2021**.

1. **DECLARATIONS OF INTEREST –**

Having regard to the Members' Code of Conduct, no declarations of interest were made.

2. **MINUTES –**

The Minutes of the meeting of the Cabinet held on 20th April, 2021 were confirmed and signed by the Chairman.

3. **COUNCIL BUSINESS PLAN PROJECT PROGRESS REPORT QUARTER FOUR AND END OF YEAR 2020/21 –**

(Cllr Adrian Newell, Democracy, Strategy and Partnerships Portfolio Holder)

The Cabinet received Report No. ACE2103, which set out progress in delivering the Council Business Plan projects during the fourth quarter of 2020/21 and also provided an end of year summary. Members were reminded that, following a recent change in reporting arrangements, only projects which were either completed during Quarter 4 or were not on track at the end of Quarter 4 would be included in the report. Members were informed that the majority of projects had been identified as making good progress and details of these could be found on the Council's website (www.rushmoor.gov.uk/councilplan). Overall, good progress was being made against an ambitious programme of work, taking account of the impact of the current pandemic and ongoing resource constraints.

The Cabinet NOTED the progress made towards delivering the Council Business Plan, as set out in Report No. ACE2103.

4. **COUNCIL BUSINESS PLAN 2021 - 2024 –**
(Cllr Adrian Newell, Democracy, Strategy and Partnerships Portfolio Holder)

The Cabinet considered Report No. ACE2104, which set out proposed updates to the Council's three year business plan.

Members were informed that the business plan would build on the priorities that had been identified by the Cabinet and that supported the Council's Vision for Aldershot and Farnborough 2030. Members were informed that the business plan had been significantly reworked and had been structured against two key areas of work which would cover the themes of People and Place. The plan would be presented at the Council Meeting on 24th June, 2021.

The Cabinet expressed strong support for the new business plan, both in terms of layout and content.

The Cabinet RECOMMENDED TO THE COUNCIL that the Rushmoor Borough Council Business Plan (April 2021 to March 2024), as set out in Report No. ACE2104, be approved.

5. **BUSINESS RATES - DISCRETIONARY RATE RELIEF APPLICATION –**
(Cllr Paul Taylor, Corporate Services Portfolio Holder)

The Cabinet considered Report No. FIN2111, which set out details of an application for rate relief on behalf of Blue Ocean Seismic Services Limited.

Members were informed that details of the application were contained within the Report and that the applicant was a technology company that had recently relocated to Farnborough from Perth, Australia. In a correction to the table at paragraph 4.4 of the Report, Members were informed that the total cost to Rushmoor Borough Council of the two years' relief was £30,255.41 and not £30,655.41 as stated.

The Cabinet RESOLVED that 100% discretionary rate relief be awarded to Blue Ocean Seismic Services Limited for the period 13th July, 2020 to 12th July, 2022, as set out in Report No. FIN2111.

6. **INTRODUCTION OF A WEEKLY FOOD WASTE COLLECTION SERVICE –**
(Cllr Maurice Sheehan, Operational Services Portfolio Holder)

The Cabinet considered Report No. OS2107, which set out a proposal to introduce a weekly food waste collection service and make associated changes to other waste collection services. The Chairman welcomed the Leader of the Labour Group (Cllr Christine Guinness), who had requested to address the Cabinet on this issue.

Members were reminded that, at its meeting on 10th November, 2020, the Cabinet had approved the Council's Climate Change Action Plan that had been prepared in response to the Climate Emergency that had been declared by the Council in summer, 2019. A key action within the Climate Change Action Plan had been to set up a separate food waste collection service. Subsequently, the Cabinet had set up a cross-party working group to guide the project and to make recommendations on

the operational detail for the service. The Group had met several times and the Report set out recommendations that had been unanimously supported by the members of the Group. Members were informed that the Group's recommendations provided details of how the proposals met the Council's climate change objectives and also considered how the Council might comply with the Government's forthcoming Resources and Waste Strategy, which required Councils' recycling performance in England to be 65% of municipal waste by 2035. The Cabinet was reminded that the Council's recycling rate in 2019/20 had been 29.6%.

The Cabinet heard from Cllr Guinness, who expressed support from the Labour Group to the proposals contained within the Report. Cllr Guinness detailed a number of concerns that had been received from residents regarding the proposals. In response to Cllr Guinness' comments it was confirmed that residents would be able to make an online request to upgrade from a 140 litre capacity bin to a 240 litre one. It was further confirmed that the larger, outside food waste caddies would be lockable and that any requests for additional bins would be investigated by Council officers, with a home visit being likely. Members were informed that flats and properties with communal bins would be assessed on a case-by-case basis in order to work out the best solution for each site. It was also confirmed that the Council would continue to work with the County Council to seek to broaden the range of items that could be accepted in recycling bins.

In discussing the proposals, the Cabinet expressed strong support for the suggested approach and stressed the importance of good communications to help residents to move smoothly to the new arrangements.

The Cabinet

- (i) **RESOLVED** that approval be given to
 - (a) the introduction of weekly collections of food waste in autumn 2021, as set out in Report No. OS2107;
 - (b) the provision of black 23 litre kerbside food waste containers and silver 5 litre kitchen caddies to households that use individual bins, with silver 5 litre kitchen caddies and the shared use of 140 litre adapted wheeled bins for properties using communal bins;
 - (c) the supply of one roll of 52 polyethylene green caddy liners to each household at the launch of the service, with an 'any bag' policy to be adopted once the initial supply had been used;
 - (d) the disposal of food waste, as arranged in partnership with Hampshire County Council, using a fully accredited Anaerobic Digestion facility;
 - (e) the moving of collections of non-recyclable household rubbish to a fortnightly frequency in autumn 2021, to coincide with the start of the introduction of the food waste scheme and to maximise food waste yield, promote waste minimisation, reduce carbon emissions and limit financial impact;

- (f) the working group remaining in place to advise on any significant implementation issues;
 - (g) the revision of the existing practice of providing 140 litre residual waste containers as replacements and for new properties, instead offering a 240 litre wheeled bin as the standard size, with 140 litre bins as an option;
 - (h) the phased implementation of the food waste service, starting with properties with individual external wheeled bins and moving onto those with shared waste containers as a second phase, commencing in spring 2022;
 - (i) the development of a new policy within the 2021/22 municipal year to govern the Council's waste collection services in line with the changes set out in the Report and future changes expected as a result of Government legislation and County Council initiatives;
 - (j) the noting of the comprehensive communications plan, as set out in Appendix 6 to the Report, to support the important service changes; and
- (ii) **RECOMMENDED TO THE COUNCIL** that approval be given to an additional revenue budget of £90,000 in 2021/22 to facilitate the roll out of the food waste collection service, noting that the financial impact of the changes in future financial years would need to be addressed in the 2022/23 budget setting process.

7. **FARNBOROUGH LEISURE CENTRE - DEMOLITION –**
(Cllr Martin Tennant, Major Projects and Property Portfolio Holder)

The Cabinet considered Report No. RP2103, which set out a proposal for the demolition of the vacant Farnborough Leisure Centre building.

The Cabinet was reminded that, in January, 2021, the decision had been taken not to re-open the Farnborough Leisure Centre due to the significant cost implications of the extension of the leisure contract as a result of the Covid-19 pandemic. Members were informed that, once the site had been cleared, site investigation works would be carried out in relation to the development of the new Leisure and Civic Hub building, prior to the Final Business Case. Wilmott Dixon Construction had been appointed through the Procurement Hub Framework for the delivery of the scheme. It was reported that, following representations made by members of the public, options to preserve the mosaic murals situated on the side of the existing leisure centre would be explored further.

The Cabinet expressed support for the proposed approach, which would enable the provision of the new facility in the shortest possible timescale.

The Cabinet RESOLVED that

- (i) the appointment of Wilmott Dixon Construction Limited, through the Procurement Hub Framework, to carry out the demolition and site clearance of Farnborough Leisure Centre and to undertake further survey works upon completion of the site clearance, as set out in Report No. RP2103, be approved;
- (ii) the release of £1,135,000 funding from the Capital Programme for the demolition works and associated project management, as agreed by the Council on 25th February, 2021, be approved;
- (iii) a further budget of £20,000 to fund ongoing project delivery costs and the consideration of alternative options, be approved; and
- (iv) following further investigation of the available options for the preservation of the mosaic murals, the Chief Executive, in consultation with the Major Projects and Property Portfolio Holder, be authorised to commission the necessary works.

8. APPOINTMENTS TO CABINET WORKING GROUPS –

The Cabinet RESOLVED that

- (i) appointments be made to Cabinet working groups for the 2021/22 Municipal Year as follows:-

Aldershot Regeneration – Union Street due diligence

Major Projects and Property Portfolio Holder - Cllr M.J. Tennant

Corporate Services Portfolio Holder - Cllr P.G. Taylor

Labour Group (1) - Cllr K. Dibble

Budget Strategy Working Group

Corporate Services Portfolio Holder - Cllr P.G. Taylor

Chairman of Corporate Governance, Audit and Standards Committee - Cllr Sue Carter

Chairman/Vice-Chairman of Policy and Project Advisory Board - Cllr J.B. Canty

Conservative Group (2) - Cllrs P.J. Cullum and C.J. Stewart

Labour Group (2) - Cllrs Gaynor Austin and K. Dibble

Liberal Democrat (1) -	Cllr T.W. Mitchell
Climate Change Working Group	
Cabinet Members (2) -	Cllrs K.H. Muschamp and M.L. Sheehan
Chairman of Policy and Project Advisory Board -	Cllr J.B. Canty
Conservative Group (2) -	Cllrs Mara Makunura and C.J. Stewart
Labour Group (2) -	Cllrs Gaynor Austin and M.J. Roberts
Liberal Democrat (1) -	Cllr T.W. Mitchell
Covid Recovery	
Conservative Group (5) -	Cllrs P.J. Cullum, M. Hope, Prabesh KC, Mara Makunura and A.R. Newell
Labour Group (3) -	Cllrs Christine Guinness, Nadia Martin and Sophie Porter
Food Waste Collection	
Operational Services Portfolio Holder -	Cllr M.L. Sheehan
Chairman of Policy and Project Advisory Board -	Cllr J.B. Canty
Conservative Group (2) -	Cllrs Mara Makunura and K.H. Muschamp
Labour Group (2) -	Cllrs Sophie Porter and Sarah Spall
Member Development Group	
Democracy, Strategy and Partnerships Portfolio Holder -	Cllr A.R. Newell
Additional Cabinet Member -	Cllr P.G. Taylor
Conservative Group (2) -	Cllrs J.B. Canty and C.J. Stewart

Labour Group (2) -

Cllrs Nadia Martin and
Sophie Porter

Liberal Democrat (1) -

Cllr T.W. Mitchell

- (ii) the Head of Democracy and Community, in consultation with the Leader of the Council, be authorised to make appointments to these Groups during the 2021/22 municipal year, in order to fill vacancies.

The Meeting closed at 7.58 pm.

CLLR D.E. CLIFFORD, LEADER OF THE COUNCIL

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CABINET
08 JULY 2021

COUNCILLOR PAUL TAYLOR
CORPORATE SERVICES PORTFOLIO HOLDER
REPORT NO. FIN2111

KEY DECISION: YES/NO

2020/21 REVENUE AND CAPITAL BUDGET OUTTURN - UPDATE

SUMMARY:

This report sets out the draft outturn position for 2020/21, based on actual income and expenditure recorded on the Council's financial system (17 June 2021) and broad assumptions around the final entries required to complete the outturn process.

RECOMMENDATIONS:

CABINET is recommended to note the draft revenue and capital outturn position as detailed in the report., noting these are subject to change.

1 INTRODUCTION

- 1.1 Covid-19 is having a widespread impact on local authority budgets nationally and has been particularly significant for district and borough councils with a significant loss of income from services being a particular pressure.
- 1.2 Members received regular updates on the financial impact on the Council through the budget monitoring reports to Cabinet. The final budget monitoring report for 2020/21 was considered by Cabinet at their meeting on 20 April 2021. The Revenue Budget Monitoring Report 2020/21 (FIN2108) provided an updated forecast for the General Fund with an adverse variation of £0.287m (2.17% of the Net Revenue budget) forecast which represented a slight worsening in the financial position when compared to the Latest Budget..
- 1.3 This report provides members with an update on Revenue and Capital Outturn for the 2020/21 financial year.
- 1.4 The draft outturn position set out in this report is subject to change as not all accounting entries have been completed and further checks and a review to be undertaken in the coming few weeks. The report highlights to members areas of the General Fund revenue and capital budgets that are potentially subject to greater change as the outturn is finalised. Therefore, members should treat the draft outturn position included in this report as indicative.

- 1.5 This report does not provide a detailed review of the material variations against service budgets. This analysis will be included in the final outturn report once completed.
- 1.6 Due to the volume of information contained in the report, it would be helpful where members have questions on matters of detail if they could be referred to the report author before the meeting.

2 IMPACT OF OUTTURN POSITION ON 2021/22

- 2.1 Council approved the revenue budget for 2021/22 at their meeting on 25 February 2021. The Council was able to set a balanced budget for the current financial year utilising the Stability and Resilience Reserve to support the Council's priorities and recovery from the impact of Covid-19.
- 2.2 The Council must ensure that the revenue budget remains balanced over the course of the financial year, and it is advised that any beneficial impact from the 2020/21 outturn position is set aside in earmarked reserves to mitigate against potential budget pressures in 2021/22 and to provide one-off funding to support the Council's priorities around Regeneration. The Council will need to ensure that revenue and capital spending plans are affordable and deliverable over the medium-term.
- 2.3 As set out in the Revenue Budget, Capital Programme and Council Tax Level report to Cabinet on 16 February 2021 (FIN2106) the Council has developed a revised approach to its addressing the Funding Gap identified in the Medium Term Financial Strategy (MTFS). The Cost Reduction and Efficiencies Programme (CREP) has put in place a revised process for how savings are identified, evaluated and approved, with clearer reporting and monitoring and governance arrangements. The outcomes from CREP are being reviewed by the Project Team and officers and will be considered over the coming weeks. Subject to member approval, savings will be implemented to cover the new MTFS period.
- 2.4 Members will recall that the Government provided further Covid funding in 2021/22 as part of the Local Government Finance Settlement. The understanding is that this support is time limited with the income loss from Sales, Fees and Charges scheme only covering Q1 income pressures.

Therefore, some risk remains around the Council's income budgets over the coming months should the financial impact from Covid-19 continue.

3. 2020/21 REVENUE BUDGET – DRAFT OUTTURN

3.1 The draft outturn position for the Revenue budget is set out in Table 1 below. This is based on a snapshot of actual expenditure and income as shown on the Council's financial system on 17 June 2021, with broad assumptions made in relation to budgets subject to further review and accounting entries. In particular, the following areas are subject to greater fluctuation between the draft and final outturn reports and may have a material impact.

- Business Rates Retention income
- Housing Benefit income and expenditure
- Commercial Property income
- Asset valuations
- Treatment of On-Street Car Parking deficit (to be agreed with Hampshire County Council)
- Earmarked Reserves and Carry Forwards

Table 1: General Fund Revenue Budget Draft Outturn (subject to change)

	2020/21 Original Budget (£'000)	2020/21 Latest Budget (£'000)	2020/21 Draft Outturn (£'000)	2020/21 Draft Outturn Variation (£'000)
General Fund Budget				
Net Service Revenue Expenditure	8,753	11,926	11,568	(358)
Corporate Items	2,537	1,334	1,115	(219)
Net General Fund Revenue Budget	11,290	13,260	12,683	(577)
Funded by:				
Council Tax	6,705	6,705	6,705	0
Business Rates	3,767	3,767	3,767	0
New Homes Bonus	1,169	1,169	1,169	0
Covid-19 Emergency Funding	0	1,478	1,478	0
Covid-19 Income Loss	0	684	1,005	321
Other Funding	(3)	(270)	(175)	95
TOTAL Funding	11,637	13,533	13,949	416
Core (Surplus) or Deficit	(347)	(273)	(1,266)	(993)
Less: Carry Forwards			800	800
Core (Surplus) or Deficit - after c/f	(347)	(273)	(466)	(193)

- 3.2 The draft outturn forecast for the General Fund is a net positive variation of £0.993m before carry forwards (£0.193m if all carry forward requests are agreed) which represents an improvement in the financial position when compared to the Latest Budget. However, there remains some risk that the outturn position will change as not all budget positions have been finalised, specifically with uncertainty over the level of retained business rates income given the impact of reliefs and Covid.
- 3.3 The level of Government Funding for Covid-19 expenditure and income pressures has increased from £2.349m reported in April 2021 to £2.483m. The additional funding has helped to mitigate some of the financial pressures on the Council. However, the overall position on the General Fund remains positive given the impact from Covid-19, as shown in Table 1.
- 3.4 It is worth noting that a number of budgets have been requested to be carried forward from 2020/21 to 2021/22. These will need to be considered alongside the final outturn position and carry forward requests need to be balanced against the wider financial position of the Council. Table 1 shows the impact on the Council's finances if all requests were agreed.

4. 2020/21 CAPITAL PROGRAMME – DRAFT OUTTURN

- 4.1 As reported to members in February and April, the Council's Capital Programme was revised as a result of changes to the PWLB lending rules and revised expenditure profiles for the major Regeneration schemes in Aldershot and Farnborough..
- 4.2 The draft outturn on the Capital Programme is broadly in-line with that reported to members in April 2021. As shown in the table below, the draft outturn on the Capital Programme is £21.479m, with slippage of £2.256m. This compares to £23.811m and slippage of £0.680m as reported in April.

Table 2: Capital Programme Draft Outturn (subject to change)

Portfolio	2020/21 Original Budget (£'000)	2020/21 Latest Budget (£'000)	2020/21 Draft Outturn (£'000)	2020/21 Draft Outturn Variance (£'000)	Slippage to 2021/22 (£'000)
Corporate and Democratic Services	0	86	3	(83)	83
Customer Experience and Improvement	125	38	38	0	0
Major Projects and Property	49,367	21,131	19,802	(1,329)	217
Operational Services	2,689	3,376	1,481	(1,895)	1,878
Planning and Economy	0	0	0	0	0
ICE Programme	45	233	155	(78)	78
TOTAL Capital Programme	52,226	24,864	21,479	(3,385)	2,256

- 4.3 The table below provides an overview of the significant change across each portfolio in capital expenditure for the year against the previous forecast.

Table 3: Capital Programme Variations – Movement since April 2021

Portfolio	Previous Forecast	2020/21 Draft Outturn (£'000)	Movement (£'000)
Corporate and Democratic Services	0	3	3
Customer Experience and Improvement	38	38	0
Major Projects and Property	20,991	19,802	(1,189)
Operational Services	2,596	1,481	(1,115)
Planning and Economy	0	0	0
ICE Programme	186	155	(31)
TOTAL Capital Programme	23,811	21,479	(2,332)

- 4.4 As with the revenue budget draft outturn, the table above is subject to change, although it is considered there is less risk of change.

5. RISKS AND UNCERTAINTIES

- 5.1 The most significant financial risk facing the Council is the impact of Covid-19 on the Council's 2021/22 budget and Medium-Term Financial Strategy. Risk remains around the draft outturn position being based on incomplete financial information.

6. LEGAL IMPLICATIONS

6.1 No additional legal implications arise from this report.

7. FINANCE AND RESOURCE IMPLICATIONS

7.1 The finance and resource implications from the 2020/21 outturn will be considered once the final outturn position is known and will be subject to a separate report to Cabinet in due course.

7.2 Any additional financial implications will be addressed through normal Council procedures and processes. The 2020/21 final outturn reports to Cabinet will set out any further resource implications.

7.3 The Council will also need to carefully consider the financial impact of spending decisions and ensure that any unnecessary expenditure is avoided where possible given the funding gap identified in the MTF5 and the utilisation of the Stability and Resilience Reserve in particular.

8. CONCLUSIONS

8.1 The figures contained within this report are provisional and subject to change as the outturn process has not concluded. Further change may arise following external audit's review of the Council's financial statements. Members will be updated on the final outturn position should there be any material change.

8.2 A more detailed examination of the Council's financial position will be considered alongside the final outturn and will update members on the prospects for 2021/22.

8.3 There will always be variances against budgets due to the Council adapting its priorities to manage inevitable changes in demand pressures and having a flexible approach to changing circumstances. The degree of variation on service revenue expenditure will be considered in the final outturn report and should be reviewed as part of the budget setting process to ensure that budgets are set against realistic expectations of affordability, delivery and performance.

BACKGROUND DOCUMENTS:

None

CONTACT DETAILS:

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`CABINET

COUNCILLOR MAURICE SHEEHAN
OPERATIONAL SERVICES PORTFOLIO HOLDER

July 2021

REPORT NO. OS2106

KEY DECISION?
NO**ELECTRICAL SAFETY STANDARDS POLICY****SUMMARY AND RECOMMENDATIONS:**

The Housing and Planning Act 2016 (the Act) received Royal Assent on 12 May 2016. Part 2 of the Act amended the Housing Act 2004 and introduced new powers to help local authorities tackle rogue landlords and property agents.

On 1 June 2020, a new set of regulations came into force under the Act to formalise the requirement for improved electrical safety standards in privately rented properties. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (the regulations) require landlords to keep their properties free from electrical hazards and to arrange periodic electrical inspections and testing in their properties.

The regulations provide the power to request that a landlord has the electrical installation in their rental properties inspected and tested by a qualified and competent person at least every five years. They must provide a copy of the inspection report to the tenant or prospective tenant and to the Council on request. The Council has the power to arrange for vital remedial works to be carried out and can recover the cost of this work from the landlord.

Failure to comply with the regulations can result in the landlord being charged a financial penalty of up to £30,000. Any proceeds from financial penalties for enforcement purposes can be used to help drive up standards in the private rented sector.

The Electrical Safety Standards Policy provides a framework for the Council to enact the above regulations and forms part of our overall Housing and Homelessness Strategy. The aim is to have a privately rented housing stock that is in good condition, safe and meets the current housing standards.

Recommendation:

- Cabinet is recommended to approve the adoption of the new Electrical Safety Standards Policy as set out in Appendix A.

1. INTRODUCTION

- 1.1 The Council is committed to improving standards in privately rented homes, making sure that all accommodation is safe, well managed, maintained and that it complies with current regulations and requirements.
- 1.2 The Council shares the government's desire to support landlords who provide good quality accommodation and to take appropriate action against those unscrupulous landlords who flout the law and gain profit from letting sub-standard properties.

2. BACKGROUND

- 2.1 Until now, by law, landlords had to keep their properties free from electrical hazards and it has been best practice for landlords to have periodic electrical inspections carried out. On 1 June 2020, a new set of regulations came into force under the Act to formalise the requirement for improved electrical safety standards in privately rented properties. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (the regulations)
- 2.2 The regulations require all private landlords to make sure that electrical installations in their properties are inspected and tested, at least every five years by a qualified and competent person.
- 2.3 Electrical installations are deemed to be:
 - Wiring
 - Plug Sockets
 - Light Fittings
 - Consumer Units
- 2.4 The qualified person will provide an Electrical Installation Condition Report (EICR). The policy applies to all new tenancies from 1 July 2020 and all existing tenancies from 1 April 2021. However, there are some exemptions, and these are detailed in the policy.
- 2.5 Should a landlord fail to comply with the obligations of the regulation the Council can take enforcement action and apply a financial penalty as set out in Appendix A of the policy.

3. DETAILS OF THE POLICY

- 3.1 The policy sets out the requirements of the regulations including the landlord responsibilities, enforcement powers and the applicable financial penalties, which are set out in Appendix A.
- 3.2 The policy forms part of our overall Housing and Homelessness Strategy by enabling people to live in good quality homes that are suitable for their needs. The vision is to have a privately rented housing stock that is in good condition, safe and meets the current housing standards.

4. Consultation

- 4.1 There is no requirement to carry out a public consultation, however, both Finance and Legal Services have been consulted.

5. IMPLICATIONS

5.1 Risks

- 5.2 The policy provides a framework by which the Council can carry out appropriate enforcement action and impose financial penalties when landlords breach their obligations under the regulations. It will be clear how and why enforcement action is taken and how financial penalties are calculated. This will reduce the risk of challenge or appeal to the First-tier Tribunal.

5.3 Legal Implications

- 5.4 The policy supports the Council's duty to take appropriate action against landlords who do not comply with legal requirements to provide safe, good quality housing in the private sector.
- 5.5 The Head of Operational Services and the Corporate Legal Services Manager will consider each case before a final decision is made on the most appropriate course of action to take.

5.6 Financial and Resource Implications

- 5.7 There are no new financial implications from the recommendations of this report, as the resources will come from the existing private sector housing budget and current officer resources.
- 5.8 Any monies received by the Council from penalties can be used to offset the cost of housing enforcement work by the private sector housing team as detailed in the MHCLG guidance document.

6. Equalities Impact Implications

6.1 It is considered that the proposed policy presents no specific impact on those with protected characteristics.

6.2 It seeks to ensure equality for residents living in the private rented sector to be able to live in a home that is safe, affordable and suitable for their needs.

7. Other

7.1 Existing IT systems will be used to log and monitor any enforcement action.

8. CONCLUSIONS

8.1 The new Electrical Standards Policy will enable the Council to take appropriate enforcement action against landlords who do not provide safe, good quality, privately rented accommodation in Rushmoor.

8.2 The powers established by the 2020 regulations provide additional tools allowing the Council to robustly deal with rogue landlords.

BACKGROUND DOCUMENTS:

Housing Act 2004 – electrical Safety in the private rented sector (England)
Regulations 2020

Shelter – Electrical safety in rented homes

MHCLG – Guide for tenants – electrical safety standards in the private rented sector

MHCLG – Guide for landlords – electrical safety standards in the private rented sector

MHCLG – Guide for local authorities – electrical safety standards in the private rented sector

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Rushmoor Housing

Electrical Safety Standards Policy

Housing and Planning Act 2016
Electrical Safety Standards in the
Private Rented Sector (England)
Regulations 2020

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Introduction

We are committed to improving standards in privately rented homes, making sure that all accommodation is safe, well managed, maintained and that it complies with current regulations and requirements.

We share the government's desire to support landlords who provide good quality accommodation and to take appropriate action against those unscrupulous landlords who flout the law and gain profit from letting sub-standard properties.

The Housing and Planning Act 2016 (the Act) received Royal Assent on 12 May 2016. Part 2 of the Act amended the Housing Act 2004 and introduced new powers to help local authorities tackle rogue landlords and property agents.

Part of this drive is to improve electrical safety in rented homes. Until now, by law, landlords had to keep their properties free from electrical hazards and it has been best practice for landlords to have periodic electrical inspections carried out. On 1 June 2020, a new set of regulations came into force under the Act to formalise the requirement for improved electrical safety standards in privately rented properties. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (the regulations) require landlords to keep their properties free from electrical hazards and to arrange periodic electrical inspections and testing in their properties.

The regulations give us the power to request that a landlord has the electrical installation in their rental properties inspected and tested by a qualified and competent person at least every five years. They must provide a copy of the inspection report to the tenant or prospective tenant and to us on request. We have the power to arrange for vital remedial works to be carried out and can recover the cost of this work from the landlord.

Failure to comply with the regulations can result in the landlord being charged a financial penalty of up to £30,000. We can use any proceeds from financial penalties for enforcement purposes to help drive up standards in the private rented sector.

This policy forms part of our overall Housing and Homelessness Strategy by enabling people to live in good quality homes that are suitable for their needs. The vision is to have a privately rented housing stock that is in good condition, safe and meets the current housing standards.

A copy of the strategy is available online at www.rushmoor.gov.uk/housingstrategies

General principles of enforcement

We have a corporate sanctions and enforcement policy that provides guidance on what can be expected from our regulatory services and how we consider, and take, enforcement action to ensure consistency and good practice.

The principles we use to carry out our regulatory activities are:

- Proportionality
- Consistency

- Openness and accountability
- Risk assessment and targeting

Consideration will be given to:

- The Regulators' Compliance Code
- The code for crown prosecutors
- Equality and diversity

Requirements of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The regulations require all private landlords to make sure that electrical installations in their properties are inspected and tested, at least every five years by a qualified and competent person.

Electrical installations are deemed to be:

- Wiring
- Plug sockets
- Light fittings
- Consumer units

The qualified person will provide an Electrical Installation Condition Report (EICR) that will confirm that:

- All installations meet the required safety standards; or
- The landlord must carry out further investigations and repair work within 28 days

The report will give the date when the next electrical safety check is due. The landlord must provide a copy of the report to their tenants within 28 days of the inspection or to a new tenant before they occupy the property. The landlord must also keep a copy of the report and provide it to the person carrying out the next inspection, any prospective tenants and to us within seven days of being asked to do so.

The regulations give us the power to ask a landlord to carry out essential repair work, or to arrange for them to be done, and to recover the cost from the landlord.

The regulations do not cover electrical appliances. However, it is recommended that landlords carry out regular portable appliance testing (PAT). This will make sure that all electrical appliances that the landlord provides with the property and those brought in by tenants are safe.

Tenancies that the regulations apply to

The regulations apply to new tenancies from 1 July 2020 and to existing tenancies from 1 April 2021.

The tenant must:

- Have a right to occupy the property as their main or principle home

- Pay rent

This includes assured shorthold tenancies and licences to occupy Houses in Multiple Occupation (HMOs)

Tenancies that the regulations do not apply to

There are some exemptions to the tenancies covered by the regulations. These are:

- Tenancies with registered providers of social housing
- Long leases
- Student halls of residence
- Hostels and refuges
- Care homes
- Hospitals and hospices
- Other accommodation relating to health care provision

Private landlords' responsibilities

Landlords of privately rented properties must:

- Make sure the property meets national standards for electrical safety during any period that it is let under a specified tenancy
- Have the electrical installation in their rented property inspected and tested by a qualified, competent person, at least every five years
- Obtain a report from the inspector giving the results of the inspection and testing and the date that the next inspection should be carried out
- Supply a copy of the report to the existing tenant within 28 days of inspection
- Supply a copy of the report to any new or prospective tenant within 28 days of receiving it
- Provide a copy of the report to us within seven days of a request to do so
- Keep a copy of the report to give to the person who will carry out the next inspection and test
- Carry out investigatory or remedial work identified in the report within 28 days or sooner, if specified
- Provide the tenant with written confirmation of the completion of any remedial work within 28 days of completion

Enforcement powers under the regulations

We must take enforcement action if we are satisfied that on the balance probabilities that the landlord has not complied with one or more duties under the regulations. This may include remedial action if the landlord does not do the work required on the inspection report within the required timescales or has failed to comply with a Remedial Notice. We also have the power to impose a financial penalty of up to £30,000 for failure to comply with the regulations.

Details of the enforcement action that can be taken is shown below:

Remedial Notice

We must serve a Remedial Notice within 21 days from the date that we are satisfied that the landlord has not complied with his duties under the regulations and that any defects identified do not require urgent remedial action.

The Remedial Notice must set out:

- The address to which the notice relates
- The regulations that we consider the landlord has failed to meet
- The remedial action that the landlord needs to take
- The date by which the landlord must take remedial action: this must be within 28 days of the date that the notice is served
- That the landlord can make written representations against the notice within 21 days from the date that the notice is served
- The name and address to which representations should be made

- The effect of Regulations 11 and 12, including the maximum financial penalty that the council may impose

The landlord must carry out all work set out in the Remedial Notice within 28 days or less, if this is specified in the inspection report. The authorised person selected to do the work must give 48 hours' notice to the tenant before starting the work.

Once the work is completed, the landlord must provide written confirmation to the tenant and us that it has been done within the required 28 days.

If the landlord does not carry out the remedial work set out in the Remedial Notice, we may arrange for the work to be carried out and recover the cost from them. The landlord has the right of appeal against the demand for these costs.

The landlord will not be in breach of the Remedial Notice if they can prove that they have taken all reasonable steps to comply, or that the tenant would not allow access for the work to be carried out. To support this, they may provide copies of all communications with tenants and electricians, along with previous electrical reports and servicing as evidence that they have tried to do the work.

Rights of appeal against a Remedial Notice

The landlord can appeal against the service of a Remedial Notice within 21 days of it being served; this automatically suspends the notice; we must respond to the appeal within seven days. It must confirm the outcome of the appeal to the landlord in writing and advise that the suspension is no longer in place.

Remedial action for not complying with a Remedial Notice

If we are satisfied on the balance of probability that a landlord has failed to comply with a Remedial Notice, we may take remedial action. We must serve notice on the landlord advising that we are intending to do the work and the notice must give:

- The address where the work will be carried out
- The legal power under which the remedial action is being taken
- The date when the remedial action will be taken which must be at least 28 days from the date of the notice
- Details of the right of appeal against the decision to take remedial action

We will arrange for an authorised person to take the remedial action within 28 days of the end of the notice period unless the landlord has lodged an appeal. If they appeal, they must arrange for the work to be completed within 28 days of the appeal decision confirming or varying our requirements.

Rights of appeal against remedial action

The landlord can appeal to a first-tier tribunal against remedial action within 28 days of the date the notice is served. The tribunal may consider an appeal after that date if the landlord has good reason for not appealing within the timescales required. The notice is then suspended until the appeal is determined or withdrawn.

The landlord can appeal on the following grounds that:

- He took all reasonable steps to comply with the Remedial Notice
- He has made reasonable progress towards complying with the Remedial Notice

The first-tier tribunal may confirm, quash or vary the decision of the council.

Urgent remedial action

If an inspection of the electrical installation has identified that remedial work is urgently required, the landlord must do the work in the timescales given in the report. If the council is satisfied that on the balance of probability the landlord has failed to do the work we may, with the consent of the tenant, arrange to carry out the remedial work. We must authorise a qualified and competent person, in writing, to do the work and give 48 hours' notice to the tenant. We can recover the cost of the remedial work from the landlord.

We must serve a notice on the landlord and all occupiers of the premises that we are taking urgent remedial action within seven days of the authorised person starting the work. A copy of the notice must be fixed to the premises.

The notice must set out:

- What action is going to be taken
- The address of the property
- The legal power we are using to carry out the urgent remedial action
- The date that the urgent remedial action was or will be started
- The landlord's rights of appeal and timescales in which an appeal may be made
- Details of any financial penalty we may impose and the right of appeal against the financial penalty

We are able to recover all costs that we have reasonably incurred in taking the remedial action from the landlord on whom it served the notice.

We can do this by serving a demand for the recovery of costs on the landlord. They will then have 21 days to pay the costs.

Rights of appeal against urgent remedial action

The landlord can appeal to the first-tier tribunal within 28 days of the date the urgent remedial action was started or proposed to be started.

The appeal can be made on the following grounds:

- That the landlord took all reasonable steps to comply with the regulations

- That the landlord had made reasonable progress towards compliance when the urgent remedial action started

If the landlord appeals, the urgent remedial action is not suspended. The first-tier tribunal may confirm, quash or vary the decision of the council which may affect our ability to recover its costs.

Recovery of costs of remedial action

We are able to recover all costs that we have reasonably incurred in taking the remedial action from the landlord on whom it served the notice. We can do this by serving a demand for the recovery of costs on the landlord. They will then have 21 days to pay the costs.

Rights of appeal against the recovery of costs for remedial action

The landlord can appeal against the demand for recovery of costs to the first-tier tribunal within 21 days of it being served. The tribunal may consider an appeal after that date if the landlord has good reason for not appealing within the timescales required.

The appeal can be made on the grounds that the landlord took all reasonable steps to comply with the Remedial Notice or that he had made reasonable progress towards compliance with the notice when we gave notice of our intention to enter and carry out the work.

The tribunal may confirm, vary or quash the demand.

If the landlord is not satisfied with the outcome of the appeal to the first-tier tribunal, they may further appeal to the upper tribunal. This will need to be within 28 days and can be made on the same grounds. The upper tribunal will either confirm, quash or vary the demand for the recovery of costs.

Financial penalties for breach of landlord's duties to comply with the regulations

If we are satisfied beyond reasonable doubt that the landlord has failed to comply with the regulations, we may impose a financial penalty of up to £30,000 under Regulation 3. We must serve a Notice of Intent on the landlord advising that we intend to charge a financial penalty for the breach.

We must serve the Notice of Intent within six months from the first day we were satisfied that there had been a breach.

The Notice of Intent must set out:

- The amount of financial penalty
- The reasons for proposing to impose a financial penalty
- Information about the right to make representations against the financial penalty within 28 days of the serving of the Notice of Intent

If we receive a representation from the landlord, we must decide if we intend to uphold the financial penalty within 28 days and how much the financial penalty will be. Depending on the information we receive from the landlord, we may vary the amount from that detailed in the original Notice of Intent.

If we decide to impose the financial penalty, we must serve a Final Notice confirming our intention to the landlord.

The Final Notice must set out:

- The amount of financial penalty
- The reason for imposing the penalty
- How to pay the financial penalty

- The date by which the penalty must be paid
- The consequences of failing to comply with the Final Notice and failing to pay the financial penalty
At any time we may withdraw the Notice of Intent or Final Notice or may reduce the amount of financial penalty given in either notice.

Appeal against a financial penalty

The landlord can make representations about the Notice of Intent to charge a financial penalty. We must respond to the landlord within seven days to say if we intend to impose the financial penalty and if so, how much this will be.

The landlord can appeal against a Final Notice to the first-tier tribunal against the decision to impose the financial penalty or the amount of the penalty. This must be within 28 days from the date the notice was served. The appeal suspends the Final Notice until the tribunal decides on it or we withdraw it. The first-tier tribunal may confirm, quash or vary the final notice.

Calculation of a financial penalty

Guidance published by the Ministry of Housing, Communities and Local Government (MHCLG) stipulates that the level of financial penalty should reflect the severity of the offence; the landlord's previous record of offending; the landlord's rental income and assets; the size of his portfolio and the way that a landlord works with his tenants and the council.

So that the highest financial penalties are reserved for the worst offenders and less serious offences receive a lower financial penalty, we have designed a matrix in accordance with the guidance (see Appendix 1).

The factors we will consider as part of the matrix are:

- **Factor 1** – the severity of the breach and the risk of harm caused to the tenant
 - **Factor 2** – the culpability of the landlord and history of previous housing offences
 - **Factor 3** – the suitable financial punishment for the offence, removal of financial gain for non-compliance and consideration of the landlord's income and assets
 - **Factor 4** – that it is a suitable financial punishment to deter the landlord from further offences or other landlords from committing an offence
- Each factor is broken down into four levels, the higher score resulting in a higher financial penalty. This provides a clear and transparent process in determining the amount of financial penalty to be charged.

Factor 1

We must consider how severe the breach is and how it will affect the tenant's health and wellbeing. We will use the harm outcomes set out in the Housing Health and Safety Rating System – Housing Act

2004 to help to determine the likely risk of harm to the tenant from the breach.

Level 1 – Minor/moderate impact: may cause a risk of injury to the occupier but that does not require intervention by a health practitioner.

Level 2 – Serious impact: may cause a risk of more serious injury to the occupier requiring treatment by a health practitioner.

Level 3 – Severe impact: may cause a risk of severe injury to the occupier requiring hospital treatment.

Level 4 – Extreme impact: may cause death or cause life-threatening injuries.

Factor 2

We must consider how much the landlord's culpability and any previous convictions. We will consider whether they have a history of running poor quality accommodation and deliberately lets out sub-standard properties, not complying with housing standards.

Level 1 – The landlord makes significant efforts to address disrepair issues and there is little or no history of previous offences.

Level 2 – The landlord has insufficient systems in place to ensure good housing standards in the properties. They do not comply with, or implement, the regulations and may have a record of previous minor housing offences.

Level 3 – The landlord has failed to maintain the property to the required housing standards and has ignored requests from tenants and the council to comply with the regulations. They have failed to improve conditions over a long time and have a history of more serious housing offences.

Level 4 – The landlord has deliberately breached housing standards and has a long and recent history of housing offences and a total disregard for the law.

Factor 3

We must consider the most appropriate financial punishment for the offence committed, making sure it is high enough to have an economic impact on the landlord. This will demonstrate the consequences of not complying with their responsibilities.

The financial penalty should remove any financial benefit that the landlord may have had from renting out a sub-standard property.

We will ask the landlord for information about the properties that they own, their rental income and any other assets for consideration when looking at this aspect of the matrix.

We will use the information provided to determine the landlord's financial status. However, if they fail to provide the information, we will calculate a best estimate of income and assets from records we hold. Based on this information, we will assume that they are likely to be able to pay the financial penalty. The landlord is responsible for disclosing all relevant information and if they fail to do so, we will set the penalty based on the information that is available.

Level 1 - The landlord has no significant assets and makes little or no financial profit from renting out a single property. The landlord has tried to comply with the regulations but because of a lack of finances or other restrictions, has been unable to complete them. We must consider if the landlord would be able to pay any financial penalty imposed.

Level 2 – The landlord has a small portfolio of two or three properties and makes minimal profit from rental income. They run the properties as a business but are also in full time employment. They can pay the financial penalty based on their disclosed income and assets.

Level 3 – The landlord has a medium sized portfolio of four or five properties or is a small managing agent. They run the properties as a business and make a reasonable profit from rental income. They have other assets, for example, business premises, which indicate that the financial penalty should be reasonably high so that it has an impact on their income to encourage future compliance with housing standards.

Level 4 – A professional landlord with a large portfolio of five or more properties or a large managing agent. They run the properties as a high asset value business and makes significant profit. The financial penalty must be high enough to have a real economic impact on them, demonstrating the consequences of not complying with their responsibilities and legal obligations to their tenants.

Factor 4

We must consider the effect that a financial penalty will have on the landlord, including whether this will deter them from committing further offences and make sure that they comply with their legal responsibilities in the future. We must also consider the effect that the financial penalty will have on other landlords and the way that they carry out their businesses. We need to make sure that the message to landlords is that we have a pro-active approach to giving financial penalties and will not tolerate poor standards of maintenance and management. Landlords should know that financial penalties are set high enough to punish them for any breach and to deter repeat offending.

Level 1 – We are confident that a financial penalty will deter the landlord from repeat offending and publicity around our approach will deter other landlords from offending. The landlord has fully co-operated with the investigation, accepted responsibility and has a good previous record of compliance. There may be health reasons why they have failed to comply, which may include mental or physical illness.

Level 2 – We are moderately confident that a financial penalty will deter repeat offending by the landlord and that informal publicity will encourage them to comply in the future and act a deterrent to other landlords. The landlord has complied in the past with informal intervention but has not with this offence.

Level 3 – We have little confidence that a financial penalty will deter repeat offending and will need to publicise our action. The landlord is fully aware of the housing standards required and has chosen

not to comply; this has happened regularly because the landlord wants to save money and has been convicted of housing offences in the past.

Level 4 – We have little or no confidence that a low-level financial penalty will deter repeat offending. The landlord has a history of past housing offences and of failing to comply with requirements. They have falsified documentation and tried to avoid scrutiny of their business assets by the council. The landlord houses vulnerable tenants and deliberately tries to avoid access to properties for housing inspections.

Complaints

We are committed to providing a good quality service and need to know that we are getting things right. If not, please let us know, as feedback, both positive and negative, is an opportunity to learn and improve.

If you are not happy with the response or the explanation, we give you, you can make a

formal complaint to us. You can do this at **www.rushmoor.gov.uk/complaint**.

We can also send you information about how to make a complaint on request if you email us on customerservices@rushmoor.gov.uk or call **01252 398399**.

Policy review

We will review and update this policy annually. The Head of Operational Services can agree changes to the policy in consultation with the Cabinet portfolio holder for Operational Services.

HOUSING AND PLANNING ACT 2016

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
 MATRIX TO DETERMINE LEVEL OF FINANCIAL PENALTY
 FOR BREACH OF THE ELECTRICAL
 REGULATIONS

This matrix must be scored using the information provided in this policy and can be used to determine a financial penalty that is fair, consistent and transparent

1. Choose one option from each row between Level 1 and 4 (1 being the lowest and 4 being the highest).
2. Write your score in the far-right hand column
3. Consideration must be given to all factors within the policy to determine the score.
4. All rows must be scored.
5. There is additional weighting to Factor 1 because of effect of the defects on any tenants' health and wellbeing along with their vulnerability.
6. Add up all the scores in the right-hand column and put the total scored in the bottom right hand box.
7. Look at the score range table, using the total scored which will determine a sliding scale of financial penalties to be levied dependent on the score.

Factors to consider when determining amount of financial penalty	Level 1	Level 2	Level 3	Level 4	Score per Factor
	Score = 10	Score = 20	Score = 30	Score = 40	
Factor 1 <ul style="list-style-type: none"> Severity of the offence Risk of harm caused to the tenant. 					
Factors to consider when determining amount of financial penalty	Level 1	Level 2	Level 3	Level 4	Score per Factor
	Score = 5	Score = 10	Score = 15	Score = 20	
Factor 2 <ul style="list-style-type: none"> Culpability of Landlord History of housing offences 					
Factor 3 <ul style="list-style-type: none"> Suitable financial punishment for the offence Removal of financial gain for non-compliance Consideration of landlord's income and assets 					
Factor 4 <ul style="list-style-type: none"> Deter the offender from repeating housing offences Deter other landlord from committing similar housing offences 					
				TOTAL SCORE	

Sliding scale of financial penalties to be given for breach of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Scoring range	Financial penalty to be applied
25 - 35	£100 - £2,499
40 - 45	£2,500 - £4,999
50 - 55	£5,000 - £9,999
60 - 65	£10,000 - £14,999
70 - 75	£15,000 - £19,999
80 - 85	£20,000 - £24,999
90 - 95	£25,000 - £29,999
100	£30,000

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CABINET

COUNCILLOR MAURICE SHEEHAN
OPERATIONALSERVICES PORTFOLIO HOLDER

July 2021

REPORT NO. OS2108

KEY DECISION?
NO**MINIMUM ENERGY EFFICIENCY STANDARDS (MEES) POLICY****SUMMARY AND RECOMMENDATIONS:**

The Council is committed to improving energy efficiency and reducing fuel poverty within the borough's housing stock, particularly in the private rented sector. The government have set out a clear desire to improve domestic energy efficiency and contribute to the reduction of carbon emissions and greenhouse gases to help combat climate change.

From 1 April 2018, landlords of relevant domestic privately rented properties were not permitted to grant a new tenancy or renew an existing tenancy if the property in question had an EPC band of F or G.

From 1 April 2020, landlords were not permitted to let or re-let a relevant domestic property with an EPC band of F or G.

Therefore, if a landlord wishes to continue to let a property that is below these minimum standards, they will need to carry out relevant works to raise the EPC banding to an E or above.

The responsibility for ensuring that a property has an Energy Performance Certificate rests with Trading Standards at Hampshire County Council, but responsibility for enforcing the regulations falls to the Council.

The new Minimum Energy Efficiency Standards Policy at Appendix A provides a robust framework to facilitate the Council's enforcement activity in the area.

Recommendation: -

Cabinet is recommended to approve the adoption of the new Minimum Energy Efficient Standards Policy as set out in Appendix A.

1. INTRODUCTION

- 1.1 The Council supports the government's desire to work with good landlords and to take enforcement action against those who provide poor quality accommodation. It is committed to improving energy efficiency and reducing fuel poverty. Improving energy efficiency reduces costs for vulnerable people, improves the private sector and smooths out seasonal peaks. This policy sets out how this will be achieved in the private rented sector.

2. BACKGROUND

- 2.1 Local authorities are responsible for enforcement of energy efficiency standards in the private rented sector as set out by the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. This includes monitoring and taking appropriate action against landlords who are letting properties that have an EPC band of F or G.
- 2.2 A policy is required to determine how the Council will decide when and how enforcement action should be taken when a breach is committed.
- 2.3 Councils can apply financial penalties for breaches.

3. DETAILS OF THE PROPOSAL

3.1 General

- 3.2 The new Minimum Energy Efficiency Standards (MEES) Policy describes the requirements of the MEES regulations, the exemptions, the energy efficiency measures which will improve properties and the principals of enforcement in the private sector, the exemptions to the requirements and penalties for breaching.
- 3.3 The new policy is included at Appendix A and sets the framework for the Council's enforcement activity and the application of financial penalties for non-compliance.
- 3.4 The policy forms part of our overall Housing and Homelessness Strategy, which aims to enable people to live in good quality homes that are suitable for their needs. By improving the energy efficiency of homes, ensuring that they are warm and free from hazards will help contribute to improved health and wellbeing of the people living there. This will, in turn help to reduce the number of clinical interventions required for cold and damp related health conditions.

4. Consultation

- 4.1 There is no requirement to carry out a public consultation, however, both Finance and Legal Services have been consulted.

5. IMPLICATIONS

5.1 Risks

- 5.2 The policy provides a framework by which the Council can carry out appropriate enforcement action and impose financial penalties when landlords breach their obligations under the MEES regulations. It will be clear how and why enforcement action is taken and how financial penalties are calculated. This will reduce the risk of challenge or appeal to the First-tier Tribunal.

5.3 Legal Implications

- 5.4 The policy supports the Council's duty to take appropriate action against landlords who do not comply with legal requirements to provide safe, good quality housing in the private sector.

- 5.5 The Head of Operational Services and the Corporate Legal Services Manager will consider each case before a final decision is made on the most appropriate course of action to take.

5.6 Financial and Resource Implications

- 5.7 There are no new financial implications from the recommendations of this report, as the resources will come from the existing private sector housing budget and current officer resources.

6. Equalities Impact Implications

- 6.1 It is considered that the proposed MEES policy presents no specific impact on those with protected characteristics.

- 6.2 The policy seeks to ensure equality for residents living in the private rented sector to be able to live in a home that is safe, affordable and suitable for their needs.

7. Other

- 7.1 Existing IT systems will be used to log and monitor any enforcement action.

8. CONCLUSIONS

- 8.1 The new Minimum Energy Efficiency Standards Policy will enable the Council to take appropriate enforcement action against landlords who do not comply with the MEES regulations. The powers established in the 2015 regulations provide additional tools for the Council to deal with rogue landlords.

BACKGROUND DOCUMENTS:

BEIS (2017) Private Rented Sector – the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

BEIS (2017) Guidance for landlords and local authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Statutory Instrument 962 (2015) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

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Rushmoor Housing

Minimum Energy Efficiency Standards (MEES) policy for domestic dwellings

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- 02** Introduction
- 03** General Principles of Enforcement
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- 04** Domestic properties that do not need an Energy Performance Certificate (EPC)
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- 09** How we will recover financial penalties
- 10** Rights of appeal for the landlord
- 10** Complaints
- 10** Policy Review
- 11** Appendix One

Introduction

Rushmoor Borough Council (we) are committed to improving energy efficiency and reducing fuel poverty within its housing stock, particularly in the private rented sector.

We share the government's desire to improve domestic energy efficiency and contribute to reducing carbon emissions and greenhouse gases, with the aim of helping to reduce the effects of global warming.

Wasted energy imposes unnecessary costs to owners, tenants and the wider economy. By improving the energy efficiency of domestic privately rented properties there will be many benefits, for example:

- Energy costs for vulnerable tenants will be more manageable
- The general condition of privately rented properties will improve
- Energy availability will be maintained by smoothing out seasonal peaks in energy demand
- Greenhouse gas emissions will be reduced at a reasonably low cost

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (the regulations) are designed to tackle the least energy efficient properties and target those who have an Energy Performance Certificate (EPC) banding of F or G. The regulations establish a minimum standard for domestic privately rented properties, which were introduced from 1 April 2018 for new tenancies and from 1 April 2020 for all existing tenancies.

The minimum level of energy efficiency means that:

- From 1 April 2018, landlords of relevant domestic privately rented properties may not grant a new tenancy or renew an existing tenancy if it has an EPC band of F or G.
- From 1 April 2020, landlords may not continue to let or re-let a relevant domestic property if it has an EPC band of F or G.

Therefore, if a landlord wishes to continue to let a property that is below these minimum standards, they will need to carry out relevant works to raise the EPC banding to an E or above. There are exemptions to the requirements of the regulations, and these will be detailed further on in the policy.

The responsibility for enforcing the regulations sits with us. However, the responsibility for ensuring that a property has an Energy Performance Certificate in the first place is held by Trading Standards at Hampshire County Council (HCC). For more information about the requirement to have an EPC, please go to www.hants.gov.uk/business/tradingstandards/aboutus/contactus

This policy forms part of our overall Housing and Homelessness Strategy, which aims to enable people to live in good quality homes that are suitable for their needs. There is a connection between poor housing and poor health. By improving the energy efficiency of homes, ensuring that they are warm and free from hazards will help to contribute to an improvement in the health and wellbeing of the people living there. This will, in turn help to reduce the amount of clinical interventions required for cold and damp related health conditions.

A copy of the strategy is available at
www.rushmoor.gov.uk/housingstrategies

General principles of enforcement

We have an overarching Corporate Sanctions and Enforcement Policy that provides guidance on what can be expected from our regulatory services and how enforcement action is considered and taken, ensuring consistency and good practice.

The principles used to carry out our regulatory activities are:

- Proportionality
- Consistency

- Openness and accountability
- Risk assessment and targeting

Consideration will be given to:

- The Regulators' Compliance Code
- The code for crown prosecutors
- Equality and diversity

Enforcing Minimum Energy Efficiency Standards (MEES) in the private rented sector

Local authorities are responsible for enforcing Minimum Energy Efficiency Standards (MEES) in the private rented sector as set out by the The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

This enforcement includes monitoring and taking appropriate enforcement action against landlords who are letting properties that have an EPC band of F or G.

Details of the enforcement action that we can take in the event of a breach of the regulations is detailed further on in the policy.

Since 2008, it has been a requirement for an owner or landlord to have an EPC available on the sale, letting, major modernisation or construction of a property for the prospective owner or tenant. Further information on EPC requirements can be found at www.gov.uk/buy-sell-your-home/energy-performance-certificates

An EPC is valid for ten years and after that there is no requirement for a new one to be commissioned unless one of the above trigger points is reached i.e. the property is sold or let to a new tenant.

Trading Standards at Hampshire County Council are responsible for enforcing the part of the regulations requiring the landlord of a privately rented property to have an EPC. Further details can be found at www.hants.gov.uk/business/tradingstandards/businessadvice/goodsand-services/energyperformance

Domestic properties that do not need an (EPC)

If a landlord or a seller can demonstrate that the property falls into any of the following categories an EPC may not be required:

- A property that is listed for its architectural or historical merit, where compliance with minimum energy efficiency standards would alter its character or appearance
- A property that is used as a place for worship and religious activities
- A temporary property with a planned use of two years or less
- A House in Multiple Occupation (HMO) – bedsits, hostels or shared houses that have not been in single occupation in the past ten years
- Properties where it can be demonstrated that demolition is imminent
- Properties where it can be demonstrated that it is a furnished holiday let

Types of energy efficiency measures which will improve the EPC banding of a property

If a property has an EPC below a band E, the inspection report will detail a list of measures that must be carried out to comply with the MEES regulations and to bring the property up to a band E or above. The following is not an exhaustive list of the type of work that may be required to improve the energy efficiency of a property

- External or cavity wall insulation
- Solid floor insulation
- Insulation to a hot water cylinder
- Insulation to a loft or loft room
- Draughtproofing
- Low energy lighting
- High heat retention storage heater
- Solar panels
- Replacement of single glazed windows with e-rated double glazing
- Gas-fired condensing boilers

Paying for work to improve the energy efficiency in a property if you are a landlord

Landlords are responsible for funding energy improvements to their properties to bring the EPC band to E or above. However, there is a maximum amount of £3,500 that a landlord is required to spend. If the improvements are likely to cost more than this the landlord can do the improvements up to that amount, and register “all improvements made” on the exemptions register, details of which can be found at

www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions/guidance-on-prs-exemptions-and-exemptions-register-evidence-requirements

Types of tenancies covered by MEES regulations

The regulations apply to domestic privately rented properties in England and Wales that are let under certain types of tenancy and these are:

- An assured tenancy, including an assured shorthold tenancy as defined by the Housing Act 1988
- A regulated tenancy as defined by the Rent Act 1977
- A domestic agricultural tenancy as defined in the Energy Efficiency (Domestic Private Rented Property) Order 2015 which includes:
 - A tenancy that is an assured agricultural occupancy for the purposes of section 24 of the Housing Act 1988
 - A tenancy that is a protected occupancy for the purposes of section 3(6) of the Rent (Agriculture) Act 1976
 - A statutory tenancy for the purposes of section 4(6) of the Rent (Agriculture) Act 1976

The regulations do not apply to the social housing sector or any property where a landlord is registered as a social landlord as set out in Chapter 1 of Part 1 of the Housing Act 1996.

As well as tenancy type, the regulations only apply to domestic properties that are legally required to have an Energy Performance Certificate under the following legislation:

- The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007
- The Building Regulations 2010
- The Energy Performance of Buildings (England and Wales) Regulations 2012

Exemptions to the requirements of the MEES regulations

If landlords are unable to comply with the regulations, they may be able to register an exemption on the Private Rented Sector (PRS) Exemptions Register.

The landlord must set up an account on the PRS Exemptions Register and the information that must be provided for all exemptions includes:

- The address of the property the exemption relates to
- The exemption that the landlord is registering
- A copy of a valid EPC for the property, along with any other relevant information

Landlords can apply for an exemption which may last for up to five years from the date of registration. All exemptions are made on a self-certification basis and recorded on the PRS Exemptions Register.

Details of the exemptions that can be registered are as follows:

- **High cost** – this is where the cost of carrying out even the cheapest recommended improvements to the energy efficiency of the property would be more than £3,500 (including VAT)
- **All improvements made** – this is where all the relevant energy efficiency improvements have been made within the £3,500 limit and the property remains below an EPC band E.

- **Wall insulation** – this is where the recommended wall insulation systems are not suitable for the property as determined in writing by an expert advisor, in that they may have a potentially negative impact on the fabric or structure of the property
- **Consent** – this is where third party consent is required prior to the installation of the improvements. This may be consent for planning permission, from a mortgage lender or from a superior landlord
- **Devaluation** – this is where a landlord has obtained a report from an independent surveyor advising that the installation of specific energy efficiency measures would reduce the market value of the property by more than five per cent
- **New landlord** – this is where a person has become a landlord suddenly and it would be inappropriate or unreasonable for them to comply with the regulations immediately. This exemption lasts for six months from the date that the landlord takes control of the property.

Exemptions cannot pass over to a new owner or landlord. The register can be used by us as a tool to support the enforcement of the MEES Regulations. The public have limited access to the PRS Exemptions Register, where basic information can be found.

Enforcement measures that can be used if the MEES regulations have not been followed

If we believe that a landlord has failed to fulfil their obligations set out by the MEES regulations, we can take appropriate enforcement action.

Breaches of the regulations that will attract enforcement action are:

- Where a property with an EPC band below an E, has been privately let to a new or existing tenant from 1 April 2018 and that does not have an exemption registered on the PRS Exemptions Register
- Where a property with an EPC band below an E, has been privately let from 1 April 2020 and that does not have an exemption registered on the PRS Exemptions Register
- Where a landlord has registered false or misleading information for an exemption on the PRS Exemptions Register

If we suspect that a landlord may be in breach of the regulations, we may serve a **compliance notice** on them. This will require the landlord to provide us with all relevant information to help us to establish whether there has been a breach. We can serve a compliance notice on a landlord up to twelve months after the suspected breach has taken place. The compliance notice must be made in writing and may be sent in hard copy or electronically.

The following information will be requested as part of the compliance notice:

- A copy of the EPC certificate that was valid when the property was rented out
- A copy of the tenancy agreement provided when the property was rented out

- Details of any energy improvements that the landlord has made to the property
- A copy of an Energy Advice Report for the property
- Any other documents that the landlord can provide to help us establish whether a breach has occurred

The compliance notice must include:

- The name and address of the person that a landlord must send the information to
- The date by which the requested information must be supplied, this must be at least one calendar month

On receipt of the information, we will decide whether a breach of the regulations has occurred. If no breach has been determined, no further action will be taken.

We may withdraw or amend the compliance notice if new information comes to light.

See Appendix 1 for enforcement flow chart.

Penalties for breaching the MEES regulations

Once we have established that there has been a breach of the regulations from the information in the compliance notice, we can then consider further enforcement action.

We may serve a financial penalty notice or publication notice if we are satisfied that there has been a breach of the MEES regulations. The criteria considered for enforcement action is:

- That there has been a breach of the regulations for letting a substandard property after 1 April 2018 or continuing to let a substandard property after 1 April 2020
- The compliance notice has not been complied with
- The landlord has uploaded false or misleading information to the PRS Exemptions Register

A financial penalty notice can be served up to eighteen months after the breach has occurred. The penalties can be applied for each breach and for each property where a breach has occurred.

The penalty notice will include:

- The provision of the regulations that we consider the landlord has breached
- Details of the breach
- Details of action that the landlord must take to remedy the breach and the date by which this action must be taken (this must be a minimum of one month after the notice has been issued)
- Details of how much the financial penalty is and how it has been calculated
- Details of whether a publication penalty has been imposed

- Details of the date that the financial penalty must be paid. An explanation of the review and appeals process, including the name and address of the person to whom the appeal should be made to and the date by which it must be made. This should include details of the First-tier Tribunal and how to contact them
- Details of the process that will be followed if the landlord does not pay the financial penalty within the set time advising that we may take court action to recover the money

As well as, or instead of the financial penalty, we can publish details of the breach for a set time of at least twelve months. This is referred to as a “publication penalty” that will be registered on the PRS Exemptions Register.

The information that we can publish on the PRS Exemption Register is:

- The landlord’s name (except where the landlord is an individual)
- Details of the breach
- The address of the property where the breach occurred
- The amount of any financial penalty imposed, if applicable

This information cannot be displayed during the appeal period

The financial penalties for each breach of the regulations and are as follows:

BREACH	PENALTY
Letting out a non-compliant property for less than three months	£2,000 and/or a publication penalty
Letting out a non-compliant property for three months or more	£4,000 and/or a publication penalty
Providing false or misleading information on the PRS Exemptions Register	£1,000 and/or a publication penalty
Failure to comply with a compliance notice	£2,000 and/or a publication penalty

The maximum financial penalty that a landlord can be fined per property is £5,000. However, should the landlord re-let the property on a new tenancy we can bring further financial penalties of up to £5,000 for the new breach.

How we will recover financial penalties

If the landlord does not pay the financial penalty we may take the landlord to court to recover the money. We must provide a certificate signed by the person with responsibility for our financial affairs stating that the payment was not received by the given date. This will be accepted as evidence of the landlord's non-compliance with the penalty notice.

Rights of appeal for the landlord

If a landlord does not agree with the financial penalty notice, they can ask us to review its decision. A financial penalty notice can be withdrawn if the following criteria is met:

- New evidence has been provided by the landlord confirming that the breach did not occur
- A breach did occur, but the landlord has taken all reasonable steps to avoid the breach
- After consideration of the circumstances of the case we do not feel that it was appropriate to issue the financial penalty notice

If, after consideration of the appeal or request for a review from the landlord, we decide to uphold the financial penalty notice, the landlord has the right to appeal to the First-Tier Property Tribunal. The circumstances under which the landlord can make this appeal is:

- There was an error of fact or law by us when the financial penalty notice was served
- The financial penalty notice does not comply with the requirements of the regulations
- The landlord feels that it was inappropriate for us to serve a financial penalty notice considering his circumstances

Complaints

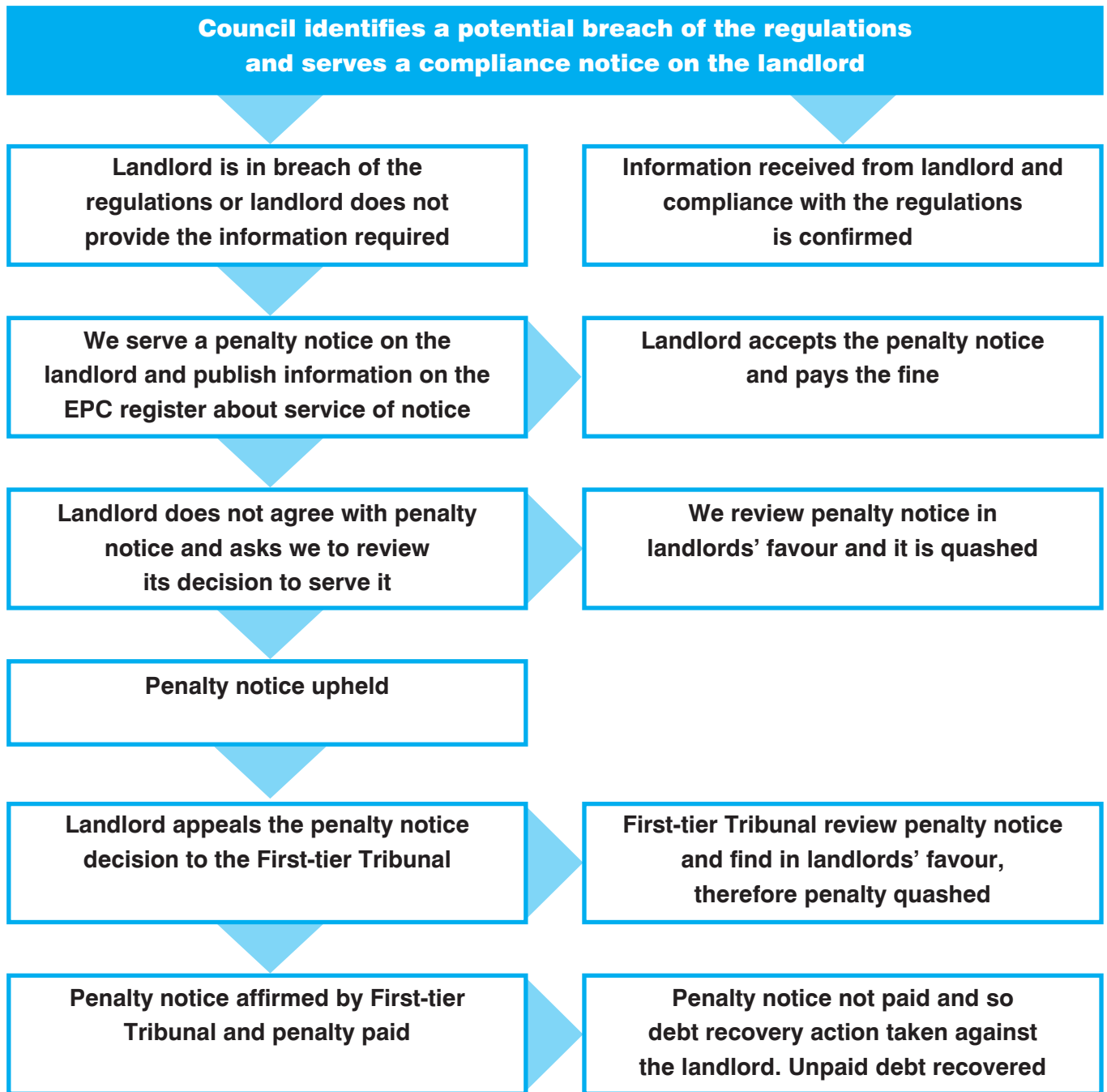
We are committed to providing a good quality service and we need to know that we are getting things right. If not, please let us know, as feedback, both positive and negative, is an opportunity to learn and improve services. If you are not happy

with the response or explanation we give, you can find out how to make a formal complaint at www.rushmoor.gov.uk/complaint. You can also ask us for information by emailing customerservices@rushmoor.gov.uk or by calling **01252 398 399**

Policy Review

This policy will be updated and reviewed annually. The Head of Operational Services can agree changes to the policy in consultation with the Cabinet member for Operational Services.

Appendix 1 - Enforcement flow chart - MEES



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CABINET

COUNCILLOR MARTIN TENNANT
MAJOR PROJECTS AND PROPERTY

06 July 2021

REPORT NO. RP2105

KEY DECISION: YES

SOUTHWOOD SANG VISITOR CENTRE AND CAFÉ DESIGN DEVELOPMENT**SUMMARY:**

This report requests the approval of funding and the procurement of the professional team to progress design development for the Southwood SANG Visitor Centre and Café.

RECOMMENDATIONS:

CABINET RECOMMENDS TO COUNCIL that £126,000 is allocated from the Stability and Resilience reserve to facilitate the design development and planning application for the Visitor Centre and Café. Subject to the 2020/21 outturn position, alternative funding may be available and will replace funding from the Stability & Resilience reserve.

Cabinet is recommended to:

1. Note that, following marketing, a conditional agreement for lease with a suitably experienced Café Operator will be entered into to enable input into design development.
2. Note that a Final Business Case will be prepared for review by Cabinet once planning permission has been received in order to release full Capital allocation (est. £1,074,000).

1. INTRODUCTION

- 1.1 The purpose of this report is to seek approval to proceed with design development for the SANG Visitor Centre and Café at Southwood Country Park following an initial feasibility study.
- 1.2 This is a key decision because of the funding allocation required to progress to the next stage of project delivery.

2. BACKGROUND

- 2.1 In 2017, Cabinet resolved that Southwood Golf Club be closed to provide Suitable Alternative Natural Greenspace (SANG) in order to create natural open space and to mitigate the impact of new housing on the Special Protection Area (SPA). The new SANG would be called Southwood Country Park and the creation and management of the SANG would be funded through developer contributions.
- 2.2 Officers have been working with the Portfolio Holders and Deputy Leader to consider options for the former Golf Club buildings which could include a visitor centre, toilets, rangers' office, and education space, funded through developer contributions. The original SANG budget allocated £200,000 for SANG related accommodation but it is considered that up to £600,000 could be made available within the overall funding for the SANG.
- 2.3 There is an aspiration to enhance this with a café. This element would not be funded by developer contributions as it is not an eligible cost and therefore any capital investment would be based on a business case which demonstrates the return-on-investment for this aspect.
- 2.4 Soft market testing has been undertaken with several Café Operators including two with experience of running facilities in Country Parks to understand the financial model and viability of the investment. The feedback was that, to ensure the quality of the provision as part of offers and to secure a long-term relationship with a provider, a turnover-based rent will be necessary as part of the arrangement.

3. DETAILS OF THE PROPOSAL

General

- 3.1 To progress the scheme, it is necessary to develop the detailed design. Several options have been assessed at high-level as part of developing the initial feasibility and Outline Business Case. To reduce cost, it is anticipated that the project will use as much of the existing building as possible.
- 3.2 The SANG Visitor Centre elements are funded via developer contributions up to a maximum of £600,000. This money has not been received by the Council due to delays in development. It was originally anticipated that a substantial proportion of this funding would be received in 2022/23. However, the Union St development that will contribute £962,526 of the SANG funding is now due to be occupied in 2024 prior to which the SANG payment must be made. Currently £59,701 from another development has been received with a further equal sum expected within the next 12 months together with £18,670 from a further development. Further allocations and receipts are expected between now and 2024 on smaller developments. These SANG payments must fund not only SANG accommodation but also the environmental improvement, management,

and maintenance of the park. Therefore, the funding of the SANG visitor centre elements are likely to require forward funding until 2024.

- 3.3 Consideration has been given to the appropriateness of providing a flat on site. Provision of accommodation within the park would not be in accordance with planning policy unless related to and necessary for, the management of the park. Security does not constitute a matter that can be considered in these circumstances. Early soft market testing with external SANG operators suggested that provision of tied accommodation was likely to be disadvantageous in attracting employees with the management skills required for the Country Park as, from previous experience, providers have had difficulties with finding suitable occupants for such accommodation. Although there is a financial case if this unit could be occupied in terms of return compared to capital cost, this would be a risk to the provider and the Council if unoccupied. While, from a security perspective, there are attractions to the provision of accommodation the planning and the associated capital finance risk of not having revenue generated from the flat, based upon planning officer comments in relation to restricted use, means that it is not proposed to include a residential unit within the suggested development. In designing the premises and planning the management of security will, therefore, need to be an important consideration and the costs included within the final business case.
- 3.4 An Outline Business Case has been developed based on a return-on-investment model of 5% per annum return on capital investment with time for scaling-up (i.e.,30 year pay back). This includes an element for MRP within the debt profile.
- 3.5 The Outline Business Case has used a baseline rent of £12,000 p/a plus 5% of turnover estimated at £18,000 per annum, based upon soft market testing. This generates a maximum capital funding envelope of £600,000.00 for the development of Café facilities alongside the Visitor Centre and therefore an overall maximum capital envelope of £1,200,000 for project delivery.

Alternative Options

- 3.6 There is an option to develop the SANG Visitor Centre facilities without a Café within the allocated £600,000 funding from developer contributions. While this would reduce Capital investment and risk to the Council, the combined Visitor Centre and Café is identified as a priority for Place within the Council Business Plan and generally this type of facility supports a cafe.
- 3.7 The creation of Southwood Country Park is a significant amenity for residents across the Borough and has already attracted considerable visitor numbers without any facilities. There is an aspiration to maximise visitor numbers and enhance the visitor experience by offering a high-quality café on the site subject to business case.

- 3.8 There are several SANG/SPA facilities which have a similar offer who have seen a significant uptake in visitor numbers following investment in an on-site café and an overall enhancement to the value of the local amenity.

4. IMPLICATIONS

Risks

- 4.1 Through the soft market testing exercise for SANG operators, we have established that most Country Park operators consider the provision of a café on added amenity value terms rather than business case viability. Accordingly, there are no external benchmarks readily available and there is a risk that the Café will not achieve the turnover projected in the business case. Based upon the soft market testing this risk is low due to the visitor numbers already using the Park as well as Southwood Woodland who would also access the Café.
- 4.2 The substantial developer contributions which will fund the development of the SANG Visitor Centre have been delayed until 2024 and there remains the risk that there could be further delay. This means that the Council will need to forward-fund this element if the project proceeds.
- 4.3 The soft market testing evidenced interest from café operators in the facility. We intend to secure terms for a letting to an operator early in the design process to ensure input into design development subject to a final decision on funding and planning permission for the project.
- 4.4 There are several exclusions in the project cost estimate (e.g., fit out of café) and agreement as to how these will be met will form part of the letting terms negotiation. A review of site security options still has to be completed to avoid significant ongoing revenue cost.
- 4.5 Detailed surveys have not been undertaken, however, as the intention is to use much of the existing foundation and footings and lightweight timber construction, we believe that the risk of abnormal costs on the project are relatively low.

Legal Implications

- 4.6 The agreement for lease will be conditional on grant of planning permission and approval of capital funding for the project.

Financial and Resource Implications

- 4.7 The concept design has an indicative cost of approximately £1,200,000. This is an estimate only at this stage; however, it is anticipated that this would be a maximum Capital funding requirement as the project will look to utilise as much of the existing building as possible to reduce costs.

- 4.8 A Final Business Case will be developed to support the decision to progress the scheme following the next stage (design and planning). Visitor counters have now been installed at the site to provide better data to inform this.
- 4.9 Cabinet is recommending to Council to approve an allocation of £126,000 from the Stability and Resilience reserve to progress detailed design and planning in the next phase. Subject to the 2020/21 final outturn, alternative funding will be identified to reduce the pressure on the Stability and Resilience reserve.
- 4.10 It is worth noting that expenditure on the design and planning stage is at risk. The Council has not received any significant SANG receipts and it will need to fund all elements of the project until such a point that SANG adequate SANG receipts have been received to fund eligible expenditure. In the short-term, the Council will need to finance any expenditure from the Stability and Resilience reserve but will seek to identify alternative funding streams to mitigate the impact on this reserve over the MTF5 period.

Equalities Impact Implications

- 4.11 There are no known Equalities Impact Implications arising from this report.

5. CONCLUSIONS

- 5.1 Development of a Visitor Centre and Café at Southwood Country Park is identified as a priority for Place in the Council Business Plan. An Outline Business Case has been developed to understand the capital investment required to fund the Café element of the scheme and the return-on-investment model that would support this.
- 5.2 Based on soft market testing, concept design development and indicative cost estimates, it is anticipated that the Capital investment would pay back over a maximum 30-year period.
- 5.3 In order to progress the scheme and a Final Business Case, detailed design work is required. The anticipated costs for design and professional fees up to contract award (and Final Business Case) is £126,000.
- 5.4 This investment is at risk if the scheme does not go ahead.

BACKGROUND DOCUMENTS:

CABINET REPORT NO. EPSH1934 - SOUTHWOOD COUNTRY PARK SANG

CONTACT DETAILS:

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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