



RUSHMOOR BOROUGH COUNCIL

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

*at the Council Offices, Farnborough on
Monday, 26th November, 2018 at 7.00 pm*

To:

Cllr J.E. Woolley (Chairman)
Cllr Jacqui Vosper (Vice-Chairman)

Cllr Sue Carter
Cllr M.S. Choudhary
Cllr A.K. Chowdhury
Cllr Liz Corps
Cllr A.H. Crawford
Cllr A.J. Halstead
Cllr B. Jones
Cllr Marina Munro
Cllr M.D. Smith

Enquiries regarding this agenda should be referred to the Committee Administrator,
Kathy Flatt, Democratic and Customer Services, Tel. (01252 398829) or email
kathy.flatt@rushmoor.gov.uk.

A G E N D A

1. **MINUTES – (Pages 1 - 6)**

To confirm the Minutes of the Meeting held on 24th September, 2018 (copy attached).

2. **TREASURY MANAGEMENT MID-YEAR REPORT – (Pages 7 - 24)**

To consider the Executive Head of Finance Report No. FIN1836 (copy attached), which sets out the main activities of the Treasury Management Operations during the first half of 2018/19.

3. **INTERNAL AUDIT UPDATE – (Pages 25 - 44)**

To consider the Internal Audit Manager's Report No. AUD1805 (copy attached), which provides an update on Audit Plan delivery to date and expected deliverables for the remainder of quarters 3 and 4.

4. **DATA PROTECTION BREACH POLICY – (Pages 45 - 56)**

To consider the Audit Manager's Report No. AUD1807 (copy attached), which seeks approval for an updated Data Protection Breach Policy to meet the new General Data Protection Regulation and reporting requirements to the Information Commissioner's Office.

5. **AUDIT CHARTER – (Pages 57 - 70)**

To consider the Audit Manager's Report No. AUD1806 (copy attached), which seeks approval for an Internal Audit Charter, which has been developed to detail the purpose, authority and responsibility of Internal Audit within Rushmoor Borough Council.

6. **ADDITIONAL ITEM - PROPOSED VARIATION TO THE STANDARD SEX SHOP LICENCE CONDITIONS – (Pages 71 - 84)**

To consider the Head of Operational Services Report No. EHH1826 (copy attached), which sets out proposals to vary the standard conditions currently applied to sex shop licences.

PUBLIC PARTICIPATION AT MEETINGS

Members of the public may ask to speak at the meeting on any of the items on the agenda by writing to the Committee Administrator at the Council Offices, Farnborough by 5.00 pm three working days prior to the meeting.

This page is intentionally left blank

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

Meeting held on Monday, 24th September, 2018 at the Council Offices, Farnborough at 7.00 pm.

Voting Members

Cllr J.E. Woolley (Chairman)

Cllr Sue Carter
Cllr A.K. Chowdhury
Cllr Liz Corps
Cllr A.H. Crawford
Cllr A.J. Halstead
Cllr Marina Munro
Cllr M.D. Smith

Apologies for absence were submitted on behalf of Cllr Jacqui Vosper, Cllr M.S. Choudhary and Cllr B. Jones.

17. MINUTES

The Minutes of the Meeting held on 30th July 2018 were approved and signed by the Chairman.

18. ANNUAL AUDIT LETTER

The Chairman welcomed to the meeting Ms. Justine Thorpe of Ernst & Young who presented the external auditor's annual audit letter for the year ended 31st March 2018. The purpose of the annual audit letter was to communicate to Members and external stakeholders, including members of the public, the key issues arising from the work of the external auditor which it was felt should be brought to the attention of the Council. It was noted that the annual audit letter had to be published on the Council's website by the end of October, 2018

The Committee was advised that the areas of work covered by Ernst & Young had been:

- To provide an opinion on the Council's financial statements – where the auditor had given an unqualified opinion – The auditor was of the opinion that the financial statements gave a true and fair view of the financial position of the Council as at 31st March, 2018 and of its expenditure and income for the year then ended.
- To provide an opinion on the consistency of other information published with the financial statements – The auditor had stated that other information published with the financial statements was consistent with the Annual Accounts.

- To conclude on the Council's arrangements for securing economy, efficiency and effectiveness – The auditor had concluded that the Council had put in place proper arrangements to secure value for money in the use of its resources.

The annual audit letter also set out key areas of significant risk, which had been tested. These included:

- risk of fraud in revenue and expenditure recognition
- risk of management override
- property, plant and equipment valuation
- pension liability valuation

The auditor's testing had identified no mis-statements from revenue and expenditure recognition, no material weaknesses in controls or evidence of material management override and no material mis-statements from inappropriate judgements being applied to the property valuation estimates.

Areas of work where reports would be provided by exception included:

- Consistency of the Annual Governance Statement – The auditor was of the opinion that the Annual Governance Statement was consistent with the auditor's understanding of the Council.
- Public interest report – The auditor had no matters to report in the public interest.
- Written recommendations to the Council, which should be copied to the Secretary of State – The auditor had no matters to report.
- Other actions taken in relation to the auditor's responsibilities under the Local Audit and Accountability Act 2014 – The auditor had no matters to report.
- Reporting to the National Audit Office on review of the Council's Whole of Government Accounts return – The auditor had no matters to report.

The Committee was also advised that the Audit Results Report had been issued on 30th July, 2018 and a certificate of completion of the audit had been issued on 31st July 2018 in accordance with the requirements of the Local Audit and Accountability Act 2014 and the National Audit Office's 2015 Code of Audit Practice.

Members were informed that, in November 2018, the auditor would also issue a report to those charged with governance of the Council summarising the certification work undertaken on the 2017/18 housing benefits claim.

RESOLVED: That the Annual Audit Letter for the year ended 31st March, 2018 be noted.

19. **CONSULTATION ON PROPOSED REVISION TO THE COUNCIL'S STATEMENT OF LICENSING POLICY**

The Committee considered the Head of Environmental Health and Housing Report No. EHH1824 regarding the preparation and publication of a revised Statement of Licensing Policy. Following various legislative changes and a review, a number of changes to the Council's licensing policy were proposed to ensure that the policy was current and up-to-date.

The Committee was advised that, following consideration by the Cabinet, the revised licensing policy had been approved for public consultation. Given its role and responsibilities, the views of the Committee were sought on the revised policy and any comments or recommendations would be reported to the Cabinet for consideration and determination, as appropriate.

In considering the proposed changes, the Committee was advised of the legislative updates including:

- The Police Reform and Social Responsibility Act 2011
- The Live Music Act, 2012
- The Anti-social Behaviour, Crime and Policing Act 2014
- The Deregulation Act 2015
- The Immigration Act 2016
- The Policing and Crime Act 2017

Under the Licensing Act, a licensing authority had to carry out its functions with a view to promoting the following licensing objectives. These were included in the proposed policy, namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance; and
- the protection of children from harm

The proposed policy also outlined the arrangements for the licensing authority to make recommendations in respect of the restriction of children to any exhibition of film which had not been classified by the British Board of Film Classification. This accorded with mandatory condition requirements applicable to the exhibition of films.

The Report then explained a change regarding neighbourhood notifications. It was proposed that the current policy of issuing neighbourhood notifications of applications should be withdrawn. This had been recommended on the basis that the Act placed the onus of advertising applications on the applicant.

The Committee noted that one of the key features of the 2010 policy review had been the implementation of a special policy concerning the cumulative impact of licensed premises. At the time, the policy had been implemented to restrict the grant and/or variation of premises licences in a defined area of Aldershot town centre and had been based on the request of, and evidence of cumulative impact provided by, Hampshire Constabulary. This special policy had been subject to annual review

and, whilst invoked on a handful occasions, had lapsed after twelve months due to lack of continuing justification and evidence of an ongoing problem.

The Committee was advised that the Council had to consult a number of statutory stakeholders and individuals who might be affected by any changes (eg the licensed trade and residents in the area). It was proposed to run the consultation period until 19th October 2018. The Statement of licensing policy would be submitted to the Full Council for approval following consideration by the Cabinet.

Whilst subject to some discussion, Members made no substantive comments or suggested amendments on the contents of the proposed policy document.

RESOLVED: That the draft Statement of Licensing Policy contained in the Head of Environmental Health and Housing Report No. EHH1825 be endorsed.

20. **FEES AND CHARGES (ANIMAL WELFARE LICENSING AND SKIN PIERCING REGISTRATION)**

The Committee considered the Head of Environmental Health and Housing Report No. EHH1825 which sought approval for revised fees for animal welfare licensing and skin piercing registration provided by the Environmental Health Service.

The Committee was advised that The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 would come into force on 1st October 2018 and would consolidate animal licensing regimes into one piece of law. It was noted that, under the new regulations, a new licensing regime had to be put in place to control the licensable activities of:

- selling animals as pets (pet shops)
- boarding for cats or dogs (home, kennels, catteries, day care)
- hiring out horses
- breeding dogs
- keeping or training animals for exhibition

The new regulations replaced the licensing regimes under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Acts 1964 and 1970, Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999 and the Performing Animals (Regulation) Act 1925. It was noted that current licences issued under the previous legislation would continue to be valid until they expired. Licences would then need to be applied for under the new regime. The Report set out the proposed revised fee structure and the method of fee construction together with the new processes to be followed.

Members were also advised that the fees for skin piercing had last been uplifted on 1st April 2018 and that these should be uplifted again in line with inflation. The Committee was informed that the proposed fees in respect of skin piercing registration (acupuncture, tattooing, ear piercing and electrolysis) would be increased from £167 (per premises) to £173 and from £94 (per person) to £97, to take effect from 1st April 2019.

RESOLVED: The Committee approved the revised fees set out in the Head of Environmental Health and Housing's Report No. EHH1825, with fees in respect of animal welfare licensing taking effect from 1st October 2018 and the fees for skin piercing registration taking effect from 1st April 2019.

21. **APPOINTMENT OF INTERIM EXECUTIVE HEAD OF FINANCE**

The Chairman advised the Committee of an urgent executive decision which had been taken by the Chief Executive in consultation with the Portfolio Holder and Executive Director in August 2018 to appoint an Interim Executive Head of Finance and Section 151 Officer following the resignation of the previous post holder. The urgency related to the need for a statutory Section 151 Officer and the requirement to deal with the process for the following year's budget. Following interview, the Chief Executive, Portfolio Holder and Executive Director had appointed Mr. Peter Timmins to the role, pending recruitment in due course when the Committee would make an appointment. Members noted that the interim appointment was for 6-12 months. Prior to the appointment, the Chief Executive had informed the Leader of the Council, the Leader of the Labour Group and the Chairman of action to be taken. The Cabinet and all Members of the Council had also been informed of the appointment.

RESOLVED: That the urgent action taken by the Chief Executive, in respect of the appointment of an Interim Executive Head of Finance, be endorsed.

The meeting closed at 8.04 pm.

CLLR J.E. WOOLLEY (CHAIRMAN)

This page is intentionally left blank

LICENSING, AUDIT & GENERAL
PURPOSES COMMITTEE
26 NOVEMBER 2018

EXECUTIVE HEAD OF FINANCE
REPORT NO. FIN1836

TREASURY MANAGEMENT OPERATIONS MID-YEAR REPORT 2018/19

SUMMARY AND RECOMMENDATIONS:

SUMMARY: This report sets out the main activities of the Treasury Management Operations during the first half of 2018/19.

RECOMMENDATION:

1. Note the contents of the report in relation to the activities carried out during the first half of 2018/19.
2. Note the low level of investment income returned from Payden & Rygel's Sterling Reserve pooled fund and the option to replace with an higher yielding fund
3. Approve an increase of £5m in Collective Investment Schemes (pooled funds) investment limit as set in Annual Treasury Management Strategy for 2018/19 approved by Council on 22nd February 2018. The increased investment level would allow the reinvestment of the remaining Covered Bonds due to redeem in December 2018 and increase investment income return.

1 INTRODUCTION

- 1.1 The Treasury Management Strategy for 2018/19 is underpinned by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2011, which includes the requirement for determining a treasury strategy on the likely financing and investment activity for the forthcoming financial year. The Code also recommends that members are informed of Treasury Management activities at least twice a year. This report therefore ensures this authority is embracing best practice in accordance with CIPFA's recommendations.
- 1.2 This report sets out the main activities of the Treasury Management Operations during the first half of 2018/19, provides an update on the current economic conditions affecting Treasury Management decisions and a forward look for the remainder of 2018/19.
- 1.3 Appendix A shows the actual prudential indicators relating to capital and treasury activities for the first half of 2018/19 and compares these to the indicators set in the Annual Treasury Management Strategy for the year. This Strategy was originally approved by Council on 22nd February 2018.

2 TREASURY MANAGEMENT ADVICE

- 2.1 The Council receives independent treasury advisory services from Arlingclose Ltd. Arlingclose provide treasury advice to 25% of UK local authorities including technical advice on debt and investment management, and long-term capital financing. They advise on investment trends, developments and opportunities consistent with the Council's Treasury Management Strategy.
- 2.2 With the exception of pooled funds all investment activity is carried out by the Council's own treasury team with advice from Arlingclose Ltd, as outlined in paragraph 2.1 above, and having due regard to information from other sources such as the financial press and credit-rating agencies.
- 2.3 Pooled funds are managed at the discretion of the external fund managers associated with each fund. It should however be noted that whilst the funds are externally managed, the decision as to whether to invest lies solely with the Council in accordance with its Treasury Management Strategy.
- 2.4 Officers involved in treasury activities have attended Arlingclose treasury management meetings on investment security, liquidity and yield during the 6 months to 30th September 2018.

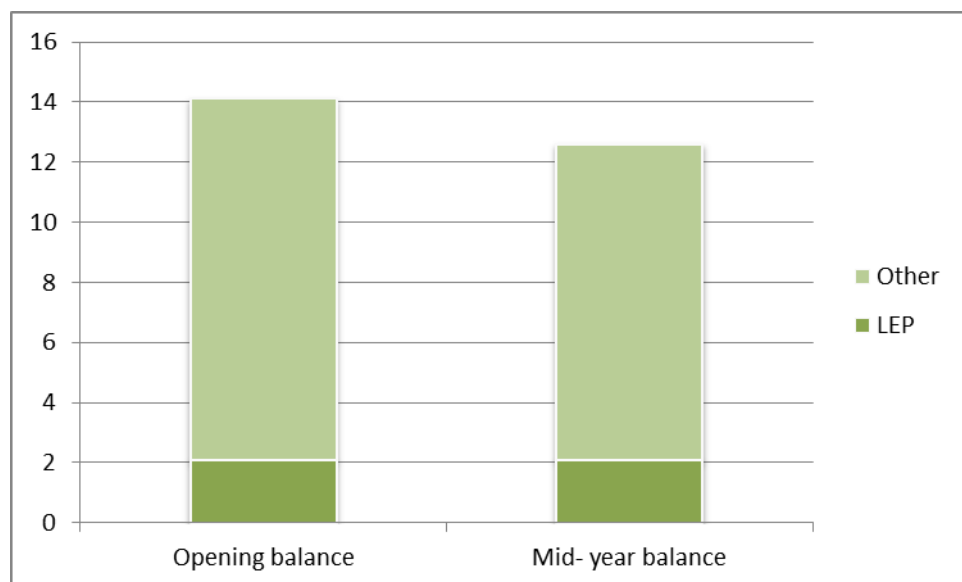
3 ECONOMIC BACKGROUND

- 3.1 A detailed market commentary provided by Arlingclose is provided at **Appendix A** to this report.
- 3.2 The commentary highlights there is continual economic uncertainty due to lack of an agreement between the UK and the EU which will be legally binding on separation issues and the financial settlement, even though Article 50 expires on 29th March 2019.

4. BORROWING ACTIVITY IN 2018/19

- 4.1 At the start of the current financial year the Council had external debt amounting to £14.1m, composed of £2.1m Enterprise M3 LEP monies and the remainder (£12m) borrowed short-term from two UK local authorities.
- 4.2 Actual capital expenditure has not significantly progressed in the first half year, and £1.5m of the local authority borrowing has been repaid in the first half of the year. Total borrowing at the mid-point of the financial year therefore amounted to £12.6m.

Borrowing movement



- 4.3 It should be noted that the Council enjoys an element of revenue cash buoyancy for the first ten months of each financial year. This is due to the timing of council tax and NDR income receipts matched against outgoing precepts and demands from HCC and government bodies.
- 4.4 The volume of capital expenditure is however likely to accelerate during the second half of the financial year, and some additional borrowing within the second half of the year to service this expenditure will be required.
- 4.5 The Council's Authorised Limit for external debt is £50m for 2018/19 as outlined within the Annual Treasury Management Strategy report. This limit was set in relation to the 2018/19 approved capital programme. However, the actual amount of external borrowing at the end of the current financial year will depend largely on the overall volume of capital expenditure that will actually be incurred.

5. INVESTMENT ACTIVITY IN 2018/19

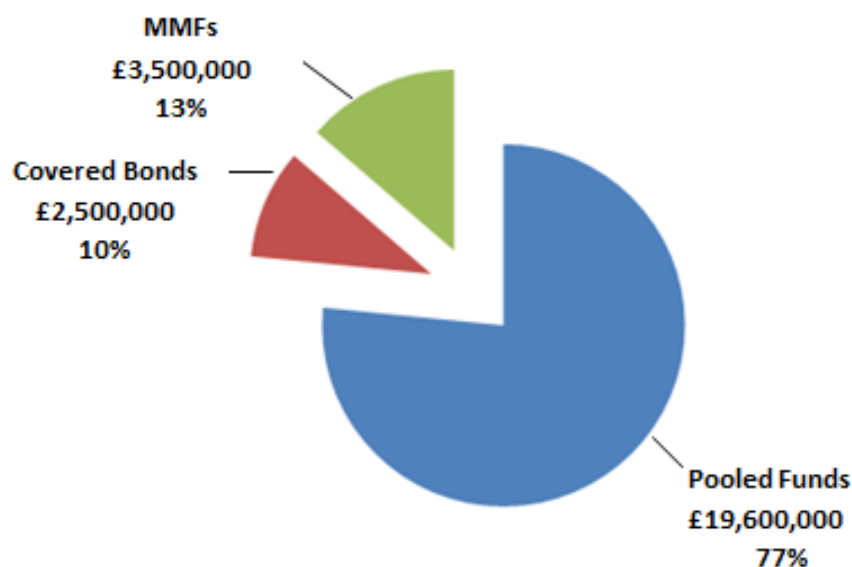
- 5.1 The Guidance on Local Government Investments in England gives priority to security and liquidity and the Council's aim is to achieve a yield commensurate with these principles. The graph at Appendix B has been produced by Arlingclose and demonstrates that during the six months to 30th September 2018 the Council's returns on total investment portfolio were in excess of 1.5%. This return is down compared to the total investment returns generated during the previous financial year (2017/18 2.5%). The current half-year performance is however good when benchmarked against the average of 1.25% yield for all 135 Arlingclose local authority clients

5.2 **All Investments** – The table that follows summarises deposit/investment activity during the 6-month period to 30th September 2018. Overall, there was a decrease of £1.7m invested during the period.

Investment Counterparty	Balance at 01/04/18 £m	Investments Made £m	Maturities/ Investments Sold £m	Balance at 30/09/18 £m	Avg Rate % and Avg Life (yrs)
Covered Bonds	4.5	-	(2.0)	2.5	Yields ... Libor + 01.18%- 1.47%
AAA-rated Money Market Funds and short-term bank investments	3.2	Net increase in investment of 0.3	Activity in & out on a daily basis, resulting in a net increase in the period	3.5	Varies daily Average 0.54%
Pooled Funds:					
• Payden	5.0	-		5.0	0.79%
• CCLA	3.6	-		3.6	4.83%
• UBS Multi Asset	5.0	-		5.0	3.92%
• Threadneedle	2.0	-		2.0	3.12%
• M & G	4.0	-		4.0	3.60%
TOTAL INVESTMENTS	27.3	0.3	(2.0)	25.6	

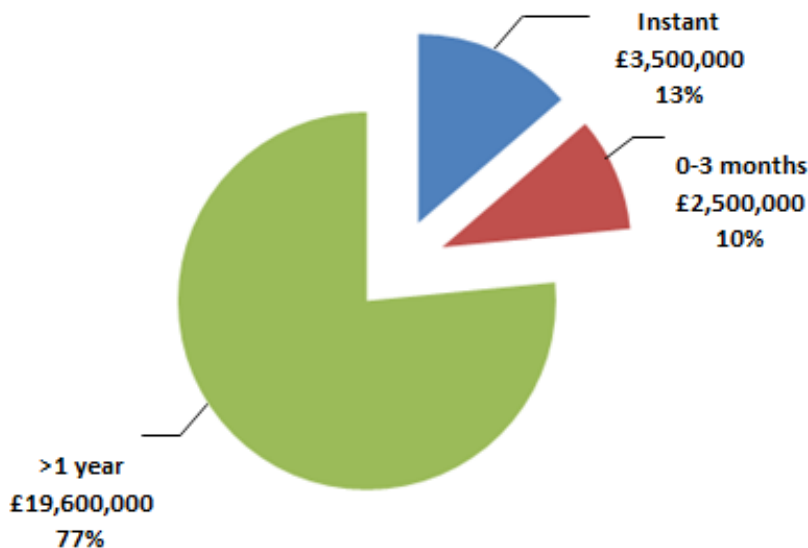
5.3 The following pie charts illustrate the spread of investments by counterparty along with a maturity analysis. These illustrate continued diversity.

Type of Counterparty



Maturity Analysis for ALL INVESTMENTS as at 30th September 2018	Amount invested £	% of total investments
Instant	3,500,000	13
0-3 months	2,500,000	10
3-6 months		-
6-9 months	-	-
9-12 months	-	-
> 1 year	19,600,000	77
Total for all duration periods	25,600,000	100

Maturity Analysis



5.4 The rate of return has been calculated as (1) External pooled funds (income return for the past year), (2) Over investments (effective rate of investments held at the end of the financial year). It should be noted that it is a “snapshot“ of returns for the year. For 2018/19, the Council continued to use secured investment options or diversified alternatives such as covered bonds, non-bank investments and pooled funds over unsecured bank and building society deposits. Details of the Council’s investment activity together with returns generated during the first half of 2018/19 are outlined as follows:

5.5 Pooled Funds

Pooled Fund Capital Growth As these are long-term investments (3-5 year window) Finance staff monitor the capital value of these investments on a monthly basis.

Arlingclose continue to confirm, “we review all our advised funds regularly, and if we think the fund manager is under performing, or the fund holdings are no longer suitable for clients, then we will advise you to sell”.

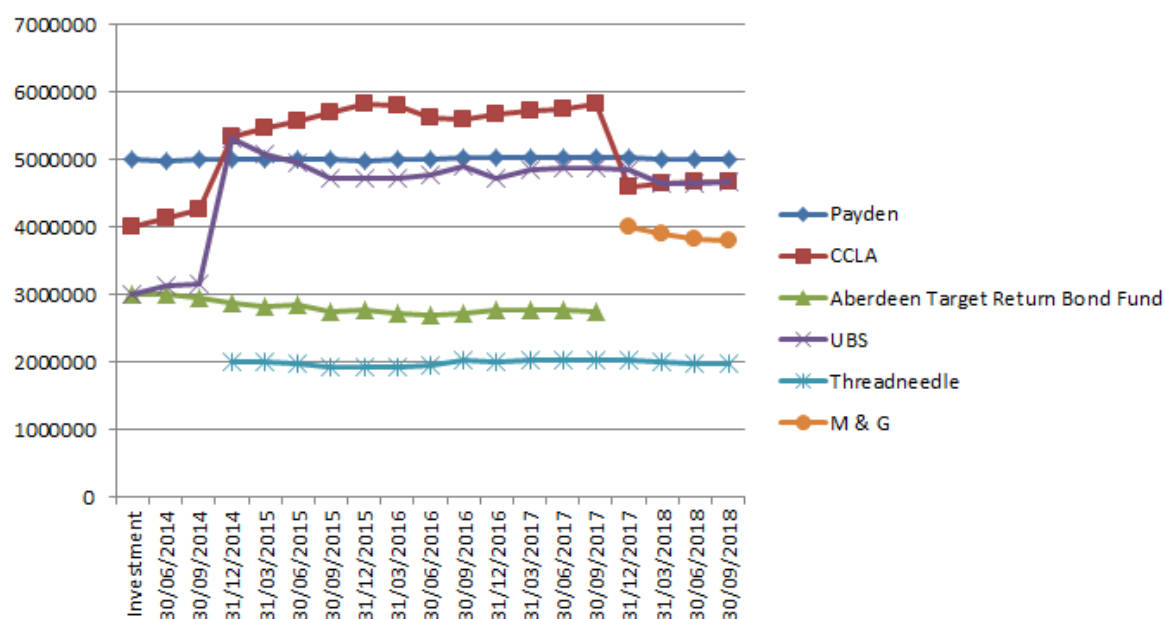
Pooled Fund Income Returns – The income returned by fund for the period to 30th September 2018 is analysed below (all percentage returns quoted below are measured at 12-month running averages):

- Payden & Rygel's Sterling Reserve Fund - £5 million investment. The Fund seeks to provide capital security, liquidity and income through investment in Sterling denominated investment-grade debt securities. The fund has provided a 0.79% income return performance. Due to the low level of income returned an alternative pooled fund option is being considered
- CCLAs Local Authorities' Mutual Investment Trust - £3.9 million investment. The fund has provided a 4.83% income return performance.
- UBS Multi-Asset Income Fund - £5 million investment . This Fund follows a strategy of reducing volatility exposure levels by spreading investments across a diversified range of asset classes. The fund has provided a 3.92% income return performance.
- Columbia Threadneedle Strategic Bond Fund - £2 million investment. This Fund aims to provide income and capital appreciation through investment grade and high yield bonds. The fund has provided a 3.21% income return performance.
- M & G Corporate Bond Fund - £4m invest in December 2017. This Fund aims for a target total return of 3-5% from a combination of investment income or capital appreciation. This fund has provided a 3.60% income return performance.

5.6 The history of market valuations for each of the Council's pooled funds is given in the table that follows.

HISTORY OF MARKET VALUATIONS FOR THE COUNCIL'S POOLED FUND INVESTMENTS

Amounts in £



5.7 **Bonds** – debt instruments in which an investor lends money for a specified period of time at a fixed rate of interest. **Covered Bonds** are conventional bonds that are backed by a separate group of loans (usually prime residential mortgages). When the covered bond is issued, it is over collateralised, with the pool of assets being greater than the value of the bond. The use of covered bonds has allowed the Council to actively move away from unsecured bank deposits, hence reducing exposure to bail-in. During the first half year 2018/19, the Council had not negotiated additional bonds and is actively managing down its covered bonds. All bonds are due for redemption in 2018/19, with the one remaining bonds due for redemption in December 2018.

5.8 The council is a borrowing authority; any bonds that are redeemed offset the need to borrow. However, interest income is lost which has a revenue implication. Current short-term borrowing rate are around 1% and there is an option to reinvest the current active bond on redemption within a higher yielding pooled fund, producing a net benefit when taking into account borrowing rates. To enable a reinvestment of the Covered Bond in pooled funds the investment limit for pooled funds needs to be increased above the current £20m limit.

5.9 **Other Investments** – The Council continues to maintain some diversity in its portfolio by holding the following in institutions other than UK banks:

- Various temporary investments across a range of approved unsecured banks and building society counterparties all for durations of 6 months or less at rates ranging between 0.35% - 0.64% (as measured towards the end of the first half-year 2018/18). These temporary investments assist the Council to achieve essential cash liquidity on a daily basis. At the mid-point of the 2018/19 year the holding amounts to £3.5m.

6 TREASURY MANAGEMENT INDICATORS

- 6.1 The Treasury Management Code requires that local authorities set a number of indicators for treasury management performance. The Council has also adopted a voluntary measure for credit risk as set out in paragraphs 3.2 to 3.4.
- 6.2 **Credit Risk (Credit Score Analysis):** Counterparty credit quality is assessed and monitored by reference to credit ratings. Credit ratings are supplied by rating agencies Fitch, Standard & Poor's and Moody's. Arlingclose assign values between 1 and 26 to credit ratings in the range AAA to D, with AAA being the highest credit quality (1) and D being the lowest (26). Lower scores mean better credit quality and less risk.
- 6.3 The advice from Arlingclose is to aim for an A-, or higher, average credit rating, with an average score of 7 or lower. This reflects the current investment approach with its focus on security. The scores are weighted according to the size of our deposits (value-weighted average) and the maturity of the deposits (time-weighted average).
- 6.4 The table below summarises the Council's internal investment credit score for deposits during the 6-month period to 30th September 2018. The Council's scores fall comfortably within the suggested credit parameters. This represents good credit quality deposits on the grounds of both size and maturity.

Date	Value Weighted Average – Credit Risk Score	Value Weighted Average – Credit Rating	Time Weighted Average – Credit Risk Score	Time Weighted Average – Credit Rating
Q2 2017/18	3.46	AA	1.03	AAA
Q3 2017/18	3.46	AA	1.03	AAA
Q4 2017/18	3.63	AA-	1.05	AAA
Q1 2018/19	3.53	AA-	1.06	AAA
Q2 2018/19	2.79	AA	1.06	AAA

- 6.5 **Interest Rate Exposure:** This indicator is set to monitor the Council's exposure to the effects of changes in interest rates. The indicator calculates the relationship between the Council's net principal sum outstanding on its borrowing to the minimum amount it has available to invest. The upper limits on fixed and variable rate interest rate exposures expressed as the amount of net principal borrowed is shown in the table that follows.

At 30th September 2018 the Council's total net position on principal sums invested amounts to £25.6m (investments) offset by £14.1m (fixed rate borrowing) resulting in a (net) amount of £11.5m.

Interest Rate Exposure	2018/19 Approved Limit	End of Q2 2018/19 Actual
Upper limit on fixed interest rate exposure – represented by the maximum permitted net outstanding principal sum borrowed at fixed rate – Note that a negative indicator represents net investment	£35m	£11.6m
Upper limit on variable interest rate exposure – represented by the maximum permitted net outstanding principal sum borrowed at variable rate – Note that a negative indicator represents net investment	-£50m	-£23.1m

6.6 **Maturity Structure of Borrowing:** This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing are given in the table below:

	Upper	Lower	End of Q2 2018/19 Actual Performance
Under 12 months	100%	0%	87%
12 months and within 24 months	100%	0%	7%
24 months and within 5 years	100%	0%	6%
5 years and within 10 years	100%	0%	-
10 years and above	100%	0%	-

At 30th September 2018, the Council's external borrowing amounts to £12.6m. The maturity duration percentages expressed in future time periods are related to the tiered repayment structure for the Enterprise M3 LEP.

6.7 **Principal Sums Invested for Periods Longer than 364 days:** The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. Performance against the limits on the total principal sum invested to final maturities beyond the period end is:

	2018/19 Approved Limit	End of Q2 2018/19 Actual Performance
Limit on principal invested beyond year end at any one time	£40m	£20m

7 COMPLIANCE

- 7.1 All treasury management activities undertaken during the first half of 2018/19 fully complied with the CIPFA Code of Practice and the Council's approved Treasury Management Strategy.

8 FORWARD LOOK

- 8.1 the UK economy still faces a challenging outlook as the minority government continues to negotiate the country's exit from the European Union. Central bank actions and geopolitical risks, such as prospective trade wars, have and will continue to produce significant volatility in financial markets, including bond markets.
- 8.2 In relation to the pooled funds, Arlingclose advise that the Council should consider selling units of poor performing holdings. The resulting cash to be utilised to purchase units in another pooled fund that is judged to be producing improved returns.
- 8.3 The UK Bank Rate was increased to 0.75% (from 0.50%) in August 2018. The Council's advisors central case estimate is for the Bank Rate to increase at 0.25% every six months up to a level of 1.25% in September 2019.
- 8.4 Treasury management decision making is now progressively developing with regard to incurring additional external borrowing to service the Council's capital expenditure plans.

9 BUDGETED INCOME & OUTTURN

- 9.1 The Council's full year 2018/19 budgeted investment income interest is now estimated to be £835,000, compared to the original budget for the year of £846,000. In addition, borrowing interest costs for the current year are estimated to be £262,000, compared to a budget of £296,000 contained in the original budget for 2018/19. The movement in interest income and expense has been reported separately in the quarter 2 revenue monitoring report. Movement from original budget is outlined below:

Interest income and expenditure as at 30th September 2018	2018/19 Estimate £000	2018/19 Projected £000	Movement year to date
Income	846	835	-11
Expense	-296	-261	34
Net position	550	573	23

10 CONCLUSIONS

- 10.1 The Council's treasury team continues to concentrate on the security of deposits/investments while keeping a keen regard on the income returns available. It is estimated that the Council's commitment towards capital expenditure in the current year will raise the level of external borrowing at the end of the year.
- 10.2 Further capital expenditure in 2018/19 and future years will require further additional borrowing. Higher yielding pooled fund investments will be retained for as long as possible, as their redemption in the future to raise cash for capital purposes will cause significant revenue effects in relation to the loss of investment income. The Council continues to seek to diversify its investments in order to maximise returns and to safeguard the Council's treasury management position.
- 10.3 The Treasury and Prudential indicators were originally set at Full Council on 22nd February 2018 as part of the Treasury Management Strategy. The Council can confirm that it has complied with its Treasury and Prudential Indicators for 2018/19.

ALAN GREGORY FINANCE MANAGER

Background papers:

CIPFA Prudential Code 2011 (Printed edition 2013)

CIPFA Code of Practice - 'Treasury Management in the Public Services'

Loans and Investments records

Contact: Peter Timmins, Executive Head of Finance, x8440

Market commentary regarding the year 2018/19 from the Council's treasury management advisors Arlingclose.

External Context

Economic backdrop: Oil prices rose by 23% over the six months to around \$82/barrel. UK Consumer Price Inflation (CPI) for August rose to 2.7% year/year, above the consensus forecast and that of the Bank of England's in its August *Inflation Report*, as the effects of sterling's large depreciation in 2016 began to fade. The most recent labour market data for July 2018 showed the unemployment rate at 4%, its lowest since 1975. The 3-month average annual growth rate for regular pay, i.e. excluding bonuses, was 2.9% providing some evidence that a shortage of workers is providing support to wages. However real wages (i.e. adjusted for inflation) grew only by 0.2%, a marginal increase unlikely to have had much effect on households.

The rebound in quarterly GDP growth in Q2 to 0.4% appeared to overturn the weakness in Q1 which was largely due to weather-related factors. However, the detail showed much of Q2 GDP growth was attributed to an increase in inventories. Year/year GDP growth at 1.2% also remains below trend. The Bank of England made no change to monetary policy at its meetings in May and June, however hawkish minutes and a 6-3 vote to maintain rates was followed by a unanimous decision for a rate rise of 0.25% in August, taking Bank Rate to 0.75%.

Having raised rates in March, the US Federal Reserve again increased its target range of official interest rates in each of June and September by 0.25% to the current 2%-2.25%. Markets now expect one further rise in 2018.

The escalating trade war between the US and China as tariffs announced by the Trump administration appeared to become an entrenched dispute, damaging not just to China but also other Asian economies in the supply chain. The fallout, combined with tighter monetary policy, risks contributing to a slowdown in global economic activity and growth in 2019.

The EU Withdrawal Bill, which repeals the European Communities Act 1972 that took the UK into the EU and enables EU law to be transferred into UK law, narrowly made it through Parliament. With just six months to go when Article 50 expires on 29th March 2019, neither the Withdrawal Agreement between the UK and the EU which will be legally binding on separation issues and the financial settlement, nor its annex which will outline the shape of their future relationship, have been finalised, extending the period of economic uncertainty.

Financial markets: Gilt yields displayed marked volatility during the period, particularly following Italy's political crisis in late May when government bond yields saw sharp moves akin to those at the height of the European financial crisis with falls in yield in safe-haven UK, German and US government bonds. Over the period, despite the volatility, the net change in gilt yields was small. The 5-year benchmark gilt only rose marginally from 1.13% to 1.16%. There was a larger increase in 10-year gilt yields from 1.37% to 1.57% and in the 20-year gilt yield from 1.74% to 1.89%. The increase in Bank Rate resulted in higher money market rates. 1-month, 3-month and 12-month LIBID rates averaged 0.56%, 0.70% and 0.95% respectively over the period.

Credit background: Reflecting its perceived higher risk, the Credit Default Swap (CDS) spread for non-ringfenced bank NatWest Markets plc rose relatively sharply over the period to around 96bps. The CDS for the ringfenced entity, National Westminster Bank plc, has held steady below 40bps. Although the CDS of other UK banks rose marginally over the period, they continue to remain low compared to historic averages.

The ringfencing of the big four UK banks - Barclays, Bank of Scotland/Lloyds, HSBC and RBS/Natwest Bank plc – is complete, the transfer of their business lines into retail (ringfenced) and investment banking (non-ringfenced) is progressing and will need to be completed by the end of 2018.

There were a few credit rating changes during the period. Moody's downgraded Barclays Bank plc's long-term rating to A2 from A1 and NatWest Markets plc to Baa2 from A3 on its view of the credit metrics of the entities post ringfencing. Upgrades to long-term ratings included those for Royal Bank of Scotland plc, NatWest Bank and Ulster Bank to A2 from A3 by Moody's and to A- from BBB+ by both Fitch and Standard & Poor's (S&P). Lloyds Bank plc and Bank of Scotland plc were upgraded to A+ from A by S&P and to Aa3 from A1 by Moody's.

Our treasury advisor Arlingclose will henceforth provide ratings which are specific to wholesale deposits including certificates of deposit, rather than provide general issuer credit ratings. Non-preferred senior unsecured debt and senior bonds are at higher risk of bail-in than deposit products, either through contractual terms, national law, or resolution authorities' flexibility during bail-in. Arlingclose's creditworthiness advice will continue to include unsecured bank deposits and CDs but not senior unsecured bonds issued by commercial banks.

Outlook for the remainder of 2018/19

Having raised policy rates in August 2018 to 0.75%, the Bank of England's Monetary Policy Committee (MPC) has maintained expectations of a slow rise in interest rates over the forecast horizon.

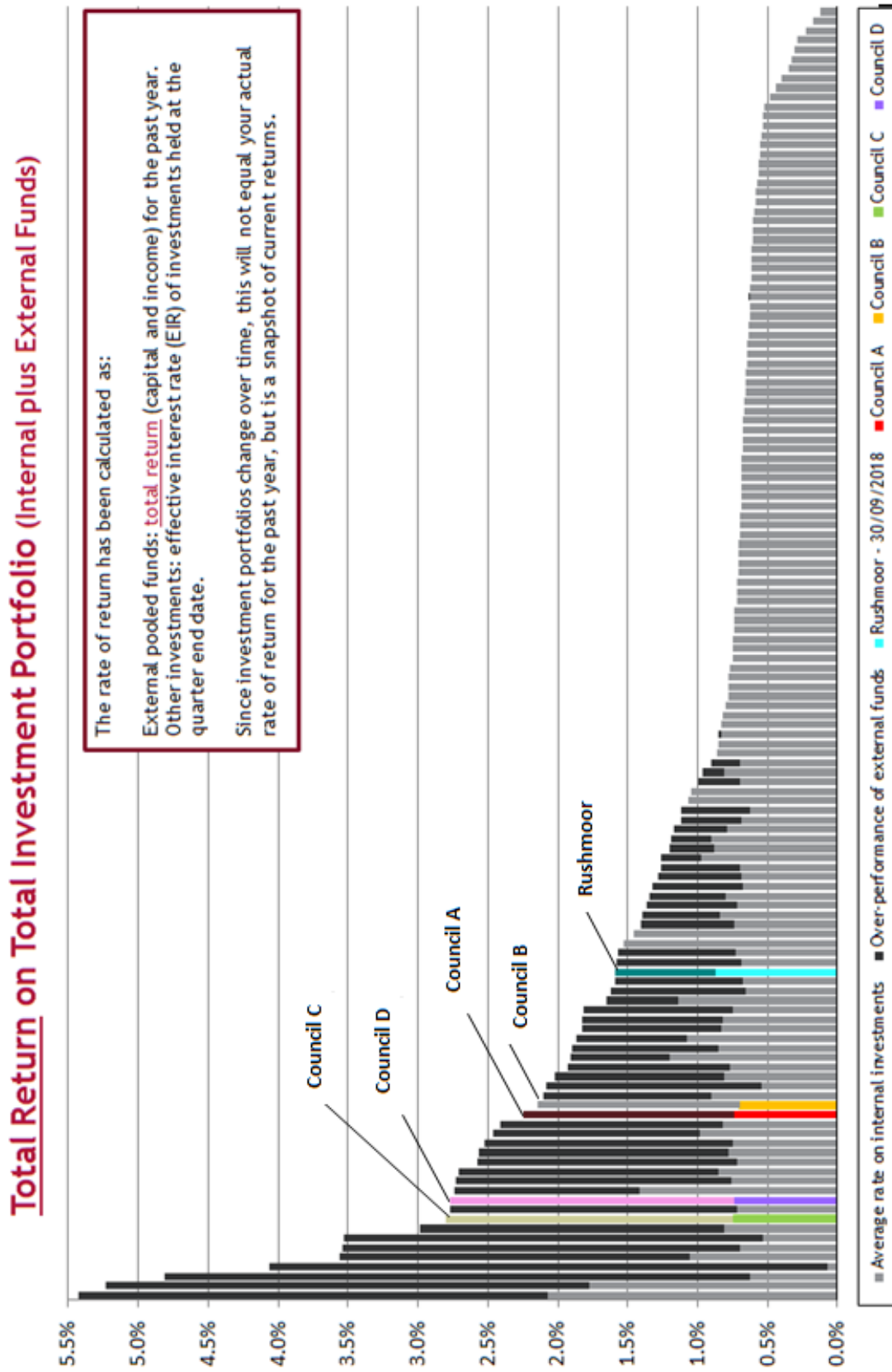
The MPC has a definite bias towards tighter monetary policy but is reluctant to push interest rate expectations too strongly. While policymakers are wary of domestic inflationary pressures over the next two years, it is believed that the MPC members consider both that (a) ultra-low interest rates result in other economic problems, and that (b) higher Bank Rate will be a more effective weapon should downside Brexit risks crystallise and cuts are required.

Arlingclose's central case is for Bank Rate to rise twice in 2019. The risks are weighted to the downside. The UK economic environment is relatively soft, despite seemingly strong labour market data. GDP growth recovered somewhat in Q2 2018, but the annual growth rate of 1.2% remains well below the long term average

	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21
Official Bank Rate													
Upside risk	0.00	0.00	0.00	0.00	0.00	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Arlingclose Central Ca:	0.75	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Downside risk	0.00	0.00	0.50	0.50	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75

The view is that the UK economy still faces a challenging outlook as the minority government continues to negotiate the country's exit from the European Union. Central bank actions and geopolitical risks, such as prospective trade wars, have and will continue to produce significant volatility in financial markets, including bond markets.

TOTAL RETURN ON INVESTMENT PORTFOLIO 1st HALF Yr 18/19



This Appendix shows the actual prudential indicators relating to capital and treasury activities for the first half of 2018/19 and compares these to the indicators set in the Annual Treasury Management Strategy for the year. This Strategy was originally approved by Full Council on 22nd February 2018.

The amounts stated within the 2018/19 Projected column cells are the same as reported in Appendix B of the Capital Programme Monitoring Position at September 2018 at Cabinet 13th November 2018.

1.1 Prudential Indicators

Estimates of Capital Expenditure: The Council's planned capital expenditure and financing is summarised as follows.

Capital Expenditure and Financing	2018/19 Estimate £m	2018/19 Projected £m
General Fund	28.718	54.441
Total Expenditure	28.718	54.441
Capital Receipts	0.733	0.733
Capital Grants & Contributions	7.646	8.598
Revenue	-	-
Prudential Code Borrowing	20.339	45.110
Total Financing	28.718	54.441

Estimates of Capital Financing Requirement:

The Capital Financing Requirement (CFR) measures the Council's underlying need to borrow for a capital purpose.

Capital Financing Requirement	31.03.19 Estimate £m	31.03.19 Projected £m
General Fund	39.3	57.3
Adjustment ref IFRIC4 lease accounting	2.9	2.7
Total CFR	42.2	60.0

The CFR amounts provided above are provided in relation to the TMSS for 2018/19 incorporating items within the 8-Point Plan with regard to "Invest to Save" schemes.

Gross Debt and the Capital Financing Requirement: In order to ensure that over the medium term debt will only be for a capital purpose, the

Council should ensure that debt does not, except in the short term, exceed the total of capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years. This is a key indicator of prudence.

Debt	31.03.19 Estimate £m	31.03.19 Projected £m
Borrowing	52.1	45.1
Total Debt	52.1	45.1

During 2018/19, the Council is expecting to continued make use of a revolving infrastructure fund from the Local Enterprise Partnership (M3 LEP).

Operational Boundary for External Debt: The operational boundary is based on the Council's estimate of most likely, i.e. prudent, but not worst-case scenario for external debt. It links directly to the Council's estimates of capital expenditure, the capital financing requirement and cash flow requirements, and is a key management tool for in-year monitoring. Other long-term liabilities comprise finance lease, Private Finance Initiative and other liabilities that are not borrowing but form part of the Council's debt.

Operational Boundary	2018/19 Estimate £m	2018/19 Projected £m
Borrowing	58.0	45.1
Total Debt	58.0	45.1

Authorised Limit for External Debt: The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. The authorised limit provides headroom over and above the operational boundary for unusual cash movements.

Authorised Limit	2018/19 Estimate £m	2018/19 Projected £m
Borrowing	62.0	45.1
Other long-term liabilities	1.0	1.0
Total Debt	63.0	46.1

Ratio of Financing Costs to Net Revenue Stream: This is an indicator of

affordability and highlights the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs, net of investment income.

Ratio of Financing Costs to Net Revenue Stream	2018/19 Estimate %	2018/19 Projected %
General Fund	2.8	-2.0

Incremental Impact of Capital Investment Decisions: This is an indicator of affordability that shows the impact of capital investment decisions on Council Tax levels. The incremental impact is the difference between the total revenue budget requirement of the current approved capital programme and the revenue budget requirement arising from the capital programme proposed.

Incremental Impact of Capital Investment Decisions	2018/19 Estimate £	2018/19 Projected £
General Fund - increase in annual band D Council Tax	-29.43	-9.51

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

26 NOVEMBER 2018

AUDIT MANAGER

REPORT NO. AUD1805

INTERNAL AUDIT – AUDIT UPDATE

SUMMARY:

This report describes the work carried out by Internal Audit for quarter 2 and the proposed work to be delivered for quarter 3 and 4.

RECOMMENDATION:

Members are requested to:

- i. Note the audit work carried out in quarter 2.
- ii. Note the update to the expected deliverables for quarter 3.
- iii. Endorse the expected deliverables for quarter 4

1 INTRODUCTION

1.1 This report is to provide Members with:

- An overview of the work completed by Internal Audit to date for quarter 2.
- An update of the progress made and any changes required for the expected deliverables for quarter 2 and 3, as approved by the Committee on the 30th July 2018.
- A schedule of work expected to be delivered in quarter 4.

2 RESOURCES

- 2.1 The Audit Manager has now returned from Maternity Leave full time. Additional contractor resources are still being provided by Wokingham Borough Council to enable the delivery of the Internal Audit Plan.
- 2.2 The resources within the Audit team are due to be reviewed by the end of the financial year.

3 AUDIT WORK – Q2 18/19

3.1 The following audit work has been carried out within quarter 2:

Work	Status
Audit findings – Appendix A of this report	
Purchase Ledger (carried forward from 2017/18)	This audit was carried out by the contract auditors. It was carried forward from 17/18. A limited assurance opinion has been given to this area. Findings are detailed within Appendix A.

GDPR	This audit was carried out by the contract auditors as per the schedule of work for quarter 2. A reasonable assurance opinion has been given to this area. Findings are detailed within Appendix A.
Cyber Security Follow up	A follow up was carried out on the recommendations made from the Cyber Security audit carried out in 2017/18. The findings from the follow up has made no change to the assurance opinion within this area, which remains as reasonable assurance . Findings are detailed within Appendix A.
Separate reports to this November Committee	
Incident Management policy	A draft Incident Management policy has been developed in line with the requirements for GDPR. Being present to the Committee at this meeting as a separate agenda item.
Audit Charter	A draft Audit charter has been produced and is being present to the Committee at this meeting as a separate agenda item.
Items for the January Committee	
IT access controls	This audit has been carried out by the contract auditors. The testing has been completed and the draft report is currently being prepared. The findings will be communicated to the Committee at the meeting in January 2019
Waste contract	This audit has been carried out by the contract auditors. The testing has been completed and the draft report is currently being prepared. The findings will be communicated to the Committee at the meeting in January 2019
Weekly refuse and recycling contract	This audit has been carried out by the contract auditors. The testing has been completed and the draft report is currently being prepared. The findings will be communicated to the Committee at the meeting in January 2019
Parking Machine Income follow up	A follow up on the recommendations made within the Parking Machine Income audit carried out in 2016/17 is being carried out. The findings of this follow up will be communicated to the Committee at the meeting in January 2019.
Portable IT Equipment follow up	A follow up on the recommendations made within the Parking Machine Income audit carried out in 2017/18 is being carried out. The findings of this follow up will be communicated

	to the Committee at the meeting in January 2019.
Transparency code follow up	A follow up on the recommendations made within the Parking Machine Income audit carried out in 2017/18 is being carried out. The findings of this follow up will be communicated to the Committee at the meeting in January 2019.
Depot (carried forward from 2017/18)	This audit has been carried out by the contract auditors. The testing has been completed and the draft report is currently being prepared. The findings will be communicated to the Committee at the meeting in January 2019
Awaiting information	
Contaminated water review	This review has been completed but the report has yet to be issued, as it will be done in conjunction with the Contaminated soil review.
Contaminated soil review	Currently waiting on information to be provided by the contractors.

3.2 *Other deliverables:*

Work has also been carried out in order to establish the current demands on the Corporate Investigations Officers, who now come under Internal Audit, so that a work programme can be established for 2019/20 financial year and quarterly updates on their work reported to this Committee.

4 UPDATE TO AUDIT WORK FOR Q3

4.1 At the meeting on the 29th January 2018. It was agreed that if any changes were required to the agreed deliverables for the quarter, in order to meet changing needs of the organisations, then this would be communicated to the committee along with the reason for the change.

4.2 The following changes will be made to quarter 3 work previously planned within the audit update provided to the Committee in July 2018.

- Risk Management audit – This will now be carried out within quarter 4. This is to allow the new corporate risk register to be implemented within the organisation.
- Contract letting and tendering follow up – This was due to be carried out within quarter 2 but will now be carried out in quarter 3, due to resource availability.
- Corporate governance audit – This was due to be carried out within quarter 2 but will now be carried out in quarter 3 due to resource availability.

5 EXPECTED DELIVERABLES FOR Q3 AND Q4

- 5.1 The work expected to be delivered in quarter 3 and 4 is detailed within the table below. As with the previous quarter, these audits can be subject to change due to the changing needs of the organisation or resource availability. An update will be provided at the January meeting.

Service	Audit/ follow up/descriptor	Expected
Finance	Contract Management - <i>A review of how contracts are monitored within the Council to ensure they are delivering the outcomes we require.</i>	Q3
CLT	Corporate Governance - <i>Overview of corporate governance arrangements within the Council against CIPFA/SOLACE guidance.</i>	Q3
Finance	Benefits - <i>Key financial system review of the benefits system/process</i>	Q3
Finance	Recovery - <i>Key financial system review of the debt recovery system/process</i>	Q3
Finance	Sales Ledger - <i>Key financial system review of the sales ledger system/process</i>	Q3
Legal	Purchase of property follow up - <i>A follow up on the recommendations made within the audit carried out in 2017</i>	Q3
Finance	Card payments follow up - <i>A follow up on the recommendations made within the audit carried out in 2017</i>	Q3
Finance	Contract Letting & Tendering follow up - <i>A follow up on the recommendations made within the audit carried out in 2017</i>	Q3
Planning	Planning Applications - <i>A review of adherence to statutory requirements and processes for planning applications</i>	Q4
Housing	Disabled Facilities Grant - <i>A review of processes for granting DFGs and process for the rotation of suppliers.</i>	Q4
Finance	Capital Programme Management - <i>A review of the arrangements in place to manage the capital programme and the projects included.</i>	Q4

CLT	Risk Management - <i>A review of the risk management process and system in place. This is an area that was highlighted within the Annual Governance Statement and by External Audit as having deficiencies.</i>	Q4
-----	--	----

AUTHOR: Nikki Hughes, Audit Manager
01252 398810
nikki.hughes@rushmoor.gov.uk

HEAD OF SERVICE: Peter Timmins, Interim Executive Head of Financial Services

References: *Internal Audit – Audit Plan* report, presented to the Committee on the 29th January 2018

<https://democracy.rushmoor.gov.uk/ieListDocuments.aspx?CId=166&MId=459&Ver=4>

Internal Audit – Audit update report, presented to the Committee on the 30th July 2018

<https://democracy.rushmoor.gov.uk/ieListDocuments.aspx?CId=166&MId=553&Ver=4>

Audit Title 1	Purchase Ledger		
Year of Audit	2017/18		
Assurance given	Limited – <i>Minimal controls designed to achieve the system/function/process objectives, are in place. Significant improvements are required if key controls are to be established.</i>		
Overview of area	The Purchase Ledger function is in place to enable accurate and timely payment for bona fide goods and services received by the Council. There are 3 potential types of payments for processing: proformas (non-invoice), IAS (Invoice Approval System/ non-purchase order) invoices and purchase order invoices.		
Priority	Key findings	Management response and agreed action	Action by who and when
High	<p>There is currently no requirement, or system control, to incorporate separation of duties within purchase ledger transactions. The same person can requisition, GRN, and authorise payment. In some cases, this person will also be responsible for budget monitoring as the budget holder. This same person can also have suppliers set up on the system without authorisation from another member of staff, or verification of the suppliers' validity.</p> <p>Risk: <i>Without separation of duties or supplier set up controls, the Council is at risk of fraud and the processing of invalid payments to invalid suppliers.</i></p>	<p>This is a risk that has previously been accepted by the management of the organisation. It is a balance between risk and efficiency. Complete separation of duties would increase the time taken to purchase and pay for goods. Any change would need to be supported by management.</p> <p>A detailed discussion at CLT would be required to agree a way forward.</p>	<p>Action by CLT – The report was taken to CLT in August 2018 for discussion.</p>
High	<p>The Purchase Ledger team do not carry out validity checks on new suppliers and there is no requirement for the set-up of a new supplier to be agreed by more than one member of staff. (It is possible that the Contracts team perform checks on some suppliers; the Purchase Ledger team may wish to co-ordinate with the Contracts team to ensure this control is in place without duplicating effort.</p>	<p>Independent verification of changes to bank details and audit of this work by finance team feels sufficient. A new supplier form could be designed with some necessary checks to be completed - wider discussion required on what checks to carry out and who should be responsible for this.</p>	<p>Action by CLT – The report was taken to CLT in August 2018 for discussion.</p>

	Risk: Without separation of duties or supplier set up controls, the Council is at risk of fraud and the processing of invalid payments to invalid suppliers.		
Medium	For IAS invoice transactions, spend is not committed to the Integra 2 system until the invoice is received. Risk: If spend commitment is not included in the corporate financial management system, reports from the system used to inform decision making may be inaccurate.	Cannot raise commitments on the IAS system – only way to do this is to only use the purchase ordering system.	N/A
Medium	For IAS transactions, there is no requirement to confirm that goods/services have been received (GRN completed) before payment. Risk: This increases the risk of payment being made for goods/services that have not been received and for duplicate payments.	The system does not allow for GRN of IAS invoices – again the only resolution is to move wholly to POs – not always practical.	N/A
Medium	When blank cheques are taken from the safe, the first and last cheque number is recorded. During the cheque run for purchase ledger, one person removes the cheques from the safe. Risk: It is possible for this person to remove cheques from the middle of the pile without being noticed – this would potentially not be picked up for some time as a number of people can access the safe; it would not be easy to identify when the cheques were removed or by whom.	The Payments and Insurance Manager has advised staff that two officers should be present for the cheque payment run.	Payments and Insurance Manager – February 2018
Low	IAS invoices do not show a purchase order valid to the Integra 2 system (different purchase system orders such as those raised using the CONFIRM system are not compatible with Integra 2) and some do not give a contact at RBC.	Again, could insist on use of POs – would need to be a management decision. Reminding managers/suppliers to ensure a contact name is always provided	Action by CLT – The report was taken to CLT in August 2018 for discussion.

	Risk: <i>If experienced staff with local knowledge are lost, there is a risk that allocating an invoice could become labour intensive and inefficient.</i>	seems a proportionate response.	
Low	High payments checks are set at a £15k limit for historical reasons that no longer apply; the limit for countersigning cheques is £25k. Risk: <i>Checks may be being carried out unnecessarily.</i>	Report requires changing – Finance Manager can follow this up with internal system report expert	Finance Manager – August 2018
Low	Payment run supporting paperwork is held in hard copy only. Risk: <i>Hard copy files increase the use of paper/storage and are less accessible than electronic storage methods.</i>	Explore ways of holding data electronically Explore ways of reducing paper storage eg retaining first and last page of documents that record no anomalies and signing	Finance Manager – October 2018
Low	Purchase Ledger procedural guidance is not currently version controlled. Risk: <i>It is not clear whether guidance is up to date.</i>	The Payments and Insurance Manager has added a review date to procedural guidance.	Payments and Insurance Manager – February 2018
Low	In sample testing, 1 out of a sample of 25 tested did not comply with HMRC requirements for VAT claims as the invoice did not show an RBC address. Risk: <i>The Council may not be able to reclaim VAT</i>	The Payments and Insurance Manager has reminded the relevant member of staff of HMRC requirements and the need for an RBC address on invoices.	Payments and Insurance Manager – February 2018

Priority key for way forwards	
High priority	A fundamental weakness in the system/area that puts the Authority at risk. To be addressed as a matter of urgency.
Medium priority	A moderate weakness within the system/area that leaves the system/area open to risk.
Low priority	A minor weakness in the system/area or a desirable improvement to the system/area.

Audit Title 2	GDPR		
Year of Audit	2018/19		
Assurance given	Reasonable – <i>Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Overview of area	<p>This is the first audit review of information processing systems, policies and processes since the Data Protection Act 2018 and General Data Protection Regulation (GDPR) came into force on 25th May 2018.</p> <p>The project to implement measures to meet the requirements of GDPR has been led by the Legal Services Manager and Corporate Projects Manager. However, with the recent departure of the Corporate Projects Manager, the Legal Services Manager has continued the hard work to bring systems and processes up to the required standards with the assistance of a new interim Project Manager.</p> <p>The impact of GDPR and the potential risks faced by local authorities over non-compliance should not be underestimated. The headline being fines of up to twenty million Euros or four percent of annual turnover (whichever is highest) for non-compliance. However, significant benefits can be drawn from the changes, such as fostering the public's trust in how the council obtains, stores and uses personal information, and how it co-operates with the public and regulators following data breaches.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
High	<p>Project Management The role and timescale of the interim GDPR Project Manager is not fully defined. The Project Manager role is essential to driving forward work, such as identifying how services manage customer consent to processing data, information archiving, staff and member training, information asset registers, Registers of Processing Activities, data sharing agreements, co-ordinating service representatives, and contracts compliance.</p>	<p>Following the departure of the Project Manager, interim project support along with a subject matter expert in data protection were allocated for an interim period, until the Corporate Legal Manager (DPO) commences. At that stage, an assessment of the project status and resources to move the work forward will be undertaken.</p>	<p>Ian Harrison, Corporate Director – January 2019</p>

	<p>Risk: <i>On-going progress of the GDPR Project Plan may not be managed and realised.</i></p>	<p>Additionally, to strengthen the governance the Corporate Director, Heads of Finance and IT & Facilities are meeting monthly (Governance Group) to provide programme oversight.</p> <p>At the same time, further links were made to the council's Risk Management Group.</p>	
Medium	<p>Training Only senior/middle management have undertaken formal GDPR training with it still outstanding for the Chief Executive, officers and Members. Member briefings were undertaken.</p> <p>Risk: <i>In the event of a serious breach, it could not be proven that the council had taken all reasonable steps to ensure good awareness for all officers and Members.</i></p>	<p>Training for Members is booked in for November 2018 and January 2019.</p> <p>A decision has been made to use the existing e-learning package and the Project Team are currently identifying relevant training content to be set up.</p>	Project team/ Legal Services Manager – January 2019
Medium	<p>Training Resource to create, test and deliver e-learning training for officers is insufficient.</p> <p>Risk: <i>The provision of E-learning training will be further delayed.</i></p>	<p>A decision has been made to use the existing e-learning package and the Project Team are currently identifying relevant training content to be set up.</p>	Project team/ Legal Services Manager – January 2019
Medium	<p>Project Reporting a) Previously, 'highlight' reports have been sent to CLT for their consideration of issues, risks and other actions. GDPR has not been formally reported to CLT of late.</p>	<p>a) Following the departure of the Project Manager, interim project support along with a subject matter expert in data protection were allocated for an interim period, until the Corporate Legal Manager (DPO)</p>	Ian Harrison, Corporate Director, Head of IT & Facilities and Corporate Legal Manager – January 2019

	<p>b) Meetings with service representatives were an effective means of communicating risks, information and project progress, but have reduced in frequency and should therefore be continued regularly.</p> <p>Risk: <i>Data security risks and project slippage could manifest if issues are not regularly communicated to CLT and service representatives.</i></p>	<p>commences.</p> <p>Additionally, to strengthen the governance the Corporate Director, Heads of Finance and IT & Facilities are meeting monthly (Governance Group) to provide programme oversight.</p> <p>At the same time, further links were made to the council's Risk Management Group.</p> <p>b) Communication is to be placed on the StaffHub in early November 2018, updating officers on GDPR and the next steps, including the role of service reps.</p>	
Medium	<p>E-mail Classification</p> <p>For e-mails issued by all management, officers and Members, there is no standard Document Protective Marking system prompt to classify the content, e.g. Unclassified, Official, Official-Sensitive.</p> <p>Risk: <i>E-mail content and attachments may be sent without the appropriate classification of importance and sensitivity of data.</i></p>	<p>The IT solution is in place and could be implemented, however, prior to implementing, the Project Team would like to clarify with the ICO and seek a view from the newly appointed Corporate Legal Manager (DPO). For existing specific users who are involved in sensitive data transmissions, GCSX accounts are already used.</p>	<p>Corporate Legal Manager and IT Technical Services Manager – January 2019</p>
Low	<p>Risk Management</p> <p>There is a risk register for GDPR on SharePoint to track the project's risks, but it is incomplete. Each risk has an assigned 'likelihood', 'impact' and composite 'risk value'. All risks, except 7 and 8, have an assigned 'action' (Treat, Tolerate,</p>	<p>Agreed and will be updated.</p>	<p>IT Project Manager – action immediately</p>

	<p>Terminate or Transfer).</p> <p>Risk: Risks relating to GDPR may not be managed effectively.</p>		
Medium	<p>Mapping of Information Information Asset Registers have been created to capture the information held by each service and the measures in place to keep it secure. Standard (and highest risk) data has been captured, but work remains for Special Category data and overall completeness. Article 30 of GDPR requires a Register of Processing Activities (RoPA) to be completed also. This has yet to be done, but the mandatory fields of the RoPA could be incorporated in to the Information Asset Register template.</p> <p>Risk: The GDPR regulations are not fully complied with.</p>	<p>Service reps are to continue to classify their Special Category data and their lawful basis for holding this data.</p> <p>Arising from these classifications, the ROPA will be created. The ROPA will be created / reviewed by the DPO.</p>	<p>Corporate Legal Manager and service representatives – 2019/20</p>
Medium	<p>Members' Information Council information held by members has been largely identified. However, one councillor stated that they share information with third parties and do not have appropriate access controls when storing the information at their home.</p> <p>Risk: Personal data may be compromised if appropriate security and control measures are not in place.</p>	<p>This will be followed up with the Head of Democracy, Strategy and Partnerships, in consultation with the Project Team.</p>	<p>Head of Democracy, Strategy and Partnership and the Project team – November 2018</p>
Medium	<p>Privacy Notices Three out of two hundred and ten privacy notices have not been written by services and there are twelve awaiting review by the DPO. The highest risk area without a privacy notice is Members.</p>	<p>The Project Team is to review these with individual service reps, to clear the outstanding.</p>	<p>Corporate Legal Manager and Service representatives – March 2019</p>

	<p>Risk: <i>The absence of a Privacy Notice means that the person providing the data is not clear on the purpose for which their information is obtained and how it will be processed.</i></p>		
Medium	<p>Historical Data</p> <p>a) Rushmoor IT systems hold data going back many years, of which some may be unnecessary. Manual records across services could also hold outdated and excessive information. The ‘Tidy Friday’ initiative proved a popular and effective method of staff reviewing their records and disposing of them accordingly.</p> <p>b) The GDPR principle of ‘data protection by design and default’ should be considered in the review of historical information. Technical measures such as ‘pseudonymisation’, ‘anonymisation’ and ‘minimisation’ could be implemented or built in to systems.</p> <p>Risk: <i>Work on data requests can be unnecessarily prolonged and use additional resources due to the superfluous data held.</i></p>	<p>Work is continuing within IT. There is on-going work to update Rushmoor applications with GDPR modules / functionality.</p> <p>Note – There is a large resource implication for this task and the application support team have to focus on current priorities. Priority will be given to the high-risk systems / sensitive data.</p>	<p>Head of IT & Facilities – 2019/20</p>
Medium	<p>Data Protection Policy</p> <p>a) The Data Protection Policy is held on the intranet but is out of date with the latest version indicating issue in 2002.</p> <p>b) The ‘Data Protection’ page within the Staff Handbook on the intranet is out of date.</p> <p>Risk: <i>In the event of a breach, it could not be proven that the council had taken all reasonable steps to ensure good awareness for all management, officers and Members.</i></p>	<p>The Data Protection Policy will be reviewed and updated by Legal.</p>	<p>Corporate Legal Manager and Audit Manager – June 2019</p>

Low	<p>Retention guidelines There is no nominated officer to ensure that the retention schedules, maintained by managers, remain updated. This could fall within the remit of the new Data Protection Officer.</p> <p><i>Risk: Guidelines may fail to be updated in accordance with statutory retention periods.</i></p>	This will be managed by the DPO.	Corporate Legal Manager – November 2018
Low	<p>Data Breach Log There is no specific log of data breaches that have occurred, documenting the risk to individuals and a decision to notify the ICO.</p> <p><i>Risk: The council may fail to maintain an auditable record of data breaches and consider potential risks to individuals.</i></p>	The Project Team is aware and this is being created.	Legal Services Manager – November 2018
Medium	<p>Data Protection Impact Assessments A DPIA has been undertaken for one service, but are outstanding for others. A DPIA template exists, but it is not clear how this is currently being utilised.</p> <p><i>Risk: Risks to individuals may fail to be considered when processing personal information.</i></p>	A project is being identified to pilot the template on. The Project Team will work with the service reps.	Project team/ Service representatives – January 2019
Medium	<p>Third Party presence in offices The Citizens Advice Bureau (CAB) are to be based within the council offices. A DPIA has not been completed to mitigate any risk.</p> <p><i>Risk: The CAB proximity to council staff and vice versa creates a risk of customers' personal</i></p>	The DPIA will be undertaken.	Head of IT & Facilities – January 2019

	<i>information being viewed/obtained by third parties.</i>		
Medium	<p>Contracts To progress the updating of wording on existing contracts and supplier documentation, guidance is required to be provided to the officers. This includes the major Leisure Contract renewal.</p> <p><i>Risk: Contract and supplier documentation may not be GDPR compliant.</i></p>	The Procurement team needs advice / guidance from the DPO to update contract documentation and templates.	Corporate Legal Manager and Principle Procurement Officer – January 2019
Medium	<p>Data Sharing Agreements The Data Sharing Agreements (with third parties) across council have been identified, but need to be reviewed to ensure they are up to date to meet compliance with GDPR.</p> <p><i>Risk: The extent of Data Sharing Agreements is not known and they may not be GDPR compliant.</i></p>	The Project Team will continue to gather information and work with the services.	Project team/ Corporate Legal Manager – 2019/20
Low	<p>Acceptable Use of IT Policy This was last reviewed and updated in May 2017 in relation to PSN. This now needs to include the relevant GDPR aspects.</p> <p><i>Risk: Staff may not be fully aware of their electronic data storage and sharing responsibilities under GDPR.</i></p>	New content to be developed between Legal, IT and Audit and to be published. This will be linked with the e-learning on GDPR.	Head of IT & Facilities – January 2019
Low	<p>Information Asset Owners The role of Information Asset Owners is not formally documented, along with its reporting lines to the Data Protection Officer and Senior Information Risk Owner.</p>	It is understood that work to progress this is underway and will be progressed at the next service rep meeting.	Corporate Legal Manager – January 2019

	<p>Risk: <i>The council's information governance framework is weakened if the Information Asset Owner role is not formally documented.</i></p>		
Medium	<p>Data Protection Officer This statutory role is currently being covered by the Legal Services Manager as an 'interim' role since the Solicitor to the Council left. A Data Protection Officer has not formally been appointed but is due to be considered once the new Corporate Legal Manager starts in November 2018.</p> <p>Risk: <i>The council do not currently have an officially designated Data Protection Officer.</i></p>	The DPO role has been appointed and commences November 2019.	Corporate Legal Manager – November 2018

Audit Title 3	Cyber security - follow up		
Year of Audit	2018/19		
Assurance given at time of the audit	Reasonable - <i>Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Assurance given at time of the follow up	Reasonable - <i>Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Overview of area	<p>An audit was carried out on Cyber-security in October 2017. The audit found that there are processes in place to address security vulnerabilities and an anti-ransomware tool is utilised to prevent the malicious encryption of data files.</p> <p>The findings from this audit resulted in 6 medium priority recommendations being made which were agreed by management.</p>		
Priority	Way forward agreed	Follow up findings	Recommendation status
Medium	Whilst the Legal Services Manager performs some duties associated with the GDPR's definition of the Data Protection Officer role, there are some vital elements that are not currently performed. Therefore, it is important that the Legal Services Manager receives a clear outline of all expected DPO responsibilities. A decision must then be made about who will fulfil this statutory function post-May 2018 (i.e; current DPO/shared function with another officer or another local authority etc.).	The GDPR Governance board confirmed that the DPO role is part of the new Corporate Legal Services Manager role. Therefore, the vital elements of the Data Protection Officer will be carried out when she is in post in November 2018.	Implemented

Medium	<p>The Council operates a General Data Protection Regulation (GDPR) Working Group. Using guidance provided by the Information Commissioner's Office (https://ico.org.uk/for-organisations/data-protection-reform) as a basic structure, an action plan should be drafted focusing on key areas of change and identifying action owners within the organisation. A draft GDPR Action Plan used by another local authority has been provided to the Data Protection Officer and IT Technical Services Manager for reference. It may also be an option to contact other local authorities in the area (or even Hampshire County Council) and organise a meeting to compare scheduled activities.</p>	<p>A GDPR specific audit has been carried out. The findings identified that an action plan is in place, which focuses on key areas of change and has identified action owners within the Council.</p>	Implemented
Medium	<p>The Council's Acceptable Use of IT Policy (AUP) requires a personal declaration by Members and Temporary Staff confirming they have received and read a copy of the policy, yet there is no process in place regarding New or Existing employees. It is recommended that the AUP is communicated to all employees who must confirm their understanding of, and adherence to, the policy. Human Resources should retain a permanent copy (physical or electronic) of this signed declaration attached to employees' records. Consideration should be given to how frequently employees should be refreshed, and it is advised that this is on an annual basis.</p>	<p>The AUP is being updated in conjunction with Internal Audit, as part of the GDPR project. The personal declaration form will be updated as part of this. Consideration will also be given to the frequency of providing employees with a refresher of the AUP requirements.</p>	Not implemented but work is currently underway

<p>Medium</p>	<p>With the General Data Protection Regulation (GDPR) replacing the current Data Protection Act as of May 2018, it is advised that Data Protection training for all staff is performed on a mandatory basis. There may be an opportunity to identify a suitable e-learning module that can be disseminated to all employees and tracked via a suitable mechanism similar to how Health & Safety education is tracked within the Council.</p>	<p>Data Protection training has been reviewed however, the module which was being trialled could not be fully integrated with the e-learning training system currently in place. The GDPR Governance board has agreed that the current e-learning system can be used for internal online training for staff. The Legal Services Manager will identify suitable GDPR content (either from other local authorities or by licence) and this can then be set up on the existing e-learning system.</p> <p>Therefore, formal training has not yet been given to staff, however one day training has been given to Managers and Members relating to GDPR. Formal Member training is arranged for late 2018/ early 2019.</p>	<p>Not implemented but work is currently underway by the Legal Services Manager.</p>
<p>Medium</p>	<p>The IT Technical Services Manager is currently validating an Information Security e-learning module with an intention to deploy this education to all users within the council. It is strongly recommended that this education is mandatory and has the same level of focus as other significant employee risks, such as Fire Awareness and Health & Safety learning.</p>	<p>An e-learning module has been rolled out to all employees in 2018. This is tracked to show who has completed the module and reminders are issued for completion. This will be carried out annually in a similar way to the Health & Safety education.</p>	<p>Implemented</p>

Medium	Remote/Home Workers currently have the ability to turn off Location Settings and the Sophos Mobile Console cannot “force” these settings to be permanently active. This means that controls in place on the SMC designed to secure the device, should it be lost or stolen, are rendered ineffective. IT Services is advised to require Location Settings to be permanently enabled to be compliant with Mobile Device Management.	The location settings have now been enabled and if location settings are turned off then the device is no longer compliant.	Implemented
--------	--	---	-------------

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

26 NOVEMBER 2018

AUDIT MANAGER**REPORT NO. AUD1807****INTERNAL AUDIT – DATA PROTECTION BREACH POLICY****SUMMARY:**

A data protection breach policy has been updated to meet the new General Data Protection Regulation (GDPR) and a form has also been developed to record all data breaches.

RECOMMENDATION:

Members are requested to approve the data protection breach policy

1 INTRODUCTION

- 1.1 The current data protection breach policy (titled the security incident policy) in place is out of date and required updating to meet the new General Data Protection Regulation (GDPR) and reporting requirements to the Information Commissioner's Office (ICO).
- 1.2 A data protection breach policy is required to ensure that any data breaches, whether paper or electronic, are dealt with appropriately and the necessary action is taken to mitigate the risk, and where necessary inform individuals and regulatory bodies e.g. the ICO or National Cyber Security Centre.

2 BACKGROUND

- 2.1 A security incident policy current exists, to deal with data protection breaches, however it is out of date. It was identified by the GDPR working group that the policy required updating.
- 2.2 The policy has been reviewed by the Legal Services Manager and the IT Network Manager.

3 DATA PROTECTION BREACH POLICY

- 3.1 A data protection breach policy has been developed to meet the GDPR requirements and ICO reporting requirements. The policy is contained within Appendix A.

- 3.2 The data protection breach policy details:
- What is personal data,
 - What is a personal data breach
 - Reporting of breaches
- 3.3 A flow chart of action to be taken upon knowledge of a data breach has been developed and included within the policy.
- 3.4 The ICO require data breaches to be recorded, whether the ICO is required to be notified or not. A form has been developed and included within the policy to ensure that the necessary data is recorded. A log of all data breaches will be held by the Data Protection Officer.
- 3.5 Failing to correctly notify the ICO of a data breach can result in a significant fine for the Council.

4 ROLL OUT TO EMPLOYEES AND MEMBERS

- 4.1 The policy will be communicated to staff and Members via the staff hub with a link to the relevant page on inform. A session will also be held at middle managers meeting to highlight the key issues and actions to be taken. This can then be cascaded down to all employees and Members.
- 4.2 The communication of the policy to new employees will be carried out during their induction session.

AUTHOR: Nikki Hughes, Audit Manager
01252 398810
nikki.hughes@rushmoor.gov.uk

HEAD OF SERVICE: Peter Timmins, Interim Executive Head of Financial Services

References:

ICO website

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/personal-data-breaches/>



DATA PROTECTION BREACH POLICY

There is potentially a **72 hour** timeframe in which information about a data breach needs to be reported to the **ICO**

Author: Nikki Hughes, Audit Manager

October 2018

Version: 1.1

Endorsed by: Licensing, Audit and General Purposes Committee – November 2018

Contents

1. What is personal data	2
2. What is a personal data breach?	2
3. Reporting data breaches	3
Notification requirement flow chart	5
Appendix A.....	6

DRAFT

1. What is personal data

- 1.1 Personal data is information relating to natural persons who can be identified or identifiable directly from the information or who can be indirectly identified from the information in combination with other information. For example, name, identification number, location data.
- 1.2 You do not have to know someone's name for them to be directly identifiable, a combination of other identifiers may be sufficient to identify the individual.
- 1.3 Information must 'relate to' the identifiable individual to be personal data. This means it does more than simply identifying them – it must concern the individual in some way. For example, bank details.
- 1.4 Information about companies or public authorities is not personal data. However, information about individuals acting as sole traders, employees, partners and company directors, where they are individually identifiable and the information relates to them, as an individual may constitute personal data.
- 1.5 Information about a deceased person does not constitute personal data.
- 1.6 The following personal data is classified as special category data:
- Racial/ethnic origin
 - Political opinions
 - Religious/ philosophical beliefs
 - Trade union membership
 - Genetic or biometric data for the purpose of identifying a person
 - Data concerning a person's health, sex life or sexual orientation

2. What is a personal data breach?

- 2.1 A personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. This includes breaches that are the result of both accidental and deliberate causes. Examples include:
- Sending personal data to an incorrect recipient
 - Electronic devices containing personal data being lost or stolen
 - Alteration of personal data without permission
 - Deliberate or accidental action (or inaction) by a controller or processor
- 2.2 A personal data breach can be paper or electronic documents.

3. Reporting data breaches

3.1

The following processes should be carried out when a data breach has been identified by Rushmoor Borough Council and details recorded in the form in Appendix A. It should be noted that where a data breach is likely to result in a risk to the rights and freedoms of one or more people then this will need to be reported to the ICO **WITHIN 72 HOURS** (this includes weekends) Therefore the matter should be treated urgently:

- **Containment and recovery**

You should notify your Line Manager or for Members the Head of Democracy, Strategy and Partnership and the Data Protection Officer (DPO) when a data breach has been identified. Action should be taken immediately if it is identified that the breach is still occurring, so that the damage caused by the breach is minimised. This may require input from different services such as IT, Legal services or may even require contacting suppliers.

It should also be established by the Manager and DPO if there is anything that can be done to recover any losses to minimise any damage the breach could cause. For example, the physical recovery of equipment or wiping of a lost mobile device.

- **Assessing the risk**

Once the breach has been contained, the Manager and DPO need to assess the risk associated with the breach. This should include an assessment of the potential adverse consequences for individuals, how serious these are and how likely they are to happen.

- **Notification of breaches**

Where necessary Rushmoor Borough Council will need to inform people and organisations that we have experienced a data security breach. Notification should have a clear purpose, whether this is to enable individuals who may have been affected to take steps to protect themselves or to allow the appropriate regulatory bodies to perform their functions, provide advice and deal with complaints. If the breach presents a high risk to individuals then they must be notified without undue delay unless measures have been put in place, which have removed or substantially reduced the risk.

The Manager and DPO also need to consider who to notify, what they are going to tell them and how they are going to communicate the message. Any notification should include a description of how and when the breach occurred and what data was involved.

If it is determined that there is a risk to people's rights and freedoms then the Information Commissioner (ICO) must be notified. If it is unlikely then you do not have to report it however

you will need to justify this decision. Notification must be made to the ICO **within 72 hours** of finding out about the breach (this timeframe includes weekends). Although, it is recognised that it might not be possible to investigate a breach within this timeframe therefore you can provide the required information in phases as long as it is done without undue further delay. Not notifying the ICO of the breach when required could result in a significant fine.

If malicious cyber activity has resulted in the data breach then the details must be reported to the IT Network Manager so that the details can be reported to the National Cyber Security Centre and the Public Sector Network.

The DPO should notify the Senior Information Risk Officer (SIRO) of any breaches that have occurred.

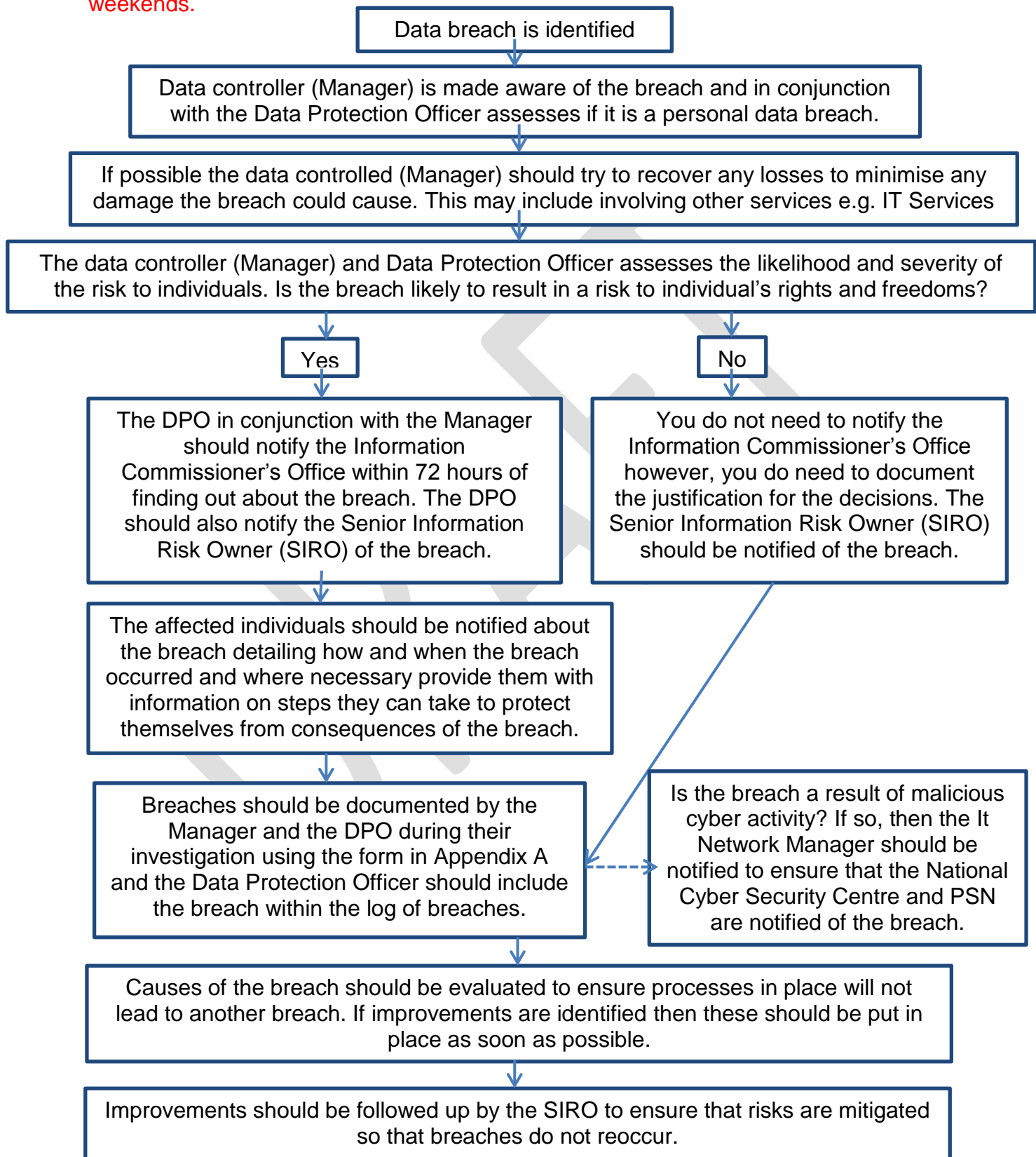
- ***Evaluation and response***

The Manager and DPO should evaluate the effectiveness of the response to the breach. The cause of the breach should be evaluated to ensure processes in place will not lead to another breach. If improvements are identified then these should be put in place as soon as possible.

The SIRO should ensure that vulnerabilities are followed up to ensure risks of future breaches are mitigated.

Notification requirement flow chart

NB: If the data breach is likely to result in a risk to the rights and freedoms of individuals then the ICO should be notified **within 72 hours, this timeframe includes weekends.**



Appendix A

Organisational Details	
Rushmoor Borough Council Council Offices Farnborough Road Farnborough Hants GU14 7JU	
DPO contact details	
Data.protection@rushmoor.gov.uk	
Investigating officer(s)	
Contact details	
Timeline of data breach	
Date/ time of the breach	
Date became aware of the breach	
Details of data breach	
Description of the breach and how it occurred detailing: <ul style="list-style-type: none"> - What type of data is involved - Is it special category data - If the data has been lost/stolen are there any protections in place e.g. encryption - What has happened to the data - What was the cause of the breach e.g. human error - How many individuals are affected by the breach Who are the individuals whose data has been breached	

Likely consequences of the data breach	
Assessment of the likely consequences: What could the data tell a third party about the individual What harm could come to the individuals affected - Are there wider consequences to consider e.g. risk to public health or loss of public confidence? - How likely are the consequences to the individuals	

Notification of the breach	
Are there any legal or contractual requirements to notify individuals of the breach	
Can notification help the individuals? Consider the dangers of over notifying	
After considering the above: Are the data subjects to be notified of the breach?	Y/N
If so, how will the data subjects be notified (What is the most appropriate method based on the group of individuals affected e.g. Children or vulnerable adults)	
Date individuals notified	
Is the ICO to be notified of the data breach?	
If not, what is the reason for not notifying them	
Date ICO notified	
Have the appropriate regulatory bodies been notified?	
If so which ones have been notified?	
Date notified	
Is the breach a result of malicious cyber activity?	Y/N
If so, has the national cyber security centre and PSN been notified by the IT Network Manager	
Date National cyber security centre notified	
Date PSN notified	

Action Taken	
Details of action taken to mitigate the effect to the individuals involved	
Has the data that was breached been recovered? If so, please provide details as to how and when.	

Evaluation	
Details of the investigation of the cause -How and why it occurred	
Details of the steps to be taken to prevent a reoccurrence of this incident.	

DRAFT

This page is intentionally left blank

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

26TH NOVEMBER 2018

**AUDIT MANAGER
REPORT NO. AUD1806**

INTERNAL AUDIT – AUDIT CHARTER

SUMMARY:

An internal audit charter has been developed to detail the purpose, authority and responsibility of internal audit within Rushmoor Borough Council.

RECOMMENDATION:

Members are requested to approve the Internal Audit Charter.

1 INTRODUCTION

- 1.1 An Internal audit charter is not specifically in place to detail the purpose, authority and responsibility of internal audit within Rushmoor Borough Council (RBC).
- 1.2 The Committee is required to approve the internal audit charter in line with their powers and duties detailed within the Constitution.

2 BACKGROUND

- 2.1 An official internal audit charter currently does not exist but the purpose, authority and responsibility of internal audit is partly contained within some elements of the Council's Constitution.
- 2.2 As part of the Public Sector Internal Audit Standards (PSIAS) there is a requirement to have in place an internal audit charter, which details specific elements. As part of the Quality Assurance Improvement Plan (QAIP) it was agreed that an internal audit charter would be formally developed to ensure that there is greater compliance towards these standards.
- 2.3 The internal audit charter is required to be approved by the Licensing, Audit and General Purposes Committee on an annual basis in line with the requirements of the PSIAS.

3 INTERNAL AUDIT CHARTER

- 3.1 An internal audit charter has been developed to detail the purpose, authority and responsibility of internal audit, details of which are contained within **Appendix A**. The charter has been developed to ensure that requirements of the PSIAS are met resulting in further compliance towards the standards.

AUTHOR: Nikki Hughes, Audit Manager
01252 398810
nikki.hughes@rushmoor.gov.uk

HEAD OF SERVICE: Peter Timmins, Interim Executive Head of Financial Services

References:

Public Sector Internal Audit Standards (PSIAS)

<https://www.cipfa.org/policy-and-guidance/standards/public-sector-internal-audit-standards>

RUSHMOOR
BOROUGH COUNCIL



INTERNAL AUDIT CHARTER

Author: Nikki Hughes, Audit Manager

October 2018

Version: 1.0

Endorsed by: Licensing, Audit & General Purposes Committee – November 2018

Contents

1. Introduction.....	2
2. Definitions and roadmap.....	2
3. Purpose of Internal Audit.....	3
4. Scope of Internal Audit.....	3
5. Organisational independence.....	5
6. Responsibility.....	5
7. Due professional care.....	9
8. Authority.....	9
9. Access to records and personnel.....	9
10. Reporting structure.....	10
11. Public Sector Audit Standards (PSIAS).....	10
12. Quality Assurance and Improvement Programme (QAIP).....	10
APPENDIX 1.....	11

1. Introduction

- 1.1 The Public Sector Internal Audit Standards (PSIAS) were formally adopted by CIPFA and IIA on the 1st April 2013. The PSIAS replaced the CIPFA code of practice for internal audit in Local Government in the UK (2006).
- 1.2 This charter establishes the purpose, authority and responsibilities for the internal audit service at Rushmoor Borough Council (RBC) and has been developed in line with the PSIAS requirements. It is further informed by the CIPFA Local Government Application Note (April 2013), which was published to assist in the implementation of the PSIAS.
- 1.3 The internal audit charter is subject to approval by the Licencing, Audit and General Purposes Committee on an annual basis, in line with the PSIAS requirements.

2. Definitions and roadmap

- 2.1 RBC has defined the following individuals referred to in the PSIAS as follows:

Terminology in PSIAS	Meaning in PSIAS	Who in RBC
The Board	The governance group charged with independent assurance on the adequacy of the risk management framework, the Internal control environment and the integrity of financial reporting.	The Licencing, Audit and General Purposes Committee
Senior Management	Those responsible for the leadership and direction of the Council.	Executive Leadership Team (ELT)
Chief Audit Executive	A person in a senior position responsible for effectively managing the Internal Audit activity in accordance with the Internal Audit Charter and the Public Sector Internal Audit Standards.	Audit Manager

- 2.2 Having set the scene, Sections 3 to 11 constitute the Charter. Section 12 notes a further task that, when completed, will deliver full compliance. The target date for this is 2019/20. Appendix 1 sets out the annual calendar, for when the various reports will appear.

3. Purpose of Internal Audit

3.1 The definition of internal auditing as defined within the PSIAS is;

‘Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.’

3.2 RBC Management is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal audit plays a vital role in advising the Council that these arrangements, are in place and operating effectively.

3.3 This is achieved through the Internal Audit service providing a combination of assurance and consulting activities. Assurance work involves assessing how well the systems and processes are designed and working, with consulting activities available to help to improve those systems and processes where necessary.

4. Scope of Internal Audit

4.1 **The Annual Opinion**

The Chief Audit Executive will provide an annual audit opinion, which will conclude on RBC’s overall adequacy and effectiveness of its framework of governance, risk management and control. This opinion can be used to inform the Annual Governance Statement. The opinion given will be based on reasonable and not absolute assurances, and will include any limitations to scope affecting the opinion. The audit opinion will include:

- The Opinion
- A summary of the work that supports the opinion, including any other sources of assurance
- A statement on conformance with PSIAS and the results of the Quality Assurance and Improvement Programme (QAIP)

4.2 **Annual plan**

The Chief Audit Executive will review the audit risk universe annually. This will help to inform the development of the annual audit plan, as this will highlight key risk areas within the organisation. Furthermore, the corporate risk register and the Council’s priorities and objectives will be used to help develop the overall audit plan.

As part of the planning process, the Chief Audit Executive will identify other potential sources of assurance and will include the approach to using other sources of assurance and any work required to enable reliance to be placed upon these other sources.

The audit plan will be set prior to the start of the financial year and agreed by Senior Management and the Board. However, the plan will remain flexible in order to meet any changing priorities within the Council throughout the year. Quarterly update reports to Senior Management and the Board will detail any changes required to the audit plan.

The resource requirements to achieve the annual audit plan will be reviewed and if any resource limitations are identified, which will impact on the delivery of the audit plan, this will be highlighted to the Section 151 officer and the Board, consistent with para 8.1.

4.3 ***Risk based audits***

Internal Audit will not be restricted to the audit of financial systems and controls but will also cover all operational and management controls. Audit work will be undertaken using a risk based approach. This identifies the risks associated with the achievement of the business objectives and reviews the design and operation of the controls in place to mitigate key risks, to ascertain the residual risk to the achievement of management's objectives.

4.4 ***Recommendations from audits***

Where significant weaknesses are found in risk based audits, an action plan will be agreed with the manager of the service. Internal Audit will maintain a record of these, which will be used to inform future audits. An important element of audit work is to provide assurance to Senior Management and the Board as to whether Audit recommendations have been successfully implemented. This will be done via follow up audit reviews and any incomplete recommendations will be reported to Senior Management and the Board. A rolling list of incomplete audit recommendations will be maintained and reported quarterly to Senior Management and the Board.

4.5 ***Consultancy activities***

Internal Audit may also provide consultancy services, such as advice on the design and implementation of a new system or process. The nature and scope of which will be agreed with the client and intended to add value and improve the Council's governance, risk management and control processes without Internal Audit assuming responsibility. Any significant consulting activity not already included in the annual audit plan, which may affect the level of assurance work undertaken, will be reported to the Board and Senior Management for approval.

4.6 ***Special reviews/ fraud prevention and detection***

The Chief Audit Executive has responsibility for the work and delivery of the Corporate Investigation team, who provide specialist skills and knowledge to assist corporate investigations. The Internal Audit service assist the Corporate Investigation team by:

- Promoting an anti-fraud, anti-bribery, anti-corruption culture, which aids prevention and detection.

- Ascertaining the effectiveness of fraud prevention controls and detection processes.
- Bringing to the Chief Audit Executive's attention any irregularities identified during the course of audit work which may be the result of fraud or corruption.
- Providing assurance that any remedial actions required as a result of an investigation have been implemented.

5. Organisational independence

- 5.1 The internal audit service has no operational responsibilities for any financial systems, including system development and installation. However, it may provide advice on control implementation and risk mitigation where relevant throughout the design and implementation stages of new systems.
- 5.2 The PSIAS requires that reporting management arrangements must be put in place that preserve the Chief Audit Executive's independence and objectivity and that they report to a level within the organisation that allows the internal audit activity to fulfil its responsibility.
- 5.3 Within RBC, the Chief Audit Executive reports administratively to the Executive Head of Financial Services (Section 151 Officer) and has free and unfettered access to the Chief Executive, Chair of the Licensing, Audit and General Purposes Committee and Monitoring Officer.
- 5.4 Internal Audit will ensure that independence and objectivity are maintained in line with the PSIAS including where non-audit work is undertaken. To manage potential conflicts of interest, internal auditors have no operational responsibilities and any independence issues are highlighted at the planning stage for individual audit assignments.
- 5.5 If independence or objectivity is impaired in fact or appearance, the details of the impairment must be disclosed to the Chief Audit Executive and reported to the Executive Head of Financial Services (Section 151 Officer), who must respond in writing within 21 days.

6. Responsibility

6.1 **Chief Audit Executive**

The Chief Audit Executive must ensure that:

- They carry out an audit needs risk assessment using the audit universe in order to prioritise the results into an annual plan.
- Agree the plan with Senior Management and the Board.
- The internal audit resources are appropriate and sufficient to achieve the approved audit plan. Any inadequacies will be raised with the Section 151 Officer and the Board.

- There are appropriate policies and procedures in place to guide the internal audit activities in line with PSIAS and appropriate regulations.
- Appropriate corporate anti-fraud policies are in place and periodically reviewed for adequacy and effectiveness.
- Internal Audit complies with the PSIAS and Code of Ethics.
- They periodically review policies, procedures and the internal audit charter to ensure adequacy and effectiveness.
- Confidentiality is maintained at all times.
- Auditors do not audit activities for which they previously had responsibility within the last 12 months.
- Follow ups on audit recommendations are carried out and management have taken action to implement the agreed actions. Where agreed action has not been taken this is reported to senior Management and the Board.
- Where management has accepted a level of risk that may be unacceptable to RBC the matter will be discussed with Senior Management, as relevant or escalated to the Board to be resolved.
- Access to audit records is controlled and only released in accordance with the Freedom of Information and Data Protection Act.
- All records are retained for the required period and in line with RBC's retention guidelines.
- They report to the Board on a regular basis in line with the agreed work programme for the Committee.

6.2 **Auditors**

All auditors must ensure that they:

- Maintain an impartial and unbiased attitude and avoid any conflict of interest.
- Refrain from assessing any activity to which they were previously responsible within the last 12 months, although they may provide consultancy services.
- Possess the knowledge, skills and other competencies needed to perform their individual responsibilities and that they enhance those skills through continuing professional development.
- Exercise due professional care at all times.
- Assist management in establishing or improving risk management processes, without managing those risks.
- Give adequate notice of the start of a planned audit.
- Develop and document a plan of each assignment detailing its objectives, scope and any limitations, and timing.
- Consider the objectives, risks, effectiveness of the control framework, of the activity under review, when planning and setting the objectives of each assignment.
- Develop and document a programme of work that achieves the audit objectives.
- Document sufficient information on their identification, analysis and evaluation of risks and controls within the area being audited.

- Communicate their findings based on opinion ascertained from these evaluations, providing an overall conclusion and assurance level, recommendations (where applicable) and proposed action plan.
- Communicate all findings in an accurate, objective, clear, concise, constructive, complete and timely manner in accordance with PSIAS.
- Agree a plan of action with the auditee to mitigate the control weaknesses identified.
- Maintain professional independence, objectivity, integrity and confidentiality.
- Inform the Chief Audit Executive of any areas where they could have a conflict of interest which could impair or be perceived to impair their objectivity.
- Securely hold any documents, property, or other material obtained for audit use or investigations.
- Act with due care to provide reasonable assurance on the adequacy of control.

6.3 **Section 151 Officer**

The section 151 officer has the authority to ensure that the provision of internal audit is sufficient to meet the section 151 requirements.

The section 151 officer must ensure that:

- Any suspected irregularities are properly and appropriately investigated and action taken.
- S/he is satisfied that the annual audit opinion and the annual governance statement reflects accurately the position of the control framework.
- Internal audit is sufficiently resourced and is effective. In the event that it is not this is raised with the Board.

6.4 **Monitoring Officer**

The monitoring officer is responsible for:

- Ensuring lawfulness and fairness in decision making
- Dealing with investigations into matters referred to them and make reports or recommendation in respect of them
- Provide advice on:
 - The scope of powers to take decisions
 - Maladministration
 - Financial impropriety
 - Probity

6.5 **Chief Executive**

The Chief Executive carries the responsibility for the proper management of RBC and for ensuring that the principles of good governance are reflected in sound management arrangements.

6.6 **Members**

Members are required to scrutinise the work of internal audit in line with the Terms of Reference for the Licensing, Audit and General Purpose Committee. The Members are responsible for:

- Approving the Internal Audit Charter
- Reviewing the risk based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- Approving significant changes to the risk based internal audit plan and resource requirements.
- Making appropriate enquires of both management and the Chief Audit Executive to determine if there are any inappropriate scope or resource limitations, in respect of carrying out internal audit work.
- Considering reports from the Chief Audit Executive on internal audit's performance during the year.
- Considering the Chief Audit Executive's annual report
- Receiving summaries of any specific internal audit reports as required for the purposes of ensuring the audit purpose and responsibilities are being met.
- Receiving reports outlining the action taken where the Chief Audit Executive has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
- Providing free and unfettered access to the Committee Chair for the Chief Audit Executive, including the opportunity for a private meeting with the Committee.

6.7 **Auditees/ Managers**

Responsibility for internal control rests with managers, who should ensure that arrangements are appropriate and adequate. It is for management to accept and implement audit recommendations or to accept the risk resulting from not taking any action. Auditees must ensure that they:

- Give internal auditors access to premises, personnel, documents and assets that the auditor requires for the purpose of their work.
- Provide auditors with any information and explanations that they seek in the course of their work.
- Respond promptly and formally to audit requests for information and reports.

6.8 **External Audit**

Internal audit will co-operate and regularly liaise with the external auditors to ensure an efficient and effective internal audit service and ensure where possible duplication of work is avoided. External audit have a responsibility to assess whether internal audit arrangements are adequate and will, where they are able, place reliance on internal audits work when forming their opinion on RBC's accounts.

7. Due professional care

- 7.1 The Chief Audit Executive must hold a professional qualification and current membership and must be suitably experienced.
- 7.2 The Chief Audit Executive will assess on an annual basis the knowledge, skills and other competencies required within the internal audit section in order for it to fulfil its purpose and effectively carry out professional duties in accordance with statutory requirements. If any insufficiencies are identified these will be reported to the Section 151 Officer and reported to the Board if there is likely to be an impact on achieving either the annual audit plan or a sufficient level of reviews to enable an effective annual audit opinion to be made.
- 7.3 All internal auditors will have sufficient knowledge through training and continued professional development to carry out their duties.
- 7.4 Any impairment either in fact or appearance on any individual auditors independence or objectivity will be reported to the Section 151 officer.

8. Authority

- 8.1 All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (Section 151) and the Accounts and Audit Regulations 2015. The latter requires authorities to:
'(i) A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector auditing standards or guidance.'

9. Access to records and personnel

- 9.1 Internal auditors have right of access to all premises, personnel, documents and information they consider necessary for the purpose of their reviews and to obtain such information and explanations from any employees as necessary concerning any matter under review/ investigation.
- 9.2 Internal auditors also have the power to require any Council employee, agent or Member to produce cash, equipment, computers or other Council property under their control. Internal Audit can retain or seize these items in order to protect the Council's interest, or to preserve evidence, if a suspected irregularity has occurred before considering whether to refer the issue to the Police.
- 9.3 Records will be held and retained in line with the General Data Protection Regulations.

10. Reporting structure

- 10.1 Annually the Chief Audit Executive will present for review and approval the annual audit plan, including resource requirements and any perceived deficiencies to the Board following consultation with Senior Management.
- 10.2 Quarterly an update report on the progress towards the audit plan will be presented to Senior Management and the Board. This will include any significant risk exposure and control issues identified and any changes required to the audit plan.
- 10.3 A report will be prepared for every audit review carried out, which will include an opinion on the adequacy of controls in the area that has been audited. The report will be distributed in line with the agreed reporting protocols. The draft report will be discussed with the auditees and a response obtained for each recommendation along with a timescale for implementation.
- 10.4 It is for management to determine whether or not to accept the audit recommendations made and to recognise and accept the risks of not taking action. They must formally respond giving reasons for their decision.
- 10.5 Progress towards agreed actions will be reported to Senior Management and the Board. If appropriate action has not been taken within a reasonable timeframe for high risk actions then this will be specifically highlighted for further action by Senior Management and the Board.

11. Public Sector Audit Standards (PSIAS)

- 11.1 The PSIAS promotes an ethical and professional culture. The Chief Audit Executive will carry out an annual self-assessment of the internal audit's performance against PSIAS. A breakdown of compliance and non-compliance will be communicated annually to the Board and Senior Management along with a Quality Assurance and Improvement Programme (QAIP).

12. Quality Assurance and Improvement Programme (QAIP)

- 12.1 As a result of the Chief Audit Executives review of the PSIAS, a QAIP will be developed for the current year if full compliance has not been achieved. This will set out what work is required to become complaint and the action that will be taken in the current year by the audit service in order to work towards becoming fully compliant.

APPENDIX 1

Approximate Timing	Report Details
Feb/March	Annual Audit Plan
May	Audit Opinion
May	Update for all deliverables for the previous financial year and update on audit work to the end of quarter 4.
June/July	Audit update for quarter 1 and deliverables for quarter 2 and quarter 3.
Oct/ Nov	Audit update for quarter 2 and deliverables for quarter 3 and quarter 4.
Jan/ Feb	Audit update for quarter 3 and deliverables for quarter 4.

NB: Only approximate timings have been given for these reports as it will depend on when the Committee meetings are scheduled.

LICENSING & GENERAL PURPOSES COMMITTEE
26 NOVEMBER 2018

AGENDA ITEM NO.

HEAD OF OPERATIONAL SERVICES
REPORT NO. EHH1826

**PROPOSED VARIATION
TO THE STANDARD SEX SHOP LICENCE CONDITIONS**

SUMMARY

This report outlines proposals to vary the standard conditions currently applied to sex shop licences.

The Committee is requested to consider the proposals and provisionally approve the adoption of new standard conditions which, subject to consultation, should take effect from 1st February 2019.

1. BACKGROUND & INTRODUCTION

- 1.1. The Local Government (Miscellaneous Provisions) Act 1982 (LGMPA82) provides for local authorities to licence sex establishments. These include sex cinemas and/or sex shops.
- 1.2. Whilst there are no known sex cinemas in the Rushmoor area, there is one sex shop; these being any premises used for selling or displaying sex articles and/or other associated items to a 'significant degree'. The premises namely, The Private Shop, 266B High Street, Aldershot, Hampshire, GU12 4LT is operated by Darker Enterprises Ltd and has been continuously licensed by the Council since 2nd May 2001.
- 1.3. Whilst paragraph 8 of Schedule 3 of the LGMPA82 provides that the authority may grant and/or renew a sex establishment licence on such terms, conditions or restrictions as may be specified, paragraph 13 gives the Council the power - not a duty (i.e. a discretionary ability), to prescribe standard conditions to be applied to sex establishments licences. These may also include the terms, conditions and/or restrictions on or subject to which licences granted under this Schedule are in general to be granted, renewed or transferred.
- 1.4. The Council's standard conditions were last reviewed in 1999 when Committee considered and approved the then Head of Environmental Health Services report N^o: 29/99. Whilst a copy of these is given at **appendix A** for reference, these conditions have been applied to the above mentioned licence on renewal since initial grant.
- 1.5. Darker Enterprises Ltd have recently submitted a request seeking permission to modernise their premises. Consideration of this request has prompted a review of the standard conditions which, it is felt, also now need updating to take account of changes in the law and the experience of officers engaged in the regulation of the premises.

- 1.6. It is felt that the standard conditions also require update to ensure consistency of approach; whereby the existing conditions contain a notable degree of fire, health and safety-related content. Notably, as there is currently no similar policy in respect of sex establishment licensing (this will follow at a later date), this contrasts markedly with other Council licensing policies (e.g. Licensing Act 2003, Gambling Act 2005); whereby the Licensing Authority normally seeks to avoid the imposition of conditions that duplicate other regulatory requirements.
- 1.7. Under the Local Authorities (Functions & Responsibilities) (England) Regulations 2000, the imposition of conditions is not an executive function. Accordingly, the Committee is, subject to proposed consultation arrangements (see paragraph 2.3 below) asked to consider and provisionally approve the revised standard conditions drafted.

2. DETAILS OF THE PROPOSAL

2.1. Proposed Conditions

- 2.2. The proposed standard conditions are set out in **appendix B**. Following removal of conditions that duplicate other regulatory requirements these effectively consolidate the previous set of standard conditions and those of other authorities with licensed premises within the Hampshire & Isle of Wight Licensing Officers Group.

2.3. Proposed consultation

- 2.4. Whilst there is no requirement in law to carry out any public consultation in respect of any revision to the standard conditions, it is proposed, by way of transparency and consistency with other licensing regimes, that a 6-week consultation be undertaken in respect of the proposed changes. This would afford both the existing licence holder, interested parties and other Members an opportunity for comment.
- 2.5. It is further proposed, that where no representations are made on consultation, that the revised conditions take effect from **1st February**. However, any substantive feedback will be referred back to the Committee for consideration.

3. IMPLICATIONS OF PROPOSALS

- 3.1. Updating the standard conditions will ensure consistency of approach and that the local authority continues to have an effective means of control in respect of the existing licensed premises, and any premises which may become licensed in the future.
- 3.2. Given that the proposals largely consolidate existing arrangements and given that there is currently only one licensed sex shop in Rushmoor, the implications of the proposals are considered to be limited. However, the proposed consultation and, where appropriate, any reconsideration by Committee, should help identify and resolve any significant issues.

4. OTHER RELEVANT CONSIDERATIONS

4.1. Legal Implications

4.2. Whilst the Council is not obliged to prescribe standard conditions or consult on them, it is considered necessary in order to effectively regulate licensed sex shops within the borough.

4.3. Financial and Resource Implications

4.4. There are no direct financial implications associated with this report, aside from the costs of consultation (if appropriate), which can be borne from existing budgets.

4.5. Useful Guidance

4.6. While there is limited guidance available to Council's in respect of sex shop licensing conditions, an excerpt of the Home Office guidance on Sexual Entertainment Venues is given at **appendix C** for reference.

5. RECOMMENDATIONS

5.1. It is recommended that Committee provisionally approve the proposed standard conditions to be applied to licensed sex shops in Rushmoor. It is also recommended that such conditions be subject to public consultation. In the case that no substantive representations are made during the consultation period, it is recommended that the revised conditions take effect from 1st February 2019.

BACKGROUND DOCUMENTS: None

CONTACT DETAILS:

Report Author – Shelley Bowman, Principal Licensing Officer
Email: shelley.bowman@rushmoor.gov.uk, **Tel:** 01252 398162

Head of Service – James Duggin, Head of Operations
Email: james.duggin@rushmoor.gov.uk, **Tel:** 01252 398640

APPENDICES:

Appendix	Title
Appendix A	- Current standard sex shop licence conditions
Appendix B	- Proposed standard sex shop licence conditions
Appendix C	- Home Office Guidance on Sexual Entertainment Venues

-oOo-

CURRENT STANDARD SEX SHOP LICENCE CONDITIONS

- NOTES:**
- (i) Except where the context demands otherwise the singular includes the plural and masculine includes the feminine.
 - (ii) Nothing in these conditions shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
 - (iii) These conditions are divided into the following parts:
 - Part I General
 - Part II General conditions relating to management conduct etc.
 - Part III Conditions in respect of fire and safety.
 - Part IV Other safety conditions and conditions relating to sanitation and noise.
 - Part V Conditions which apply to sex shops.

Disabled People

It is the policy of the Council that there should be access and facilities for disabled people at sex shops. Licensees are therefore encouraged in the strongest possible terms to provide such facilities so as to enable the admission of disabled people and are reminded of the duties imposed by the Disability Discrimination Act 1995.

PART 1 – GENERAL CONDITIONS

1.0 Definitions

1.1 In these conditions, unless the context otherwise requires:

'Approval of the Council' or 'consent of the Council' means the approval or consent of the Council in writing.

'Approved', 'accepted', or 'permitted' means approved, accepted or permitted by the Council in writing.

'Approved arrangements' means the arrangement of the premises, fittings, installations, etc. as approved by the Council.

'Council' means Rushmoor Borough Council.

'Emergency lighting' means lighting, obtained from a source independent of the general supply for the building, provided to assist the public and staff to leave the premises without the aid of normal lighting.

'Licensee' means the holder of a sex shop licence.

'Non-combustible' material means material which is deemed to be non-combustible in accordance with BS 476: Part 4, or material accepted by the Council as being non-combustible.

'Officer' means any person authorised in writing by the Council. (This may include Police and Fire Officers).

'Premises' means any premises within Rushmoor licensed as a sex shop and includes all installations, fittings, etc.

'Sex Shop' and 'Sex Article' have the meaning given in Schedule Three to the Local Government (Miscellaneous Provisions) Act 1982.

2.0 Dispensation or modification of conditions

- 2.1 These conditions may be dispensed with or modified by the Council in any special case.
- 2.2 Where in these conditions there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- 2.3 If the licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

PART II - GENERAL CONDITIONS RELATING TO MANAGEMENT, CONDUCT, ETC.

3.0 Exhibition of Licence

- 3.1 The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by persons using the premises.

4.0 Hours of Operation

- 4.1 The premises shall not, for any purpose of the licence, be open to customers before the opening time or after the terminal hour as detailed on the front page of this licence.

5.0 Responsibility of Licence Holder

- 5.1 The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.
- 5.2 No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with relevant legislation.
- 5.3 Other than that which is required in law, the only signage or wording etc visible on the shop frontage shall be the title of the shop ("Personal Lines"),

the telephone number of the shop and a contact email address, together with the opening hours. The statutory sign shall be prominently displayed on the second door of the lobby.

- 5.4 The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained in accordance with the relevant legislation.

6.0 Persons in charge of Licensed Premises

- 6.1 The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public.

(a) Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.

- 6.2 The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.

- 6.3 A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

7.0 Conduct of Premises

- 7.1 The licensee shall maintain good order in the premises.

- 7.2 The licensee shall ensure that the public are not admitted to any parts of the premises other than the ground floor retail shop.

- 7.3 The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

Note: Soliciting includes the distribution of leaflets.

- 7.4 No person under the age of 18 shall be admitted to any part of the premises which is used as a sex shop or be employed in the business of the sex shop.

- 7.5 No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public.

(a) If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display, it shall be removed or completely obscured from sight.

8.0 Doorways, openings, windows etc.

- 8.1 The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.
- 8.2 The windows to the premises shall be glazed and shall be fitted with vertical handing blinds and secondary screening. All other openings shall be obscured.
- 8.3 The premises shall be provided with a two door entry lobby, each door fitted with a self closing device. The lobby and doors shall be constructed as to render the interior obscured to passers-by.

9.0 Change of Use

- 9.1 No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council.

10.0 Alterations

- 10.1 No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.
- 10.2 Where works necessitate the premises being closed for a period of time, the premises shall not re-open for the purpose of the licence until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

PART III – CONDITIONS IN RESPECT OF FIRE AND SAFETY CONDITIONS

11.0 Maintenance

- 11.1 The approved arrangements shall be maintained at all times in good order, repair and condition.

12.0 Overcrowding

- 12.1 Overcrowding shall not be permitted in any part of the premises.
- 12.2 No more than 15 persons shall be allowed into this premises at any one time.
- 12.3 The licensee shall ensure that the limit specified in condition 12.2 is not exceeded.

13.0 Maintenance of Means of Escape

- 13.1 All exit routes shall be maintained with non-slip and even floor/step surfaces and be free of trip hazards at all times. Such exit routes shall be unobstructed and available for immediate use at all times.

13.2 All exit doors shall be available for immediate use, without use of a key or similar fastening, the whole time the public are in the premises. Only fastenings that have been approved by the Council in writing may be provided on such doors.

13.3 All fire doors shall be maintained effectively self-closing and not wedged open.

13.4 Any removable security fastenings approved by the Council shall be removed from the doors prior to opening to the public.

14.0 Curtains, Decorations etc

14.1 Where approval is given for curtains to be used, the curtains shall, where necessary, be periodically re-sprayed to maintain their fire resistance. Curtains shall be arranged so as not to obstruct EXIT notices and/or fire extinguishers or other fire fighting equipment.

14.2 Curtains where permitted across doors shall be in two halves on a free running rail to enable them to be parted easily. Such curtains shall have a clearance of at least 75mm between the bottom of the curtain and the floor.

15.0 Fire Alarms

15.1 Any fire alarm system shall be checked monthly to ensure it is fully operational. In addition, any system shall be serviced yearly by a qualified engineer and all results recorded in a log book to be retained on the premises.

16.0 Fire Fighting Equipment

16.1 All fire extinguishers and fire fighting equipment shall be checked yearly by a competent person and the test date recorded on the equipment, or in the case of hose reels and sprinkler systems, the test results shall be recorded in a log book retained on the premises.

16.2 Any extinguisher discharged shall be replaced or recharged immediately.

17.0 Outbreaks of Fire

17.1 The Fire and Rescue Service shall be called to any outbreak of fire, however slight. Suitable notices shall be displayed indicating how the Service can be summoned.

**PART IV – OTHER SAFETY CONDITIONS AND CONDITIONS RELATING TO
SANITATION AND NOISE**

18.0 Sanitation

18.1 The Licensee shall ensure that adequate sanitary accommodation is available in the premises for the use of staff and in particular shall:

- (a) maintain each sanitary convenience in a clean and efficient order.
- (b) ensure that any room which contains a sanitary convenience is suitably and sufficiently lighted and ventilated and is kept clean.
- (c) ensure that in the sanitary accommodation provided, there are installed and maintained suitable and sufficient wash-hand basins and that each basin is provided with an adequate supply of hot and cold water or of hot water at a suitably controlled temperature, together with an adequate supply of soap and suitable hand drying facilities.
- (d) the premises are so constructed with the adequate provision of efficient drains, suitable wall, floor and ceiling finishes, etc, that satisfactory sanitation can be maintained.

19.0 Lighting

19.1 All lighting (including emergency lighting) shall be maintained in full working order.

20.0 Electrical Installation

20.1 The electrical installation for the premises and any equipment used therein shall be maintained in a safe working condition as prescribed by the Electricity at Work Regulations 1989, and the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.

21.0 Emergency Lighting

21.1 Any emergency lighting installation shall be maintained and tested in accordance with the relevant health and safety standards.

22.0 Heating

22.1 The heating system and/or appliances used within the premises shall be fully maintained in good working order for use when required. Any guards required by the Council shall be securely held in position.

23.0 Gas and Electricity Meters

23.1 Gas and electricity/mains intake enclosures shall not be used for any other purpose (e.g. storage) and, where meters are not in an enclosure, the meters shall not be obstructed and shall be available for immediate access.

24.0 Paraffin and Mineral Oil

24.1 Paraffin or other mineral oil shall not be used in any lamp, stove or other appliance in premises except with prior written consent of the Council

25.0 Noise and Vibration

25.1 The licensee shall ensure that no noise shall emanate from the licensed premises or vibration be transmitted through the structure of the licensed premises which gives rise to a nuisance to the occupier of premises in the vicinity of the licensed premises.

(a) Without prejudice to the generality of this condition the licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.

25.2 The licensee must ensure that appropriate measures are taken to prevent any nuisance which may be caused by the operation or use of ventilation or other equipment.

PART V - CONDITIONS APPLYING TO SEX SHOPS

26.0 Goods available in sex shops

26.1 All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to persons who are inside the sex shop with the respective prices being charged.

26.2 All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to the effect is to be prominently displayed within the sex shop.

26.3 No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

PROPOSED STANDARD SEX SHOP LICENCE CONDITIONS

1. The sex shop licence or a certified copy shall be prominently displayed at the premises.
2. This licence permits the licence holder to operate the premises as a sex shop only. Any change of use of the venue shall require the permission of the licensing authority.
3. The premises shall not be open to customers at any time other than in accordance with the permitted hours detailed on the licence.
4.
 - (a) No person under the age of 18 years shall be permitted entry to the premise at any time.
 - (b) Anyone attempting to enter the premises who looks under the age of 25 shall be asked to provide photographic identification to prove that they are over the age of 18 years. If they cannot provide this they shall be refused entry to the premises.
 - (c) A written record shall be made of any refusal of entry to any individual. The records shall be kept at the premises to which they relate for a minimum of 12 months, and shall be made available to officers of the licensing authority on request.
 - (d) No person under the age of 18 years shall be employed in any capacity in relation to the business.
 - (e) Suitable signage outlining the age restriction requirements outlined in condition 4(a) above shall be prominently displayed on the exterior of the premises and on the second door of the entrance lobby.
5.
 - (a) The premises shall be fitted with a two-door entrance lobby, whereby each door is fitted with a self-closing device.
 - (b) The lobby shall be designed such that the interior of the premises is not visible to passers-by, when customers are entering / exiting the premises.
6.
 - (a) Only suitable signage, wording or images shall be displayed on the shop frontage that has been approved by the licensing authority in writing; whereby they have deemed that it is suitable, inoffensive and appropriate for passers-by.
 - (b) The entrances and windows of the premises shall be made from or covered with a material, which effectively prevents the interior of the premises from being visible to passers-by.

7. No poster or advertisement for the licensed premises, may be displayed at any public place without the approval of the licensing authority in writing, whereby they have deemed that it is suitable, inoffensive and appropriate for passers-by.
8. The licence holder or any other person related to the business shall not seek to obtain custom by means of personal solicitation, touting or the distribution of leaflets, from or in the vicinity of the premises.
9.
 - (a) A responsible person, over the age of 18 years, and nominated in writing by the licence holder, shall be present and in charge of the premises at all times that it is open to the public.
 - (b) The written nomination of the individual shall be kept at the premises, and made available to officers of the licensing authority immediately on request.
 - (c) A notice shall be displayed at the premises in a prominent position, notifying customers of the person in charge at all times that the premises is open to the public.
 - (d) The nominated person shall not be engaged in any duties which prevent him / her from exercising general supervision.
 - (e) The nominated person shall maintain good order in the premises at all times.
10.
 - (a) A suitable and sufficient digital CCTV camera system linked to a suitable recording facility, which captures images of evidential quality, shall, so far as is reasonably practicable, be operational at the premises during any period in which the premises is open to the public.
 - (b) CCTV recordings and footage must be retained for a minimum period of 31 (thirty-one) days and be made available for review by the Police upon request (subject to the requirements of the Data Protection legislation in force at the time).
 - (c) All CCTV recorded images / footage and copies thereof shall, so far as is reasonably practicable, display the correct time and date of each recording. The system clock shall be checked regularly for accuracy taking account of GMT and BST.
 - (d) Suitable and sufficient warning signs shall be displayed in the public areas of the premises advising that CCTV is in operation at the premises.
 - (e) A competent person conversant with the operation and retrieval of information contained in the CCTV system / footage shall be available to provide immediate copies of footage to the police on request. Any images recovered must be in a viewable format on either disc or VHS.

Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.

11. The licence holder shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the Premises.
12. No changes shall be made to the layout of the premises without the written consent of the licensing authority, on receipt of an updated premises plan.
13. Members of the public shall not be permitted to any other part of the premises other than the retail area, as defined by the premises plan attached to the licence.
14. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Shop nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
15. All products available for sale or hire shall be clearly marked with the purchase / hire price.
16. All printed matter offered for sale or loan shall be available for inspection prior to purchase, and a notice to that effect shall be prominently displayed at the premises.
17. No film shall be exhibited, sold or supplied unless it -
 - (a) has been rated by the British Board of Film Classification (BBFC);
 - (b) bears a certificate showing the given rating; and
 - (c) is a reproduction authorised by the owner of the copyright of the film
18. No speaker or other form of sound amplification equipment shall be positioned near to or facing external doors or windows.
19. Where the licence holder is a body corporate or an unincorporated body, the licensing authority shall be notified of any change of director, company secretary or other person responsible for the management of the body in writing within 14 days of such change.
20. All members of staff shall be made aware of the conditions of the licence by a mechanism in writing.

-oOo-

HOME OFFICE GUIDANCE - SEXUAL ENTERTAINMENT VENUES

Licence Conditions

- 3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:
- The hours of opening and closing
 - Displays and advertisements on or in sex establishments
 - The visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another
- 3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.