



RUSHMOOR BOROUGH COUNCIL

CORPORATE GOVERNANCE, AUDIT AND STANDARDS COMMITTEE

*at the Council Offices, Farnborough on
Tuesday, 27th July, 2021 at 7.00 pm*

To:

Cllr Sue Carter (Chairman)
Cllr P.J. Cullum (Vice-Chairman)

Cllr Jessica Auton
Cllr J Belbase
Cllr Sophia Choudhary
Cllr A.K. Chowdhury
Cllr Christine Guinness
Cllr A.J. Halstead
Cllr Prabesh KC
Cllr Jacqui Vosper
Cllr Sarah Spall

STANDING DEPUTIES

Cllr T.D. Bridgeman
Cllr J.B. Canty

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

A G E N D A

1. **STATEMENT OF ACCOUNTS AND AUDIT OPINION 2019/20 – (Pages 1 - 64)**

To receive an update from the Executive Head of Finance on the Statement of Accounts and Audit Opinion 2019/20. A representative of Ernst & Young will be joining the meeting for this item.

2. **MINUTES – (Pages 65 - 74)**

To confirm the Minutes of the Meeting held on 27th May 2001 (copy attached).

3. **STATEMENT OF ACCOUNTS 2020/21 - PROGRESS/UPDATE –**

To receive an update from the Executive Head of Finance on progress with the Statement of Accounts 2020/21.

4. **ANNUAL GOVERNANCE STATEMENT 2020/21 –**

The Executive Head of Finance to update the Committee on the Annual Governance Statement 2020/21.

5. **INTERNAL AUDIT OPINION 2020/21 –**

To receive an update from the Executive Head of Finance on the Internal Audit Opinion for 2020/21.

6. **RUSHMOOR COMMUNITY AWARD 2021 –**

The Head of Democracy and Community to update the Committee on a proposed way forward for the 2021 Rushmoor Community Award.

7. **TAXI LICENSING HEARINGS AND WHEELCHAIR ACCESSIBLE VEHICLES – (Pages 75 - 140)**

To consider the Head of Operations Report No. OSP2109, which proposes an amendment to the Scheme of Delegation set out in the Council's Constitution (taxi and private hire licensing and associated licensing arrangements) to reflect new arrangements required when an authorised officer is minded to refuse or revoke a licence for a private hire operator or a hackney carriage and/or private hire driver.

The Report also proposes the designation of Wheelchair Accessible Vehicles in accordance with the power provided at Section 167 of The Equality Act 2010.

8. **APPOINTMENT OF INDEPENDENT MEMBER –**

To receive an update on the appointment of an Independent Member.

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 two working days prior to the meeting.

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Rushmoor Borough Council

Draft Audit Results Report

Year ended 31 March 2020

19 July 2021



Building a better
working world

19 July 2021



Dear Corporate Governance, Audit and Standards Committee Members

We are pleased to attach our draft initial audit results report for the forthcoming meeting of the Corporate Governance, Audit and Standards Committee (the "Committee") on 27 July 2021. This draft report summarises our audit progress, to date, and the initial findings in relation to the audit of Rushmoor Borough Council for 2019/20.

We are near completion of our audit of Rushmoor Borough Council for the year ended 31 March 2020. As set out in section 1, some issues have arisen as a result of Covid-19 which we have taken account of in our audit. The Council met its accounts publication deadline of 31st August 2020 but has struggled with responding to audit requests due to timing and other pressures on key staff. The audit is nearly complete and this report details the outcomes of the 2019/20 audit to date.

There have been significant delays with our audit for 2019/20 and we are keen to ensure we get the final required documentation through and are able to conclude the audit. Subject to the final information being received, we are hoping to issue our opinion in the coming few weeks. We have included an example opinion in Section 3 but this may change depending on what is available and our assessment of the information to follow.

We have had weekly meetings with your officers to go through the information required and this has helped to move things forward, we would want this to continue to the point of signing to maintain the momentum. We have also set out a timeline for the 2020/21 audit for the Council and asked that resources are made available to respond to the audit so that we can get the Council back on track.

This report is intended solely for the use of the Corporate Governance, Audit and Standards Committee, other members of the Authority, and senior management. It should not be used for any other purpose or given to any other party without obtaining our written consent.

We would like to thank your staff for their help during the engagement. We welcome the opportunity to discuss the contents of this draft report, with audit findings to date, with you at the Committee meeting on 27 July 2021.

Yours faithfully

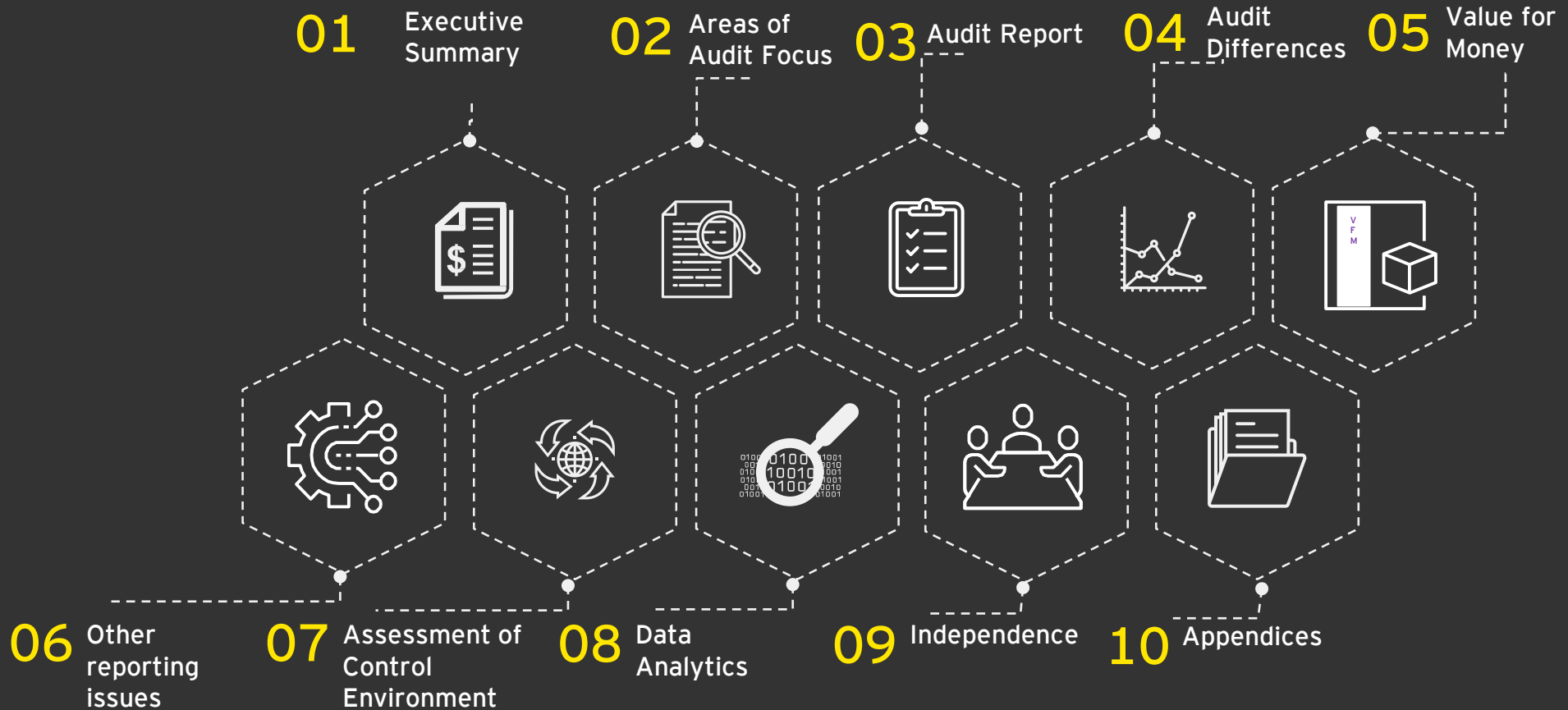
Maria Grindley

Associate Partner

For and on behalf of Ernst & Young LLP

Encl

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Public Sector Audit Appointments Ltd (PSAA) have issued a 'Statement of responsibilities of auditors and audited bodies'. It is available from the Chief Executive of each audited body and via the PSAA website (www.psa.co.uk). This Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The 'Terms of Appointment (updated April 2018)' issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This Audit Results Report is prepared in the context of the Statement of responsibilities. It is addressed to the Members of the audited body, and is prepared for their sole use. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure - If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Hywel Ball, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute.



01 Executive Summary

Executive Summary

Scope and risk update

In our audit planning report presented at the 23 November 2020 Licensing, Audit and General Purposes (LAGP) Committee meeting, we provided you with an overview of our audit scope and approach for the audit of the 2019/20 financial statements. We carried out our audit in accordance with this plan, and highlight the following issues where COVID-19 has had an impact on our audit.

Changes to reporting timescales

As a result of COVID-19, new regulations, the Accounts and Audit (Coronavirus) (Amendment) Regulations 2020 No. 404, came into force on 30 April 2020. This announced a change to the publication date for final accounts from 31 July to 30 November 2020 for all relevant authorities. The 30 November 2020 was not a statutory deadline for the completion of the audit of the Council's 2019/20 financial statements.

Changes to our risk assessment as a result of Covid-19

- ▶ **Valuation of Investment Properties and Property Plant and Equipment** - The Royal Institute of Chartered Surveyors (RICS), the body setting the standards for property valuations, issued guidance to valuers highlighting that the uncertain impact of Covid-19 on markets might cause a valuer to conclude that there is a material uncertainty. Caveats around this material uncertainty have been included in the year-end valuation reports produced by the Authority's external valuer. We consider that the material uncertainties disclosed by the valuer gave rise to an additional risk relating to the valuation and disclosures regarding those Property, Plant & Equipment and Investment Properties, which are held at Fair Value.
- ▶ **Disclosures on Going Concern** - Financial plans for 2020/21 and medium term financial plans will need revision for Covid-19. We considered the unpredictability of the current environment gave rise to a risk that the Council would not appropriately disclose the key factors relating to going concern, underpinned by management's assessment with particular reference to Covid-19 and the Local Authority's actual year end financial position and performance.
- ▶ **Adoption of IFRS16** - The adoption of IFRS 16 by CIPFA/LASAAC as the basis for preparation of Local Authority Financial Statements has been deferred until 1 April 2022. The Authority will therefore no longer be required to undertake an impact assessment, and disclosure of the impact of the standard in the financial statements does not now need to be financially quantified in 2019/20. We therefore no longer consider this to be an area of audit focus for 2019/20.

Changes in materiality. We updated our planning materiality assessment using the draft financial statements and have also reconsidered our risk assessment. Based on our materiality measure of gross expenditure on provision of services, we have updated our overall materiality assessment to £1.512 million. The basis of our assessment has remained consistent with prior years at 2% of gross expenditure on provision of services.

- ▶ This results in updated performance materiality of £1.135 million, and an updated threshold for reporting misstatements of £75.6k.

Information Produced by the Entity (IPE): We identified an increased risk around the completeness, accuracy, and appropriateness of information produced by the entity due to the inability of the audit team to verify original documents or re-run reports on-site from the Authority's systems. We undertook the following to address this risk:

- ▶ Used the screen sharing function of Microsoft Teams to evidence re-running of reports used to generate the IPE we audited; and
- Agree IPE to scanned documents or other system screenshots.



Executive Summary

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Scope update (continued)

Additional EY consultation requirements concerning the impact on auditor reports because of Covid-19.

Due to the impact of Covid-19, EY have introduced a consultation process for the audit report, to ensure the sufficiency of the audit work undertaken and the consistency of that work with the form of the final report.

The changes to audit risks, audit approach and auditor reporting requirements changed the level of work we needed to perform. Our work is not yet complete in this regard as we require assurance up until the date of our audit opinion.

Status of the audit

We are in the process of completing our audit of Rushmoor Borough Council's financial statements for the year ended 31 March 2020 and have performed the procedures outlined in our audit planning report.

We have set out in Appendix B the remaining areas of audit to be completed at the time of writing this report. Subject to satisfactory completion of those matters, we expect to issue an unqualified opinion on the Authority's financial statements in the form which appears at Section 3. However until the following work is complete, further amendments may arise.

Work outstanding includes:

- **PPE and IP valuation:** the provision of source valuation information, from the Council's property department, for both samples for the audit team and the EY Real Estate specialists. This is a significant audit risk (as discussed on page 12 of this report) and an agreed solution to these delays, from senior management, is critical to the conclusion of our audit;
- **Going Concern:** we have reviewed the latest information provided last week and have some final information needed from the Council and we will then complete our assessment looking at evidence up to 12 months after the opinion date.

Issues on the Query Log

- Final Engagement Lead and Manager review of the final position on concluded work, audit adjustments and reporting
- Production and review of the final version of the accounts
- Completion of subsequent events procedures to the date of signing the audit report
- Receipt of signed management representation letter



Executive Summary

Areas of audit focus

Our Audit Planning Report identified key areas of focus for our audit of Rushmoor Borough Council's financial statements. This initial report sets out our observations and conclusions, to date, including our views on areas which might be conservative, and where there is potential risk and exposure. We summarise our consideration of these matters, and any others identified, in the "Key Audit Issues" section of this report.

We ask you to review these and any other matters in this report to ensure:

- ▶ There are no other considerations or matters that could have an impact on these issues
- ▶ You agree with the resolution of the issue
- ▶ There are no other significant issues to be considered.

There are no matters, apart from those reported by management or disclosed in this report, which we believe should be brought to the attention of the Committee.

Audit differences

If we identified any audit differences, we either ask for them to be corrected or a rationale given as to why they are not corrected, which is approved by the Committee and included in the Letter of Representation. If applicable, we set out the aggregated impact of unadjusted audit differences and whether we agree with management's assessment that the impact is not material.

We have detailed a number of adjusted and unadjusted audit differences at Section 4.

As the audit is ongoing it is possible that further adjustments may still arise.

Executive Summary

Page 8 Control observations

We have adopted a fully substantive approach, so we have not tested the operation of controls. Our audit has yet to be completed, however no control issues have arisen as a result of our audit to date. [We have discussed these issues in Section 7.]

Value for money

We have considered your arrangements to take informed decisions; deploy resources in a sustainable manner; and work with partners and other third parties. In our Audit Planning Report we identified one significant risk around our Value for Money Conclusion, namely the

- Effectiveness of the Council's Governance and Risk Management Framework

Our findings, discussed in Section 5, showed that some improvements have been made and we have no matters arising in our VFM Conclusion for the 2019/20 financial year.

Other reporting issues

We have reviewed the information presented in the Annual Governance Statement for consistency with our knowledge of the Authority.

- We have no other matters to report.

We have yet to perform the procedures required by the National Audit Office (NAO) on the Whole of Government Accounts submission. However, as the authority is likely to be below the NAO threshold, this consists simply of a return to the NAO.

- We have no other matters to report.

Independence

Please refer to Section 10 for our update on Independence.



02 Areas of Audit Focus



Areas of Audit Focus

Significant risk

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Misstatements due to fraud or error

What is the risk?

The financial statements as a whole are not free of material misstatements whether caused by fraud or error.

As identified in ISA (UK and Ireland) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.

We have not identified a heightened risk of management override overall, but we have identified a specific area where management override might occur, in terms of the potential incorrect capitalisation of revenue spending. Our specific response to this risk is set out in the next slide.

What judgements are we focused on?

We have considered the risk of management override and the areas of the financial statements that may be most susceptible to this risk.

What did we do?

- ▶ Identified fraud risks during the planning stages.
- ▶ Asked management about risks of fraud and the controls put in place to address those risks.
- ▶ Understood the oversight given by those charged with governance of management's processes over fraud.
- ▶ Considered the effectiveness of management's controls designed to address the risk of fraud.
- ▶ Determined an appropriate strategy to address those identified risks of fraud.
- ▶ Performed mandatory procedures regardless of specifically identified fraud risks, including testing of journal entries and other adjustments in the preparation of the financial statements

What are our conclusions?

We have not identified any material weaknesses in controls or evidence of material management override.

We have not identified any instances of inappropriate judgements being applied.

We did not identify any other transactions during our audit which appeared unusual or outside the Authority's normal course of business.

Our testing of journal entries did not identify any errors nor highlight any fraud issues.



Areas of Audit Focus

Significant risk

Incorrect capitalisation of revenue expenditure

What is the risk?

As identified in ISA 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that would otherwise appear to be operating effectively.

In considering how the risk of management override may present itself, we conclude that this is primarily through management taking action to override controls and manipulate in year financial transactions that impact the medium to longer term projected financial position.

A key way of improving the revenue position is through the inappropriate capitalisation of revenue expenditure. The Council has a significant fixed asset base and a material capital programme of £50,583 million in 19/20, although £4.188m of the underspend has been reprofiled into 2020/21.

What judgements are we focused on?

How management decides on appropriate capitalisation of revenue expenditure.

How the capital programme complies with proper capital strategy principles.

What did we do?

- ▶ Sample testing additions to property, plant and equipment to ensure that they have been correctly classified as capital and included at the correct value in order to identify any revenue items that have been inappropriately capitalised.
- ▶ Seek to identify and understand the basis for any significant journals transferring expenditure from non-capital codes to PPE additions or from revenue to capital codes on the general ledger at the end of the year.

What are our conclusions?

We have not identified any material weaknesses in controls or evidence of material management override in relation to the incorrect capitalisation of revenue expenditure.

We have not identified any instances of inappropriate judgements being applied. We did not identify any other transactions during our audit which appeared unusual or outside the Council's normal course of business.



Areas of Audit Focus

Significant risk

Page 12

Valuation of Land & buildings - Property, Plant and Equipment and Investment Properties.

What is the risk?

The fair value of Property, Plant and Equipment (PPE) and Investment Properties (IP) represents a significant balance, at £98.966 million and £106.605 million respectively, in the Council's accounts as at 31 March 2020 and are subject to valuation changes, impairment reviews and depreciation charges.

Covid-19 is likely to influence the valuation of the Council's investment properties. The valuation of property can be impacted in an abnormal market where there is a lack of comparative market transactions, where income is suddenly and dramatically reduced, and where the viability of tenants may be uncertain.

What judgements are we focused on?

Management is required to make material judgements on inputs and apply estimation techniques to calculate the year-end balances in the balance sheet.

What did we do?

We:

- ▶ Considered the work performed by the Council's valuers, including the adequacy of the scope of the work performed, their professional capabilities and the results of their work;
- ▶ Sample tested key asset information used by the valuers in performing their valuation (e.g. floor plans to support valuations based on price per square metre) and challenge the key assumptions used by the valuers;
- ▶ Considered the annual cycle of valuations to ensure that assets have been valued within a 5 year rolling programme as required by the Code for PPE and annually for Investment Property. We will also consider if there are any specific changes to assets that have occurred and whether these have been communicated to the valuers;
- ▶ Reviewed assets not subject to valuation in 2019/20 to confirm that the remaining asset base is not materially misstated at 31 March 2020;
- ▶ Considered changes to useful economic lives as a result of the most recent valuation; and
- ▶ Tested to confirm that accounting entries have been correctly processed in the financial statements.

In considering the above, we assessed the Council's approach to recognise any impact on valuations at 31 March 2020 arising from COVID-19. We asked our EY Real Estate specialists to assist us in this work.

Significant risk

What are our conclusions?

For our 2019/20 audit, our EY Real Estate specialists (EYRE) tested a sample of assets to review the Council's Valuer's assessment of the robustness of valuations on a number of the Council's PPE and IP assets, We have received the majority of the supporting valuation evidence we requested from the Council's property department, to conclude on the fair value of the PPE and IP account balance in the Council's Balance Sheet.

There are however, gaps in the evidence provided against what was requested and this lack of supporting evidence is, again, causing us issues in the delivery of our 2019/20 audit opinion. We have highlighted this to management and have raised a recommendation at Section 7 regards proper books and records supporting key assets within the Property, Plant and Equipment and also the Investment Property portfolio.

As at the date of this report there are a number of assets which we have tested where we are still awaiting further documentation or clarification from Officers and also the external valuer. Last week we received a number of items from the outstanding information list, however there are still items that we need to see, without this information there is a risk that we will have material issues across the Property, Plant & Equipment and Investment Property portfolio.

Below we detail some of the key findings from our review of the asset portfolio to date.

o Land & Buildings (L&B) & Investment Properties (IP):

- Ski Centre, Aldershot; Fair Value £647,000 - We have held discussions with management and the valuer on this asset and are not comfortable with the approach being adopted to value the ski slopes nor have we, or the authority, been able to provide any benchmark data or original build cost data to support the adopted rate. We are therefore unable to conclude on this asset and have included as an unadjusted misstatement at Section 4. Our recalculation of the site area based on the site plan provided by management suggests that the site area adopted by the valuer is incorrect in addition to the land value being too low.
- Our experts sampled a total of 7 other assets excluding the ski centre referenced above. The cumulative value of the Gross Book Value (GBV) of the 7 assets as valued by the external valuer of the Council was £44.86 million. Using the point in range estimate developed by our internal valuers the 7 assets in total were within an acceptable range across the total with some slight variations on a small number of assets individually. However we are following up on a number of points of clarification in relation to their conclusions and so will provide an update at the Committee meeting;
- Upon our challenge of the assumptions supporting the Aldershot Lido asset the valuer subsequently re-worked this valuation and revised the valuation from £6.375 million to £5.453 million. Currently being reviewed by the audit team.
- Upon our challenge of the assumptions supporting the Investment Property at 10A Wellesley House the valuer increased the value from £416,290 to £426,510. Currently being reviewed by the audit team.



Areas of Audit Focus

Other areas of audit focus

In our audit planning report we identified other areas of the audit, not classified as significant risks, but still important when considering the risks of material misstatement to the financial statements and disclosures.

What is the risk/area of focus?

Pension Liability Valuation

The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme administered by Hampshire County Council.

The Council's pension fund deficit is a material estimated balance and the Code requires that this liability be disclosed on the Council's balance sheet. At 31 March 2019 this totalled £48.6 million. The information disclosed is based on the IAS 19 report issued to the Council by the actuary to the County Council.

Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf. ISAs (UK) 500 and 540 require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.

In the prior year the 'McCloud' judgement impacted the estimate and resulted in an amendment of the net pension liability. We anticipate this will again be a key assumption in estimating the pension liability. We would expect the Authority's actuary to be basing their assumptions taking into account the Authority's specific membership profile and how it has been impacted by the judgement. We also note that there may be further developments in this area, potentially again coming after the balance sheet date.

What did we do?

We:

- ▶ Liaised with the auditors of Hampshire County Council Pension Fund, to obtain assurances over the information supplied to the actuary in relation to Rushmoor Borough Council. We noted no material issues with the information supplied by the auditors of Hampshire County Council Pension Fund;
- ▶ Assessed the work of the Pension Fund actuary (Aon Hewitt) including the assumptions they have used by relying on the work of PWC - Consulting Actuaries commissioned by the National Audit Office for all Local Government sector auditors, and considering any relevant reviews by the EY actuarial team; and
- ▶ Reviewed and tested the accounting entries and disclosures made within the Council's financial statements in relation to IAS19.

There are two unadjusted audit differences

- Pension liability difference of £480,000 arising from reconciliation of planned assets used by the actuaries with the audited assets of the pension fund as at 31/03/2020
- Pension liability arising from Goodwin of £292,000. The Council have not adjusted for this judgmental difference based on the value and also the uncertainty in respect of future liabilities



Areas of Audit Focus

Other areas of audit focus

In our audit planning report we identified other areas of the audit, not classified as significant risks, but still important when considering the risks of material misstatement to the financial statements and disclosures.

What is the risk/area of focus?	What did we do?
<p><u>Going Concern</u></p> <p>The Council prepares its accounts on the assumption that it will continue as a going concern. The current and future uncertainty over government funding and loss of income as a result of Covid-19 increases the need for the Council to revisit its financial planning and undertake a detailed assessment to support its going concern assertion. From an audit perspective, the auditor's report going concern concept is a 12-month outlook from the audit opinion date, rather than the balance sheet date. So, for the 2019/20 statements, we will need to see evidence of an assessment up to and including July 2022.</p> <p>We focus on management's assessment of the going concern assumption in preparing the Council's financial statements. We also review management's cash flow forecasts to determine whether expected forecasting appeared reasonable and whether it is sufficient to enable the Council to continue its operations.</p> <p>We also discuss with management further disclosures required in the 2019/20 statements on going concern and in particular, material events and uncertainties up to and including July 2022.</p>	<ul style="list-style-type: none">▶ We reviewed the Committee's assessment of the appropriateness of the going concern assumption;▶ We reviewed and challenged the level and form of disclosure of this assessment made in the financial statements, given the Covid-19 pandemic; and▶ We reviewed the Council's cash flow forecasts and financial plans for the foreseeable future to ensure that these are sufficiently robust and supported by adequate evidence, and that the cash flow forecasts demonstrate that the Council has sufficient liquidity to continue its operations up to and including 31 July 2022.▶ We received more information last week and we have raised a few follow up requests as a result and will then bring that together for our internal consultation process and will update the Committee on the outcome of this.



03 Draft Audit Report



Draft Audit Report

Draft audit report

Our opinion on the financial statements - Subject to Satisfactory Conclusion of Outstanding Items detailed within this Report

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF RUSHMOOR BOROUGH COUNCIL

Opinion

We have audited the financial statements of Rushmoor Borough Council for the year ended 31 March 2020 under the Local Audit and Accountability Act 2014. The financial statements comprise the:

- Movement in Reserves Statement,
- Comprehensive Income and Expenditure Statement,
- Balance Sheet,
- Cash Flow Statement,
- Collection Fund, and
- The related notes 1 to 38 of the Authority's Financial Statements, notes 1 to 3 of the Collection Fund.

The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20.

In our opinion the financial statements:

- give a true and fair view of the financial position of Rushmoor Borough Council as at 31 March 2020 and of its expenditure and income for the year then ended; and
- have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of our report below. We are independent Rushmoor Borough Council in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard and the Comptroller and Auditor General's (C&AG) AGN01, and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- The Executive Head of Finance (S151 Officer)s' use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Executive Head of Finance (S151 Officer) has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Authority's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

The other information comprises the information included in the statement of accounts, other than the financial statements and our auditor's report thereon. The Executive Head of Finance (S151 Officer) is responsible for the other information.

Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in this report, we do not express any form of assurance conclusion thereon.



Draft Audit Report

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Our opinion on the financial statements - Subject to Satisfactory Conclusion of Outstanding Items detailed within this Report

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of the other information, we are required to report that fact.

We have nothing to report in this regard.

Opinion on other matters prescribed by the Local Audit and Accountability Act 2014

Arrangements to secure economy, efficiency and effectiveness in the use of resources

In our opinion, based on the work undertaken in the course of the audit, having regard to the guidance issued by the Comptroller and Auditor General (C&AG) in April 2020, we are satisfied that, in all significant respects, Rushmoor Borough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020.

Matters on which we report by exception

We report to you if:

- in our opinion the annual governance statement is misleading or inconsistent with other information forthcoming from the audit or our knowledge of the Council;
- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014;
- we make written recommendations to the audited body under Section 24 of the Local Audit and Accountability Act 2014;

- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014;
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014; or
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014.

We have nothing to report in these respects

Responsibility of the Corporate Financial Advisor (S151 Officer)

As explained more fully in the Statement of Responsibilities set out on page 16, the Executive Head of Finance (S151 Officer) is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20, and for being satisfied that they give a true and fair view.

In preparing the financial statements, the Executive Head of Finance (S151 Officer) is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Authority either intends to cease operations, or have no realistic alternative but to do so.

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.



Draft Audit Report

Our opinion on the financial statements - Subject to Satisfactory Conclusion of Outstanding Items detailed within this Report

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at <https://www.frc.org.uk/auditorsresponsibilities>. This description forms part of our auditor's report.

Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources

We have undertaken our review in accordance with the Code of Audit Practice, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General (C&AG) in April 2020, as to whether Rushmoor Borough Council had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people. The Comptroller and Auditor General determined this criterion as that necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether Rushmoor Borough Council put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to form a view on whether, in all significant respects, Rushmoor Borough Council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our conclusion relating to proper arrangements.

We report if significant matters have come to our attention which prevent us from concluding that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Certificate

We certify that we have completed the audit of the accounts of Rushmoor Borough Council in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice issued by the National Audit Office.

Use of our report

This report is made solely to the members of Rushmoor Borough Council, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 and for no other purpose, as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than Rushmoor Borough Council members as a body, for our audit work, for this report, or for the opinions we have formed.

Maria Grindley (Key Audit Partner)

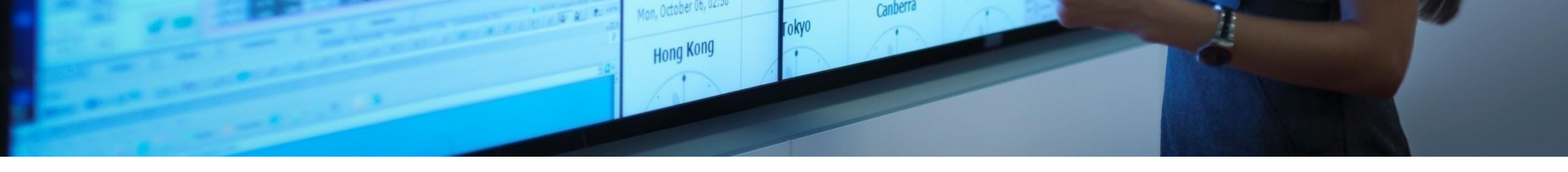
Ernst & Young LLP (Local Auditor)

Reading

Xx July 2021



04 Audit Differences





Audit Differences

In the normal course of any audit, we identify misstatements between amounts we believe should be recorded in the financial statements and the disclosures and amounts actually recorded. These differences are classified as “known” or “judgemental”. Known differences represent items that can be accurately quantified and relate to a definite set of facts or circumstances. Judgemental differences generally involve estimation and relate to facts or circumstances that are uncertain or open to interpretation.

Summary of audit differences

If we identified any audit differences, we either ask for them to be corrected or a rationale given as to why they are not corrected, which is approved by the Audit Committee and included in the Letter of Representation. If applicable, we set out the aggregated impact of unadjusted audit differences and whether we agree with management’s assessment that the impact is not material. Below we identify the agreed audit differences as at the date of this report. As we are still working on closing out a number of areas it is possible that further errors may occur

Adjusted audit differences:

- *Notes 13/14 - PPE and Investment Properties:* Aldershot Lido asset: the valuer subsequently re-worked this valuation and revised the valuation from £6.375 million to £5.453 million; 10A Wellesley House the valuer increased the value from £416,290 to £426,510
- *Note 17 - Financial Assets: Loss Allowance value in the draft financial statements was incorrect. Should be £671 k and not the £221 k as per the draft financial statements*
- *Note 34 - Related parties:*
 - The correct financial assistance total to be included in the note is £1,552,815. It has been understated by £243k.
 - The CIPFA Code states that all related parties should be disclosed regardless of the amount however RBC applied a materiality threshold of £30k which is consistent with 1819.

Disclosures:

We have identified a number of disclosure and presentation amendments which management have agreed to amend



Audit Differences

Page 20

In the normal course of any audit, we identify misstatements between amounts we believe should be recorded in the financial statements and the disclosures and amounts actually recorded. These differences are classified as “known” or “judgemental”. Known differences represent items that can be accurately quantified and relate to a definite set of facts or circumstances. Judgemental differences generally involve estimation and relate to facts or circumstances that are uncertain or open to interpretation.

Summary of unadjusted audit differences

If we identified any audit differences, we either ask for them to be corrected or a rationale given as to why they are not corrected, which is approved by the Audit Committee and included in the Letter of Representation. If applicable, we set out the aggregated impact of unadjusted audit differences and whether we agree with management’s assessment that the impact is not material.

Unadjusted audit differences:

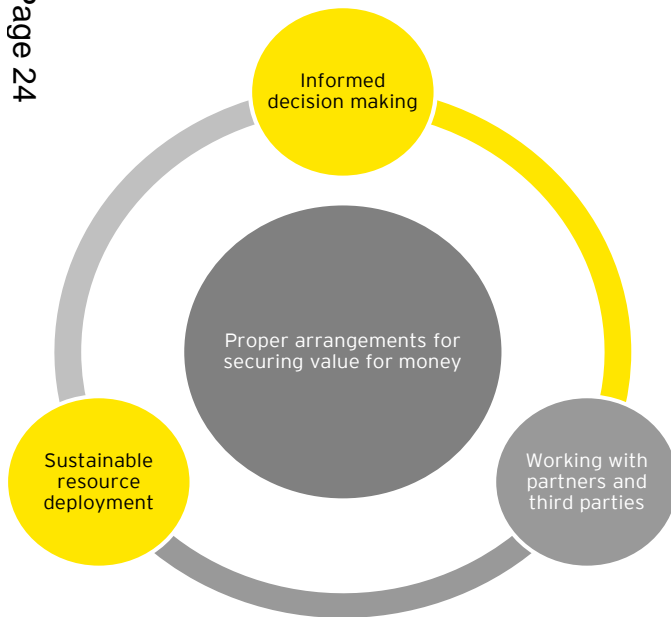
- We have identified the following two audit differences in the draft financial statements which management has chosen not to adjust.
 - *Pension liability difference:*
 - This difference of £480,000 has arisen from the reconciliation between the value of planned assets used by the actuaries compared to the audited assets of the pension fund as at 31/03/2020.
 - There has been an increase in costs in pension liability of £292,000 arising from the Goodwin case.
 - Consideration of the ski centre asset and the uncertainty on the valuation of £647,000.

NB We need to complete the rest of our work on PPE/IP and then consider these issues along with other misstatements and determine the impact of this. We will update the Committee on progress at the meeting.



05

Value for Money



Background

We are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. This is known as our value for money conclusion.

For 2019/20 this is based on the overall evaluation criterion:

"In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people"

Proper arrangements are defined by statutory guidance issued by the National Audit Office. They comprise your arrangements to:

- Take informed decisions;
- Deploy resources in a sustainable manner; and
- Work with partners and other third parties.

In considering your proper arrangements, we will draw on the requirements of the CIPFA/SOLACE framework for local government to ensure that our assessment is made against a framework that you are already required to have in place and to report on through documents such as your annual governance statement.

Impact of covid-19 on our Value for Money assessment

On 16 April 2020 the National Audit Office published an update to auditor guidance in relation to the 2019/20 Value for Money assessment in the light of covid-19. This clarified that in undertaking the 2019/20 Value for Money assessment auditors should consider Local Authorities' response to Covid-19 only as far as it relates to the 2019-20 financial year; only where clear evidence comes to the auditor's attention of a significant failure in arrangements as a result of Covid-19 during the financial year, would it be appropriate to recognise a significant risk in relation to the 2019-20 VFM arrangements conclusion.

Overall conclusion

Our value for money risk assessment, at the planning stage of the audit, considered both the potential financial impact of issues facing the Council, and also the likelihood that the issues will be of interest to local taxpayers, the Government and other stakeholders. At the time of planning, we identified one significant risk relevant to our value for money conclusion, which was the:

- Effectiveness of the Council's Governance and Risk Management Framework



Value for Money Risks

What is the significant value for money risk?

What arrangements does the risk affect?

What will we do?

Effectiveness of the Council's Governance and Risk Management Framework

During our 2018/19 audit, we identified issues with Council's formal risk management framework, which resulted in further examination of the arrangements in place. As a result, we issued an "except for" qualified value for money conclusion in relation to formal risk management arrangements.

Our 2018/19 audit opinion documented that "The Council has not revised its risk management framework during 2018/19, nor has it documented how it has effectively managed its key strategic risks during 2018/19. The Corporate Risk Register had not been updated since January 2018. We noted that the Council has failed to take account of our findings in last year's Audit Results Report on how they could further improve Risk Management and new arrangements put in place in 2017/18 have since lapsed due to resource constraints. The Council is undergoing significant internal transformation and was involved in extensive regeneration partnerships in 2018/19. However, there is no centralised formal documented process which highlights the gross risks, the controls and mitigating actions to give an overview of the risks the Council faces and holds officers to account for those risks. We note that officers consider risk every day, however there is no framework in place to demonstrate that or show that the Officers and Members are strategically managing risk. The issue above is evidence of weakness in informed decision making as result of not having proper arrangements in place for managing risks effectively and maintaining a sound system of internal control."

We reviewed whether risk management was better embedded, during 2019/20, with corporate risks being aligned to the delivery of the Council's strategic objectives in the Council Delivery Plan and whether the management of these risks was reported to members appropriately. Adequate risk management is required for members and officers to take informed decisions. We reviewed the effectiveness of the Council's Risk Management Framework and how this may be further improved.

Take informed decisions

Our approach will focus on:

- ▶ review of the adequacy of the Council's risk management arrangements;
- ▶ disclosures to be made in the Council's 2019/20 Annual Governance Statement on the effectiveness of the Council's Governance and Risk Management Framework.



Value for Money Risks

Effectiveness of the Council's Governance and Risk Management Framework

Adequacy of the Council's risk management arrangements

The Council's Risk Management arrangements are adequate. The Council's Corporate Leadership Team and its Corporate Risk Management Group both review the Council's Corporate Risk Register which has "Additional Mitigation Planned - including Timelines/Deadlines" and a residual risk score for each risk. Whilst there has been improvements in the Council's Governance and Risk Management Framework, during 2019/20, we suggest that risk management can be further embedded in the day to day business and reporting of the Council;

We suggest the Council considers the following suggestions:

- The risks to the delivery of the Council's strategic objectives, in the Council's Business Plan 2020 to 2023, should be recorded on the Corporate Risk Register on a strategic objective by objective basis, rather than on a thematic basis; for example, the following high corporate risks such as Equalities - Breach of Statutory Duties, Increased Focus on Recycling improvements from Central Government, Retail Sector general downturn, Restrictions on PWLB borrowing. These themes should be incorporated into the Council's business planning process.
- The Corporate Risk Register and underpinning service risk registers should also be aligned to these strategic objectives, which will allow for a golden thread enabling the Council's risk management issues and resulting actions to be integrated into the Council's Performance Management Framework. This will give the Council a holistic view of the effectiveness of service delivery and better reflect a more mature risk model, such as the Enterprise Risk Management approach.
- The Corporate Governance, Audit and Standards Committee should consider providing overall assurance to the Cabinet over the effectiveness of the Risk Management Framework arrangements. The Committee should receive an annual report on the adequacy of the Council's risk management, before the end of the financial year, as evidence underpinning the disclosures on the effectiveness of risk management in the Council's Annual Governance Statement.

Disclosures in the Council's 2019/20 Annual Governance Statement on the effectiveness of the Council's Governance and Risk Management Framework

- The disclosures in the 2019/20 AGS could be improved so that the AGS better describes the effectiveness of the Council's governance arrangements in year, any significant weaknesses and action plans for the resolution of prior year issues and issues going forward. The Council could better disclose how the Council's risk management framework enables the Council to achieve its strategic objectives and addressing areas for improvement.



06 Other reporting issues

Consistency of other information published with the financial statements, including the Annual Governance Statement

We must give an opinion on the consistency of the financial and non-financial information in the Statement of Accounts 2019/20.

- We have reviewed the supporting evidence for the financial and non-financial information disclosed in the Narrative Report of the Statement of Accounts 2019/20, to ensure that it is consistent with our knowledge of the. We have no issues to report.

We must also review the Annual Governance Statement for completeness of disclosures, consistency with other information from our work, and whether it complies with relevant guidance.

- No issues to report

Whole of Government Accounts

In addition to our work on the financial statements, we also review and report to the National Audit Office on your Whole of Government Accounts return. The extent of our review, and the nature of our report, is specified by the National Audit Office.

- We have yet to complete the return for the NAO.

Other powers and duties

We have a duty under the Local Audit and Accountability Act 2014 to consider whether to report on any matter that comes to our attention in the course of the audit, either for the Authority to consider it or to bring it to the attention of the public (i.e. "a report in the public interest").

We also have a duty to make written recommendations to the Authority, copied to the Secretary of State, and take action in accordance with our responsibilities under the Local Audit and Accountability Act 2014.

- We have no issues to report in this respect.

Other reporting issues

Other matters

As required by ISA (UK&I) 260 and other ISAs specifying communication requirements, we must tell you significant findings from the audit and other matters if they are significant to your oversight of the Authority's financial reporting process. They include the following:

- Significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures;
- Any significant difficulties encountered during the audit;
- Any significant matters arising from the audit that were discussed with management;
- Written representations we have requested;
- Any other matters significant to overseeing the financial reporting process;
- Related parties;
- External confirmations;
- Consideration of laws and regulations; and
- Group audits;

We have nothing to report on the above.

During our audit we identified the following which we will raise recommendations for improvement on - see Section 7:

- 1. Provision of property information:** We have reported on the critical delays in the provision of property information to support the material PPE and IP valuations in the Council's Balance Sheet.
- 2. Capacity of the finance department:** Our audit team has been working on the fieldwork for the audit of the Council's 2019/20 financial statements since 28 September 2020. Whilst there were some delays due to officer work pressures e.g, the was also delayed in January as officers needed to prioritise the production of the 2021/22, some of the information promised to us has failed on a number of occasions to meet agreed timelines
- 3. Declarations of interest:** We note that the Declaration of Interest Form was not returned by one of the members and we will not be able to conclude on that



07

Assessment of Control Environment

Assessment of control environment

Financial controls

It is the responsibility of the Authority to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. Our responsibility as your auditor is to consider whether the Authority have put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.

As part of our audit of the financial statements, we obtained an understanding of internal control sufficient to plan our audit and determine the nature, timing and extent of testing performed.

Although our audit was not designed to express an opinion on the effectiveness of internal control we are required to communicate to you significant deficiencies in internal control.

We have identified the following significant deficiencies in the design or operation of an internal control that might result in a material misstatement in your financial statements.

The table below provides an overview of the 'high' 'moderate' and 'low' rated observations we have from the 2020/21 audit. We will discuss with management and follow up as part of 2021/22 audit.

	High	Moderate	Low	Total
Total recommendations	1	3		4

- Key:**
- A weakness which does not seriously detract from the internal control framework. If required, action should be taken within 6-12 months.
 - Matters and/or issues are considered to be of major importance to maintenance of internal control, good corporate governance or best practice for processes. Action should be taken within six months.
 - Matters and/or issues are considered to be fundamental to the mitigation of material risk, maintenance of internal control or good corporate governance. Action should be taken either immediately or within three months.

The matters reported on the next slides are limited to those that we identified during the audit and that we concluded are of sufficient importance to merit being reported to you.



Assessment of Control Environment

Page 32

Financial controls

Books and Records - Property, Plant and Equipment & Investment Properties (High)

The availability of basic asset information was a critical factor in the delay of the signing of the 2018/19 audit opinion. Throughout the audit we have identified numerous instances where the Council has struggled to provide upon request the information supporting an asset valuation on the Balance Sheet.

- Lease documentation provided has often been found to be out of date or not readily available;
- Rent Review Memoranda provided has often been found to be out of date and/or not signed as approved; and
- Land Registry deeds supporting title and ownership has been difficult to obtain and in a number of instances is still outstanding which is delaying the completion of our work.

Discussions with senior officers have re-iterated the importance of the maintenance of proper books and records.

Recommendation: The Council should ensure appropriate documentation is retained and accessible in relation to property plant and equipment and investment properties held.

Policies and procedures (Moderate)

We have found that key policies and procedures appear to be out of date (year in brackets) for example:

- Whistleblowing Policy (June 2016);
- Financial Procedure Rules (December 2006);
- Antifraud and Corruption Policy (June 2016);
- Officer Code of Conduct (February 2015);
- Councillor Code of Conduct (October 2014);
- Contract Stander Orders (April 2015).

The Council needs to ensure that its corporate polices on key governance topics, including business planning, anti-fraud, information security, equalities and diversity, health and safety and whistle blowing are complete and up to date.

Recommendation: The Council should have a central list of policies and procedures with a current date and due date for review. This should be regularly reviewed by senior management and capacity built in so these are kept up to date. Management should consider how the current situation, its impact and planned actions is reflected in the Corporate Risk Register.

Assessment of Control Environment

Financial controls

Officer capacity (Moderate)

The audit has been delayed due to the capacity of officers to respond to audit queries on a timely basis. In some instances this is due to the timing of the audit coinciding with other key finance duties e.g. budget setting, but on the majority of occasions, whilst we have agreed timelines with officers for information in our weekly meetings, the information has not been provided and the delivery has continued to slip. If we are to get the Council back on track with the audit timeline we need to be able to rely on the agreed timelines.

We have outstanding information for this 2019/20 audit which we need to receive so that we can tie up the audit and we have also agreed a timeline and audit visits for the 2020/21 audit planning and interim work. Subject to the completion of that we expect to follow with the final visit and get the 2020/21 audit completed by the end of this year.

This is all subject to us being provided with the remaining information needed for the 2019/20 audit and required information per agreed timelines for 2020/21.

Recommendation: The Council should ensure that there is appropriate capacity to respond to audit queries and deliver the required information to agreed timelines.

Declarations of interest (Moderate)

The Declaration of Interest Form was not returned by one of the members and therefore we were not able to conclude on that.

Recommendation: All Declaration of interest forms should be collected for all Members and key Officers and retained to ensure this control is in place and working and provide evidence of this.



08 Data Analytics



Use of Data Analytics in the Audit

▶ Data analytics

Analytics Driven Audit

Data analytics

We used our data analysers to enable us to capture entire populations of your financial data. These analysers:

- ▶ help identify specific exceptions and anomalies which can then be the focus of our substantive audit tests; and
- ▶ give greater likelihood of identifying errors than traditional, random sampling techniques.

In 2019/20, our use of these analysers in the authority's audit included testing journal entries, to identify and focus our testing on those entries we deem to have the highest inherent risk to the audit.

We capture the data through our formal data requests and the data transfer takes place on a secured EY website. These are in line with our EY data protection policies which are designed to protect the confidentiality, integrity and availability of business and personal information.

Journal Entry Analysis

We obtain downloads of all financial ledger transactions posted in the year. We perform completeness analysis over the data, reconciling the sum of transactions to the movement in the trial balances and financial statements to ensure we have captured all data. Our analysers then review and sort transactions, allowing us to more effectively identify and test journals that we consider to be higher risk, as identified in our audit planning report.



Journal Entry Data Insights

The graphic outlined below summarises the journal population for 2019/20. We review journals by certain risk based criteria to focus on higher risk transactions, such as journals posted manually by management, those posted around the year-end, those with unusual debit and credit relationships, and those posted by individuals we would not expect to be entering transactions.

The purpose of this approach is to provide a more effective, risk focused approach to auditing journal entries, minimising the burden of compliance on management by minimising randomly selected samples.

EY Helix - GLASS: Journal Entry Data Insights - 20 Rushmoor Borough Council - P1 to P12 - 31/03/2020

Facts and Figures	Manual v System by Volume	Manual v System by Value																								
Number of Journals Posted: 17,013																										
Average Number of Journals Posted per Day: 48																										
Average Number of Lines per Journal: 6																										
Operational Efficiencies	Top Five Activity Accounts	Bottom Five Activity Accounts																								
Manual Journals Posted at weekend: 114	<table border="1"> <tr><td>E. Trade receivables</td><td>16,098</td></tr> <tr><td>VD. Administrative and Other Operating Exp...</td><td>6,895</td></tr> <tr><td>C. Cash and short term deposits</td><td>1,349</td></tr> <tr><td>N. Trade payables</td><td>1,163</td></tr> <tr><td>UA. Revenue_Fees, Charges and Other Service...</td><td>1,095</td></tr> </table>	E. Trade receivables	16,098	VD. Administrative and Other Operating Exp...	6,895	C. Cash and short term deposits	1,349	N. Trade payables	1,163	UA. Revenue_Fees, Charges and Other Service...	1,095	<table border="1"> <tr><td>UA. Revenue</td><td>2</td></tr> <tr><td>VD. Administrative and Other Op...</td><td>2</td></tr> <tr><td>VD. Administrative and Other Op...</td><td>2</td></tr> <tr><td>F. Inventories</td><td>1</td></tr> <tr><td>PG1. Pensions and IAS19</td><td>1</td></tr> <tr><td>UA. Revenue_Excludes from ClE...</td><td>1</td></tr> <tr><td>VD. Administrative and Other Op...</td><td>1</td></tr> </table>	UA. Revenue	2	VD. Administrative and Other Op...	2	VD. Administrative and Other Op...	2	F. Inventories	1	PG1. Pensions and IAS19	1	UA. Revenue_Excludes from ClE...	1	VD. Administrative and Other Op...	1
E. Trade receivables	16,098																									
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VD. Administrative and Other Op...	2																									
VD. Administrative and Other Op...	2																									
F. Inventories	1																									
PG1. Pensions and IAS19	1																									
UA. Revenue_Excludes from ClE...	1																									
VD. Administrative and Other Op...	1																									
Manual journals where gross amount is < £5: 14																										
Journal lines with zero value: 0	108,554 of 108,554 rows 0 marked 46 columns Journals																									





Data Analytics

▶ Journal Entry Testing

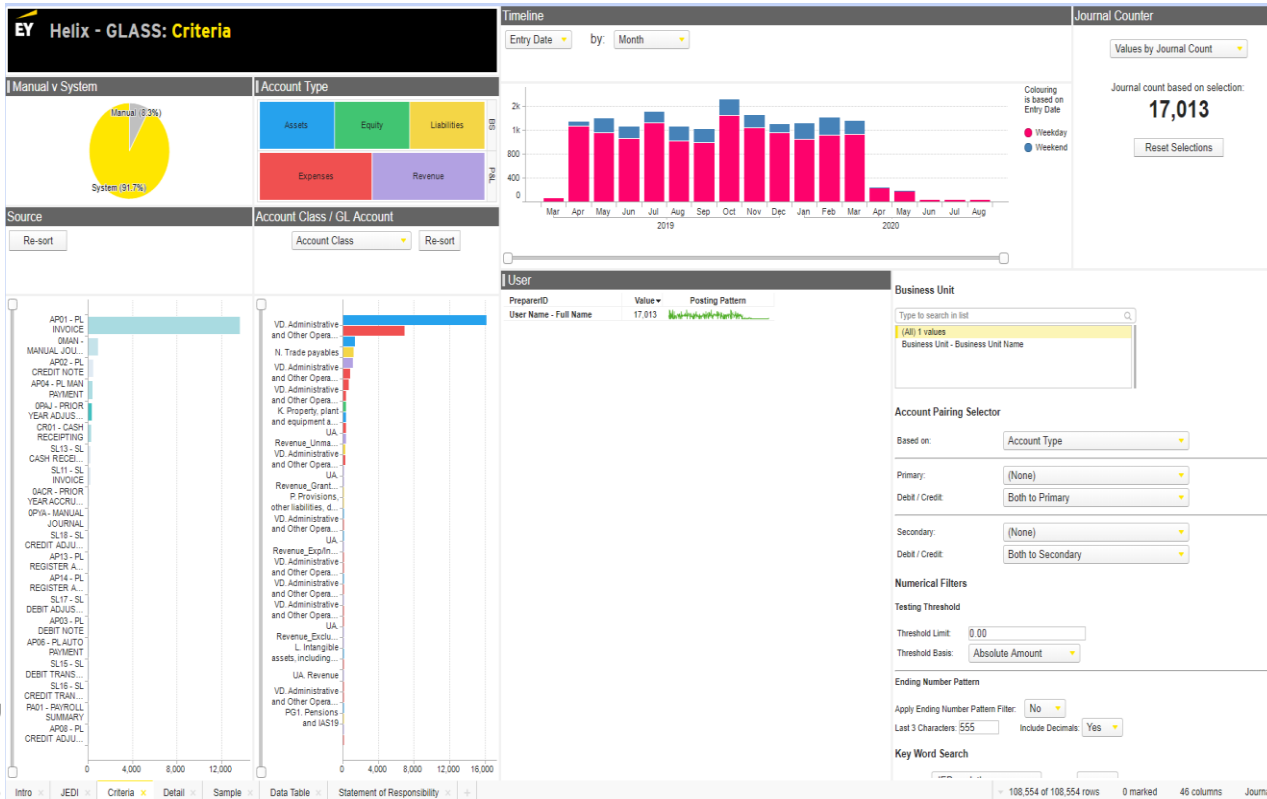
What is the risk?

In line with ISA 240 we are required to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements.

What judgements are we focused on?

Using our analysers we are able to take a risk based approach to identify journals with a higher risk of management override, as outlined in our audit planning report.

Journal entry data criteria – 31 March 2020



What did we do?

We obtained general ledger journal data for the period and have used our analysers to identify characteristics typically associated with inappropriate journal entries or adjustments, and journals entries that are subject to a higher risk of management override.

We then performed tests on the journals identified to determine if they were appropriate and reasonable.

What are our conclusions?

We isolated a sub set of journals for further investigation and obtained supporting evidence to verify the posting of these transactions and concluded that they were appropriately stated.



09

Independence

Confirmation

We confirm that there are no changes in our assessment of independence since our confirmation in our audit planning report dated 18 May 2020.

We complied with the FRC Ethical Standards and the requirements of the PSAA's Terms of Appointment. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning of regulatory and professional requirements.

We consider that our independence in this context is a matter which you should review, as well as us. It is important that you and your Committee consider the facts known to you and come to a view. If you would like to discuss any matters concerning our independence, we will be pleased to do this at the meeting of the Committee on 25 January 2020.

Fees

As part of our reporting on our independence, we set out below a summary of the fees paid for the year ended 31 March 2020. We confirm that we have not undertaken non-audit work outside the NAO Code requirements. We have complied with Auditor Guidance Note 1 issued by the NAO.

Public Sector Audit Appointments Ltd (PSAA) has published the fee scale for the audit of the 2019/20 accounts of opted-in principal local government and police bodies. This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the requirements of the Code of Audit Practice and supporting guidance published by the National Audit Office, the financial reporting requirements set out in the Code of Practice on Local Authority Accounting published by CIPFA/LASAAC, and the professional standards applicable to auditors' work. A breakdown of our fees is shown below.

	Planned fee 2019/20	Final Fee 2018/19
	£'s	£'s
Current Scale Fee - Code work	38,375	38,375
Increase in scale fee Note 1	28,091	-
Scale fee variation Note 2	TBC	67,327
Total fees (excl. VAT)	TBC	105,702

As reported in our Audit Plan, the agreed fee presented is based on a number assumptions which include the timing of agreed deliverables being met; unqualified financial statement opinion and VfM conclusion; and quality documentation being provided in a timely way and controls being effective. Note 2 sets out issues that have impacted in 2019/20.

For 2019/20, the scale fee has been impacted by a range of factors (see following pages) which result in additional work. These factors were also reported in a national letter issued by EY to Chief Financial Officers and Chair of Audit Committees in February 2020.

Note 1 - The proposed increase reflects the increased risk and complexity facing all public sector bodies, adjusted for our knowledge and risk assessment for this Authority as well as the changes and incremental increase in regulatory standards. We have also adjusted the baseline fee to reflect our current assessment of the Authority's readiness for audit, including data analytics, quality of working papers. The proposed increase in the baseline fee is relatively consistent with other councils of a similar size, risk profile and complexity that EY audits.

Note 2 - The impact of Covid-19 on the audit and VfM conclusion impacted the work that was required to be done. As we near the conclusion of the audit, we will be in a position to quantify the impact of these additional procedures and where we propose a variation to the Authority's scale fee. We will discuss this with you.

At this stage we can confirm that there will be additional fees for 19/20 due to additional work required because of the following:

- Using EY Real Estate experts to assess the impact of Covid-19 on land and building valuations and the material uncertainty clause in the Authority's valuation report;
- Additional procedures to consider the Authority's going concern assessment;
- Consultation requirements concerning the impact on the Auditor's report from the land and building valuations material uncertainty clause and going concern assessment.
- Additional work on the significant VFM risk
- Extra time required to complete the audit which took longer than planned due to the availability of supporting evidence and working papers.

We will quantify and discuss additional fees at the conclusion of the audit with the s151 officer. All additional audit fees are also subject to approval by the PSAA.

Fees (continued)

We do not believe the existing scale fees provide a clear link with both a public sector organisation's risk and complexity.

Summary of key factors

1. **Status of sector.** Financial reporting and decision making in local government has become increasingly complex, for example from the growth in commercialisation, speculative ventures and investments. This has also brought increasing risk about the financial sustainability / going concern of bodies given the current status of the sector.
 - To address this risk our procedures now entail higher samples sizes of transactions, the need to increase our use of analytics data to test more transactions at a greater level of depth. This requires a continual investment in our data analytics tools and audit technology to enhance audit quality. This also has an impact on local government with the need to also keep pace with technological advancement in data management and processing for audit.
2. **Audit of estimates.** There has been a significant increase in the focus on areas of the financial statements where judgemental estimates are made. This is to address regulatory expectations from FRC reviews on the extent of audit procedures performed in areas such as the valuation of land and buildings and pension assets and liabilities.
 - To address these findings, our required procedures now entail higher samples sizes, increased requirements for corroborative evidence to support the assumptions and use of our internal specialists.
3. **Regulatory environment.** Other pressures come from the changing regulatory landscape and audit market dynamics:
 - Parliamentary select committee reports, the Brydon and Kingman reviews, plus within the public sector the Redmond review and the new NAO Code of Audit practice are all shaping the future of Local Audit. These regulatory pressures all have a focus on audit quality and what is required of external auditors.
 - This means continual investment in our audit quality infrastructure in response to these regulatory reviews, the increasing fines for not meeting the requirements plus changes in auditing and accounting standards. As a firm our compliance costs have now doubled as a proportion of revenue in the last five years. The regulatory lens on Local Audit specifically, is greater. We are three times more likely to be reviewed by a quality regulator than other audits, again increasing our compliance costs of being within this market.



Fees (continued)

Page 42

Summary of key factors (cont'd)

4. As a result Public sector auditing has become less attractive as a profession, especially due to the compressed timetable, regulatory pressure and greater compliance requirements. This has contributed to higher attrition rates in our profession over the past year and the shortage of specialist public sector audit staff and multidisciplinary teams (for example valuation, pensions, tax and accounting) during the compressed timetables.
 - We need to invest over a five to ten-year cycle to recruit, train and develop a sustainable specialist team of public sector audit staff. We and other firms in the sector face intense competition for the best people, with appropriate public sector skills, as a result of a shrinking resource pool. We need to remunerate our people appropriately to maintain the attractiveness of the profession, provide the highest performing audit teams and protect audit quality.
 - We acknowledge that local authorities are also facing challenges to recruit and retain staff with the necessary financial reporting skills and capabilities. This though also exacerbates the challenge for external audits, as where there are shortages it impacts on the ability to deliver on a timely basis.

Next steps

- In light of recent communication from PSAA, we have quantified the impact of the above to be able to accurately re-assess what the baseline fee is for the Authority should be in the current environment.






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Appendices

Required communications with the Corporate Governance, Audit and Standards Committee

There are certain communications that we must provide to the Audit Committees of UK clients. We have detailed these here together with a reference of when and where they were covered:

		 Our Reporting to you
Required communications	 What is reported?	 When and where
Terms of engagement	Confirmation by the Corporate Governance, Audit and Standards Committee of acceptance of terms of engagement as written in the engagement letter signed by both parties.	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies
Our responsibilities	Reminder of our responsibilities as set out in the engagement letter.	Audit planning report
Planning and audit approach	Communication of the planned scope and timing of the audit, any limitations and the significant risks identified.	Audit planning report
Significant findings from the audit	<ul style="list-style-type: none"> ▶ Our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures ▶ Significant difficulties, if any, encountered during the audit ▶ Significant matters, if any, arising from the audit that were discussed with management ▶ Written representations that we are seeking ▶ Expected modifications to the audit report ▶ Other matters if any, significant to the oversight of the financial reporting process 	Audit results report

Appendix A

		Our Reporting to you
Required communications	What is reported?	When and where
Going concern	<p>Events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including:</p> <ul style="list-style-type: none"> ▶ Whether the events or conditions constitute a material uncertainty ▶ Whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements ▶ The adequacy of related disclosures in the financial statements 	Audit results report
Misstatements	<ul style="list-style-type: none"> ▶ Uncorrected misstatements and their effect on our audit opinion ▶ The effect of uncorrected misstatements related to prior periods ▶ A request that any uncorrected misstatement be corrected ▶ Material misstatements corrected by management 	Audit results report
Subsequent events	<ul style="list-style-type: none"> ▶ Asking the Corporate Governance, Audit and Standards Committee where appropriate about whether any subsequent events have occurred that might affect the financial statements. 	
Fraud	<ul style="list-style-type: none"> ▶ Asking the Corporate Governance, Audit and Standards Committee to determine whether they have knowledge of any actual, suspected or alleged fraud affecting the Authority ▶ Any fraud that we have identified or information we have obtained that indicates that a fraud may exist ▶ Unless all of those charged with governance are involved in managing the Authority, any identified or suspected fraud involving: <ol style="list-style-type: none"> a. Management; b. Employees who have significant roles in internal control; or c. Others where the fraud results in a material misstatement in the financial statements. ▶ The nature, timing and extent of audit procedures necessary to complete the audit when fraud involving management is suspected ▶ Any other matters related to fraud, relevant to Audit Committee responsibility. 	Audit results report

Appendix A

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		Our Reporting to you
Required communications	What is reported?	When and where
Related parties	<p>Significant matters arising during the audit in connection with the Authority's related parties including, when applicable:</p> <ul style="list-style-type: none"> ▶ Non-disclosure by management ▶ Inappropriate authorisation and approval of transactions ▶ Disagreement over disclosures ▶ Non-compliance with laws and regulations ▶ Difficulty in identifying the party that ultimately controls the Authority 	Audit results report
Independence	<p>Communication of all significant facts and matters that bear on EY's, and all individuals involved in the audit, objectivity and independence.</p> <p>Communication of key elements of the audit engagement partner's consideration of independence and objectivity such as:</p> <ul style="list-style-type: none"> ▶ The principal threats ▶ Safeguards adopted and their effectiveness ▶ An overall assessment of threats and safeguards ▶ Information about the general policies and process within the firm to maintain objectivity and independence <p>Communications whenever significant judgments are made about threats to objectivity and independence and the appropriateness of safeguards put in place.</p>	<p>Audit planning report</p> <p>Audit results report</p>

Appendix A

		Our Reporting to you
Required communications	What is reported?	When and where
External confirmations	<ul style="list-style-type: none"> ▶ Management's refusal for us to request confirmations ▶ Inability to obtain relevant and reliable audit evidence from other procedures. 	All confirmations requested have been received
Consideration of laws and regulations	<ul style="list-style-type: none"> ▶ Subject to compliance with applicable regulations, matters involving identified or suspected non-compliance with laws and regulations, other than those which are clearly inconsequential and the implications thereof. Instances of suspected non-compliance may also include those that are brought to our attention that are expected to occur imminently or for which there is reason to believe that they may occur ▶ Enquiry of the Corporate Governance, Audit and Standards Committee into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that the Corporate Governance, Audit and Standards Committee may be aware of 	We have asked management and those charged with governance. We have not identified any material instances or non-compliance with laws and regulations
Significant deficiencies in internal controls identified during the audit	<ul style="list-style-type: none"> ▶ Significant deficiencies in internal controls identified during the audit. 	Audit results report

Appendix A

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		Our Reporting to you
Required communications	What is reported?	When and where
Group Audits	<ul style="list-style-type: none"> ▶ An overview of the type of work to be performed on the financial information of the components ▶ An overview of the nature of the group audit team's planned involvement in the work to be performed by the component auditors on the financial information of significant components ▶ Instances where the group audit team's evaluation of the work of a component auditor gave rise to a concern about the quality of that auditor's work ▶ Any limitations on the group audit, for example, where the group engagement team's access to information may have been restricted ▶ Fraud or suspected fraud involving group management, component management, employees who have significant roles in group-wide controls or others where the fraud resulted in a material misstatement of the group financial statements. 	Audit results report
Written representations we request from management and/or those charged with governance	<ul style="list-style-type: none"> ▶ Written representations we request from management and/or those charged with governance 	Audit results report
Material inconsistencies or misstatements of fact identified in other information which management has refused to revise	<ul style="list-style-type: none"> ▶ Material inconsistencies or misstatements of fact identified in other information which management has refused to revise 	Audit results report
Auditors report	<ul style="list-style-type: none"> ▶ Any circumstances identified that affect the form and content of our auditor's report 	Audit results report
Fee Reporting	<ul style="list-style-type: none"> ▶ Breakdown of fee information when the audit planning report is agreed ▶ Breakdown of fee information at the completion of the audit ▶ Any non-audit work 	Audit Planning Report Audit Results Report

Appendix B

Outstanding matters

The following items relating to the completion of our audit procedures are outstanding at the date of the release of this report:

Item	Actions to resolve	Responsibility
PPE Valuation - provision of the supporting information - and EY review of that information	Query with management	EY and management
Issues on query log	Query with management	EY and management
Going Concern	Query with management	EY and management
Review procedures	Final Engagement Lead and Manager review of the final position on concluded work, audit adjustments and reporting including financial instruments, journals and income	EY
Statement of accounts	Production and review of the final version of the accounts	EY and management
Subsequent events review	Completion of subsequent events procedures to the date of signing the audit report	EY and management
Management representation letter	Receipt of signed management representation letter	Management and LAGP Committee

Management representation letter

Ernst & Young LLP
Apex Plaza
Reading
RG1 1YE

Dear Maria

This letter of representations is provided in connection with your audit of the financial statements of Rushmoor Borough Council ("the Council") for the year ended 31st March 2020. We recognise that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion as to whether the financial statements give a true and fair view of the financial position of Rushmoor Borough Council as of 31st March 2020 and of its income and expenditure for the year then ended in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20.

We understand that the purpose of your audit of our financial statements is to express an opinion thereon and that your audit was conducted in accordance with International Standards on Auditing (UK and Ireland), which involves an examination of the accounting system, internal control and related data to the extent you considered necessary in the circumstances, and is not designed to identify - nor necessarily be expected to disclose - all fraud, shortages, errors and other irregularities, should any exist.

Accordingly, we make the following representations, which are true to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

A. Financial Statements and Financial Records

We have fulfilled our responsibilities, under the relevant statutory authorities, for the preparation of the financial statements in accordance with [the Accounts and Audit Regulations 2015 and CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20

We acknowledge, as members of management of the Group and Council, our responsibility for the fair presentation of the financial statements. We believe the financial statements referred to above give a true and fair view of the financial position, financial performance (or results of operations) and cash flows of the Group and Council in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20 and are free of material misstatements, including omissions. We have approved the financial statements.

The significant accounting policies adopted in the preparation of the financial statements are appropriately described in the financial statements.

As members of management of the Group and Council, we believe that the Group and Council have a system of internal controls adequate to enable the preparation of accurate financial statements in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20, that are free from material misstatement, whether due to fraud or error.

We believe that the effects of any unadjusted audit differences, summarised in the accompanying schedule, accumulated by you during the current audit and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

B. Non-compliance with law and regulations, including fraud

We acknowledge that we are responsible to determine that the Group and Council's activities are conducted in accordance with laws and regulations and that we are responsible to identify and address any non-compliance with applicable laws and regulations, including fraud.

We acknowledge that we are responsible for the design, implementation and maintenance of internal controls to prevent and detect fraud.

We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

Management representation letter

Management Rep Letter

We have no knowledge of any identified or suspected non-compliance with laws or regulations, including fraud that may have affected the Council (regardless of the source or form and including without limitation, any allegations by “whistleblowers”), including non-compliance matters:

- involving financial statements;
- related to laws and regulations that have a direct effect on the determination of material amounts and disclosures in the Group and Council’s financial statements;
- related to laws and regulations that have an indirect effect on amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operations of the Group and Council’s activities, their ability to continue to operate, or to avoid material penalties;
- involving management, or employees who have significant roles in internal controls, or others; or
- in relation to any allegations of fraud, suspected fraud or other non-compliance with laws and regulations communicated by employees, former employees, analysts, regulators or others.

C. Information Provided and Completeness of Information and Transactions

We have provided you with:

Access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;

Additional information that you have requested from us for the purpose of the audit; and

Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.

All material transactions have been recorded in the accounting records and are reflected in the financial statements.

We have made available to you all minutes of the meetings of the Council and its relevant committees (or summaries of actions of recent meetings for which minutes have not yet been prepared) held through the year to the most recent meeting on the following date: TBC.

We confirm the completeness of information provided regarding the identification of related parties. We have disclosed to you the identity of the Group and Council’s related parties and all related party relationships and transactions of which we are aware, including sales, purchases, loans, transfers of assets, liabilities and services, leasing arrangements, guarantees, non-monetary transactions and transactions for no consideration for the period ended, as well as related balances due to or from such parties at the [period] end. These transactions have been appropriately accounted for and disclosed in the financial statements.

We believe that the significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.

We have disclosed to you, and the Council have complied with, all aspects of contractual agreements that could have a material effect on the financial statements in the event of non-compliance, including all covenants, conditions or other requirements of all outstanding debt.

D. Liabilities and Contingencies

All liabilities and contingencies, including those associated with guarantees, whether written or oral, have been disclosed to you and are appropriately reflected in the financial statements.

We have informed you of all outstanding and possible litigation and claims, whether or not they have been discussed with legal counsel.

ISA (UK) 501.12

We have recorded and/or disclosed, as appropriate, all liabilities related litigation and claims, both actual and contingent, and have disclosed in the financial statements all guarantees that we have given to third parties.

Management Rep Letter**E. Subsequent Events**

Other than described in the financial statements, there have been no events subsequent to period end which require adjustment of or disclosure in the financial statements or notes thereto.

F. Other information

We acknowledge our responsibility for the preparation of the other information. The other information comprises the information included in the statement of accounts, other than the financial statements and our auditor's report thereon.

We confirm that the content contained within the other information is consistent with the financial statements.

G. Reserves

We have properly recorded or disclosed in the financial statements the useable and unusable reserves.

H. Contingent Liabilities

We are unaware of any violations or possible violations of laws or regulations the effects of which should be considered for disclosure in the financial statements or as the basis of recording a contingent loss (other than those disclosed or accrued in the financial statements).

We are unaware of any known or probable instances of non-compliance with the requirements of regulatory or governmental authorities, including their financial reporting requirements, and there have been no communications from regulatory agencies or government representatives concerning investigations or allegations of non-compliance.

I. Use of the Work of a Specialist

We agree with the findings of the specialists that we engaged to evaluate the valuation of Property, Plant and Equipment, the IAS19 actuarial valuations of pension fund liabilities and have adequately considered the qualifications of the specialists in determining the amounts and disclosures included in the financial statements and the underlying accounting records. We did not give or cause any instructions to be given to the specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an effect on the independence or objectivity of the specialists.

Estimates**PPE Valuations and Pensions Liability Estimates**

We believe that the measurement processes, including related assumptions and models, used to determine the accounting estimate(s) have been consistently applied and are appropriate in the context of the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20.

We confirm that the significant assumptions used in making the estimates for PPE and Pensions Liability appropriately reflect our intent and ability to carry out specific courses of action on behalf of the entity.

We confirm that the disclosures made in the financial statements with respect to the accounting estimate(s) are complete and made in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/20.

Management representation letter

Management Rep Letter

We confirm that no adjustments are required to the accounting estimate(s) and disclosures in the financial statements due to subsequent events.

K. Retirement benefits

On the basis of the process established by us and having made appropriate enquiries, we are satisfied that the actuarial assumptions underlying the scheme liabilities are consistent with our knowledge of the business. All significant retirement benefits and all settlements and curtailments have been identified and properly accounted for.

Yours faithfully,

(S151 Officer)

Chair of the Corporate Governance, Audit and Standards Committee

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ED None

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From Adrian Balmer email dated 13/04/2021

Hi David/Alan,

Good to speak with you both just now.

We will need to update our Going Concern consultation for 19/20. In order to help support us with that it would be good if you could provide the following:

- Cashflow forecast through to June 2022 at least;
- Updated management assessment reflecting the Council's assessment re: Going Concern (I attach the version which David will have used to update for 18/19. Happy for the version submitted to Justine and Andrew to be updated as of now);
- Latest version of the MTFP;
- Latest 20/21 outturn (Revenue and Capital);
- Updated Going Concern disclosure Note to reflect latest position
- Updated Post Balance Sheet Event Note to reflect latest position
- Information supporting the Council's income compensation scheme in 20/21 and any returns back to MHCLG
- Information supporting any C-19 grants received in 20/21

If there are any other reports which you think it would be helpful for us supporting your Going Concern position then please do send these on. Also happy to pick up any questions on a call if needed.

Thanks

Adrian Balmer
Senior Manager
07880 807 449

From Callum Coombs email dated 15/07/2021

Firstly, I hope you are keeping well.

Thank you for what you have provided for our going concern work. We require a few more things to complete our procedures; please see below.

If you have any questions please let me know. Thank you in advance for your help.

- Cashflow forecast
 - Please update the attached to include July 2022 also
 - Please explain how we can see that COVID-19 grants have been included in this forecast as per Justine's request in the attached email *FW Rushmoor BC Going Concern Consultation - documents outstanding*. If they haven't been, can the forecast please be updated to include these? Response to Callum dated indicated cashflow forecast will have included impact of Covid Grants. **MHCLG have indicated to Local Authority Treasurer Societies that ministers are not minded to provide any further Covid funding beyond the amount included in the 2021/22 LGFS and the extension of the SFC scheme into Q1 2021/22. Therefore would consider cashflow to be prepared in the basis of no further Government support/Grants etc.**
- In the attached email *FW Rushmoor BC Going Concern Consultation – 19/20* you state that *The only remaining item is the Grants WP which I need to access through Citrix so will follow later today*. I don't believe that we have this yet so can you please access and send over? **This is being prepared by the finance team as part of the WPs to support the 2020/21 SOA and will be available later this week.**
- Please see my comments on the proposed disclosures attached. Can you please explain/provide the evidence for the figures commented on and add the figures where they are currently to be updated. **Comments included on draft 2. Awaiting the cashflow forecast to amend this version of the disclosure note.**

Kind regards, Callum

Draft Note (as drafted July 2021)

Events after the Balance Sheet Date/IAS 10 consideration

Rushmoor Borough Council prepared and published a draft Statement of Accounts for 2019/20 on 31 August 2020 with an updated (status tbc) set published on <<Date>>. A revised set of accounts was provided to the Council's external auditors (EY) in <<Date>> which included a number of material adjustments following the conclusion of external audit work.

The impact from Covid-19 has been wide-ranging and has had a significant impact on the UK and global economy over the short to medium term.

Given Covid-19 emerged as a global pandemic just prior to the balance sheet date (31 March 2020), it is considered as a non-adjusting event for which a limited estimate of the financial effect on the reporting entity (Rushmoor Borough Council) can be made at the balance sheet date. It is noted that the financial impact for 2019/20 and future years may be greater with consideration of the financial implications on the Balance Sheet in relation to asset valuations/impairments and the pension fund liability measurement, as at the relevant balance sheet dates.

Whilst any future financial implications of such asset and liability valuation movements would be recognised within the Comprehensive Income and Expenditure Statement in the year to which they relate, in accordance with proper accounting practice, they would be adjusted for within the Movement in Reserve Statement - Adjustments between Accounting Basis & Funding Basis under Regulations, to negate any financial impact on the Council Tax payer.

Going Concern Basis

The concept of a going concern assumes that an authority's functions and services will continue in operational existence for the foreseeable future. The provisions in the Code of Practice on Local Authority Accounting in the United Kingdom ("the Code") in respect of going concern reporting requirements reflect the economic and statutory environment in which local authorities operate. These provisions confirm that, as authorities cannot be created or dissolved without statutory prescription, they must prepare their financial statements on a going concern basis of accounting.

Local authorities carry out functions essential to the local community and are themselves revenue-raising bodies (with limits on their revenue-raising powers arising only at the discretion of central government). If an authority were in financial difficulty, the prospects are thus that alternative arrangements might be made by central government either for the continuation of the services it provides or for assistance with the recovery of a deficit over more than one financial year. As a result of this, it would not therefore be appropriate for local authority financial statements to be provided on anything other than a going concern basis. Accounts drawn up under the Code therefore assume that a local authority's services will continue to operate for the foreseeable future.

Restrictions in place during 2020 and 2021 in response to Covid-19 have had a wide-ranging impact on local businesses and residents. Council services have been reviewed in light of Government guidance, with income from fees and charges, council tax and business rates adversely affected. The Government has provided emergency funding to local authorities, with £1.434m received by Rushmoor Borough Council along with £1.005m in respect of Income loss compensation during the 2020/21 financial year.

As stated within the note, the Code requires that local authorities prepare their accounts on a going concern basis, as they can only be discontinued under statutory prescription. For these reasons, the Council does not consider that there is material uncertainty in respect of its ability to continue as a going concern for the foreseeable future.

Balances and Reserves reported in the financial statements

Items/Description	Balance as at 31 March 2018 (£'000)	Balance as at 31 March 2019 (£'000)	Balance as at 31 March 2020 (£'000) (unaudited)
General Fund Balance	2,000	2,000	2,000
<i>Earmarked Reserves</i>			
Stability and Resilience Reserve	4,353	4,869	5,870
All other Earmarked Reserves	5,472	7,195	11,089

The Council has reviewed its financial position in light of Covid-19 and assessed the impact as follows:

Impact on 2019/20

Additional expenditure: £Nil

Loss of Income: £187k

Income loss from Treasury management investment income (pooled funds) and is offset by reduced borrowing costs of £186k. Net variation across all Treasury Management activities is £8k

Given the outturn position for 2019/20, the impact from Covid-19 was contained within the net surplus on the Revenue Budget.

Impact on 2020/21

The Council's budget for 2020/21 has been significantly impacted by Covid-19 largely as a result of reduced income and additional expenditure following restrictions that were put in place in late March 2020.

Council revised budget approved in February 2021 took into account expenditure pressures and income losses incurred during 2020/21, with additional provision made

given the uncertainty of further local and national restrictions during the remaining part of the financial year.

As reported to Cabinet in April 2021, the latest forecast showed a net impact on the General Fund revenue budget of £0.804m, after taking into account Government funding of £1.133m and additional reserve transfers (Treasury Management, £0.290m). The £0.804m impact would be funded from the Stability and Resilience Reserve.

Table 1 –2020/21 Budget Monitoring position (as reported to Cabinet in April 2021)

	2020/21 Original Budget (£'000)	2020/21 Latest Budget (£'000)	2020/21 Outturn Forecast (£'000)	2020/21 Variation (£'000)
General Fund Revenue Budget				
Corporate Services	5,289	5,470	5,470	0
Customer Experience & Improvement	19	88	87	(1)
Major Projects & Property	(4,928)	(4,473)	(4,305)	168
Operational Services	7,847	10,768	11,058	290
Planning & Economy	2,548	2,470	2,250	(220)
ICE Programme	496	556	556	0
SUBTOTAL	11,272	14,880	15,117	237
Less: Reversal of Accounting entries	(2,519)	(2,519)	(2,519)	0
Net Service Revenue Expenditure	8,753	11,926	12,163	237
Corporate Income & Expenditure	3,227	2,243	2,243	0
C19 Expenditure Pressures	0	0	0	0
C19 Risk	0	0	0	0
Movement in Reserves	746	(463)	(284)	179
Savings Plan	(1,436)	(446)	(388)	58
Net General Fund Revenue Budget	11,290	13,260	13,734	474
Funded by:				
Council Tax	6,705	6,705	6,705	0
Business Rates	3,767	3,767	3,767	0
New Homes Bonus	1,169	1,169	1,169	0
Covid-19 Emergency Funding	0	1,478	1,478	0
Covid-19 Income Loss	0	684	871	187
Other Funding	(3)	(270)	(270)	0
TOTAL Funding	11,637	13,533	13,720	187
Core (Surplus) or Deficit	(347)	(273)	14	287
Balanced by:				
General Fund Balance				0
Service Improvement Fund	297	0	0	0
Workforce Reserve	50	0	0	0
Stability & Resilience Reserve	0	273	(14)	(287)
Core Surplus or Deficit after Transfers	0	0	0	0

However, this forecast did not include the full impact from the restrictions in place since December 2020. It was anticipated that income and expenditure would remain under pressure as a result.

A draft outturn report was considered by Cabinet at their meeting on -6 July 2021 and reflected the information available to support the outturn position as at 17 June 2021. A more detailed report will be considered by Cabinet at their meeting in August 2021 when it is expected that a number of material items such as Business Rates, Council Tax and Housing Benefit returns will have been completed. Paragraph 3.1 of the report is included below for reference:

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

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

The report indicated that the draft outturn was likely to be in-line with the forecast in April although some uncertainty remains.

Table 2– Draft Outturn position 2020/21 (as reported to Cabinet in July 2021)

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

During the financial year the Council's proposed use of reserves will need to be kept under review. The Council will need to evaluate what further options to consider when reviewing the Budget Strategy for 2022/23. An updated MTFs and Budget Strategy will be presented to Cabinet in October 2021. This will also take into account recent consultations on New Homes Bonus, Prudential Code and any further announcements concerning the Spending Review period and implementation of the Fair Funding Review and introduction of 75% Business Rates Retention. The first budget monitoring report for 2021/22 will be considered by Cabinet at their meeting in September 2021 with further reports due in December 2021 and early 2022.

Appendix A (Table 3) shows an indicative forecast of the Council's Reserves and Balances. This is based on the position as reported to members in the MTFs in February 2021 with an assumed utilisation of reserves for 2020/21 as part of the draft outturn. Broad assumptions have been made around the utilisation of reserves to support the General Fund budget over the 3-year period 2021/22 to 2023/24 to provide members with some context around the proposed level of reserves and balances at 31 March 2021, and to provide a 'stress test' of the Council's financial resilience.

The Council has undertaken cash flow modelling through to August 2022 which demonstrates the Council's ability to work within its Capital Financing Requirement (CFR) and Cash management framework, with a minimum headroom of £40 million (based on CFR of £143.8m less actual borrowings of £102m).

The Council remains confident in its ability to maintain sufficient cash for its services through the medium term. This is based on its cash flow forecasting and the resultant liquidity position of the Council, taking account of the cash and short term investment balances of £17 million (as at 22 July 2021) and the ability for short-term borrowing under the Treasury Management Policy of up to the CFR. This demonstrates that the

Council has sufficient liquidity over the same period, assuming forecast average short term borrowings of £102 million.

The Council thereby concludes that it is appropriate to prepare the financial statements on a going concern basis, and that the Council will be a going concern, 12 months from the date of the audit report, based on the review of the forecasted reserve and cash position.

The Council's financial position was strengthened with the 2019/20 outturn, which provided additional headroom within the earmarked reserves and provides financial resilience to cope with the financial pressures from Covid-19 in the short to medium-term. During the course of 2020/21 the Council reviewed its financial commitments and revenue and capital budgets. A revised budget was approved by Council at their meeting in February 2021.

As set out earlier in this note, the Council is still working through the 2020/21 outturn position and will review earmarked reserves to ensure financial resilience can be maintained during 2021/22 and over the medium-term.

The Council is mindful of the lasting impact from Covid-19 and has taken steps to mitigate the funding gap forecast over the MTFS period. The Council has been working through a Cost Reduction and Efficiencies Plan (CREP) to identify opportunities to reduce expenditure, resize and optimise services, and generate new additional income. Further work will take place in July and August 2021 to evaluate the opportunities identified to date. The Budget Strategy report to Cabinet in October 2021 will set out the outcomes from the initial CREP work in more detail and update the financial forecast over the MTFS period.

Collection Fund

Given the changes to the collection of both Council Tax (Hardship Fund and deferred payments) and Business Rates (additional reliefs, deferred payments), officers are still working through the impact on the Collection Fund. Whilst there was a reduced It is likely there will be a reduced level of collection in 2020/21, the performance of Council Tax and Business Rates collection was strong given the impact from Covid on individual Council Tax and Business Rate payers. Government support has been provided to the Council through the ability to spread collection fund deficits over a - year period and the Tax Income Guarantee scheme. However, it is anticipated that Covid will have a nagtive impact on the Council's resources in future years and the Council should expect to budget for lower levels of Council Tax and Business Rates income as the Council's share of any collection fund deficit will need to be funded in future revenue budgets.

Cost Reduction and Efficiencies Plan (CREP)

The CREP Programme opportunities will be evaluated, validated and reviewed over the coming months. Proposals for cost reductions, savings and additional income will be included in the Budget Strategy report to Cabinet in October 2021 and form part of the updated MTFS.

The 2021/22 budget includes a number of planned savings and additional income opportunities. These will be reviewed in the light of the recovery from Covid-19 and the Council will need to consider whether savings will be delivered in full and within the timescale identified in the MTFS. Any reduction in the level of savings planned for 2021/22 will place additional pressure on the Stability and Resilience reserve. It is likely that the CREP Programme will identify further savings for 2021/22 that can be delivered which can mitigate the impact of any shortfall in current planned savings.

David Stanley
Executive Head of Finance and Section 151 Officer

08 July 2021 (as updated 22 July 2021)

Table 3 – Indicative Reserve and Balances levels (as forecast July 2021)

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	Estimated Balance 31/03/2021 (£'000)	Transfers To (£'000)	Transfers From (£'000)	Estimated Balance 31/03/2022 (£'000)	Transfers To (£'000)	Transfers From (£'000)	Estimated Balance 31/03/2023 (£'000)	Transfers To (£'000)	Transfers From (£'000)	Estimated Balance 31/03/2024 (£'000)	Transfers To (£'000)	Transfers From (£'000)	Estimated Balance 31/03/2025 (£'000)
Transfers To (From) Reserves													
General Fund Balance	(2,000)	0	0	(2,000)	0	0	(2,000)	0	0	(2,000)	0	0	(2,000)
Earmarked Reserves													
Stability & Resilience	(5,757)		1,014	(4,743)		3,134	(1,609)		1,609	0		0	0
Negative Balance of Stability & Resilience *				0			0		2,448	2,448		4,177	6,625
Service Improvement Fund	(129)		129	0			0			0			0
Commercial Property Reserve	(1,750)		250	(1,500)		250	(1,250)			(1,250)			(1,250)
Regeneration Reserve	(450)		100	(350)		100	(250)		250	0			0
ICE Reserve	0		0	0			0			0			0
Climate Emergency Reserve ***	(227)		227	0			0			0			0
Deprivation Reserve ****	(100)	(100)	200	0			0			0			0
Pension Reserve	(669)	(818)		(1,487)	(960)		(2,447)			(2,447)			(2,447)
Regeneration Due Diligence Reserve	0			0			0			0			0
Workforce Reserve	(200)			(200)			(200)			(200)			(200)
Treasury Reserve	(290)		180	(110)		110	0			0			0
CPE Rolling Fund	(254)			(254)			(254)			(254)			(254)
Budget Carry Forwards	(800)		800	0			0			0			0
Elections Reserve	(87)		87	0			0			0			0
SANG/s106 **	(4,442)			(4,442)			(4,442)			(4,442)			(4,442)
Other Earmarked Reserves/Prior yr grants	(2,673)			(2,673)			(2,673)			(2,673)			(2,673)
TOTAL Reserves and Balances	(19,828)	(918)	2,987	(17,759)	(960)	3,594	(15,125)	0	4,306	(10,819)	0	4,177	(6,641)
Excluding SANG	(15,386)	(918)	2,987	(13,317)	(960)	3,594	(10,683)	0	4,306	(6,377)	0	4,177	(2,200)

Assumptions made:

- General Fund Balance – maintained at risk-based minimum level of £2m
- General Fund Revenue budget would require £1.014m of support in 2021/22 and further support over the MTFS period on a 'do nothing' basis. The Council has established the CREP programme to address the funding gap. Negative Stability and Resilience reserve balance shown for illustrative purposes only.
- Commercial Property Portfolio would require £0.750m of support over the period 2020/21 to 2022/23
- Earmarked reserves support specific Council priorities are fully utilised (Service Improvement Fund, ICE Reserve, Climate Emergency, Deprivation Support, Regeneration Reserve, Regeneration Due Diligence, Workforce Strategy)
- Pension Fund Equalisation Reserve maintained as per February 2020 MTFS
- S106/SANG/Commutated Sums reserve – no assumption about income and expenditure
- All other earmarked reserves – maintained at current level

CORPORATE GOVERNANCE, AUDIT AND STANDARDS COMMITTEE

Meeting held on Thursday, 27th May, 2021 at the Princes Hall, Princes Way, Aldershot GU11 1NX at 7.00 pm.

Voting Members

Cllr Sue Carter (Chairman)
Cllr P.J. Cullum (Vice-Chairman)

Cllr Sophia Choudhary
Cllr A.K. Chowdhury
Cllr Christine Guinness
Cllr A.J. Halstead
Cllr Jacqui Vosper
Cllr Jessica Auton
Cllr Jib Belbase
Cllr Sarah Spall

Apologies for absence were submitted on behalf of Cllr Prabesh KC.

1. MINUTES

The Minutes of the meeting held on 29th March 2021 were approved and signed by the Chairman.

2. RUSHMOOR DEVELOPMENT PARTNERSHIP - ANNUAL REPORT

The Committee considered the Chief Executive's Report No. CEX2101. The Chief Executive's report as Council Shareholder related to the progress review received from the Rushmoor Development Partnership (RDP) on its business plan. The Report provided information on the progress and delivery to date on the four regeneration sites which had been agreed as part of the initial RDP business plan. The Report also proposed some changes to the management and governance arrangements to support the Council's input and oversight of the RDP to respond to the current stage of the regeneration programme.

It was noted that the RDP's financial position was reviewed by the Council's Finance Service and the annual accounts would be included as confidential appendices to the Annual Report to be submitted to the Committee in October 2021.

The Committee noted that there had been significant progress since the approval of the initial business plan, particularly on Union Street, Aldershot where the RDP had secured planning consent during 2020 despite the pandemic. Work on the Civic Quarter Masterplan was progressing well and a public consultation exercise would commence in Summer 2021 prior to the submission of an outline planning application. Parsons Barracks Car Park had been sold to enable the development of

a care home with the proceeds being used to fund the work of the RDP to date, reducing pressure on the Council's financial position.

Overall the RDP had made a positive contribution to moving forward the Council's regeneration objectives over the previous two years and, as Shareholder, the Chief Executive was satisfied with progress achieved.

As the regeneration programme was now moving to the construction phase for some schemes, it was considered appropriate to review the partnership arrangements and approach to governance. An initial review had been undertaken by the Chief Executive as Shareholder and changes to management and governance were now proposed. The RDP Board currently consisted of the Leader, Property and Major Projects Portfolio Holder (Cllr M.J. Tennant) and Executive Director (Karen Edwards). It was proposed that this should now be transitioned to the Property and Major Projects Portfolio Holder, Chief Executive and Executive Director. This change would allow the Council to bring the Chief Executive's regeneration and development experience to bear on the projects and also allowed the Leader to play more of a strategic leadership role without any hinderance or conflict of interest that could arise. The Committee was advised that the Executive Head of Regeneration and Property (Paul Brooks) would be replaced by the Interim Head of Development (Keith Harley). Both of these proposed changes would be subject to confirmation by the RDP Board.

The Committee was advised that, once the new arrangements had come into force, it was further proposed that the Council's shareholder representative for all other purposes should be the Executive Director and Monitoring Officer (Ian Harrison).

The Report set out the current annual cycle of oversight and governance by the Committee, which was considered by the Chief Executive to be sufficient. However, the Council's officer project and programme management arrangements had been strengthened from 1 April 2021 to reflect the move towards the construction phase of the Union Street development and quarterly performance reporting to the Cabinet and Overview and Scrutiny Committee and six-monthly regeneration briefings would continue for all Members of the Council. The Chief Executive felt it was important that management and governance arrangements should be kept under review as the Council's regeneration projects proceeded.

RESOLVED: That

- (i) the Chief Executive's Report No. CEX2101 be noted; and
- (ii) the changes to the management and governance arrangements set out in section 3 of the Report be agreed in line with the Council's Constitution.

3. **PAY POLICY STATEMENT FOR THE FINANCIAL YEAR 2021-2022**

The Committee considered the Executive Director's Report No. ED2105, which sought approval for a Pay Policy Statement for 2020/21. The Pay Policy Statement set out the framework within which pay was determined at the Council and provided

an analysis comparing the remuneration of the Chief Executive with other employees of the authority.

The Committee noted that the comparisons looked at the ratio between the Chief Executive and the full-time equivalent salary for a permanent member of staff employed in the lowest grade within the structure. The ratio for 2020/21 was 6.7:1. The second ratio included within the analysis looked at the relationship between the median remuneration of all staff compared to the Chief Executive. It was noted that the ratio for 2020/21 was 3.6:1.

The Committee **RECOMMENDED TO THE COUNCIL** that approval be given to the Pay Policy Statement 2020/21, as set out in the Executive Director's Report No. ED2105.

4. **STATEMENT OF ACCOUNTS 2019/20 - UPDATE 3**

The Committee received the Executive Head of Finance's Report No. FIN2112 which informed Members of audit progress for the Council's Statement of Accounts for 2019/20 and the provision of the audit opinion since the previous meeting of the Committee on 29th March 2021.

It was noted that there had been considerable work from the Council and Ernst and Young (EY) to work through the outstanding audit issues. These were largely focused on the valuation of the Council's assets with a number of queries raised during the audit of a technical nature. Officers from the Council and EY had had weekly virtual meetings during April and May 2021 to assess progress and resolve the audit queries. The Committee was advised that the answers to the auditor's property queries had been submitted to EY the previous day. Once all the remaining audit queries had been resolved, the Council would need to provide EY with an updated impact on the Council's finances from Covid-19 and any Post Balance Sheet Event (PBSE) given the ongoing risk Covid-19 posed to the Council's financial standing. It was also noted that, to complete the accounts, the Statement of Accounts would need to include a detailed Disclosure Note that addressed Going Concern. It was anticipated that the audited Statement of Accounts and the Audit Results Report would not be ready to be considered by the Committee until the July 2021 meeting at the earliest.

The Report also advised the Committee on deadlines for the completion and publication of the 2020/21 and 2021/22 accounts, which had been amended as part of the Government's response to the recommendations in the independent Redmond Review into the effectiveness of external audit and transparency of financial reporting in local authorities. It was felt that the timetable would be challenging for the Council against the backdrop of continuing Covid-19 pressures. In addition, the delay in concluding the 2019/20 audit meant that the opening balance for 2020/21 would be fluid. Working on two audit years at the same time and having to revisit opening balances would increase the workload for the Council and potentially further delay the audit process for 2020/21.

During discussion, Members recognised that the additional time taken for the 2019/20 audit had not been due to errors, omissions or matters concerning the quality of the Council's final accounts.

RESOLVED: That the Executive Head of Finance's Report No. FIN2112 be noted.

5. **GRANTING DISPENSATION FROM PROVISIONS OF THE CODE OF CONDUCT FOR MEMBERS**

The Committee considered the Monitoring Officer's Report No. LEG2103, which sought the granting of dispensations from the declaration of interests, as set out in the Code of Conduct for Members, in relation to those Members who had been appointed by the Council to be in a position of management or control of the Rushmoor Development Partnership (RDP) and Rushmoor Homes Ltd (RHL). Such a dispensation would enable those Members affected to take part in decision-making on any matter relating to those bodies or affecting the financial position of those bodies.

The Report reminded Members that Section 29 of the Localism Act 2021 required the Monitoring Officer to establish and maintain a register of interests of Members of the authority. The Council's new Code of Conduct set out the requirement to declare both 'Disclosable Pecuniary Interests, which were prescribed by Regulations and 'Other Registrable Interests'. Where a matter for decision directly related to the interest in any business of the Council where it related to or was likely to affect:

- any body of which a Member was in general control or management and to which the Member was nominated or appointed by the Council;
- any body exercising functions of a public nature; any body directed to charitable purpose or one of whose principal purposes included the influence of public opinion or policy (including any political party or trade union)

the Member concerned could not take part in the decision making unless they had been granted a dispensation by the Corporate Governance, Audit and Standards Committee.

The Council had established a wholly owned housing company (Rushmoor Homes Limited) to deliver good quality market rent housing within the Borough. The Council was in partnership with Hill Investment Partnership Limited within the Rushmoor Development Partnership (RDP) to deliver major regeneration for the towns of Farnborough and Aldershot. The Council had appointed members of the Council, including the Executive, to positions of management or control of these bodies. As such, those Members would have a personal interest in any matters directly relating to these Council bodies and potentially an interest where the financial interests of those bodies were affected.

The Report stated that, for the proper conduct of Council business, it was not appropriate or proportionate for the Members appointed by the Council to the control and management of the RDP and RHL to be prevented from taking part in the decision making relating to those bodies. This was on the basis that these bodies

had been set up by the Council to deliver its objectives and deliver positive outcomes for residents of the Borough. It was felt that the aims of the bodies aligned to the aims of the Council. Furthermore, if the Members of the Executive had to be barred from taking part, the Executive would not be quorate. It was therefore recommended that the dispensations should be granted. In an amendment to the Report, it was also recommended that the Dispensations should apply for a period of four years.

RESOLVED: That

- (i) the Committee grant the dispensations for those Members who had been appointed by the Council to be in a position of management or control of the RDP and RHL to enable those Members affected to take part in decision-making on any matters directly relating to those bodies; and
- (ii) the dispensations be in place or apply for a period of four years.

6. **APPOINTMENTS 2021/22**

(1) **Outside Bodies –**

RESOLVED: That the appointment of representatives to outside bodies for the 2021/22 Municipal Year, as set out in the attached Appendix, be approved.

(2) **Appointments and Appeals Panels –**

RESOLVED: That the Head of Democracy and Community be authorised to make appointments to the Appointments and Appeals Panels in accordance with the membership criteria set out in the Officer Employment Procedure Rules in the Constitution.

(3) **Licensing Sub-Committee –**

RESOLVED: That the following Members be appointed to serve on the Licensing Sub-Committee for the 2021/22 Municipal Year (three Conservative representatives; two Labour representatives):

Conservative Group: Cllrs Sue Carter, Sophia Choudhary and Jacqui Vosper

Labour Group: Cllrs Christine Guinness and Sarah Spall.

(4) **Licensing Sub-Committee (Alcohol and Entertainments) –**

RESOLVED: That the Head of Democracy and Community be authorised to make appointments from the membership of the Corporate Governance, Audit and Standards Committee in accordance with the procedure agreed by the Committee at its meeting on 21st May 2009 and detailed in the Licensing Sub-Committee (Alcohol and Entertainments) Hearings Protocol and Procedure.

(5) **Constitution Working Group –**

RESOLVED: That the following Members be appointed to serve on the Constitution Working Group for the 2021/22 Municipal Year:

- two Cabinet Members (Cllr A.R. Newell plus one vacancy)
- the Chairman of the Corporate Governance, Audit and Standards Committee
- two representatives of Labour Group (Cllrs Christine Guinness and Sophie Porter).

The meeting closed at 8.20 pm.

CLLR SUE CARTER (CHAIRMAN)

**CORPORATE GOVERNANCE, AUDIT AND STANDARDS COMMITTEE
27TH MAY 2021**

REPRESENTATION ON OUTSIDE BODIES

NAME OF ORGANISATION	REPRESENTATIVE(S) 2021/22
Aldershot & Farnborough Festival of Music & Art	Cllrs Gaynor Austin, T.W. Mitchell and Mara Makunura
Aldershot Military Museum Strategic Local Agreement Meeting	Cllrs Mrs. D.B. Bedford and Sophie Porter
Aldershot Town Centre Business and Retailers Group	Cllrs Gaynor Austin, M.S. Choudhary, Sophia Choudhary, Christine Guinness and Prabesh KC
Basingstoke Canal Joint Management Committee	Cllrs J.H. Marsh and P.G. Taylor with Cllr A.J. Halstead as Standing Deputy
Blackbushe Airport Consultative Committee	Cllr P.J. Cullum with Cllr M.S. Choudhary as Standing Deputy
Blackwater Valley Advisory Panel for Public Transport	Cllrs M.L. Sheehan and M.J. Roberts with Cllrs T.D. Bridgeman and R.M. Cooper as Standing Deputies
Blackwater Valley Countryside Partnership	Cllrs Mrs D.B. Bedford and P.G. Taylor with Cllrs Christine Guinness and A.J. Halstead as Standing Deputies
Brickfield Country Park, Friends of	Three Manor Park Ward Members (Cllrs D.E. Clifford, P.I.C. Crerar and B.A. Thomas)
Cove Brook Greenway Group	Cllrs Jessica Auton and L. Jeffers
District Council's Network (DCN)	Leader of the Council (Cllr D.E. Clifford)

NAME OF ORGANISATION	REPRESENTATIVE(S) 2021/22
Enterprise M3 Joint Leaders Board	Leader of the Council (Cllr D.E. Clifford)
Farnborough Aerodrome Consultative Committee	Cabinet Member (Cllr M.L. Sheehan) and Cllr P.G. Taylor (as a representative of an adjoining ward) with Cllr M.J. Tennant as Standing Deputy
457 Farnborough Squadron	Cllr J.H. Marsh
Hampshire and Isle of Wight Local Government Association	Leader of the Council (Cllr D.E. Clifford) and Cllr P.G. Taylor (Cabinet Member)
Hampshire Districts Health and Wellbeing Forum	Cllr Marina Munro (Cabinet Member)
Hampshire Police and Crime Panel	Cllr K.H. Muschamp (Cabinet Member)
Hampshire Buildings Preservation Trust AGM	Cllrs Jessica Auton and Marina Munro
Local Government Association - General Assembly	Leader of the Council (Cllr D.E. Clifford)
North Hampshire Area Road Safety Council	Cllr Mara Makunura with Cllr P.G. Taylor as Standing Deputy
North Hampshire Community Safety Partnership	Cllr M.L. Sheehan (Cabinet Member)
Joint Scrutiny Committee (Hart/Basingstoke/Rushmoor) North Hampshire Community Safety Partnership	Two representatives from Chairman and Vice-Chairmen of the Overview and Scrutiny Committee and Cllr K. Dibble. Nominated substitute is remaining Scrutiny Chairman or Vice-Chairman and Cllr Gaynor Austin
PCC Hampshire Gypsy and Traveller Community Support Panel	Cllr Marina Munro (Cabinet Member)
Parity for Disability	Cllr S.J. Masterson with Cllr Sue Carter as Standing Deputy

NAME OF ORGANISATION	REPRESENTATIVE(S) 2021/22
Project Integra Strategic Board	Cllr M.L. Sheehan (Cabinet Member)
Royal British Legion (Farnborough Branch) Remembrance Day Arrangements	Cllr Mrs D.B. Bedford
Citizens' Advice Rushmoor Trustee Board	Cllrs C.J. Stewart and Gaynor Austin
Rushmoor Development Partnership LLP (RDP) Board	Cllr M.J. Tennant (Portfolio Holder), Chief Executive (Paul Shackley) and Executive Director (Mrs Karen Edwards)
Rushmoor Homes Company – Board of Directors	Cllrs K. Dibble, K.H. Muschamp and P.G. Taylor
Rushmoor In Bloom Forum	Cllrs Mrs D.B. Bedford, M.S. Choudhary, Sophia Choudhary, Nadia Martin and Sophie Porter
Rushmoor Partners Network	Cllrs D.E. Clifford (Leader of the Council), K.H. Muschamp (Deputy Leader of the Council) and Marina Munro (Cabinet Member)
Rushmoor Voluntary Services Board	Cllr S.J. Masterson
Rushmoor Youth Forum (currently a virtual forum)	Cllrs J.B. Canty, Sue Carter and A.J. Halstead
South East Employers – Full Meeting	Cllr P.G. Taylor (Cabinet Member) and P.J. Cullum as Standing Deputy
South East England Councils (SEEC) All Member Meeting	Leader of the Council (Cllr D.E. Clifford)
Thames Basin Heaths Joint Strategic Partnership Board	Cllr Marina Munro (Cabinet Member)

NAME OF ORGANISATION	REPRESENTATIVE(S) 2021/22
Wellesley Residents Trust Ltd	Cllr Prabesh KC
West End Centre Management Committee	Cllrs M.S. Choudhary and Sophie Porter

**CORPORATE GOVERNANCE, AUDIT
AND STANDARDS COMMITTEE****HEAD OF OPERATIONS**

27TH JULY, 2021

REPORT NO. OSP2109

TAXI LICENSING HEARINGS & WHEELCHAIR ACCESSIBLE VEHICLES**1. INTRODUCTION**

- 1.1 In July 2020 the Department for Transport (DfT) published Statutory Taxi and Private Hire Vehicle Standards, a full copy of these is given at Appendix 1. These state “The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.” In addition, the DfT have previously published Statutory Guidance on Access for Wheelchair Users to Taxis and Private Hire Vehicles, to coincide with the commencement of sections 165 & 167 of The Equality Act 2010. A full copy of these is given at Appendix 2.
- 1.2 Whilst a number of other changes will be required to ensure that the Council’s Taxi Licensing processes are in accordance with all of these standards, others will be considered as part of the review of the overarching Taxi Licensing Policy as they deal with application requirements, this report deals with some of the measures that could be implemented sooner.

2. BACKGROUND**2.1 Taxi Decision Making**

- 2.2 The council’s scheme of delegation allows for all decisions on taxi licence applications, and any interferences with licences once issued to be made by the Head of Operations or delegated officers. Historically, these decisions have been made by officers with the option to refer them to a sub-committee, which has been determined by the Manager / Head of Service on an exception basis with no specific criteria and has resulted in very few taxi hearings.
- 2.3 The DfT guidance states:

The Regulatory Structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

2.4 **Wheelchair Accessible Vehicles**

2.5 The Council has a policy whereby all Hackney Carriage vehicles are required to be wheelchair accessible, purpose-built taxi vehicles and conditions requiring drivers of these vehicles to provide reasonable assistance to passengers. However, to date has not used the power contained within The Equality Act 2010 to designate vehicles as wheelchair accessible vehicles, thereby meaning that the duties on drivers in The Equality Act do not apply, and there is no criminal offence for failing to comply with them. The duties in the act are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

The act goes on to define mobility assistance as:

- To enable the passenger to get into or out of the vehicle;
- If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- To load the passenger's luggage into or out of the vehicle;
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

2.6 The Council already has a mechanism in place for drivers of wheelchair accessible vehicles to apply for an exemption from the carriage of passengers in a wheelchair on medical grounds in accordance with S166 of the act which was commenced earlier.

2.7 Recently, the Council have received some complaints regarding the refusal of passengers in wheelchairs, whilst these are still under investigation, the additional regulatory options that designating vehicles in accordance with the DfT guidance would provide, is likely to result in a more appropriate response in circumstances where drivers fail to provide an acceptable service.

3. **PROPOSALS**

3.1 **Taxi Decision Making**

3.2 It is proposed that the criteria for referral to committee for taxi decisions is formalised, to ensure that the most contentious decisions are determined by a panel of trained, elected members in accordance with the DfT guidance. For this purpose, it is recommended that where the Manager, or Head of Service in

the case of an escalated case, is minded to refuse or revoke a licence for a private hire operator or a hackney carriage and/or private hire driver the case be referred to committee for a decision.

3.3 For less complex cases the current delegated powers to officers should remain in place, in accordance with the DfT guidance, to allow for expedient decisions to be made where appropriate.

3.3 In para. 5.7 of the DfT guidance detailed above it states that “it is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision-making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them.” It is therefore recommended that for those decisions set out in para 3.2 above, a panel of three Members is drawn from the CGAS Committee by rotation to form a taxi hearing, and that the Head of Democracy and Community be authorised to make the appointments from amongst the trained members of the CGAS Committee. This is in keeping with the arrangements used for the licensing sub-committee (alcohol and entertainments).

3.4 Further details related to the proposed arrangements for taxi hearings are set out in the accompanying protocol and procedures attached at Appendix 3, which are also recommended for approval.

3.5 To support committee members, it is proposed that relevant training is provided which incorporates mock hearings based on previously determined cases, to comply with the DfT guidance and ensure that members are confident in decision making on cases of this nature. The scheme of delegation allows for decisions to be made by Head of Service / Managers in the current way until such time as sufficient members are trained.

3.6 **Wheelchair Accessible Vehicles**

3.7 It is proposed that the Council designates wheelchair accessible vehicles in accordance with the power provided at S167 of The Equality Act 2010, therefore introducing statutory duties on the drivers of these vehicles. The DfT guidance makes a recommendation that the criteria used to determine that a vehicle is designated is if it would be possible for the user of a “reference wheelchair (as defined in Schedule 1 of The Public Service Vehicle Accessibility Regulations 2000, a copy of which is given at Appendix 4) to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.”

3.8 As this is a defined criteria, and in order to ensure expedient processing of licensing applications it is proposed that determination of whether a vehicle is designated in accordance with the above criteria be delegated to officers in accordance with the current scheme of delegation.

3.7 It is proposed that Licensing Officers produce a draft list of vehicles to be designated in accordance with the criteria, and that the proprietors / drivers of these vehicles be informed in writing of the decision to designate the vehicle, the duties that this puts on them and additional information to assist them in

those duties. As there is a right of appeal to the Magistrate's Court within 28 days of the decision, the designated vehicles list and duties be published online and therefore made available to members of the public at the end of the appeal period, for all vehicles where no appeal has been received.

4. FINANCIAL, EQUALITIES & LEGAL IMPLICATIONS

- 4.1 The only financial implication of the proposals is the additional member and officer time required to administer hearings which can be borne from existing budgets. Whilst there is no way of knowing the number of applications and incidents of this nature that will occur in the future, there have been 5 licences revoked and 10 applications refused in the last two years.
- 4.2 The changes recommended would promote equality and fair decision making.
- 4.3 The recommendations are made to ensure that our decision making process is in line with the statutory guidance from the DfT.. A decision to depart from the statutory guidance, could have legal implications in any appeal hearings.
- 4.4 All decisions made in respect of the content of this report are subject to appeal to the Magistrates' Court.

5. CONCLUSIONS AND RECOMMENDATION

- 5.1 The DfT have released statutory guidance in respect of the above matters. The Licensing Authority are required to have regard to this guidance and should only differ from their recommendations where there is a compelling local reason to do so. Whilst there are other elements to be considered, implementation of the following recommendations would bring Rushmoor in line with the guidance in these areas.

The Committee is recommended to approve that:

1. The scheme of delegation set out in Part 3, Section 4, Para 4.5.2 of the constitution (taxi and private hire licensing and associated licensing arrangements) be updated to reflect that where the authorised officer is minded to refuse or revoke a licence for a private taxi hire operator or a hackney carriage and/or private hire driver, the matter be referred to a taxi licensing hearing for decision. However, an exception to be specified that delegation to the Head of Operations will remain in place where it is deemed urgent or necessary for an expedient decision.
2. A panel of three members drawn from the CGAS Committee by rotation, forming a sub-committee, be authorised to deal with the determination of taxi licensing applications, as set out in Recommendation 1 above, and that the Head of Democracy and Community be authorised to make the appointments to the sub-committee from amongst the trained members of the CGAS committee in accordance with the proposed protocol and

procedure attached at Appendix 3.

3. The Taxi Hearings Protocol & Procedure at Appendix 3 be adopted.
4. Training to support Members to determine matters at taxi licensing hearings be arranged, and that the Head of Operations shall continue to use delegated powers in the absence of trained Members.
5. Wheelchair Accessible Vehicles should be designated in accordance with the power provided at S167 of The Equality Act 2010 using a reference wheelchair as detailed at Appendix 4.
6. The designation of Wheelchair Accessible Vehicles be delegated to officers in accordance with the current scheme of delegation.

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HEAD OF OPERATIONS

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.



Department
for Transport

Access for wheelchair users to Taxis and Private Hire Vehicles

Statutory Guidance

Moving Britain Ahead

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

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Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in blue ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,
Parliamentary Under Secretary of State, Department for Transport**

1. Introduction

Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

2. Putting the law into practice

Background

- 2.1 We have commenced sections 165 and 167 of the [Equality Act 2010](#) (“the Act”), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15th September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *“although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates”*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of

section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



3. Vehicles

Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"¹ to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

¹ As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)

Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

4. Drivers

Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
 - not to make any additional charge for doing so;
 - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
 - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
 - to give the passenger such mobility assistance as is reasonably required.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
 - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - To load the passenger's luggage into or out of the vehicle;
 - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff² may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

²

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>

light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1st October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

5. Enforcement

Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.

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The role of the Sub-Committee is to determine applications in an impartial manner in accordance with the relevant provisions of the Local Government Miscellaneous Provisions Act 1976, The Town Police Clauses Act 1847, national guidance and the Council's Policies.

1. Appointments to the Licensing Sub-Committee

The Head of Democracy and Community is authorised to make appointments to the Licensing Sub-Committee from amongst the trained Members of the Corporate Governance, Audit & Standards Committee.

In forming the membership of the Licensing Sub-Committee for a hearing, and where members' availability permits, the Head of Democracy and Community shall seek to ensure where possible:

- Cross-party representation
- At least two experienced Members in attendance
- Rotation of Membership

The Chairman for a hearing shall be selected from amongst the Members forming the sub-committee, based on experience.

2. Hearings to be held in public

Licensing hearings shall take place in public. However, the Licensing Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. The Sub-Committee may exclude the public if it is considered there may be any unfairness to or release of private information about a party resulting from a public hearing, or if there is a need to protect the commercial interests of a party.

3. Time of hearings

Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

4. Notice of a hearing

Notice of a hearing will be given no later than ten clear working days before the day the hearing is to be held. Information accompanying a notice of a hearing shall be given, specifying the date on which, the place at which and the time when the hearing is to take place.

5. Hearings held on more than one day

Where a hearing is to be held on more than one day, the hearing will be arranged to take place on consecutive working days where possible.

6. Right to dispense with a hearing

If all parties agree that a hearing is unnecessary, then with the agreement of the licensing authority, the hearing may be dispensed with. The application or review shall be determined as soon as reasonably practicable and all parties notified accordingly.

7. Right to postpone or adjourn a hearing

The Licensing Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party. A hearing may also be postponed to enable a person's attendance where appropriate.

8. Papers available at the hearing

The Administrative Officer (Democracy and Community) will ensure that copies of the relevant Council policy and a reasonable supply of papers for the hearing are available for the public at the meeting.

9. Substitutions

If a Member of the Licensing Sub-Committee is unable to attend at, or has an interest in, a hearing, he/she shall notify the Head of Democracy and Community at the earliest opportunity. In accordance with arrangements approved by the Corporate Governance, Audit & Standards Committee, a nominated substitute Member shall be appointed to the meeting by the Head of Democracy and Community and shall have full voting rights.

10. Absence of the appointed Chairman at a hearing

In the absence of the appointed Chairman at a hearing, the Members forming the Sub-Committee shall agree a Chairman for that meeting as its first item of business.

11. Quorum

The Quorum for the Licensing Sub-Committee shall be 3.

12. Procedure at a hearing

A detailed procedure note for hearings is attached at Annex 1.

12.1 At the beginning of the hearing, the Chairman shall identify persons present, and outline the procedure which shall be followed. If applicable, the Sub-Committee shall consider any request made by a party for any other person to appear at the hearing.

12.2 The hearing shall take the form of a discussion led by the Licensing Sub-Committee.

12.3 Each party who has received notice of the hearing has the right to address the Sub-Committee on any matter that is relevant to the application or case.

12.4 A party attending the hearing may call witnesses to give evidence on any matter that is relevant to the application or case.

12.5 A party attending the hearing may be assisted or represented by any person whether or not that person is legally qualified.

12.6 Each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to address the authority. The maximum period of time permitted for each speaker will be 10 minutes, subject to the Chairman's discretion.

12.7 Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.

12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all the other parties, at the hearing.

12.9 The Licensing Sub-Committee shall disregard any information given by a party that is not relevant to the application or case.

13. Failure of Parties to attend the Hearing

13.1 If a party has informed the Council that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence. The hearing may also proceed if a party has failed to advise whether he intends to attend or be represented, or leaves the hearing in circumstances enabling the committee to reasonably conclude that he/she does not intend to participate further.

13.2 If a party fails to attend or be represented at a hearing the Sub Committee may:

(1) adjourn the hearing to a specified date, where it is considered to be in the public interest to do so;
or

(2) hold the hearing in the party's absence

13.3 Where a hearing is held in the absence of a party, the Licensing Sub-Committee shall consider the application, representations or notice made by that party.

14. Disturbance by the Public or Parties

14.1 If a member of the public, or party to the hearing, behaves in a disruptive manner, the Chairman may require that person(s) to leave the hearing.

14.2 The Licensing Sub-Committee may refuse to permit that person to return, or may permit that person to return only on such conditions as the Licensing Sub-Committee may specify.

14.3 Such a person may, before the end of the hearing, submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give had they not been required to leave. The Sub-Committee shall take into account that information in reaching a determination of the application or case.

15. Determination of Applications

15.1 The Sub-Committee has five working days to make their determination beginning with the day of the hearing. All parties will be notified of the determination together with a record of any legal advice given to the Members of the Sub-Committee in the absence of the parties, and details of any rights of appeal.

15.2 The time limit may be extended for a specified period, where it is in the public interest. A notice of the extension shall be given to all parties stating the period of the extension and the reasons for it.

16. Record of proceedings

A record of the hearing shall be made by the licensing authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal. The Council may also record the proceeding through video and/or audio tape.

17. Ruling of Chairman to be Final

The ruling of the Chairman of the Hearing in any procedural matter at the hearing shall not be open to discussion.

ANNEX 1 PROCEDURE AT HEARINGS OF THE LICENSING SUB-COMMITTEE TAXIS

The following procedure shall be followed at licensing hearings in respect of taxi-related applications and cases.

1. Introduction and Preliminary Remarks

- ✦ All parties are invited to join the meeting and the Chairman will introduce the Sub-Committee Members, Council Officers, and the procedure to be followed.
- ✦ The Chairman will take details of all other parties appearing at the hearing who are eligible and wish to speak.
- ✦ Typically, and subject to any ruling by the Chairman, the views of the parties will be heard in the order set out below. Some applications may involve additional parties, e.g. a Taxi Operator, passenger, witness, and if so, the Chairman will advise the parties at the start of the hearing, the order in which each is to present his/her case.
- ✦ Each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to present their case at the hearing. The length of time allowed shall be determined by the Chairman at the beginning of the meeting and will usually be 10 minutes. Following each presentation, there will be an opportunity for questions and answers.

(NB. To make efficient use of time at the hearing, parties can assume that the Sub-Committee Members have read all papers and statements which have been circulated in advance and form part of the agenda for the meeting. Therefore, parties need not read them aloud as part of their presentation unless they wish to do so.)

- ✦ The Chairman to deal with any preliminary matters or questions raised, check that all parties have all relevant documentation and remind the parties of issues specifically to be addressed.
- ✦ The Chairman to draw attention to matters of general housekeeping.

2. Presentation by the Licensing Officer

- ✦ Licensing Officer to present his case.
- ✦ Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Licensing Officer any questions on his presentation.
- ✦ Sub Committee Members to ask the Licensing Officer any questions.
- ✦ Licensing Officer may respond to any new issues raised.

3. Case for any witnesses

- ✦ Any witnesses will be invited to present their views and answer questions in turn.
- ✦ Each other party in order, (if permitted by the Chairman), to have an opportunity to ask each witness or their representative any questions on his/her presentation.
- ✦ Sub-Committee Members to ask each witness or their representative any questions.
- ✦ Each witness or representative may respond to any new issues raised.
- ✦ Witnesses shall be asked to leave the meeting

4. Case for the Applicant / Licence Holder

- ✦ The Applicant / Licence Holder to present the case in support of the application or existing licence.
- ✦ Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Applicant / Licence Holder any questions on his/her presentation.
- ✦ Sub-Committee Members to ask the Applicant / Licence Holder any questions.
- ✦ The Applicant / Licence Holder may respond to any new issues raised.

5. (Self) Excluded or Disruptive Party Submissions

- ✦ The Chairman to check whether any additional written comments have been submitted by any (self) excluded or disruptive party to the meeting and ensure copies of any such submissions are circulated in public to all remaining parties.
- ✦ Where applicable, each other party to be given an opportunity in turn to express any views or points raised in submitted comments.

6. Summary

- ✦ Any party wishing to summarise his or her views may do so, in the reverse order to that in which cases were presented.

7. The Decision

- ✦ The Chairman will advise the timescale in which the Sub-Committee expects to make a decision before the Sub-Committee retires to reach a decision in private, accompanied by the Administrative Officer and the Council's Legal Representative.
- ✦ If the decision is made on the day of the hearing, on determination, the Members of the Sub-Committee will return. Any legal advice given in the absence of the parties will be reported in public and all parties given an opportunity to respond before a decision is announced.
- ✦ The Chairman will announce the Sub-Committee's decision, giving reasons.
- ✦ The Council's Legal Representative to advise of the next steps, including arrangements for confirming decision.