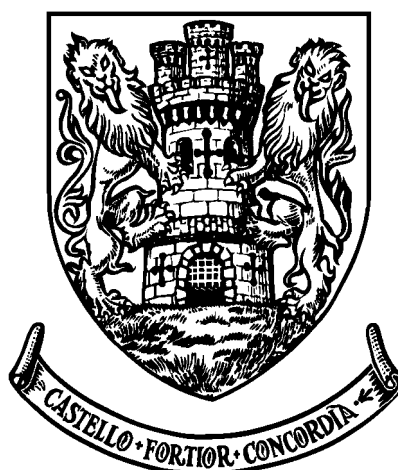


NORTHAMPTON BOROUGH COUNCIL



COUNCIL

Monday, 22 February 2021

**YOU ARE SUMMONED TO ATTEND A MEETING OF NORTHAMPTON BOROUGH COUNCIL, WHICH WILL BE HELD REMOTELY VIA ZOOM:
[HTTPS://WWW.YOUTUBE.COM/USER/NORTHAMPTONBCTV/](https://www.youtube.com/user/northamptonbctv/) ON MONDAY, 22 FEBRUARY 2021 AT 6:30 PM WHEN THE FOLLOWING BUSINESS IS PROPOSED TO BE TRANSACTED**

1. DECLARATIONS OF INTEREST

2. MINUTES.

To approve the minutes of the proceedings of the Meeting of the Council held on 18th January 2021.

3. APOLOGIES.

4. MAYOR'S ANNOUNCEMENTS.

5. PUBLIC COMMENTS AND PETITIONS

6. MEMBER AND PUBLIC QUESTION TIME

7. CABINET MEMBER PRESENTATIONS

8. OPPOSITION GROUP BUSINESS

Councillor Stone to make a statement on "Doing local better".

9. CARBON NEUTRAL NORTHAMPTON STRATEGY

10. STATEMENT OF LICENSING POLICY

11. REPORT IN THE PUBLIC INTEREST REGARDING THE COUNCIL'S LOANS TO NORTHAMPTON TOWN FOOTBALL CLUB (ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2016) AND ACTION PLAN IN RESPONSE.

(Copy herewith)

12. NOTICES OF MOTION

- i) Councillor Nunn to propose and Councillor Larratt to second:

‘This Council recognises the work of the Northampton people during the Pandemic; our staff at all levels of Northampton Borough Council from the Chief Executive down, as well as the countless voluntary groups, the selfless emergency services and all those who have gone the extra mile putting others before themselves during this Covid-19. We would like to come together as a Council and formally give thanks on the public record.’

13. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE MAYOR IS OF THE OPINION SHOULD BE CONSIDERED.

George Candler – Chief Executive
The Guildhall
Northampton

Public Participation

1. Comments and Petitions

- 1.1 A member of the public (or an accredited representative of a business ratepayer of the Borough) may make a comment or present a petition on any matter in relation to which the Council has powers. A comment or presentation of a petition shall be for no more than three minutes. No notice of the nature of the comment to be made or of the petition is required except for the need to register to speak by 12 noon on the day of the meeting.

(Public comments and petitions will not be taken and the Annual Council Meeting or other civic or ceremonial meetings.)

NOTES

- i. *Comments may be on one or more subjects but each person has no longer than three minutes to have their say.*
- ii. *The same person may make a comment and present a petition on different subjects. In such instances that person will have three minutes to make their comment and a separate three minutes to present a petition.*

2. Member and Public Questions

- 2.1 A member of the public (or business ratepayer of the Borough) may ask a maximum of two written questions at each meeting, each limited to a maximum of 50 words, on any matter in relation to which the Council has powers. Each question shall:
- be submitted in writing and delivered, e-mailed to Democratic Services no later than 10.00am seven calendar days before the day of the meeting; and
 - include the name and address of the questioner and the name of the Cabinet member/Committee Chair to whom the question is put.
- 2.2 At the meeting, copies of all questions and the responses to them from the public and Members will be made available to the public and press. The Mayor may allow one supplementary question, without notice, that arises directly from the original question or response.

(Questions will not be taken at the Annual Council Meeting or at civic or ceremonial meetings or meetings called to deal with specific items of business.)

NOTES

In respect of paragraph 2.1 above, questions may be rejected on certain grounds that are set out on page 4-12 of the Council's Constitution and which may be viewed at www.northampton.gov.uk/site/scripts/download_info.php?fileID=1919 or by seeking advice using the contact details below.

3. Motions

- 3.1 A member of the public may register to speak to a motion under the 'Notices of Motion' item on the agenda. Registration to speak must be made to Democratic Services by 12 noon on the day to the meeting. Speaking to a motion is restricted to three minutes per person.

(The 'Notices of Motion' item will not be taken at the Annual Council meeting or meetings called for civic or ceremonial purposes.)

4. General

A member of the public may make a comment, present a petition, ask a question or speak to a motion at the same meeting subject to the restrictions set out above.

5. Contacts

Democratic Services: e-mail democraticservices@northampton.gov.uk

Tel 01604 837722

Fax 01604 837057

Mail Democratic Services
Northampton Borough Council
The Guildhall
St Giles Square
Northampton NN1 1DE

Cabinet Member Report for Leader of the Council

Northampton Borough Council

22nd February 2021



Since my last report to Council I have continued to work with the Cabinet, Members, the Chief Executive and Officers across all areas of the Council albeit once again virtually, in light of the ongoing Government guidance to work from home wherever possible. Many of these activities and issues are referred to in Cabinet colleagues' reports.

Covid-19

It has been almost 12 months since the Covid-19 pandemic first materialised here, not just in Northampton but also across the UK. Clearly it has affected so many people tragically, and as a society we have all had to come to terms with new ways of living our lives and going about our daily business. This has put an incredible strain on us all, and as a society. However, I am immensely proud with the way that we, as a Borough Council working alongside our partners both across the Local Government and Health systems, have responded. I do genuinely believe that we are moving forward now with a sense of optimism, particularly with the significant roll-out of the vaccination programme here across Northamptonshire. Of particular note is the opening of Northamptonshire's Covid-19 vaccination centre, which opened at the Royal Pavilion building in Moulton Park on 25th January, and has seen significant acceleration of the vaccination programme as a result, to the 4 key cohorts. I believe we can also look forward with some optimism, that the easing of lockdown will be forthcoming and we will be able to meet up with our friends and family in a safe and secure way, as and as Government guidelines permit. Until then, it remains imperative that we continue to observe all the current guidance and most importantly, as I have mentioned before, continue to support one another over the coming weeks whilst the vaccination programme is rolled out.

Activity around the Covid-19 pandemic has occupied a large proportion of my own workload, including regular attendance at the Oversight & Engagement Board as well as the weekly attendance at the press briefings that are provided on a Friday afternoon to the media across print, radio and TV. I also maintain an active engagement in the Northampton Town Centre Task Force which is led by the Town Centre BID, as we now look to plan for the easing of lockdown again, and to encourage people back into the town centre safely to ensure the future long term viability of our economy here in Northampton.

Future Northants Activity

At the time of the Council meeting, there will be less than 40 days until West Northamptonshire Council comes into being, and therefore the level of activity and specifically my involvement, continues to increase in these final few weeks as we prepare to go live as a new Council on the 1st April.

The momentum and range of initiatives that we have built up, and which we all feel are vital for the future of the town, must continue without interruption or delay, as must the service to our residents, and I continue to press this point in discussions that involve the new council, doing all I can myself to ensure that this is the case.

I have continued to lead the Communications Task & Finish Group which I Chair, and the focus now is very much on our external communications campaign to residents, businesses and wider key stakeholders on what will change, but also what will not change, on Day One. A range of mediums are being used, reflecting the way that we are living our lives at the moment, and this targeted campaign will have started at the time of this Full Council meeting and run through until Vesting Day.

There have also been a significant number of formal meetings that I have attended, including 2 West Northamptonshire Shadow Executive meetings, in particular approving the budgets for 2021/22, which then went on to the West Shadow Council meeting for formal approval. Alongside these have been the regular monthly West Implementation Executive and Joint Implementation Executive meetings, with the final round of meetings to take place in March.

Also arranged have been a number of Member briefings, covering the essentials that Members need to be aware of across Adult Services and Children's Services, which have proved to be invaluable in broadening Members' knowledge in these 2 key areas of activity that previously were part of Northamptonshire County Council. Alongside this have been discussions on West Northamptonshire legacy projects – 'show & tell' type events that so far have enabled members to become aware of the legacy projects being progressed by Daventry District and South Northants councils.

There are two further dates for these sessions, both of which will focus on NBC lead projects, and these are:

- 25th February at 6pm - Town Regeneration, the Future High Streets Fund and the Towns Fund projects
- 12th March at 2.30pm - House building projects, Temporary Accommodation and Homelessness

Invitations for both of these sessions will be in your council diary, and it would be appreciated if you were able to attend these sessions, to show your support for these projects and initiatives to remain priorities in the new council.

As well as being Deputy Leader of the West Northamptonshire Shadow authority, I am also Portfolio Holder for Economic Growth, and was therefore pleased to have an initial catch up with the incoming new Director of Place & Economy, Stuart Timmiss, who will be joining West Northamptonshire Council on 1st April. Stuart and I were able to cover a number of key topics, most particularly around the importance of keeping momentum on Town Regeneration activities.

In terms of the development of the new Town Council for Northampton, and two new Parish Councils, again I have been actively involved in wider discussions, and am tremendously glad to now see them up and running.

Economic Growth

Whilst there may be less than 40 days until Vesting Day, work around the Economic Growth agenda continues at a significant pace, not least our Town Investment Plan which, whilst submitted ahead of schedule on 11th December 2020, we have now taken the opportunity to publicise the detail of our £25m bid. I am pleased to say that this has generated significant excitement and optimism across the town and, as a result, I was pleased to undertake a number of media briefings, alongside fellow Northampton Forward Board members. We hope to hear in early March the outcome of our Towns Fund bid.

Similarly, in my last report I updated on our success with the Future High Street Fund bid, securing £8.4m. Since then, we have been able to provide further feedback to colleagues at MHCLG and hope to hear formal confirmation of the bid again towards the end of February or early March. This once again, being positive news, generated media interest and I was pleased to provide updates, including to the BBC.

Northampton Forward Board continues to meet and recently we have received updates on progress with regards to the stripping out of asbestos in the former M&S building, which is progressing well and should be concluded by the end of March. We also had an introductory meeting with Pavement Creative, who will be developing the Place Marketing Strategy for Northampton between now and July 2021. This Strategy will be aimed at businesses and attracting them to Northampton to increase inward investment, but also to the wider visitor economy and indeed our own residents, encouraging an inclusive economy here in Northampton.

As a Board member on the Town Centre Business Improvement District (BID), I have also attended their most recent Board meeting and also a BID event on 29th January, and am hopeful that their current renewal ballot will be a success.

At the end of January, I also Chaired an additional meeting of the Waterside Enterprise Zone Board, in which we had an update on the 7 key priority sites that are currently being developed, as well as an overview of the Town Investment Plan previously referenced.

All NBC members have shown a keen interest, and much appreciated support, for the Town Regeneration work, and it has been some time since we provided you with a more detailed briefing, and so on Tuesday 2nd March, 6.00pm-7.30pm, we are presenting an all-member briefing to bring members up to date on the Future High Streets Fund and the Towns Fund bids, with an opportunity of course to ask any questions that you may have.

Sub-regional Activities

A number of Sub-Regional Boards continued to take place virtually. I was pleased to represent Northampton and ensure that our voice is heard, as well as contributing to the wider partnership agenda at both the SEMLEP Finance Risk & Audit Committee, the Central Area Growth Board as well as attending both an MHCLG webinar and a District Councils Network All-Member call, both focussed on elections and the vaccination roll-out.

Other Activities

Towards the end of January, we received the Public Interest Report from our former auditors KPMG, which I have discussed both with Members and with Officers as we develop our response to it. This important issue is subject to a separate report on today's agenda.

I am also particularly pleased to be part of a wider team of judges in the Inspirational Women Awards, alongside Cllr Anna King and the Chief Executive.

Finally, as this is likely my last formal report to council, with a different format anticipated for our last full council meeting on 8th March, I would like to place on record that having been Leader of Northampton Borough Council has without doubt been one of the greatest honours or privileges of my life.

I am hopeful that the past few years will be thought of as years in which positive progress has been made across a number of areas, and I would like to thank the Cabinet, and all members across the council, the Chief Executive, Senior Officers, and all members of staff, as well as the array of partner organisations and individuals that it has been such an honour to work alongside during the years. Working with so many wonderful people, however difficult some of the challenges faced have been, has been an extraordinary experience. Thank you.

Cllr Jonathan Nunn
Leader of the Council

As Deputy Leader, I have continued to play an active role in the establishment of West Northamptonshire Council as a member of the Shadow Executive with the Highways and Waste Portfolio, and as Chair of two Task & Finish Groups – Civic Matters and Equalities. However, I'm continuing to support the Leader and Cabinet colleagues across a variety of areas within this council. I can report on some of my specific responsibilities as below.

Market

Since my last report the country has remained in lockdown with all non-essential retail venues mandated to close, leaving only fresh fruit and vegetable stalls and our butcher able to trade. I am pleased to report that while not at pre Covid levels, the few traders that remain are able to make some living from the limited footfall.

The lockdown has given us an opportunity to accelerate our maintenance programme with the full replacement of stall sheeting now complete. In addition, more deep cleaning has taken place as well as some painting to improve the cosmetic appearance of the rest of the market structures. We have also been able to consolidate our stalls.

Councillor Development / Democratic Services

Meetings are continuing to be held virtually over Zoom and are still working very well; they are continuing to attract public interest, and this can be confirmed by the number of views on YouTube that are monitored. Member briefings are continuing with them being held remotely and programmed in as required.

The Mayor has continued to attend events virtually. The Mayor is planning his Civic Charity Sunday service for Sunday 7th March. On January 27th there were commemorations to mark Holocaust Memorial Day online.

The Mayor had oversight of the investiture of Earl Spencer as a Hereditary Freeman of the Borough on the 18th February. This was an inaugural Teams Meeting Investiture.

Legal Services

Legal Services have dealt with one buy back during January and they have also completed a couple of Right to Buy Sales. Five leases have also been dealt with during this period. The service continues to be very busy dealing with transactions and providing advice to officers.

Electoral Services

Electoral services are preparing for the local elections that are taking place on 6th May 2021, including contacting potential staff, finalising the polling station bookings and getting mailing plans in place.

The team have been continuing to work on the Northampton Town Centre BID vote, ensuring all the documents are correct and have been sent in time. The BID results will be confirmed on the 26th February.

The annual postal vote refresh letters were sent out in January and these are coming back in.

Street Lighting

The streetlight project is now in the defects period and will remain so up until December 2021. Outstanding items are being dealt with including the St Crispin's lights which have now been replaced along with a new power supply, as the supply had been cut off by the developer.

At Tudor Court, Wootton, some of the lights are in operation now using a temporary supply from the Co-op store. We are pushing Western Power to make the feed live so that we can remove this temporary supply.

The maintenance contract for our lights is being finalised and will be coming to Cabinet in March.

Rail Issues

On 23rd January, the Government announced £760 million of funding for the delivery of the Bicester to Bletchley section of East West Rail. East West Rail Company have announced that this will allow the operation of two trains per hour between Bicester and Milton Keynes. This is important to Northampton in the wider context of the Council's expressed wish for East West Rail services running from Old Oak Common, Aylesbury, Bletchley and Milton Keynes to continue to Northampton so that Northampton is well linked into the Oxford-Cambridge corridor.

Flooding

Water levels remain high in the Billing Lakes. There are trees and other foliage partially blocking the outlets. We have engaged contractors to remove these items when it is safe to do so.

Governance Review

Northampton Town Council, Kingsthorpe Parish Council and Far Cotton & Delapre Community Council have all set a precept for 2021/22. These Councils are up and running in shadow form.

A further meeting of the Cross-Party Working Group will be held in the next week or so to further discuss asset transfers.

Signing Off

This is my last report as Deputy Leader of the Council prior to its demise on 31st March. It has been a privilege to serve in this role for just over four years. Having served as a Member of the Council for almost 34 of the last 38 years the 31st March will be a very sad day. I would like to thank the residents of St George Ward and East Hunsbury Ward for putting their trust in me from 1983 to 1995 and 1999 to date respectively. I've always put my residents first and I will continue to do so if elected in the future.

It's been a rollercoaster ride throughout the years, but much has been achieved for the benefit of Northampton, the town we all care about. It has been a pleasure to work with all colleagues across the Council who, despite political differences, all have the interest of the town at heart.

Similarly, I consider that we have all been very lucky to have had the support of so many able and competent officers and staff who have been committed to Northampton and the work of this Council. There are far too many to mention, but I would just like to put on record my thanks to Caroline Burke for all her help and support in assisting and organising me!

The culture of this Council is now fantastic. I have enjoyed the camaraderie and humour that has existed as I believe that this has helped deliver good outcomes. I can only hope that the culture of this Council is replicated in West Northamptonshire Council.

Councillor Phil Larratt
Deputy Leader of the Council

Councillor Community Fund

Since 1 April 2020, a total of £70,324 has been spent by councillors on supporting the delivery of positive outcomes in their wards. A third of this funding, £22,294 has been used directly for COVID-19 support and recovery. This is in addition to the £90,000 COVID specific grant that has already been awarded by councillors to organisations in the Borough.

Northampton Community Resilience Hub

Continue to support those most vulnerable in our communities – 1,355 referrals have been received by our local community resilience hub, individuals and families continue to receive support in getting access to food, with shopping, getting online, picking up prescriptions, support for loneliness, mental health and wellbeing and financial hardship. Food provision/support remains the highest level of need, accounting for 72% of the overall referrals.

Small charities and food banks in Northamptonshire have applied for funds from the “Local Authority Emergency Assistance Grant for Food and Essential Supplies” funded through DEFRA.

The first, second and third round of grants has been awarded by the oversight board made up from representatives from the Hope Centre (leading on the administration and support for applicants) County Council and Districts and Boroughs on the West to support food banks and local charities and build resilience into these areas. A fourth round will launch this month, to close in March, when the allocation is to be spent by.

Furthermore, we continue to support the Local Resilience Forum with engagement activities, to ensure the public health messages are reaching all our communities. Ongoing work to promote the messages with young people, including a graffiti art project with young people and direct social media, targeted messaging. And ongoing engagement activity with our BAME communities, through our extensive engagement network in Northampton, working with our community leaders and community organisations. This has included support with the identification of community leaders to take part in translated videos promoting the vaccination and a Q&A session for the Diverse Communities Forum, being led by a local BAME public health consultant who has had the vaccine.

Forums

Continue planning for the International Women’s Day virtual event on March 6
Inspirational Woman nominations closed – announcement to be made live at the above event.

Events

The council have cancelled all outdoor events on council land until 1st June 2021 to support the current Government lockdown restrictions and slow the spread of the coronavirus.

However, the council have delivered a virtual event for Annual Diwali Celebrations and worked closely with partners to make the virtual day a memorable one.

For fireworks night a virtual fireworks display was available to view on the council’s website and across other social media platforms.

This year saw our first virtual Remembrance Day Service which was filmed live from All Saints Church and included speeches from all our partners.

This year’s Christmas included the four 40’ Christmas trees, around 200 small 5’ business trees, the cross street lights in the town centre, street lampposts Christmas lights along

Wellingborough Road, St Leonards Road, across the town centre including Market Square, Christmas lights on the Abington Park Bandstand, Christmas lights in trees in Abington Street, outside the Guildhall and All Saints Church and Christmas lights in Fish Street.

The council erected two large screens in Abington Street which screened Santa messages, Carol Singers from All Saints Church, Christmas songs, safety covid19 messages, Christmas retail offers, showing highlights of virtual events held throughout 2020 and more.

The council is looking to organise the 2021 weekly Bands in the Park event from early June 2021, but this will be dependent upon the government restrictions and local safeguards in place at that time.

Culture & Heritage

Due to the national Covid-19 situation, Abington Park Museum remains closed. All procedures and equipment are in place and an opening can be affected with one week's notice.

Two online fashion talks looking at the history of female fashions from 1875 to the recent past were delivered by Sharn Matthews in January and February and attracted 85 ticket sales. A further series of Art History lectures delivered by ProArtium and featuring the works of five women artists represented in our collection took place in January and February and attracted 184 ticket sales – feedback from attendees has been extremely positive.

A series of three online Italian cookery workshops led by Italian cook and author, Carmela Sereno Hayes are planned for February, March & April.

Museum Expansion Project

The museum project is in its final stages and final works are underway. The museum will open when Northampton enters Tier 2 or equivalent criteria set by central government. Once the change in restrictions is announced, the museum will open within two weeks of the day restrictions are lifted. In the meantime, the imminent launch of the new museum website will provide an enhanced level of digital access to the museum collections and buildings in the meantime. A 360 degree Virtual Reality tour is currently in production, which will provide virtual access to the museum and galleries.

Customer Services

The Unitary Mail Automated Project (MAP) is going well. We have demonstrated the concept of how the Mail Bot will distribute all emails from the Unitary email address to the correct contact centre. We have received some great feedback, support, buy-in and increased confidence from the other authorities. We are confident that this solution will be available and enable a smooth transition from April, with future opportunities of improvements and efficiencies in the future.

Winter Grant Scheme – We have added an enquiry form on our website and Customer Services are triaging all enquires ensuing that these claims are reviewed and submitted as quickly as possible. In January NBC submitted 58 claims awarding approx. £7000.00 in supermarket vouchers.

Community Safety

Knife Angel has been delayed due to the COVID pandemic – currently exploring the feasibility of December 2021.

Trusted Relationships funding for Year 4 has been confirmed. This will enable Free2Talk to continue to deliver youth work in the Borough. Between October and December 2020, Free2Talk have supported over 55 young people in 47 consistent weekly sessions and 12 young leaders have supported the development of digital youth and community work.

In the current lockdown, from January, they have had over 800 engagements in 15 sessions. Free 2 Talk also offer individual mentoring for young people through True Knowledge, since October 2020 have delivered 336 sessions to 62 vulnerable young people.

Marble Arch PSPO made.

Virtual primary school community safety event being developed, to be available for after Easter.

Work completed on Jeyes Jetty bin storage solution and installation date for the gates is set for early March.

Community Safety and Anti-Social Behaviour (ASB)

ASB Case Managers are part of a multi-agency problem solving group attending regular meetings to look at ways to resolve the high levels of ASB and issues at a large town centre block of flats. Problems include noise, loud music, fights, aggressive dogs, rubbish, parties and drugs. As part of the action 4 Community Protection Warning Letters (CPW's) were issued to 4 residents.

A Community Protection Notice (CPN) was issued to a male who had breached his CPW by being verbally abusive and threatening to NBC staff in the Customer Contact Centre.

Criminal Behaviour Order, issued against a persistent perpetrator, causing ant-social behaviour in the town centre.

ASB reporting tool has gone live, in 6 weeks, we have received 40 reports from members of the public which have responded to and action being taken.

Councillor Anna King

Cabinet Member for Community Engagement & Community Safety

Protecting rough sleepers from COVID-19

Since my last report, the Single Homelessness Team has been busy delivering Northampton's second 'Everyone In' initiative (which will operate for 10 weeks until 31st March) to keep rough sleepers safe, provide round-the-clock housing and support, and prevent the spread of COVID-19.

In common with the first 'Everyone Initiative' (which operated for 8½ months until 14th December), the Northampton Hope Centre is providing residents with a cooked evening meal and the Single Homelessness Team is working closely with International Lighthouse, NAASH and local services to enable residents to address the causes of their homelessness and move on to settled housing.

After a small number of people tested 'positive' for COVID-19 in Oasis House and 'Everyone In', Keystage Housing set aside three of its beds in the HARPP for use as short-term, emergency 'isolation beds' for homeless people who have tested 'positive' and are referred by the Council.

Severe Weather Emergency Protocol (SWEP)

At the time of writing, SWEP has been activated six times (and for a total of 22 nights) since 24th December. This is the most it has been activated since the 'Beast from the East' in 2018.

Although emergency shelter will be provided for one or two nights if the overnight temperature falls to -1°C or below, SWEP will normally be activated when the Met Office is forecasting that the temperature will be 0°C or below for three consecutive nights. When SWEP is activated, emergency shelter will be provided between 9.00pm and 9.00am.

I am pleased to report that everyone staying in the severe weather shelter has respected, and complied with, the special measures introduced to prevent the spread of Coronavirus.

Housing Advice and Options

During the first 10 months in 2020/21, the Housing Advice & Options Team has prevented a total of 697 households from becoming homeless by helping them to remain in their existing homes or to secure alternative accommodation.

Despite an increase in the number of homeless customers approaching the Council for help after the Christmas break, the Temporary Accommodation Team has continued to reduce the number of homeless households living in temporary accommodation (down 16%, from 351 to 294, since September 2020) which include those living in expensive nightly-purchased temporary accommodation (down 29%, from 276 to 197, since July 2020).

Housing Enforcement Activity

The Housing Enforcement Team has continued to be very active in recent months. The Team has continued to execute a large number of warrants.

In response to serious concerns about the standards of management within a house in multiple occupation, the Council has instigated an Interim Management Order. This is the first such Order imposed by the Council and represents one of the most significant level of intervention by the Council into properties that are being poorly managed and endangering the safety of tenants.

Northampton Partnership Homes

Looking after and keeping its staff and the Council's tenants and leaseholders safe during the Covid-19 pandemic remains NPH's main priority.

Maintenance, compliance and safety works

Despite the ongoing challenges of COVID-19, NPH continues to undertake all essential repairs and safety works in tenants' homes. Risk assessments are in place and are regularly reviewed and updated to ensure that works can be completed safely.

Although the large backlog of non-urgent works that built up during the first COVID-19 lockdown was reduced from 2700 in July to just 350 in November, the backlog has increased again during this third COVID-19 lockdown. Plans have already been put in place (with a new sub-contractor framework being created) to reduce the backlog once restrictions are relaxed. Despite the lockdown, NPH has confirmed that it remains 100% compliant on all aspects of compliance.

The majority of neighbourhood investment works have continued where these can be carried out safely. However, non-essential works (such as window replacements) have been put on hold.

Neighbourhoods and housing services

Although the COVID-19 lockdown again forced the closure of its paint shop, the 'Happy to Help' community interest company has been able to commence its new handyman service and tenants gardening service.

NPH is continuing to work on the estates and, although routine appointments are not taking place, it is responding to all emergencies. Staff are still completing welfare checks and responding to reports of ASB, and they are continuing to work closely with the Police on serious cases.

For housing allocations, NPH is continuing to undertake viewings in accordance with the 'social distancing' guidelines. Although it is processing mutual exchange applications, this is being reviewed on a weekly basis to ensure that safety is maintained.

Councillor Stephen Hibbert
Cabinet Member for Housing and Wellbeing

Environmental Services Contract

Services continue to run well with some disruption experienced due to Covid related staff shortages. Veolia continue to manage services and provide comprehensive reports which is shared with all stakeholders providing information of service delivery including any disruptions to services.

The team have been working on a number of projects; planning is now taking place to start accepting subscriptions for the 2021/22 garden waste collections scheme, working with stakeholders via a zoom workshop to enhance the current tree policy, assisting with save our street trees to replace trees in the Far Cotton area and seeing completion of new contractors offices at the Westbridge depot.

We are also working with Idverde, Veolia's grounds maintenance contractors, on winding down the winter maintenance works and gearing up for the forthcoming mowing season. We are involved in the Unitary Waste and Recycling Unitary workstreams and are aligning services ensuring high standards are maintained.

The Partnership Unit continue to work with Veolia to look at performance and seek to build on the work undertaken since the start of the contract to make further improvements.

Environmental Services (Direct Services)

The Neighbourhood Wardens and Park Rangers continue to monitor and patrol their areas, giving advice to members of the public and businesses on social distancing and the latest guidelines issued by Government on COVID-19.

The Neighbourhood Wardens have put up 62 Neighbourhood Watch signs in Blackthorn and part of Goldings for Northants Neighbourhood Watch, who's aims are to prevent crime, reduce the fear of crime, improve safety and encourage neighbourliness and supportive spirit across their communities.

The Park Rangers have installed a number of memorial benches in the parks for our customers, which has helped to keep the installation cost down.

At Abington Park, the Park Rangers have covered the tops of the Aviary cages with tarpaulin the help protect them from the latest outbreak of bird flu. The Aviary has been closed since January 2021 in compliance with the COVID Regulations.

There are four play equipment projects still to commence before the end of fiscal year and they are:

- Millers Meadow
- Aucklands Close
- Ecton Brook – Helicopter Park
- Victoria

Environmental Health

Staff in the food and safety team continue to work at the forefront of the Council's response to COVID19. They are carrying out checks of business premises which are permitted to remain open to ensuring that they are operating in a covid secure manner. The Council has legal powers to deal with businesses that are not permitted to open and the team have dealt with a number of queries about anomalies.

The team are also heavily involved in the investigation of outbreaks in workplaces and are also working with colleagues on the investigation and support around outbreaks in care homes and schools.

The installation of the eight electric vehicle charging points for the use of the taxi fleet has now been completed.

Work is now progressing on the technical work required to progress the declaration of the town centre air quality management area. This work had been delayed due to some problems with traffic flow data which have now been resolved.

Councillor Mike Hallam
Cabinet Member for Environment



Regeneration and Economic Growth

- Work on the Asbestos removal from the former M&S unit in the town centre has commenced and is due to be complete before the end of March. This will prepare it for a comprehensive redevelopment of the site should the project be successful with the funding bid made through the Northampton Town Investment Plan.
- Design for the £1.5m first phase of works to 24 Guildhall Road, which will create a new home for the NN contemporary Art Gallery, are underway and due to be completed later this month. Once the designs and specification are complete a procurement process for a contractor to undertake the works will commence in March.
- Grants to businesses as a result of the latest government lockdowns that have been imposed from November have started to be paid out to businesses with over a £2m in funds already distributed to local businesses.
- Vulcan Works Cultural Hub – Work is still progressing well on site with the main buildings now really taking shape which is changing the feel of that area of the town. Work has progressed well despite Covid with many of the facades now visible and the St Johns Building nearing completion.
- Future High Street Fund submission: On Boxing Day, the Government announced that Northampton was one of 57 areas which would receive support from its Future High Streets Fund. Northampton has been awarded £8.45 million from the fund with the money set to progress the work on the transformation of the Market Square. The necessary additional information that was required to take the project to the next stage has been prepared and submitted.
 - Four Waterside – plans to continue to the Four Waterside site continue to be developed with the Outline Business Case for the project being taken to the Enterprise Zone Board and the SEMLEP Board where the report was noted and given approval to continue to the next stage. A procurement and delivery strategy for the site is now being developed ahead of the procurement process starting later this year.

Property Maintenance

- Planned compliance work continuing to take place through the new lockdown with associated remedial repairs
- Royal Theatre roof work to start in February
- Repairs to the Billing Road cemetery entrance and gates project to commence end of February pending weather conditions
- Leisure Trust Buildings plant and lighting replacement, framework coordinator setting up interviews with contractors in order to move the project forward no start date agreed as yet

- Streetlight upgrade project completed barring anomalies all new lights under 1 year defect period from December 2020

Corporate Assets

The asset team are working closely with other teams to assist the community bike park project and the regeneration projects of 24 Guildhall Road and the Vulcan Works.

Town Centre

- Car parking usage has seen a significant reduction because of the covid19 regulations, in the period 1 April – 31 December 2020 car parking visitor numbers reached 828,232 compared with the same period in 2019 of 2,041,567 visitors. Parking numbers have fallen by 59.4% .
- The parking figures for January 2021 showed 52,033 visitors compared with 188,374 visitors in January 2020 a fall of 72.4%.
- Footfall numbers for January 2021 are 359,168 compared with January 2020 which were 1,155,829 a fall of 68.9%.
- The council continues to provide free parking for NHS staff and key workers and advertising messages across MSCP's for Public Health and NHS.
- The council continues to work closely with the BID and supporting town centre businesses.

Footnote

Last month I added a footnote as I thought that would be my last report to the Council. I should have known better!

After all, I anticipated retiring from the Council two years ago, and it has yet to happen, through no fault of mine.

This is **definitely** my last report to Northampton Borough Council . after thirty years' continuous membership of the Council. I thank all colleagues, both members and staff, for their support, good humour and tolerance over the years, and wish you and the new Council well for the future.

Cllr Tim Hadland
Cabinet Member for Regeneration and Enterprise



Cabinet Member Report for Finance

Northampton Borough Council

Monday 22nd February, 2021

Finance

A final Budget Monitoring Report will be provided to Cabinet on 3 March 2021, whilst the data and report are being refined, I am pleased to advise that it will reflect a further increase in this Council's underspend to around £250K.

Our Auditors have nearly completed their work on the 2018-19 Accounts, with the aim of formal sign off by March 2021 Audit Committee. The draft Statement of Accounts for 2019-20 has been published and the audit will now cross into the new authority. Action is being taken to ensure continuity of service as part of the Unitary Finance Workstream, as this will be required to support the closedown and SoA for 2020-21.

The new shadow authority budget is due to be approved soon and will also set the first Council Tax for West Northamptonshire Council.

Billing for National Non Domestic Rates (NNDR, better known as Business Rates). Has been suspended at the request of Government. We are hopeful that this requested delay will lead to some further relief for businesses impacted by the pandemic. For 2020-21 after the initial bills were issued, we were required to rebill a large proportion of businesses, to reflect the 100% relief given to all Retail, Hospitality and Leisure businesses, this meant providing relief of around £34M to local businesses.

In addition to this support, during the first lockdown we distributed over £36.3M in grants to over 3,700 businesses,

Since November 2020, we have distributed over 3,400 grants, some are multiple grants to individual businesses, due to the tiering and fortnightly review. However, this amounts to a further £9.1M having been distributed into our local economy and businesses, at this time of writing, with more being processed for payment each day.

We have sought through the Discretionary Funding to identify other sectors beyond pure Retail Hospitality and Leisure, to assist the next line back of warehouses and manufacturing and those businesses that have managed to remain open but are severely impacted. In particular, with this one-off funding we have run a scheme for Taxi Vehicle License holders, weighting the value awarded to those who have invested in greener vehicles.

Whilst there have been some media posts about do more, more quickly, we have had to identify schemes and processes never used before to identify businesses and distribute what equates to 3 times what we collect in Council Tax for this council in one year. At the same time to deliver an ever-growing requirement for data and analysis to Government Departments and seeking to avoid fraud.

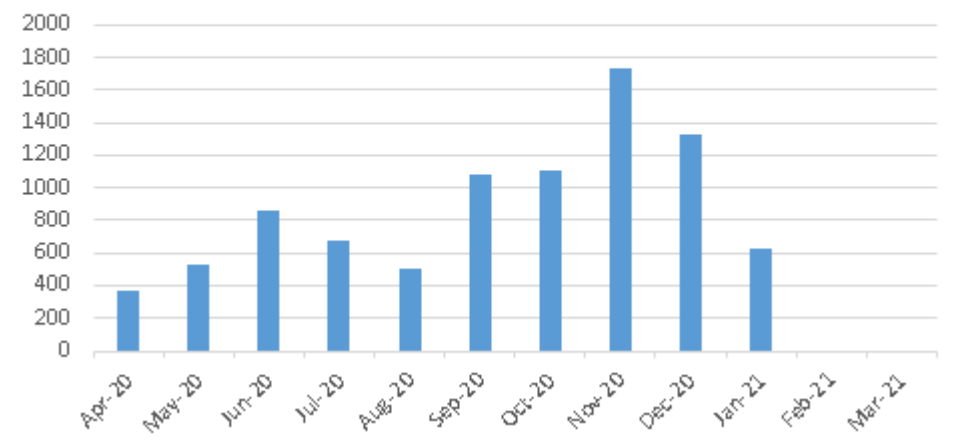
Our staff have worked incredibly hard, that like others have suffered illness through Covid, had to balance home schooling and work in an innovative manner.

NBC currently has £5.952M of aged debt, of which £2.755M is under 30 days.

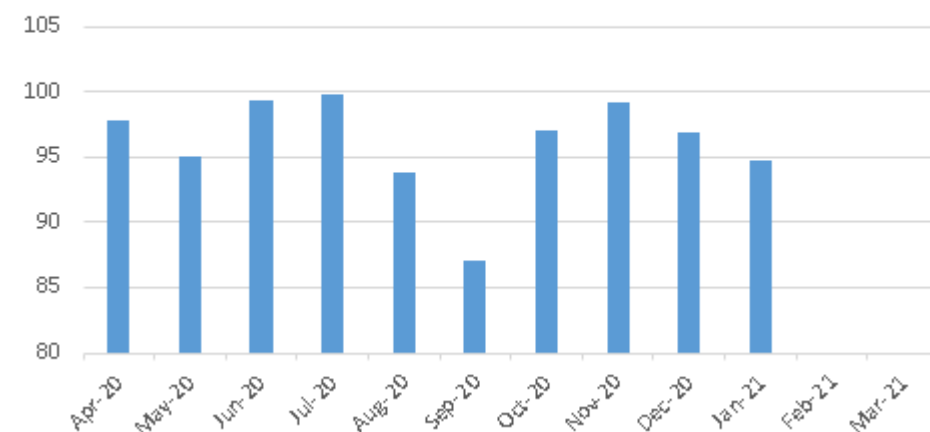
Although the Accounts Payable/Receivable Team have suffered from reduced resources as a result of the pandemic, along with major involvement with the creation of the new West Northants Council, they have delivered a good service and seek to pay invoices on time, despite the

complexities of remote working and new processes. I am pleased to report that we are returning to a more acceptable level of invoices paid on time, in this new normal environment.

Total Number of invoices recieved



% Paid ontime



Revenues & Benefits

This service area is perhaps one of the most affected within my portfolio in respect of working to support the Covid19 solutions.

Council Tax collection remains volatile, at present the core collection rate has not dropped materially. The reduction in value collected remains within initial forecast margins, but remains at a level that has not impacted on our cashflow, as we are obligated to pay the value of the precept set to the other organisations we collect for, regardless of whether we have collected the cash.

The movement of over 2,000 Council Tax payers from 10 instalments to 12, does appear to have assisted many, along with an increase of around a further 2,000 claimants for the Council Tax Reduction Scheme

We continue to administer a range of BEIS Business Support Grants from November and will be making arrangements to activate the Portal to process the new grants that we anticipate being announced during the second half of February.

There are now in excess of 20 different schemes live and active with more due to go live soon. The challenge for the R&B Service and Finance, is ensuring the funds go out swiftly, but being able to reconcile each grant announced by Government, that means that Tier 3 and Tier 4 grants albeit in existence for just days, has to be treated as ¹⁷ separate scheme and accounted for as such.

The £500 Track and Trace payments continue to be awarded, however the Government criteria does highlight that these are hardship payments, intended for those on specific benefits or low incomes with limited savings.

Wider CFO Team

The wider teams continue to actively support the wider front-line services in respect of HR matters, Wellbeing, Health & Safety, ICT, Governance, Risk Management, Audit and general financial support. They are also in the process of launching a revised DSE process with an aim of making our staff more resilient whilst working from home or office. Some of these assessments and measures will also be rolled out to Councillors.

All CFO teams are actively seeking to support Future Northants, whilst maintaining 'Business As Usual' (BAU) and Covid related challenges.

The core focus for teams now is to support the launch of the new Council. Be that Day One readiness or preparing for a structured handover and closure of Northampton Borough Council systems and accounts plus the novation of extant contracts and income streams.

Facilities Management

The Facilities Team like many businesses, have suffered income loss for bookings etc. With the lockdown easing, there is a revival of enquiries and with some future bookings being taken.

The Guildhall Team continue to receive enquiries and some bookings in respect of weddings, they await with anticipation the opportunity to recommence services proper.

I would like to put on record my appreciation to Shelley Parker and her excellent team for all the hard work they have put in over the years to support events at the Guildhall, keep us as Councillors and our staff and contractors safe, particularly in the past year with Covid. They are an unseen team that just quietly delivers excellent services.

They have supported teams in mobilising to work from home, cleansed the offices (helping not only with hygiene, but also the Governance Closure by supporting archive cleansing and reducing storage in the offices), implemented a hybrid mail solution which has been of particular assistance in the current circumstances. The post room has worked tirelessly to ensure revised billing has been processed, incoming mail scanned and distributed.

Councillor Brandon Eldred
Cabinet Member for Finance



Cabinet Member Report for Planning

Northampton Borough Council

22nd February, 2021

Planning Policy

The submission of the Northampton Local Plan Part 2 was approved by Full Council on the 18th January 2021. It has now been submitted to the Secretary of State for examination.

Heritage

The team has continued to deal with all Development Management consultations relating to heritage and trees to time. All applications relating to Tree Preservation Orders and Trees in Conservation Areas have also been dealt with to time.

Work on the local list continues to be progressed.

Planning (Development Management)

- Planning application N/2016/0810 comprising a hybrid application for up to 170 new dwellings to include the conversion existing university buildings and the erection of new buildings (outline for 112 units/ full application for 58 units) at the University of Northampton, Avenue Campus, was approved in principle by the Planning Committee on 24th November 2020 subject to completion of S106 agreement to secure planning obligations.
- Planning application N/2019/0612 for the erection of purpose-built student accommodation comprising 347no. rooms with 356no. bed-spaces following partial demolition of existing buildings, refurbishment and change of use of listed building to provide ancillary student hub, retail units and associated works at Bective Works, Bective Road, approved in principle by the Planning Committee on 24th November 2020 subject to completion of S106 agreement to secure planning obligations.
- Planning application N/2020/1349 for the change of use from a care home to supported living accommodation for the homeless at Kingsley Nursing Home approved by the Planning Committee on 21st January 2021.
- 100% performance for major, minor and other applications in October and November 2020, 100% for major, 93.94% for minor and 97.62% for other in December 2020.

Building Control

- Received 11 Full plan application in December 2020.
- Received 19 Building Notices in December 2020.
- Received 8 Regularisation applications in December 2020.
- Received and actioned 3 in Dangerous Structures reports December 2020.
- Received 70 notifications for the commencement of work in December 2020
- Issued 55 completion certificates in December 2020
- Carried out 317 inspections in December 2020.
- 100% of inspections booked on the same day have been carried out in December 2020.

Land Charges

We have a standard KPI which we are not required to report on to return local search within 10 working days, which we have met returning searches in 4-6 working days.

We make daily updates to the LLPG (local land and property gazetteer) which feeds into all property data bases within NBC and externally to Police, Fire service etc. this is reported on monthly by a central hub. We currently have a rating of Bronze which shows we have made a number of property updates following the addition of new criteria in April 2020.

The ratings are as below:

BNS – Below national standard
ANS – Achieving national standard
Bronze
Silver
Gold

Councillor James Hill
Cabinet Member for Planning

Appendices
1



COUNCIL REPORT

Report Title	CARBON NEUTRAL NORTHAMPTON STRATEGY
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	22 nd February 2021
Policy Document:	Carbon Neutral Northampton Strategy
Directorate:	Planning and Sustainability

1. Purpose

- 1.1 The purpose of the report is to note the Carbon Neutral Northampton Strategy (CNNS) direction of travel.

2. Recommendations

- 2.1 That Council notes the Carbon Neutral Northampton Strategy direction of travel.

3. Issues and Choices

3.1 Report Background

- 3.1.1 At its meeting on 3rd June 2019, Northampton Borough Council agreed two Motions to declare a Climate Emergency

First motion;

'This council recognises the strength of public opinion recently expressed in London and Northampton to address the issue of climate change and the need to address carbon reduction to protect the health and wellbeing of future

generations. The council also notes that the UK parliament has declared a Climate Emergency.

The Council therefore declares “a Climate Emergency” in Northampton and commits to a target of making Northampton carbon neutral by 2030.

The Council Requests a report to be submitted to the council in 12 months’ time and updated in January 2021 setting out the action that has been taken in respect to this motion and detailing how progressing this objective has been communicated to and integrated within the start up plans of the West Northamptonshire Unitary Council.’

Second motion;

‘All parties within this council acknowledge the urgency of dealing with climate change. We need cross party agreement to develop strategies for a greener, more sustainable society in Northampton. A green revolution is required.

Working with partners we will seek to implement the following actions, which we strongly believe will benefit Northampton in leading an eco-friendly Britain:

- A ban on single-use plastics within school environments. Schools across Northampton produce a huge amount of plastic waste each week
- Northampton schools would benefit from educating their students on eco issues through school schemes, where programs could be set up in order to teach students how to stay green in lessons, such as Personal, Social, Health and Economic education or by holding educational assemblies with influential speakers.
- To help further reduce the damaging effects of plastic littering, the council should support and work closely with schemes operated by companies like TerraCycle who turn many unrecyclable plastics (such as crisp packets and wrappers) into outdoor furniture.
- To explore with Local businesses and partners options for an eco-rewards scheme that would allow individuals and groups to gain something back from recycling.
- Northampton Borough Council to commit to reducing carbon emissions, both as an organisation and as the local planning authority and resolve to go further than the UK100 Agreement. To act in line with the scientific consensus that we must reduce emissions to net-zero carbon by 2030, thus use the planning process to encourage developers to consider low carbon developments.

Joining many councils who have already done the same, NBC declares “a Climate Emergency” in Northampton and commits to a target, in line with the above actions, of making Northampton carbon neutral by 2030.

The Council requests a production of a baseline report to be submitted to the council in the beginning of 2020 setting out the action that has been taken in respect to this motion. This Council also resolves to work with other local

authorities ahead of Unitary to use the baseline report as the basis on which to develop an action plan which could be adopted by the new Council.

3.1.2 Since then, officers and members have been working with a variety of partners, through the Northampton Climate Change Forum, the Climate Change Champions (an officer group) and the Northampton Forward Environment Task and Finish Group, to establish the themes the CNNS needs to address. There has also been close co-operation with officers from Daventry District Council, South Northamptonshire Council and Northamptonshire County Council. The vision and targets have also been presented to Councillors from those organisations at the West Northamptonshire Environment Task and Finish group.

3.1.3 Ordinarily, the next step for an authority would be to adopt a strategy and action plan to achieve carbon neutrality by 2030. However, given the reorganisation of local government, NBC has not been in a position to make commitments of this nature beyond the Vesting Day of the new authority. Nevertheless, as the existing Council for Northampton, the elected Members have shown their continued commitment and interest in climate change by adopting a Climate Change Strategy direction of travel that sets out an approach and vision that they would have endorsed as an authority, should they be in existence beyond Vesting Day. The CNNS has therefore been drafted with the scope of the wider unitary Council in mind, and is presented to Northampton Borough Council as a Strategy for the new Council to consider when it develops its own approach to climate change and sustainability.

3.1.4 The CNNS has been influenced by the latest emissions data for the Borough of Northampton, which has focused attention on the current balance of emissions between industry and commercial, domestic and transport sectors, as shown below.

3.1.5 NBC Emissions

	TOTAL			
Year (Mt CO2 e)	2005	2017	2018	%
Industrial & Commercial	585	287	266	
Domestic total	489	308	300	
Transport total	348	316	310	
Grand Total	1,422	909	876	
Per Capita emissions	7.2	4.00	3.9	45.8%
UK per Capita emissions	8.7	5.3	5.2	40.22%

3.1.6 It should be noted that the Climate Emergency declarations, and data above, relate to the emissions in the geographical area of the borough of Northampton, not just the emissions from the activity of the Borough Council.

3.1.7 On 16th December 2020, Cabinet agreed to support the Carbon Neutral Northampton Strategy direction of travel and that it be taken to full Council for

noting, and recommended that West Northamptonshire Council considers the CNNS when it develops its own sustainability strategy

3.2 Issues

3.2.1 The *vision* of the CNNS is that by 2030, Northampton has become carbon neutral, zero waste and climate resilient town, playing its part in limiting the impacts of climate change, both locally and globally, where residents, businesses and partners all benefit from the improved environment.

3.2.2 The vision also sets out objectives around the following;

- A carbon neutral economy, including buildings, transport, waste and energy
- Sustainable economy and jobs including encouraging low carbon investment and innovative local growth
- Healthy communities including providing low carbon housing, local food production, improved air quality, and enhanced green infrastructure and trees
- A resilient town, including adapting to climate change already happening and renewable local energy generation
- Climate positive decision making and education

3.2.3 It is recognised that, as the target is for the geographical borough to be carbon neutral, this will require extensive co-operation with a wide range of partners from the business and industry, education, health, transport and public sectors, as well as the community. It is also recognised that the Borough Council, through its own activity and its role in managing over 11 000 homes through Northampton Partnership Homes, has a significant part to play in this.

3.2.4 The vision also reflects the Government's aspirations for the wider Oxford-Cambridge Arc, encouraging green development and innovative responses to climate change and decline in the natural environment.

3.2.5 In order to understand how to achieve this, the *scope* of the CNNS includes the following **organisational** emissions;

Scope 1	Owned transport Fuel use
	Process emissions
Scope 2	Purchased electricity
Scope 3	Purchased goods Operational waste Business travel Capital goods purchased Employee commute

The following **community** emissions will be included within the baseline;

Scope 1	Land use Stationary fuel consumptions In-boundary transportation
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Scope 2 In boundary waste and wastewater
 Grid supplied electricity

(Scope 1, 2 and 3 are defined in the Greenhouse Gas Protocol as follows;
Scope 1 – direct emissions which can be controlled by the organisation
Scope 2 – indirect emissions used by the organisation, for example during energy production
Scope 3 – all other indirect emissions.)

3.2.6 The final section of the CNNS sets out a number of *actions and targets*. As mentioned above, as the plan is to be recommended for consideration by West Northamptonshire Council, a number of the actions and targets run past 31st March 2021. However, these are purely intended to set a potential direction of travel and could be adopted and developed by the successor authority which is likely to develop its own overarching approach to climate change and sustainability. **The actions and targets are therefore illustrative only, and do not commit either authority to any action or expenditure.** The actions and targets are grouped by theme as follows;

3.2.7 **Influence**, with targets to;

- work with partners, establish a Forum and run a Carbon Neutral Conference
- all reports to consider carbon emissions in full
- set up a website and communications programme
- audit all Council buildings, fleet and procurement policies
- develop a low carbon Transport plan, improve cycling and walking networks, work with public transport operators and employers, develop the electric vehicle charging point network

3.2.8 **Buildings**, including;

- Policies to require all new buildings to be carbon neutral by 2026
- Undertake heat mapping exercises
- Act on fuel poverty
- Promote low cost technologies to reduce energy use
- require new developments to calculate their carbon impact by the use of Embodied Carbon in Construction calculations, and whole-life costing in design and procurement processes as part of planning applications.

3.2.9 **Waste**, including;

- Promote behavioural change
- By April 2022, the Council estate will be single use plastics free
- By April 2022, investigate the potential for collecting and using food waste for the generation of energy by anaerobic digestion

3.2.10 **Energy**, including;

- Commit to green gas and electricity by 2022

- Investigate on site energy generation
- Investigate using hydrogen gas
- Investigate district heat networks
- Investigate local energy storage
- Promote investment in low carbon industries
- Develop low carbon skills in education and training

3.2.11 **Procurement**, including;

- Reviewing procurement policies by 2022

3.2.12 **Green and blue infrastructure**, including

- Review and promote existing facilities
- Promote sustainable tree planting
- Manage and reduce flooding, both as a result of new growth and through adaptations to respond to changes in weather patterns already happening

4. Implications (including financial implications)

4.1 Policy

- 4.1.1** Support for an up-to-date strategy will assist the development of policies at the local level to address local issues

Resources and Risk

- 4.2** The development of a Strategy will require the allocation of resources to support staff and to commission the audits identified. West Northamptonshire Council will need to consider this as it develops its Strategy, along with the development of a new set of Carbon Neutral measures to fully assess the impacts of the actions proposed, including assessing the impact on householders and all stakeholders.

4.3 Legal

No specific legal implications arising. There will be implications for effective delivery of the individual actions and commitments within the Strategy as they come forward, which Legal will advise and assist with as required.

4.4 Equality and Health

- 4.4.1** Given its aspirational nature, the Strategy has not been assessed. However, through the measures improving air quality, wellbeing, and reducing emissions, there would be significant improvements in these regards.

4.5 Consultees (Internal and External)

4.5.1 The Climate Change Forum have been regularly briefed and had the opportunity to comment on the direction of travel within the Strategy. The informal meeting of the West Northamptonshire Environment Task and Finish Group have also been briefed on the content of the strategy.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The strategy will help to guide all development across Northampton, achieving economic, environmental and social benefits. In terms of the strategic priorities set out in the Council's Corporate Plan, the CNNS will help to deliver a stronger economy by helping Northampton grow and prosper, creating resilient communities by encouraging and supporting sustainable housing, employment and infrastructure delivery whilst protecting the health and wellbeing of the people of Northampton and its environment.

4.7 Environmental Implications (including climate change issues)

4.7.1 On 3rd June 2019, the Council declared a climate change emergency, and the objective to make Northampton carbon neutral by 2030. The direction of travel in the CNNS seeks to recommend targets and actions to address climate change and will help to improve the sustainability of new development.

4.8 Other Implications

4.7.1 None.

5. Background Papers

Appendix A – CNNS 2030

Peter Baguley
Assistant Chief Executive (interim) and Director of Sustainability and Planning
01604 838921

Carbon Neutral Northampton 2030

Carbon Neutral Strategy

November 2020

Contents

1. Vision 2030 page 3
2. Strategy page 5
3. Targets and Action Plan page 10

Vision 2030

Northampton has become a zero carbon, zero waste and climate resilient town, playing its part in limiting the impacts of climate change, both locally and globally, where residents, businesses and partners all benefit from the improved environment.

Objectives

Zero carbon

Establish a net zero emission economy focusing on;

- Transport
- Buildings
- Waste
- Energy
- Procurement
- Green infrastructure

Sustainable economy and jobs

- Encourage low carbon businesses to invest and grow in the Borough
- Work with existing businesses and employers to improve their environmental performance
- Develop resident's low carbon awareness and skills to be able to secure local jobs
- Encourage innovative and inclusive local growth

Healthy Communities

- Promote improving the energy performance of existing homes and properties to reduce fuel poverty and promote healthy living environments
- Promote local food production
- Encourage biodiversity
- Improve air quality
- Maximise the green infrastructure network to increase the number of ecosystem services being offered to residents
- Make changes to the transport network based on sustainable transport modes

Resilience

- Adapt to minimise the impacts of climate change already happening, including flooding and heatwaves
- Improve water management
- Maximise high levels of renewable local green energy production, supply and storage
- Use land to capture and store carbon
- Improve building standards

Climate positive

- Embed climate positive thinking in all Council decision-making and encourage others to do the same
- Promote education and engagement with all partners, residents and businesses
- Use the Councils spatial planning role to promote sustainable development, minimise the need to travel, and to support sustainable communities
- Maximise the use of digital technologies and data

Governance

The Council will work with a range of public and private sector partners, including organisations from;

CNN 2030 Forum

Health sector

Education sector

Business and industry

Whilst the Borough Council is keen to start this work immediately, the objectives and following actions have been drafted to also recognise Local Government Reorganisation and therefore could be applied across West Northamptonshire.

Strategy

Background

At its meeting on 3rd June 2019, Northampton Borough Council agreed two Motions to declare a Climate Emergency

First motion:

‘This council recognises the strength of public opinion recently expressed in London and Northampton to address the issue of climate change and the need to address carbon reduction to protect the health and wellbeing of future generations. The council also notes that the UK parliament has declared a Climate Emergency.

The Council therefore declares “a Climate Emergency” in Northampton and commits to a target of making Northampton carbon neutral by 2030.

The Council Requests a report to be submitted to the council in 12 months’ time and updated in January 2021 setting out the action that has been taken in respect to this motion and detailing how progressing this objective has been communicated to and integrated within the start up plans of the West Northamptonshire Unitary Council.’

Second motion:

‘All parties within this council acknowledge the urgency of dealing with climate change. We need cross party agreement to develop strategies for a greener, more sustainable society in Northampton. A green revolution is required.

Working with partners we will seek to implement the following actions, which we strongly believe will benefit Northampton in leading an eco-friendly Britain:

- A ban on single-use plastics within school environments. Schools across Northampton produce a huge amount of plastic waste each week.
- Northampton schools would benefit from educating their students on eco issues through school schemes, where programs could be set up in order to teach students how to stay green in lessons, such as Personal, Social, Health and Economic education or by holding educational assemblies with influential speakers.
- To help further reduce the damaging effects of plastic littering, the council should support and work closely with schemes operated by companies like TerraCycle who turn many unrecyclable plastics (such as crisp packets and wrappers) into outdoor furniture.
- To explore with Local businesses and partners options for an eco-rewards scheme that would allow individuals and groups to gain something back from recycling.
- Northampton Borough Council to commit to reducing carbon emissions, both as an organisation and as the local planning authority and resolve to go further than the UK100 Agreement. To act in line with the scientific consensus that we must reduce emissions to net-zero carbon by 2030, thus use the planning process to encourage developers to consider low carbon developments.

Joining many councils who have already done the same, NBC declares “a Climate Emergency” in Northampton and commits to a target, in line with the above actions, of making Northampton carbon neutral by 2030.

The Council requests a production of a baseline report to be submitted to the council in the beginning of 2020 setting out the action that has been taken in respect to this motion. This Council also resolves to work with other local authorities ahead of Unitary to use the baseline report as the basis on which to develop an action plan which could be adopted by the new Council.’

Approach

The Council proposes to adopt the Carbon Trust model for Local Authorities declaring a Climate Emergency. This suggests breaking down activity as follows;

1. **Scoping** – will the scope focus on organisational or community sale emissions?
2. **Carbon Baseline** – what are current emissions and what are the hotpots?
3. **Target Setting** – what is a credible and robust target?
4. **Decarbonisation Pathways** – what are the different pathways which be adopted to meet the target?
5. **Action Plan** – what actions will be taken and how?
6. **Monitoring and evaluation** – how should progress be monitored and reported?

1. **Scope**

In light of the motions, this Carbon Neutral Northampton 2030 Strategy (CNN 2030) covers the operations of Northampton Borough Council activities, and activities resulting in Northampton’s community carbon emissions as a whole.

2. **Carbon Baseline**

It is proposed to include the following **organisational** emissions within the baseline;

Scope 1	Owned transport
	Fuel use
	Process emissions
Scope 2	Purchased electricity
Scope 3	Purchased goods
	Operational waste
	Business travel
	Capital goods purchased
	Employee commute

The following **community** emissions will be included within the baseline;

Scope 1	Land use Stationary fuel consumptions In-boundary transportation In boundary waste and wastewater
Scope 2	Grid supplied electricity

Scope 1, 2 and 3 are defined in the Greenhouse Gas Protocol as follows;

Scope 1 – direct emissions which can be controlled by the organisation

Scope 2 – indirect emissions used by the organisation, for example during energy production

Scope 3 – all other indirect emissions.

The Council will undertake a detailed carbon baseline audit based on the above.

3. Target Setting

The Council motions have established that the target is for the **Borough to be carbon neutral by 2030**. This is considered as being net carbon neutral in the CNN 2030 Vision.

Specific targets are set out in the Action Plan below.

4. Decarbonisation Pathways

These will, based on the outcome of the Carbon audit, identify which emissions should be targeted and how this will impact on reductions over the 2020-2030 period. It will also need to include estimates of the impact of changes likely to take place beyond the Councils control. These might include;

- Earlier take up of electric vehicles
- Large scale improvements in domestic energy efficiency
- Increases in renewable energy generation

5. Action Plan

The CNN 2030 Strategy will set out actions under the following headings;

- Influence
- Transport
- Buildings
- Waste
- Energy
- Procurement
- Green and Blue infrastructure

6. Monitoring and evaluation

This will include;

- Regular progress updates
- Performance monitoring against agreed targets
- Produce an annual monitoring report
- Embed carbon neutral thinking into all decision making
- Capture lessons learnt and apply these

Operational arrangements

Governance

The development of the CNN 2030 Vision, Strategy, and Action Plan, their implementation and monitoring performance agreed targets will be the responsibility of the Portfolio Holder , in conjunction with the Energy Forum which was established in June 2019. This forum will be chaired by the Councils Energy Champion.

The Strategy and subsequent targets will be agreed by the Borough Council Cabinet, who will also oversee performance against these.

Partnership arrangements

Whilst the Council can review its own activities and policies to reduce its carbon footprint, there is clearly a wider role to encourage the Borough as a whole to do the same. To deliver this, the Council will need to work with a wide range of partners to establish a town wide carbon neutral agenda.

These partners will include the below and the Council will need to ensure that all connect with existing local networks, including working in conjunction with the Countywide Climate Change Officers Group -

- Employers
- Major landowners, including NCC, Homes England
- Housing providers, including NPH
- Transport organisations, including bus service operators
- Education providers including UoN, Academies
- Health providers including NHS England, Public Health England, CCTs
- Sports and Leisure providers, including NLP
- Local interest groups
- Town and Parish Councils
- Energy providers

References

Carbon Trust, A Framework for Climate Emergency Action, 2019

FoE, 33 actions local authorities can take on climate change, 2019

Greenhouse Gas protocol, 2019

Action Plan and Targets

Influence

- Target 1 The Council will expressly consider the carbon implications of all its decisions
- Action 1.1 By March 2021, every Council Full Council, Cabinet, Committee and delegated report will contain an Environmental Implications section, highlighting the carbon implications of the recommendation and alternatives considered, and, where possible, the potential emission savings resulting from these.
-
- Target 2 The Council will engage with all partners to promote Carbon awareness, empower individual and group actions, develop partnerships and identify the most effective ways to support partners with climate change actions
- Action 2.1 The Council will establish a Northampton Climate Change Forum, including all major employers, landowners, public and private sector bodies to promote CNN decision making and agree priority areas for joint action
- Action 2.2 By June 2021, the Council will host a West Northamptonshire Carbon Neutral Conference to engage with partners, share information and ideas, and agree specific actions
-
- Target 3 The Council will develop a Northampton CNN 2030 Hub and Communications Plan
- Action 3.1 By April 2021, the Council will set up a CNN 2023 website, signposting residents and businesses to Climate Change information to help inform sustainable choices.
- Action 3.2 By April 2021, the Council will establish a Communications programme to promote sustainable choices and highlight opportunities to bid for funding.
-
- Target 4 The Council will become a net zero carbon operation by 2030, or earlier if possible
- Action 4.1 By April 2021, the Council will commission and collate, in conjunction with partner public and private sector organisations, energy audits at all of its buildings, in order to agree actions to reduce energy use and increase efficiency.
- Action 4.2 By April 2021, the Council will commission and collate, in conjunction with partner public and private sector organisations, energy audits of its own fleet, in order to agree actions to reduce energy use and increase efficiency.
- Action 4.3 By April 2021, the Council will commission and collate, in conjunction with partner public and private sector organisations, audits of its procurement policies, in order to agree actions to include climate change considerations to use its purchasing power to reduce direct and indirect energy use and increase efficiency.

Transport

- Target 5 The Council will work to reduce transport emissions through reducing the need to travel, particularly by car; increase active travel; improve the quality, accessibility and frequency of public transport; promote high quality infrastructure; promote the shift to LEV and ULEVs.
- Action 5.1 Work with partners and businesses to develop a Local Transport Plan and Strategic plan to reduce the need to travel and promote sustainable transport, including promoting the use of digital technologies where possible
- Action 5.2 Work with partners and businesses to develop a strategy to development a high quality cycling and walking network
- Action 5.3 Work with public transport operators and large local employers to promote sustainable transport alternatives
- Action 5.4 Work with partners to expand the electric vehicle charging network, including within car parks, and using Planning policies to require new development to provide charging points
- Action 5.5 Agree ongoing emissions targets for public transport operators, including buses and private hire vehicles

Buildings

- Target 6 The Council will encourage all new buildings to be net carbon neutral by 2026, promote low carbon and renewable heating sources, work with businesses and residents to reduce energy demand in existing buildings, and require the minimisation of emissions from construction.
- Action 6.1 Use emerging Planning Policy to set emissions and energy use targets for new buildings by 2024
- Action 6.2 Undertake heat mapping exercises for ground, water, air, waste heat and other sources for low carbon heating by 2022
- Action 6.3 Identify vulnerable properties, and promote the benefits and funding available to improve insulation for domestic properties at risk of fuel poverty, including working with Social Landlords.
- Action 6.4 Promote the use of low cost technologies, such as LED lighting and water demand and usage reduction measures, across the Council estate (including streetlighting), and in domestic and commercial properties
- Action 6.5 Through the use of Planning policies, require new developments to calculate their carbon impact by the use of Embodied Carbon in Construction calculations, and whole -life costing in design and procurement processes as part of planning applications.

Waste

- Target 7 The Council will reduce the total volume of waste generated, through encouraging recycling, reuse and energy generation, and promoting improved waste management
- Action 7.1 Promote behavioural change initiatives and information campaigns
- Action 7.2 By April 2022, the Council estate will be single use plastics free
- Action 7.3 By April 2022, investigate the potential for collecting and using food waste for the generation of energy by anaerobic digestion

Energy

- Target 8 The Council will only use green electricity and gas by April 2022, and will promote the development of low carbon local energy generation and storage
- Action 8.1 By April 2022, review all of the Council property and estate portfolio to understand the potential for further on-site PV and wind energy generation
- Action 8.2 Work with local energy providers to understand the potential for the use of low carbon hydrogen gas in the distribution network
- Action 8.3 Work with partners to investigate the potential for developing a District heat Network scheme, and neighbourhood district heating schemes, including bidding for funding to develop these
- Action 8.4 Work with SEMLEP and business partners to identify opportunities to promote local energy storage, including the possibility of using Council land to promote this
- Action 8.5 Work with SEMLEP and business partners to identify opportunities to promote investment in local low carbon industries, including allocating land for new energy generating technologies and low carbon development
- Action 8.6 Work with businesses and education providers to ensure that students develop low carbon skills to enable them to be able to secure employment in emerging technologies and businesses

Procurement

- Target 9 By April 2022, the Council will review its procurement policies to ensure that climate change, energy use and sustainability are given consideration in the procurement process, and encourage other public and commercial partners to do the same to promote local sustainable suppliers and maximise the carbon benefits of doing so
- Action 9.1 refer to Action 4.3

Green and Blue infrastructure

- Target 10 The Council will identify opportunities to promote and enhance existing and new green infrastructure and habitats; encourage increases in woodland cover in

sustainable locations and encourage sustainable management of existing woodland; require new developments to mitigate for any loss of habitats or green infrastructure; promote green infrastructure in urban areas, including promoting planting to encourage flora and fauna diversity

- Action 10.1 By June 2023, the Council will undertake a review of its green and blue infrastructure, including opportunities to improve the quality of these
- Action 10.2 Use emerging Planning Policy to set green and blue infrastructure targets for new developments by 2024, including promoting green roofs, green walls, and sustainable urban drainage systems
- Action 10.3 Promote sustainable tree planting on suitable sites, and work with land owners, developers and partners to secure funding to support this
- Action 10.4 Use emerging planning policies to ensure that new development manages its impact in terms of reducing flooding, both as a result of new growth and through adaptations to respond to changes in weather patterns already happening

Appendices – 1

Appendix A – Proposed SoLP



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL REPORT

Report Title	Licensing Act 2003 – New Statement of Licensing Policy
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	22 nd February 2021
Policy Document:	Statement of Licensing Policy 2021-2026
Directorate:	Customers and Communities

1. Purpose

1.1 To allow the full Council to consider the proposed new Statement of Licensing Policy (“SoLP”) and adopt it no later than 28th February 2021.

2. Recommendations

2.1 That the Committee approve the draft SoLP at Appendix A

3. Issues and Choices

3.1 Report Background

3.1.1 In accordance with Section 5 of the Licensing Act 2003 (“the Act”), the Council, as Licensing Authority for the District area of Northampton, is required to make and adopt an SoLP, in accordance with which alcohol/premises licensing applications must be decided. There is also a duty to review the SoLP at least once every five years and adopt a new policy or renew the existing one after undertaking the necessary statutory consultation.

3.1.2 On the 10th November 2020 the Alcohol and Gambling Licensing Committee approved a draft new SoLP for statutory consultation in accordance with section 5. The consultation period ended on 4th January 2021. Section 5 required the Council to consult with the following organisations and persons as part of a review of its current SoLP;

- a) the Chief Officer of Police for the Licensing Authority's area,
- b) the Fire and Rescue Authority for that area,
- c) each Local Health Board for an area, any part of which is in the Licensing Authority's area,
- d) each Local Authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- e) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
- f) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
- g) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority and,
- h) such other persons as the Licensing Authority consider to be representative of businesses and residents in its area.

3.1.3 No comments or responses were received following the consultation with all the above parties.

3.1.4 Following the consultation, a further report was presented back to the Alcohol & Gambling Licensing Committee on 6th February 2021 for final approval of the proposed SoLP for recommendation to the full Council to adopt no later than 28th February 2021. At that meeting the proposed SoLP was approved with no amendments and the Committee therefore recommends that Council adopt the new policy.

3.1.5 The Council's current SoLP was adopted in February 2016 and had to be reviewed with a view to adopting a new policy or renewing the existing one no later than 28th February 2021. The Alcohol & Gambling Licensing Committee cannot by law adopt or renew a SoLP. It can only be adopted by the full Council in accordance with Section 5 of the Act.

3.1.6 The proposed new SoLP is appended to this report at Appendix A.

3.2 Issues

3.2.1 The Council has a statutory duty to review its existing SoLP by 28th February 2021 at the latest. If a new SoLP is not adopted by that time, or as soon as possible thereafter, the Council will be in breach of its legal duty under Section 5 of the Act and any decision it makes with regard to any premises licence application could potentially be ruled unlawful if appealed.

3.3 Choices (Options)

3.3.1 The Council can choose to adopt the proposed new SoLP at Appendix A. This option is **recommended** by the Alcohol and Gambling Licensing Committee in order to ensure that the SoLP for Northampton matches up to the SoLPs which have been approved by Daventry and South Northamptonshire Licensing Authorities. All three will remain in force as if they had been made by West Northamptonshire Council ("WNC") as part of interim arrangements. Approving the proposed new SoLP at Appendix 1 will reduce the risk of

judicial challenge against WNC until such time as it adopts a single policy for the new West Northamptonshire Licensing Authority area.

3.3.2 The Council can choose to request amendments to the proposed SoLP and refer the policy back to the Alcohol and Gambling Licensing Committee. This option is **not recommended** because if the policy does not accord with the other SoLPs in the new West Northamptonshire Licensing Area, the risk of judicial challenge by premises license applicants in Northampton against licensing decisions of WNC will remain.

3.3.3 The Council can choose **not** to approve the proposed SoLP. This option is **not recommended** as the Council has a statutory duty to adopt a SoLP no later than 28th February 2021. Having no SoLP in place would be unlawful. This could potentially make any premises license application decision made by either NBC or WNC unlawful, until such time as a new SoLP is adopted.

4. Implications (including financial implications)

4.1 Policy

4.1.1 The SoLP is a policy document and it must be reviewed as required by Section 5 of the Licensing Act 2003 at least once every five years.

4.2 Resources and Risk

4.2.1 The failure of the Council to review, consult upon and publish an SoLP every five years may result in a judicial review being brought against the Council for its failure to do so. It is also likely that any premises licence decision by the Council made whilst there is no SoLP in place would be overturned on appeal in the Magistrates' Court, due to breach of the legal duty to decide all applications in accordance with such a validly adopted policy.

4.3 Legal

4.3.1 The Council has a statutory duty to review its existing SoLP by 28th February 2021 at the latest. If a new SoLP is not adopted by that time, or as soon as possible thereafter, the Council will be in breach of its legal duty under Section 5 of the Act and any decision it makes with regard to any premises licence application could potentially be ruled unlawful if appealed.

4.3.2 On 1st April 2021, WNC will become the Licensing Authority for the new licensing area of West Northamptonshire. As a result, the duty to have an SoLP will pass from the three existing Licensing Authorities to it, save for any interim arrangements made by Parliament that will ensure the three separate SoLPs will continue to apply in their respective geographical areas until such time as they are replaced by one policy for the entire new Licensing Authority area.

4.3.3 In order to ensure consistency of the approach to deciding premises license applications in the new WNC Licensing Authority area and avoid the risk of successful appeals by premises license applicants aggrieved by decisions of the new Licensing Authority, it is advisable to align the Council's SoLP as

much as possible with South Northamptonshire and Daventry District Councils SoLPs before all three are abolished on 31st March 2021. The risk arises from one Licensing Authority (WNC) deciding applications within its licensing area in accordance with more than one SoLP, depending upon the location of the premises in that area. This would potentially be unlawful. If all three existing SoLPs are consistent, then WNC can argue that there is in effect only one policy in place in the new Licensing Authority area, notwithstanding that three separate SoLPs technically exist.

4.3.4 SoLPs can only be approved by the full Council of a Licensing Authority. This function cannot be lawfully delegated to a Committee or Sub-Committee of any Licensing Authority. However, the Alcohol and Gambling Licensing Committee can consider any proposed new or amended policy following a statutory review and recommend that it is approved at full Council.

4.4 Equality

4.4.1 The purpose of the SoLP is to ensure that the four licensing objectives of;

- The prevention of crime and disorder,
- The prevention of public nuisance,
- Public safety and
- The protection of children from harm

are upheld and promoted through the licensing framework. Each premises license application and decision must be taken on its own merits with promotion of these objectives as its basis. As a result, no potentially detrimental equality issues have been identified or are envisaged as a result of adoption of the proposed SoLP at Appendix A.

4.5 Consultees (Internal and External)

4.5.1 The Council has consulted all the organisations and persons required by section 5 of the Act.

4.6 Environmental Implications (including climate change issues)

4.6.1 None identified

4.7 Other Implications

4.7.1 None identified

5. Background Papers

- 5.1 Licensing Act 2003
- 5.2 Section 182 Guidance
- 5.3 Statement of Licensing Policy 2016-2021

Louise Faulkner, Licensing Team Leader



Licensing Act 2003
Statement of Licensing Policy
for
Regulated Entertainment, Late Night
Refreshment and the Sale of Alcohol
2021-2026

NORTHAMPTONSHIRE Licensing Act 2003
Statement of Licensing Policy for
Regulated Entertainment, Late Night Refreshment and the Sale of Alcohol

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1. Executive Summary

1.1 The Licensing Act 2003 introduced a revised licensing system for alcohol, entertainment and late-night refreshment.

1.2 Section 5 of the Licensing Act 2003 has imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy for a five years period, beginning with such day as the Secretary of State may by order appoint. This policy commenced 16th December 2014.

1.3 This document sets out the Licensing Authorities policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.

1.4 The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work in and the importance of safe and well-run entertainment premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.

1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.

1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.

1.7 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. This Council may deviate from the guidance but will demonstrate good reasons for doing so.

1.8 The scope of this policy covers new applications, transfers and variations of licences and certificates including temporary event notices. This includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate.

2. Purpose and Scope of the Licensing Policy

2.1 The Licensing Act 2003 makes it a duty for the local authority to carry out its functions under the Act with a view to promoting the four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm

2.2 The purpose of this Policy is to detail how this Authority will comply with that duty.

2.3 In determining its statement of licensing policy, this Authority will have regard to the guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally. To further ensure consistency the licensing authorities of Northamptonshire will meet as necessary to ensure that a consistent approach is being achieved.

- 2.4 Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.
- 2.5 No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 2.6 Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. This Authority recognises that in the absence of relevant representations it will grant licences on the terms sought.
- 2.7 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.8 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. However, this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behavior by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behavior by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.
- 2.10 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol, supply of alcohol by or on behalf of a club to its members, regulated entertainment, and late night refreshment, and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. This Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.11 This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the area attracting tourists and visitors and is a source of employment.
- 2.12 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.13 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with by the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide enough protection to the public e.g. health and safety at work and fire safety legislation.
- 2.14 In considering licensing hours this Licensing Authority will place significant emphasis on the individual merits of an application. In addition, the views of the Police and other agencies will be important in this consideration.
- 2.15 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy which is important for investment and employment locally and beneficial to tourism without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an important consideration.
- 2.16 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. Individual applicants should address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided,

operational procedures and the needs of the local community.

- 2.17 The purpose of this policy document is to assist the Licensing Authority in reaching a decision on an application, setting out those matters which will normally be considered. In addition, this policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the area with some measure of certainty.
- 2.18 Before determining its policy for any five-year period, this Authority will undertake full consultation as prescribed by the 2003 Act.
- 2.19 The views of all of those consulted will be given appropriate weight when the policy is determined together with those of any other persons or bodies which the Authority considers appropriate to consult with. When undertaking consultation exercises, this Authority will also have regard to cost and time.

3. Duplication

- 3.1 The enforcement of licensing legislation will always be distinct from other regulatory regimes such as fire safety and health and safety so far as is practicable.
- 3.2 Conditions will only be attached to premises licences and club premises certificates that are necessary for the promotion of the licensing objectives detailed in the introduction to this policy, be they mandatory conditions, conditions made against the operating schedule and/or following relevant representations. Under normal circumstances where matters are already provided for in other legislation, they cannot be considered necessary in the context of licensing law.
- 3.3 To ensure clarity of enforcement roles appropriate liaison with other enforcing authorities will take place and, where considered appropriate, joint inspections by enforcement agencies will be arranged.

4. Strategies

- 4.1 Where relevant representations are received, this Licensing Authority will attach conditions to premises licences and club premises certificates where appropriate to reflect local crime prevention strategies, for example, the provision of closed-circuit television cameras in certain premises. The need for such conditions will be considered specifically as part of the application consultation process with Northamptonshire Police and more generally through Crime and Disorder Partnerships.
- 4.2 The Licensing Committee will be advised of any relevant information received either reactively or proactively indicating that this policy is having a detrimental impact on live music and dancing and other regulated activities, to ensure that broader cultural activities and entertainment are not being affected. Where indications are that there is a negative effect on such events then this policy will be reviewed in order to identify how the issues may be remedied. Advice will be sought from other relevant bodies as appropriate where such issues are identified. Every care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are applied.

5. Live Music Act

- 5.1 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music.
- 5.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended between 08:00 and 23:00 hours, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.

6. Objectives

6.1 Prevention of crime and disorder

The essential purpose of the licence or certificate is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents. They can however directly impact on the behavior of those under the licensee's direction when on their premises or in the immediate vicinity of the premises as they seek entry or leave.

There are several offences both within the Licensing Act 2003 and other legislation that relate to crime and disorder that a licensee should be familiar with. These offences stand in their own right and will not be duplicated as conditions on any licence/certificate.

Various 'PubWatch' schemes operate in Northamptonshire which aim to counter individuals who damage property, are violent and cause disorder, or use or deal in drugs, through exclusions. This Licensing Authority is supportive of such schemes and considers premises should join where it is appropriate to do so.

6.2 Public safety

The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant premises and not with public health, which is dealt with in other legislation. Public safety includes the safety of performers appearing at any premises. The Authority has noted that from 1st October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Responsibility for complying with the order rests with the 'responsible person' who has control of premises.

The Licensing Authority is familiar with the "Safer Clubbing Guide" and its application to nightclubs and dance events. The guide contains several suggestions and safeguards, which appropriate premises should consider and include within their operating schedules as necessary. There are several other key publications that relate to public safety at entertainment events, which the Licensing Authority would recommend to applicants.

6.3 The prevention of public nuisance

The public nuisance objective is designed to deal with the impacts of licensable activities at specific premises on persons living and working (including doing business) in the vicinity that is disproportionate and unreasonable. The main issues for concern will be noise nuisance, light pollution, noxious smells and litter.

The provision of welfare facilities such as toilets within licensed premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the premises and include these details within their operating schedule.

Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbances affecting the whole community. This may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined) in the vicinity of the licensed premises.

This Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Act 2003. This provides that if noise from licensed premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This complements the police powers under Part 8 of the 2003 Act.

6.4 The protection of children from harm

The Act has tightened up on the controls relating to the sale and supply of alcohol to children with new and further principle offences contained within the Act itself. However, the intention of the Act is to make licensed premises accessible to families and only limit access to children where it is necessary in order to prevent physical, moral or psychological harm to them. This would include the protection of children from too early an exposure to strong language, sexual expletives, violence or frightening images, for example, in the context of film exhibitions, or where adult entertainment is provided.

When deciding where restrictions should be imposed, this Licensing Authority will examine the individual merits of each application and only impose conditions where the circumstances justify them.

Aspects of an application that would be likely to raise concerns in relation to access by children would include:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

It is not possible to provide an exhaustive list of the entertainment or services that are of an adult or sexual nature, therefore a common-sense approach will be taken to interpretation. However, such entertainment or services would also include entertainment involving strong and offensive language.

Where conditions are required for the prevention of harm to children, a range of alternatives will be considered as methods for limiting access. These could include:

- Limitations on hours when children may be present;
- Limitations of the presence of children under certain ages when specified activities are taking place;
- Limitations on the parts of the premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

This Licensing Authority, Northamptonshire County Council Trading Standards Service and Northamptonshire Police take a very serious view of the persistent and illegal sale of alcohol and other age-restricted goods to children. Together with Trading Standards, this Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods are reduced and ultimately eradicated.

The sale of alcohol to minors (under 18 years of age) is a criminal offence and Trading Standards Service has over time, worked to advise the off-licence trade on how to set up systems to avoid sales taking place.

The Licensing Authority will maintain close contact with the police, young offender's team and Trading Standards officers regarding unlawful activities and share actions and intelligence where appropriate

7. The Licensing Authority as a responsible authority

- 7.1 This Licensing Authority acknowledges that it is now included in the list of responsible authorities. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. Therefore, it is for this Licensing Authority to determine when it considers it appropriate to act in its capacity as a responsible authority.
- 7.2 This Licensing Authority will not normally act as a responsible authority on behalf of other parties (for example, residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for this licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and this licensing authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.
- 7.3 This Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.
- 7.4 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention and may do so where the authority considers it appropriate without having to wait for representations from other responsible authorities.
- 7.5 In cases where this Licensing Authority is also acting as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases, licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 7.6 Accordingly, the officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority. Communication between these officers in relation to the case will remain professional and consistent with communication with other responsible authorities.

8. Health as a responsible authority

- 8.0 Northamptonshire County Council Directors of Public Health (DPH) are now responsible authorities with all the powers and responsibilities this brings. The introduction of Public Health as a responsible authority has gone some way towards starting to reduce alcohol-related harms using licensing legislation. Conditions may be added by way of representation against an application or review of a licence if there is a specific health concern at a premises related to any or all the four licensing objectives.
- 8.1 This Licensing Authority acknowledges that DPH will be useful in providing evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders.
- 8.2 This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

9. Responsible Authorities

- 9.1 Northamptonshire Police Service
- 9.2 Northamptonshire Fire and Rescue Service
- 9.3 Northamptonshire County Council Trading Standards
- 9.4 District/Borough Councils for the relevant Licensing Authority, Environmental Health (Health and Safety and Environmental Protection) and Planning
- 9.5 Child Protection – Northamptonshire County Council
- 9.6 Home Office Immigration Enforcement
- 9.7 Local Health Authority – Northamptonshire County Council
- 9.8 In relation to a vessel, a navigation authority, the Environment Agency or the British Waterways Board

10. Planning

- 10.1 This Licensing Authority acknowledges that there must be proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee.
- 10.2 The Licensing Committee may provide reports to the Policy and Development Control Committee on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, to provide background information to any planning applications for potential licensed premises under consideration.
- 10.3 The planning authority also has a duty to consider matters of crime and disorder at this stage. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 10.4 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. There is no legal basis for this Licensing Authority to refuse a licence application because it does not have planning permission,
- 10.5 The strength of planning policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any appeal to give considerable weight to them. This helps ensure consistency in the decision-making process.

11. Licensing Hours

- 11.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This Authority recognises that longer licensing hours with regard to the sale of alcohol need to be managed effectively to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 11.2 However, when issuing a licence with hours beyond 23.00 hours, higher standards may be expected to be included in Operating Schedules to address the Licensing Objectives especially premises which are situated near to residential properties.
- 11.3 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 11.4 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place.

12. Temporary Event Notices

- 12.1 The most important aspect of the system of permitted temporary activities is that no permission as such is required for these events from the Council. The system involves the notification of an event to the Licensing Authority, Environmental Health and Northamptonshire Police, subject to fulfilling certain conditions.
- 12.2 As many users giving TEN's will not have commercial backgrounds or ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.
- 12.3 Northamptonshire Licensing Authorities recommend that at least 28 days and no more than 3 months notice be given to hold such events, to allow it to help organisers plan their events safely.
- 12.4 The Licensing Authority will also remind notice givers of relevant offences under licensing law, including:
- the sale of alcohol to minors,
 - the sale of alcohol to a person who is drunk,
- 12.5 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice; Event organisers are encouraged to contact local Northamptonshire Police Licensing Officers as early as possible about their proposed event(s).

13. Sexual Entertainment

- 13.1 This Licensing Authority has adopted a policy in relation sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. With reference to this related policy standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous apply.
- 13.2 This Licensing Authority acknowledges there is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly.

14. Cumulative Impact and Special Policies

- 14.1 Commercial demand for additional licensed premises is not a matter for this Licensing Authority or its statement of policy but a matter for planning committees and for the market. On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Committee.
- 14.2 Conditions may only relate to matters that the licensee can be expected to control. These are likely to relate to the premises themselves and the immediate vicinity. Where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder can sometimes arise or begin to arise outside or some distance from the licensed premises. This has been described as the cumulative effect of the increasing capacity of all premises taken together and is outside of the control of licence conditions. There may be circumstances where this Licensing Authority receives relevant representations from a responsible authority or interested party that the

cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In such circumstances this Licensing Authority may consider the question of whether the granting of any further premises licences or club premises certificates would undermine one of the licensing objectives. The Licensing Act 2003 allows for this, so long as cumulative impact is addressed in the context of the individual merits of any application.

- 14.3 However, this Licensing Authority will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas, either formally or informally.
- 14.4 However, it may be necessary for this Licensing Authority to adopt a special policy of refusing new licences because the area is already saturated with certain types of licensed premises. In such circumstances this policy is not absolute and will still allow for the circumstances of each application to be considered properly and for licences which are unlikely to add significantly to saturation to be approved provided all other requirements are met.
- 14.5 In deciding whether to adopt such a policy, the licensing authority will have regard to:
 - a) Identification of serious and chronic concern about crime and disorder or public nuisance;
 - b) Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identify the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - c) Consultation with those persons and bodies identified in Section 5(3) of the 2003 Act.
- 14.6 Where this process identifies such a need, this Licensing Authority will consider adoption of a special policy relating to future licence applications from that area. Reference to any such special policy will be made in the Licensing Policy Statement and the special policy will be published as part of the statement of licensing policy.
- 14.7 A special policy cannot be used to set a terminal hour for premises in the identified area.
- 14.8 This Licensing Authority has duties under Section 17 of the Crime and Disorder Act 1998 to do all that it can to prevent crime and disorder in its locality and to promote the licensing objectives in the Licensing Act 2003.
- 14.9 In considering representations relating to an application, this Licensing Authority will have regard to the impact on the promotion of the licensing objectives in the area. In any representations, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.
- 14.10 Any special policy adopted by this Licensing Authority will be reviewed regularly to assess whether it has had the effect intended, whether it is needed any longer or whether it needs extending.
- 14.11 A special policy on cumulative impact will not be used as grounds for removing a licence when representations are received about problems with an existing licensed premises. Nor can it justify rejecting variations to a licence except where those variations are directly relevant to the policy (as would be the case with an amendment significantly to increase the capacity limits of a premises).
- 14.12 This Licensing Authority will not adopt quotas which pre-determine the individual merits of any application – even in respect of premises selling alcohol for consumption on those premises – as they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the local community.
- 14.13 This Licensing Authority recognises that once away from these premises, only a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing

these problems. Other mechanisms which may be used to deal with such issues which fall outside of the scope of this licensing policy include:

- a) planning controls;
- b) positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- c) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- d) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- e) police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
- f) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- g) the confiscation of alcohol from adults and children in designated areas;
- h) Police powers to close instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
- i) the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

14.14 This Licensing Authority and Northamptonshire Police will continue to work closely together to ensure that these other mechanisms are used appropriately to deal with the issues of concern and where possible will supplement these with other local initiatives that similarly address these problems.

15. Early Morning Restriction Orders

15.1 The power for this Licensing Authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.

15.2 This Licensing Authority will have reference to the guidance that has been introduced which relates to:

- the EMRO process
- the evidence base
- introducing an EMRO
- advertising an EMRO
- dealing with representations
- hearings
- implementation
- limitations
- enforcement

15.3 The legislation provides this Licensing Authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this Licensing Authority's area and if relevant on specific days and at specific times. This Licensing Authority will be satisfied that such an order would be appropriate to promote the licensing objectives.

15.4 The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and roomservice.

15.5 The decision to implement an EMRO will be evidence based and will be considered by Full Council.

16. Children

- 16.1 This Authority recognises that there will be a considerable variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafes, take-away food businesses and fast food outlets as well as public houses and nightclubs. In addition, subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Licensing Act 2003 does not prohibit children in licensed premises except in the circumstances detailed in s145 of the Licensing Act 2003.
- 16.2 This Authority will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. No statement of policy can properly anticipate every issue of concern that could arise in respect of children about individual premises and so general rules have not been included. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 16.3 However, notwithstanding the above, this Authority considers that the following premises give rise to concern in respect of children:
- a) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - b) with a known association with drug taking or dealing;
 - c) where there is a strong element of gambling on the premises;
 - d) where entertainment or services of an adult or sexual nature are commonly provided;
- 16.4 In these circumstances this Authority will consider the appropriate option for the prevention of harm to children where relevant representations are made. While complete bans on access to children are likely to be rare, there may be circumstances when no other option is considered appropriate. However, in most cases where limiting the access of children to licensed premises is considered necessary, the options which will be considered are:
- a) Limitations on the hours when children may be present;
 - b) Age limitations (below 18);
 - c) Limitations on the exclusion of the presence of children under a certain age when particular specified activities are taking place;
 - d) Requirements for an accompanying adult;
 - e) Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 16.5 Where the above restrictions are not considered necessary, access to licensed premises by children will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers' prohibitions and restrictions and no other relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions and no other conditions in relation to the presence of children will be applied.
- 16.6 Northamptonshire Police and Northamptonshire County Council Trading Standards Service are jointly responsible for the enforcement of ss146, 147, 147(a) and 147(b) of the Licensing Act 2003 (The sale of and allowing the sale of alcohol to children). Trading Standards are mainly responsible for 'off licence' premises and the Police have the main responsibility for 'on licence' premises.
- 16.7 Regarding children in premises giving film exhibitions, this Authority will request conditions requiring that arrangements must be in place for restricting children from viewing age-restricted films or videos classified according to the recommendations of the British Board of Film Classification or the local authority itself.
- 16.8 The Portman Group operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach

of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. A copy of the Code can be found at www.portmangroup.org.uk.

17. Conditions

- 17.1 A key concept underscoring the Licensing Act 2003 is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be applied following the receipt of relevant representations where they have been agreed by all parties concerned or have been applied by the Licensing Committee. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.
- 17.2 This Licensing Authority agrees that any condition imposed must be:
- clear;
 - enforceable;
 - evidenced;
 - proportionate;
 - relevant; and be expressed in plain language capable of being understood
- 17.3 This Authority will therefore avoid the general application of standardised conditions to licences and certificates.
- 17.4 However, to ensure consistency, when it is necessary to apply conditions, this Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn to suit individual cases. The model conditions will cover the following: -
- Crime and disorder
 - Public safety
 - Public nuisance
 - Protection of children from harm

18. Reviews

- 18.1 The Licensing Act 2003 makes provision for the review of premises licenses where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
- 18.2 At any stage following the grant of a premises licence or club premises certificate, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request this Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 18.3 A review of a premises licence will follow any action by Northamptonshire Police to close premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.
- 18.4 In all cases, the representation must relate to a premise for which a licence is in force and must be relevant to the promotion of the licensing objectives.
- 18.5 Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.

- 18.6 Where the request for a review originates from an interested party e.g. a local resident or residents' association, this Licensing Authority will first to consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 18.7 A repetitious complaint is one that is identical or substantially like:
- a) a ground for review made in respect of the same premises licence which has already been determined; or
 - b) representations considered by the Licensing Authority when the premises licence was granted; or
 - c) representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
 - d) in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.
- 18.8 This Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. This Licensing Authority has regard to the recommendation in the guidance that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.
- 18.9 This Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement. This Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.
- 18.10 This Licensing Authority will hold a hearing following a request for a Review from a responsible authority, interested party or after closure procedures described earlier. This Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.
- 18.11 In determining a review, this Authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- a) no action necessary as no steps required to promote the licensing objectives;
 - b) issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. This Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted, and any warning issued will be in writing to the licence holder;
 - c) to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
 - d) excluding a licensable activity from the licence;
 - e) remove the designated premises supervisor;
 - f) suspend the licence for a period of three months;
 - g) to revoke this licence.
- 18.12 This Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

19. Minor Variations

- 19.1 The purpose of the minor variation process is to save time, money and regulatory resources by allowing small variations that could not impair the promotion of the licensing objectives to be made to premises licences and club premises certificates through a simplified and less costly procedure. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities. However, they must display it on a white notice at the premises. The notice must be displayed for a period of 10 working days starting on the working day after the minor variation application was given to the Licensing Authority.
- 19.2 The holder of a premises licence or a club premises certificate can apply to the Licensing Authority for a minor variation to the licence or the certificate using the prescribed form. In determining an application this licensing authority will consult such of the Responsible Authorities as it considers appropriate.
- 19.3 This Licensing Authority will consider any relevant representations made concerning the application by Responsible Authorities or by an interested party; relevant representations must be about the **likely effect** of the grant of the application on the promotion of the licensing objectives. This Licensing Authority will grant an application only if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives. In any other case the authority must reject the application. There is no right to a hearing in this process.
- 19.4 An application may not be made under the minor variation provision if the effect of the variations proposed in it would be to:
- extend the period for which a premises licence has effect;
 - to vary substantially the premises to which a premises licence/club premises certificate relates;
 - to specify (in a premises licence) an individual as the Designated Premises Supervisor (DPS);
 - to authorise the sale or supply of alcohol or to authorise the sale by retail or supply of alcohol at any time between 11pm and 7am or increase in the amount of time on any day during which alcohol may be sold by retail or otherwise supplied; or
 - to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at a community premises.
- 19.5 If an application is refused, the Authority must notify the applicant in writing, giving its reasons for the refusal. The Authority is required to reach its determination within a period of fifteen (15) working days starting on the first working day after the authority receives the application, otherwise the application is rejected, and the Authority must return the application fee.
- 19.6 Minor variations will generally fall into four categories:
- minor changes to the structure or layout of a premises;
 - small adjustments to licensing hours;
 - the removal of out of date, irrelevant or unenforceable conditions or volunteered conditions;
 - the addition of certain licensable activities.

20. Enforcement

- 20.1 This Licensing Authority will establish protocols and have regular liaison with the local police, fire & rescue service, trading standards, other County local authorities and other agencies on enforcement issues. This will provide for a more efficient deployment of local authority staff and police officers

who are commonly engaged in enforcing licensing law and the inspection of licensed premises. There will also be regular liaison with other enforcement authorities.

- 20.2 In particular, these protocols will provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The limited validity of public entertainment, theatre, cinema and late-night refreshment house licences has in the past led to a culture of annual inspections regardless of whether such inspections are necessary.
- 20.3 The Licensing Act 2003 does not require inspections to take place, save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail, and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

21. Licence Suspensions

- 21.1 This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. This Licensing Authority must suspend premises licences and club premises certificates on the non-payment of annual fees. The procedure to be used is set out in regulation.

22. Administration, Exercise and Delegation of Functions

- 22.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority.
- 22.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry out these duties.
- 22.3 On applications where there are relevant representations these will be dealt with by a Committee or sub committee of the Licensing Authority, as will any application for review of a licence.
- 22.4 This Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 22.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.
- 22.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the decisions and functions will be purely administrative in nature; functions will be delegated to the appropriate level within the organisation where possible. See Annex 1.
- 22.7 Where applications are non contentious, (for example, no representations to the grant of a premises licence) these applications will be delegated to officers in order to speed matters through the system. Any such matters passed in this way will then be listed for comment at the next Committee meeting. The Committee will not have the opportunity to reverse officers' decisions

23. Advice and Guidance

- 23.1 Advice may be obtained via the Licensing Department who will assist people in advising them on the types of licences they will need to apply for, the unit can be contacted in the following ways: -

Website: www.northampton.gov.uk

Email: licensing@northampton.gov.uk

In writing to:
Licensing Department
Northampton Borough Council
The Guildhall
St Giles Square
Northampton
NN1 1DE

The details above will be different for Daventry District Council and South Northamptonshire Council

24. Equal Opportunities

- 24.1 Over the last four decades, discrimination legislation has played an important role in helping to make Britain a more equal society. However, the legislation was complex and, despite the progress that has been made, inequality and discrimination persist and progress on some issues has been stubbornly slow.
- 24.2 [The Equality Act 2010](#) provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 24.3 In implementing the Licensing Act 2003, associated legislation and guidance, this Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

25. Review of the Policy

- 25.1 This licensing policy will be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy will be subject to the consultation process. Section 5(4) of the Act provides that the licensing authority must keep its policy under review **during** each five-year period and make appropriate revisions. Again, any revisions must be subject to consultation.
- 25.2 Where a special policy relating to cumulative impact or early morning restriction orders is being adopted this will be reviewed regularly at least every five years, to assess whether it is needed any longer, or indeed needs expanding. Any cumulative impact policy will also be reviewed to ensure that it has had the intended effect. There will be on-going dialogue and consultation with residents to consider whether any area is nearing the point where the concentration of premises has a cumulative impact.
- 25.3 This Licensing Authority will consider the most appropriate time to refresh policies, with a view to balancing businesses' need to be kept advised of changes with the additional burden that responding to frequent consultations can bring.

26. Late Night Levy

26.1 The legislative provisions relating to the late-night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.

26.2 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.

Guidance has also been introduced in relation to:

- implementing the levy and the consultation process
- the design of the levy
- exemptions from the levy
- reductions in levy charges
- how revenue raised from the levy may be spent
- the levy charges
- the levy collection process

26.3 With regard to exemptions, this licensing authority retains discretion whether to exempt certain premises or not but only for those types of premises set out in paragraphs 1.24 to 1.31 of the guidance on the Late-Night Levy.

26.4 This Licensing Authority also has the discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes i.e. Best Bar None.

26.5 Any revenue from a levy will be split between this licensing authority and Northamptonshire Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. A formal service level agreement will be established to ensure that this licensing authority and Northamptonshire Police are aware of responsibilities and undertakings, and to ensure that the use of levy funds can be clearly communicated to those businesses contributing to it.

26.6 These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. Any decision to introduce, vary or cease the requirement for a levy will be made by the full council. Other decisions in relation to how the levy is administered may be subject to delegation.

Annex 1 - Delegation of functions

Matter to be dealt with or Panel	Full Committee	Sub Committee	Officers
Application for personal Licence	-	If a police objection made	If no objection made
Application for personal licence with unspent convictions	-	All cases	-
Application for premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application for provisional statement	-	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor (DPS)	-	If a police objection	All other cases
Request to be removed as DPS	-	-	All cases
Application for transfer of premises licence	-	If a police objection	All other cases
Applications for interim Authorities	-	If a police objection	All other cases
Application to review premises licence/club premises certificate	-	All cases	-
Decision on whether a complaint is irrelevant frivolous vexatious etc.	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of a objection to a temporary event notice	-	All cases	-
Determination of application to vary premises licence at Community premises to include alternative licence condition		If police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor Variation application.			All cases

Annex 2 – Northamptonshire Licensing Authority Contacts

<p>Ruth Austen Environmental Health and Licensing Manager Northampton Borough Council The Guildhall St Giles Square Northampton NN1 1DE</p> <p>Tel: (01604) 837794 Out of Hours: 0300 330 7000 E-mail : rausten@northampton.gov.uk</p>	<p>Samantha Edmunds Health Protection Manager East Northamptonshire District Council Cedar Drive, Thrapston Northants NN14 4LZ</p> <p>Tel: (01832) 742030 Out of Hours: (01832) 733530 Email: sedmunds@east-northamptonshire.gov.uk</p>
<p>Amanda Wilcox Principal Environmental Health Manager Borough Council of Wellingborough Swanspool House Tithe Barn Road Wellingborough Northants NN8 1BP</p> <p>Tel: (01933) 229777 Out of Hours: (01933) 222931 Email: awilcox@wellingborough.gov.uk</p>	<p>Nicholas Sutcliffe Licensing Manager South Northamptonshire Council Environment & Regulatory Services The Forum Towcester Northamptonshire NN12 6AD</p> <p>Tel: (01327) 322278 Out of Hours: (01327) 322322 Email: Nicholas.sutcliffe@southnorthants.gov.uk</p>
<p>Russ Howell Health Services Manager Kettering Borough Council Municipal Offices Bowling Green Road Kettering Northants NN15 7QX</p> <p>Tel: (01536) 534323 Out of Hours: (01536) 410333 FAX: (01536) 410795 Email: russhowell@kettering.gov.uk</p>	<p>Damian Wilkins Health Protection Manager Corby Borough Council Deene House New Post Office Square Corby Northants NN17 1GD</p> <p>Tel: (01536) 464299 Out of Hours: (01536) 400088 Fax: (01536) 464644 Email: damian.wilkins@corby.gov.uk</p>
<p>Ed Cooke Environmental Health Manager (Health Improvement) Daventry District Council Lodge Road Daventry Northants NN11 5AF</p> <p>Tel: (01327) 871100 FAX: (01327) 302540 Email: ECooke@daventrydc.gov.uk</p>	

Annex 3 Other policies, legislation, and guidance sources

There are several other local and national policies, strategies, responsibilities, and guidance documents which should be considered in order to complement this authority's licensing policy. The policy should provide a clear indication of how the licensing authority will secure the proper integration of the licensing policy and other local policies such as the local crime prevention, planning, transport, tourism, cultural strategies and the local alcohol policy.

(i) Legislation

- Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Crime and Security Act 2010
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Equality Act 2010
- Deregulation Act 2015
- The Anti-social Behaviour, Crime and Policing Act 2014
- Violent Crime Reduction Act 2006
- The Health Act 2006
- Live Music Act 2012
- Policing Act 2014
- Immigration Act 2016
- Gambling Act 2005
- Environmental Protection Act 1990
- Noise Act 1996
- Clean Neighbourhoods and Environmental Act 2005
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

Note: These and other relevant pieces of legislation can be found at www.opsi.gov.uk

(ii) Strategies and Policies

- Alcohol Strategy
- Alcohol Harm Reduction Strategy for Northamptonshire
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Community Alcohol Strategy
- Community Safety Strategy
- Compliance Code
- Crime & Disorder Reduction Strategy
- Council's Enforcement Policy
- Cultural and Tourism Strategies including promotion of live music and community events
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Development Framework
- Local Transport Plan
- National and local PubWatch schemes
- [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.](#)
- Purple Flag (ATCM)
- Safer Socialising
- Northamptonshire Health and Wellbeing Strategy
- Director of Public Health Northamptonshire Annual Report

(iii) Guidance Documents

- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office Safer Clubbing Guide link doesn't work – document not found](#)
- [Home Office Designated Public Place Order \(DPPO\) Guidance](#)
- [Home Office s182 Guidance](#)
- [LACORS/TSI Code of Practice on Test Purchasing link doesn't work – document not found](#)
- [The Event Safety Guide](#)
- [Licensing large scale events \(music festivals etc.\) this link doesn't seem to work](#)
- [Managing Crowds Safely](#)
- [5 Steps to Risk Assessment](#)
- [The Guide to Safety at Sports Grounds](#)
- [Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances](#)
- [UK BIDS: Business Improvement Districts \(national BIDS advisory service\)](#)
- [BIS Code of Practice on Consultation](#)
- [The Plain English Campaign](#)
- [Regulators Code](#)

(iv) Relevant case law regarding policy statements

- Limits of licensing policy:
[BBPA & Others v Canterbury City Council \[2005\] EWHC 1318 \(Admin\)](#) this isn't a link
- “Strict” licensing policies and exceptions to policy:
[R \(Westminster City Council\) v Middlesex Crown Court and Chorion plc \[2002\] LLR 538](#)
- Cumulative impact policies and hours
[R \(JD Wetherspoon plc\) v Guildford Borough Council \[2006\] EWHC 815 \(Admin\)](#)
- Duplication and conditions:
[R \(on the application of Bristol Council\) v Bristol Magistrates' Court \[2009\] EWHC 625 \(Admin\)](#)
- Extra-statutory notification by the licensing authority:
[R \(on the application of Albert Court Residents Association and others\) v Westminster City Council \[2010\] EWHC 393 \(Admin\)](#)
- The prevention of crime and disorder: ambit of the objective
[Blackpool Council, R \(on the application of\) v Howitt \[2008\]](#)
- Crime and disorder: sanctions on review: deterrence
[Bassetlaw District Council, R \(on the application of\) v Workshop Magistrates Court \[2008\]](#)

Note: This list is not exhaustive

Annex 4 Useful References (organisations)

Local Government Association:

<http://www.local.gov.uk/regulatory-services-and-licensing> link doesn't work

<http://www.locale.gov.uk>

Association of Convenience Stores (ACS)

<http://www.acs.org.uk/>

Association of Licensed Multiple Retailers (ALMR)

Now incorporating Bar, Entertainment and Dance Association (BEDA)

<http://www.almr.org.uk/> page doesn't exist

Association of Town Centre Managers (ACTM and Purple Flag)

<http://www.atcm.org/>

Better Regulation Delivery Office (BRDO)

<http://www.bis.gov.uk/brdo>

British Beer and Pub Association (BBPA)

<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)

<http://www.bbfc.co.uk/>

British Institute of Inn Keeping (BII)

<http://www.bii.org/home> link doesn't work

<http://www.bii.org>

British Retail Consortium (BRC)

http://www.brc.org.uk/brc_home.asp

Cinema Exhibitors' Association (CEA)

<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport

www.culture.gov.uk

Home Office

www.homeoffice.gov.uk

Institute of Licensing (IOL)

<http://www.instituteoflicensing.org/>

Licensed Victuallers Associations (LVAs)

<http://www.flva.co.uk/>

National Association of Licensing and Enforcement Officers (NALEO)

<http://www.naleo.org.uk/>

The Portman Group

<http://www.portmangroup.org.uk/>

Appendices
3



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

22 February 2021

Agenda Status: PUBLIC

Directorate: Management Board

Report Title	Report in the Public Interest regarding the Council's loans to Northampton Town Football Club (accounts for the year ended 31 March 2016) and Action Plan in response.
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1. Summary

1.1 On 27 January 2021, the Council's previous external auditor (KPMG) issued a Report in the Public Interest ("the Report") (Appendix 1) regarding the Council's loans to Northampton Town Football Club (NTFC) (accounts for the year ended 31 March 2016). The Report is issued under the provisions of the Local Audit and Accountability Act 2014 ("the Act"). The Council must comply with the requirements of the Act in responding to the Report. At the time of writing this report, all of the relevant requirements of the Act have been fully complied with.

1.2 In particular, The Report states that:

- There were worrying gaps in the Council's knowledge at the time of making the decision in principle, with no formal business case submitted by NTFC prior to the decision being made;
- The inclusion of land sales to offset debt, ran a risk of being unlawful State Aid to NTFC;
- Insufficient time had been made available to address material matters;
- There was inappropriate use of Officer delegations to increase the loan value, without reference back to Cabinet;
- There was a lack of competitive process in respect of proposed land/asset disposals to County Developments Northampton Limited(CDNL);
- There was a failure to fully comply with the conditions associated with exercising the delegations.

1.3 The Report's recommendations will be responded to by way of a detailed Action Plan, currently in draft at Appendix 2 of this report.

1.4 Accountability for the delivery of the Action Plan will initially rest with the Leader of the Council and the Chief Executive Officer. However under Schedule 7 of the Act, Northampton Borough Council (NBC) is consulting with the West Northamptonshire

Shadow Authority as West Northamptonshire Council (WNC) will be responsible for the Action Plan from 1 April 2021.

1.5 Prior to 1 April 2021, NBC's Leader of the Council and the Chief Executive Officer will work closely with the Cabinet, the Overview and Scrutiny Committee, the Audit Committee, Chief Officers and any Members and/or officers nominated by West Northamptonshire Shadow Authority.

2. Recommendations

2.1 That Council approves the following recommendations:

- a) Accepts the findings of the Report in the Public Interest (Appendix 1) and the external auditor's recommendations (R1 to R10);
- b) Notes the draft Action Plan at Appendix 2, on which West Northamptonshire Shadow Authority will be consulted;
- c) Notes that the draft Action Plan includes a response to each of the auditor's recommendations;
- d) The Council requests that Cabinet receives a report on the draft Action Plan at its meeting on 24 March 2021 which will reflect the consultation undertaken with West Northamptonshire Shadow Authority;
- e) The Council notes that ordinarily a report would be brought back to full Council to update Members, but as a result of Local Government Reorganisation, future reports will be dealt with through WNC's governance arrangements;
- f) The Council commits to a regular and open dialogue with the external auditors, past and present to keep them apprised of the Council's progress in implementing the Action Plan up to 31 March 2021.
- g) The Council in discussions with West Northamptonshire Shadow Authority has agreed that any unresolved actions remaining at 31 March 2021 will be progressed by WNC as it sees fit.

3. Issues and choices

3.1 Report background

- 3.1.1 NBC fully recognises the serious nature of The Report issued. It accepts the findings, conclusions and recommendations of the external auditor's report into the governance arrangements in respect of the loan to NTFC.
- 3.1.2 The Council is required under Section 24 and Schedule 7 of the Local Audit and Accountability Act 2014 to consider the recommendations of The Report and decide what action to take in response. It is also essential that all decisions made by the Council with regard to its governance arrangements are taken in full cognisance of the report's findings and recommendations.
- 3.1.3 In the course of 2015/16 Northampton Town Football Club (NTFC) defaulted on loans made to it by NBC in 2013 and 2014. In light of this, NBC's Audit Committee asked its own Internal Auditors (PWC) to conduct a review ~~into~~ the provision of the loans to NTFC. The review's

focus was to provide the Audit Committee with an assessment as to whether the relevant Council policies and procedures to support the loans were adequate and whether the policies were followed in these transactions.

3.1.4 The findings of the Internal Audit review were fully acknowledged and accepted by officers at the time and a Governance Action Plan (attached as Appendix 3) was developed and implemented to address the specific issues raised in the Internal Audit report. Updates were also reported regularly to the Audit Committee.

3.1.5 Since the completion of the Governance Action Plan, NBC has continued to improve its policies and procedures and indeed address a number of the issues that are highlighted in the external auditor's report. These actions include:

- The creation of a new post and employment of Governance and Risk Manager;
- Repatriating the role of Section 151 Officer back into the Council from LGSS and appointing a new Section 151 Officer (Chief Finance Officer);
- Introduction of Group Leader Briefings;
- Establishment of the Executive Programme Board (Comprising of Cabinet Members and the Corporate Management Board);
- Review and revision of the Constitution.

3.1.6 NBC received this Report in the Public Interest on 27 January 2021 less than 3 months before it will cease to exist due to Local Government Re-organisation. Therefore, whilst NBC takes this matter very seriously there is a limit to the extent that it can respond. NBC has however and therefore taken the key step that it is required to take - to share the Report and the auditor's concerns with West Northamptonshire Shadow Authority.

3.1.7 The Action Plan contains recommended actions which NBC is consulting with West Northamptonshire Shadow Authority on through its officers and Executive Members. This includes actions identified as a result of the original PWC Report in 2016.

3.1.8 It is recommended that the finalised Action Plan will be agreed through a separate report at its meeting on 24 March 2021 which will reflect the consultation undertaken with West Northamptonshire Shadow Authority.

3.2 Addressing the recommendations

3.2.1 Accountability for the delivery of the report will until 31 March 2021 be with the Leader of the Council and the Chief Executive Officer. From 1 April 2021 responsibility for the Action Plan will rest with WNC and it will determine how this is managed and reported on through its governance processes, including the engagement of external auditors, both past and present.

3.3 Other options considered in making recommendations

3.3.1 In accordance with the 2014 Act, the Council has reviewed the recommendations. These have also been reviewed in light of the Nolan principles incorporated as part of NBC's constitution.

3.3.2 In reviewing the recommendations, the Council is recommended to accept them. Therefore, there are no other relevant options other than to accept the external auditor's report and its recommendations.

- 3.3.3 The Report focusses on improving the governance of the Council. This is entirely aligned with the Council's own Constitution and with its statutory duty of best value and continuous improvement.
- 3.3.4 The Council notes the circumstances and timing of the Report and the progress in addressing the recommendations by NBC will be limited by Local Government Re-organisation. Therefore, in discussions with West Northamptonshire Shadow Authority it will leave consideration of future actions to the future WNC to determine.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 There are no immediate changes to Policy arising from this report. Any changes required to address the recommendations, resulting from the agreed Action Plan will be taken by WNC through its governance arrangements.

4.2 Resources and risk

- 4.2.1 The recommendations may prove useful to WNC as a check of its governance arrangements.
- 4.2.2 There may be costs for WNC with implementing the recommendations. At the time of publishing this report these costs are unknown. Any update regarding any associated costs will be brought to Cabinet, or WNC as successor, for consideration and approval.
- 4.2.3 The costs associated with this objection to the accounts of NBC and subsequent report are currently £201,970 in respect of the Auditor Fees and legal advice.

4.3 Legal

- 4.3.1 Under the provisions of the Act, NBC is required to publish the report as soon as practicable, consider it at a meeting within one month, decide what action it will take in response and publish a summary of that decision.
- 4.3.2 The Council must decide whether the Report is accepted along with the recommendations. It must also decide what action to take in response to the Report and its recommendations. The recommendations and proposed actions by the Council are set out in the body of this report and accompanying appendices.
- 4.3.3 After considering the Report and its response to it, the Council must notify the external auditor of its decisions, and publish a notice containing a summary of those decisions which has been approved by the external auditor.
- 4.3.4 Under Schedule 7 of the Act, NBC is consulting with West Northamptonshire Shadow Authority as WNC will be responsible for the Action Plan from 1 April 2021.

4.4 Equality

- 4.4.1 There has not been an equality impact assessment of this initial response to the external auditor's report. However, each of the individual actions included in the draft Action Plan will be considered as to whether an equalities impact assessment needs to be produced.

4.5 Consultees (internal and external)

4.5.1 Internally - Corporate Management Board and Cabinet Members.

4.5.2 Externally - West Northamptonshire Shadow Authority.

5. Background Papers

5.5.1 Northampton Borough press release.

5.5.2 Northampton Borough Council Constitution.

5.5.3 Section 24 and Schedule 7 of the Local Audit and Accountability Act 2014.

5.5.4 PWC Internal Audit Report – November 2016

George Candler, Chief Executive

Appendices

Appendix 1 - Northampton Borough Council: Report in the public interest regarding the Council's loans to Northampton Town Football Club (accounts for the year ended 31 March 2016)

Appendix 2 – Draft Action Plan

Appendix 3 – Governance Action Plan 2016

Northampton Borough Council: Report in the public interest regarding the Council's loans to Northampton Town Football Club (accounts for the year ended 31 March 2016)

Summary

- A. We are issuing this report in the public interest under section 24 and Schedule 7 of the Local Audit and Accountability Act 2014 (the "Act"). We have discretion whether to make a report in the public interest where we consider that there is a matter that should be considered by the audited body or brought to the attention of the public.
- B. Northampton Borough Council ("NBC" or the "Council") is required under the Act to publish the report as soon as practicable, consider it at a meeting within one month, decide what action it will take in response and publish a summary of that decision.
- C. This public interest report concerns NBC's loan to Northampton Town Football Club ("NTFC") and reports on significant failures of corporate governance and items of account that are, in KPMG's view as the Appointed Auditor to NBC, contrary to law. This matter was brought to our attention by officers of the Council in November 2015, and we subsequently received an objection to the Council's Statutory Accounts for 2015/16 during the period that they were open for inspection. We investigated the issues raised and within our remit and this report sets out our findings in relation to the process that the Council went through in making the loan and also in how they managed the loan once it was made.
- D. NBC's relationship with Northampton's sporting clubs (including NTFC) has been mixed over the years (and since 2008), with well-publicised claims from NTFC that the Council was not doing enough to support them. A scheme to redevelop NTFC's stadium site (Sixfields) was put forward by NTFC and supported by the Council's Leader. The scheme was intended to expand the East and West stands, create a range of new facilities, including a conference centre, a 100-room hotel, a gym, and up to 300 new homes and offices.
- E. On 17 July 2013, NBC's Cabinet made an in principle decision to loan monies to NTFC to pay for improvements to the Sixfields stadium and to build a hotel next to the stadium. The Council would also buy land from the Homes & Communities Agency ("HCA") adjacent to the Sixfields stadium and enter into a Joint Venture Agreement with a private company, the HCA, and NTFC, for the development of that land. The Cabinet delegated authority to the then Chief Executive (David Kennedy), in consultation with the then Director of Finance/Section 151 Officer (Glenn Hammons) and the then Leader of the Council (David Mackintosh) to make the loans, subject to five conditions which were set out in the Cabinet report (and are summarised at paragraph 8 of this report). These five conditions included that there was sufficient tangible security offered by NTFC to the Council, and that there were robust contractual arrangements in place between NTFC

and a financially sufficient third party in relation to the proposed hotel development. The Cabinet also delegated authority to the then Director of Regeneration, Enterprise & Planning (Steve Boyes) to enter into a conditional sale of land, subject to three conditions which were set out in the Cabinet report (and are summarised at paragraph 8 of this report). These conditions included that the Council is not exposed to any risk of financial loss or liability from its participation within the JV agreement.

- F. Three loan agreements were prepared and funding was provided to NTFC between September 2013 and August 2014. Further details of the arrangements surrounding the loan are set out in the 'Background' section of this report.
- G. In late 2014 the works to improve the East stand at the stadium ceased following a dispute between NTFC and the developers (1st Land Limited) which resulted in the building contractors (Buckingham Group Contracting Limited) not being paid. The dispute was resolved when a new contract was signed with a new developer, County Developments Northampton Limited ("CDNL"), and work recommenced on the stadium in early 2015, but in the spring of 2015 work ceased on the stadium again when CDNL did not pay the building contractors. At this time loan repayments to the Council started to be late, but repayments were made until early autumn 2015 when all loan repayments from NTFC to the Council stopped. Consequently, the loan agreement was cancelled by the Council and the development company, CDNL was put into liquidation by the contractor, Buckingham Group Contracting Limited. During this period NTFC was placed under the threat of a winding up petition from HMRC which could have resulted in NTFC going into administration or liquidation. A Memorandum of Understanding between the Council and the new owners of NTFC was agreed in November 2015 to collaborate and work together to ensure the continued survival of NTFC. The Council then impaired the loan within its 2015/16 Financial Statements.
- H. Our investigation into these matters has led to us making the following key findings in this report (this list is not exhaustive and full details of our findings are set out in the report):
 - a. There were worrying gaps in the Council's knowledge at the time of making the decision in principle. For example, there was no formal financial business case submitted by NTFC until after this decision on 17 July 2013. Certain matters would have, in KPMG's view, been better addressed prior to the 'in principle' decision (in particular whether the stadium improvements were actually needed);
 - b. This project was championed by the former Leader and, other than points raised by three non-Cabinet members attending the Cabinet meeting on 17 July 2013

(noted in the report), it appears to have been agreed without having been subject to any robust challenge by his fellow Cabinet members;

- c. The agreement at the in principle stage included that the £5m proceeds of sale of the development would be used by the Council to offset the debt owed by NTFC. In our view that was inappropriate and there seems to have been no or insufficient benefit or any discernible rational reason to NBC to reduce NTFC's debt in this way. Furthermore, although the sale did not in the event go ahead, if the £5m had been applied as outlined in the 17 July 2013 report it would have, in our view, run a high risk of constituting unlawful State Aid to NTFC;
- d. Although professional advice was obtained before making the loans, a report by PWC (NBC's internal auditor) found that "there was insufficient time available to ensure that all matters identified were adequately addressed and resolved before signing the agreements." This included advice in relation to State Aid. In our view the Council did not ensure that it followed the correct steps to ensure that the loans were lawful and did not represent State Aid;
- e. The then Chief Executive authorised loans totalling £13.5m which was in excess of the "up to £12m" quoted in the Cabinet paper of 17 July 2013. The Council advanced a further £1.5m for the stadium in April 2014 with inadequate due diligence undertaken as to why the extra money was needed nor what the previous £4.5m loaned until that point had actually been spent on. Officers had sought legal advice which determined that although the background in the Cabinet report referred to "up to 12m", since the recorded decision did not reference a specific figure, additional Cabinet approval was not required and entering into facility agreements for up to £13.5m was in line with the existing decision. In KPMG's view this advice was incorrect and the delegation as to amount was subject to the overall limit quoted in the report and it is unreasonable to interpret this as being given authority to approve any size loan. We have concluded that in our view this decision went beyond the delegated authority and was therefore unlawful;
- f. NBC has confirmed that a full assessment of the income projections was undertaken as part of agreeing the original loan in September 2013, and that the business plan was subject to regular review in meetings between the Council and NTFC. However the results of the review were not reported to any Committee (due to the delegated authority in place). In KPMG's view, the results of the income projection review should in all the circumstances have been reported back to Cabinet;

- g. The Council was prepared to enter into a conditional agreement to sell land to a company (CDNL) that was proposed by NTFC without going through any competitive procurement process. NTFC and CDNL had directors on common, which is a further issue with regard to legality and financial and corporate governance which we would have expected the Council to have picked up on and considered the implications;
- h. There was inadequate due diligence undertaken by the Director of Finance/Section 151 Officer, including an inadequate assessment of whether the work would generate assets capable of being refinanced by NTFC in order to repay the loans to the Council and of the financial viability of NTFC. The Section 151 Officer has provided an explanation of this and given his view that the due diligence undertaken was sufficient taking into account the circumstances at the time. In KPMG's view, nevertheless, taking into account the significance of the project and the amounts loaned (which were known at the time), there was inadequate assessment of whether the financial projections put forward by NTFC were reasonable, and inadequate assessment in advance of the loan of the security put forward by NTFC. The Section 151 Officer at this time, Glenn Hammons, was formally appointed to the role on 15 July 2013, two days before the Cabinet's in principle decision to approve the loan. In practice he had been engaging with the Council in relation to the Cabinet report from early July 2013 and as such had a reasonably informed knowledge of the proposal before it went to Cabinet and was decided upon. We deal with this issue in more detail at paragraph 50 of the report;
- i. The officers with delegated authority entered into the loan agreements without ensuring that all of the conditions on their delegated authority were met:
 - i. Whilst one of the conditions required of the Chief Executive was satisfied and two conditions could be deemed as being partially satisfied, two were in our view definitely not satisfied: we have concluded (and subsequent independent reviews, reports and events have borne out), that the security provided by NTFC was neither sufficient nor tangible; and, there was no robust contractual arrangement in place between NTFC and a financially sufficient third party. In KPMG's view, failure to meet these conditions rendered the decisions taken further to the delegated powers unlawful;
 - ii. Of the three conditions placed on the Director of Regeneration, Enterprise and Planning, we believe that two were satisfied but one was not, namely that the Council should not be exposed to any risk of financial loss or liability from its participation within the JV agreement.

As a result of the JV partner (CDNL) being liquidated, the Council incurred significant cost in ensuring that it still has control of the land and it has meant that the land has not been developed. In KPMG's view, the Director of Regeneration, Enterprise and Planning should have been able to foresee the risk of the Council being exposed to financial loss or liability and should have mitigated that risk accordingly. In KPMG's view, failure to meet this condition rendered the decisions taken further to the delegated power unlawful.

- I. In summary, we have identified what in our view are serious failings in the Council's arrangements when deciding to and subsequently making the loan to NTFC. The Council has accepted in discussions with us that its arrangements fell short of the required standard in a number of respects, and it has commissioned a complete review of governance arrangements in order to address the shortcomings. In addition, NBC's internal auditors, PWC, carried out a review of these matters in 2016 and produced a report in November 2016 entitled "Review of policies and procedures relating to the provision of loan finance to Northampton Town Football Club". However, we have decided that acting proportionately, we should issue this public interest report to ensure that the matter is brought to the attention of the Council and the public setting our detailed views on these matters.
- J. In conclusion, this whole episode demonstrates poor decision making based on inadequate reports leading to public money being lost, and demonstrates the need for careful thought, structure, independent advice and monitoring in making such decisions on a transaction which was significant and unusual. There was a near complete lack of an approved business case, appropriate independent advice and documented risk management and proper governance process followed. Documents presented to Members for decision making purposes and records of decisions taken by officers were deficient.
- K. Whilst carrying out our review, we identified areas for improvement in the Council's arrangements. Our recommendations to address these areas are set out in Appendix B to this report. We note that the Council has taken some steps to address a number of these areas already, but we include all recommendations in this report for completeness.

Background

Our Work

1. This matter was brought to our attention as the Appointed Auditor, by officers of the Council in November 2015 and we subsequently received an objection to the Statutory Accounts for 2015/16 during the period that these were open for inspection.
2. We therefore investigated the issues raised and within our remit and this report sets out our findings in relation to the process that the Council went through in making the loan (Stage 1) and also in how they managed the loan once it was made (Stage 2). What happened to the money once it arrived in NTFC is primarily a matter for the Police. Thus, we need to stress that:
 - (a) We have not investigated what happened to the loan money once it was received by NTFC.
 - (b) It is also a matter for the Police to consider whether any action should be taken against current or former officers or members; and
 - (c) We have not reviewed the way in which the Council has sought to recover its money.
3. In thematic terms our work can be summarised as being a review of the Council's stewardship of public money, and to achieve that by:
 - (a) looking at the decision to accept and enter into the transaction in accordance with the Council's policies;
 - (b) reviewing the loan agreement;
 - (c) reviewing the governance over the decision and subsequent action;
 - (d) reviewing the risk management over the transaction;
 - (e) reviewing and considering the performance management arrangements for the transaction;
 - (f) critically assessing the management information with regards to the transaction;
 - (g) reviewing the financial controls over the transaction; and
 - (h) considering the project management over the transaction.

Background facts

4. The Sixfields site has been both a development opportunity and challenge for the Council for a number of years; it is a useful size and close to the Town centre but has contaminated land (the site was previously used for landfill) and there are issues around whether retail development would move business away from the town centre.
5. Northampton has an impressive sporting pedigree, with First-Class Cricket, Premiership Rugby Union and a professional football club. The Council's relationship with these clubs, especially the football club (NTFC) has been mixed over the years (and since 2008), with well-publicised claims from NTFC that the Council was not doing enough to support them.
6. The scheme to redevelop Sixfields was put forward by NTFC and supported by the then Council Leader as set out in the manifesto for the election at that time. The scheme proposed to expand the East and West stands, create a range of new facilities, including a conference centre, a 100-room hotel, a gym, up to 300 new homes and offices. As such the scheme proposed by NTFC had a number of attractions to NBC; it was intended to increase the stadium's capacity and add conferencing and hotel facilities which would generate sufficient revenue to finance the development and put NTFC's finances on a more solid footing. It would also secure the development of the Sixfields site which is in the Northampton Waterside Enterprise Zone.
7. On 17 July 2013, the Cabinet of NBC took what was in effect an in principle decision to loan monies to NTFC to pay for improvements to its Sixfields football stadium and to build a hotel, which built on a 2011 Conservative election manifesto pledge – *"A Conservative administration will actively support development plans for retail and commercial opportunities that will provide our sports clubs with funding for the development of their teams and facilities."*
8. The Cabinet delegated authority to the then Chief Executive (David Kennedy), in consultation with the then Director of Finance/Section 151 Officer¹ (Glenn Hammons) and the then Leader of the Council (David Mackintosh) to make the loans, subject to

¹ Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs. As such the Section 151 officer has a number of statutory duties, including the duty to report any unlawful financial activity involving the authority (past, present or proposed) or failure to set or keep to a balanced budget. In addition, the Section 151 officer is usually the local authority's treasurer and must be a qualified accountant belonging to one of the recognised chartered accountancy bodies. The Section 151 officer has a number of statutory powers in order to allow this role to be carried out, such as the right to insist that the local authority makes sufficient financial provision for the cost of internal audit.

five conditions as set out in para 3.2.1. of the 17 July 2013 Cabinet report. In summary, these conditions were:

- (a) That there would be no net initial or later costs to the Council of setting up, administering and servicing any borrowing it makes in order to provide loan finance to the clubs;
- (b) That there is sufficient tangible security offered by the clubs to the Council from the time of taking the loan until full repayment is made (it was noted that *"in the case of NTFC this may be via legal charges on a combination of assets or other appropriate arrangements"*);
- (c) That the length of the loan its repayment are linked to the timing of additional revenue generated from the expansion, with the principle that any money loaned should be repaid in the shortest possible time;
- (d) That the income projections from additional revenue generated as a result of the expansion is sufficient to service debt owed to the Council; and
- (e) In the case of the hotel development, that there are robust contractual arrangements in place between NTFC and a financially sufficient third party concerning certainty of minimum levels of income.

The Council further delegated authority to the then Director of Regeneration, Enterprise & Planning (Steve Boyes) to enter into the conditional sale of land, subject to three conditions. In summary, these conditions were:

- (a) That the Council is satisfied that the proposed comprehensive development scheme will be viable and generate positive value for the land owners;
- (b) That the Council is not exposed to any risk of financial loss or liability from participation with the JV agreement; and
- (c) That adequate arrangements are made to re-provide suitable athletics facilities at an appropriate location.

9. We were informed by the Council that LGSS² had the legal obligation to provide Section 151 services to the Council from 1 June 2013. However, the decision as to who to appoint to this role was a matter for the Council. The then Chief Executive wanted the

² LGSS is a public sector shared service scheme, which provides business support services to public sector organisations. LGSS provided services to NBC through a partnering and delegation agreement, including professional finance services. Individuals appointed to assist NBC through this agreement were not employees of NBC.

Council to formally approve the appointment, so he took a report to the Appointments and Appeals Committee on 25 June 2013 and to Full Council on 15 July 2013 to obtain formal approval of Glenn Hammons to this role.

10. Three loan agreements were prepared and funding provided to NTFC between September 2013 and August 2014. The Council also updated the Parking and Fair Licences during this period. In addition, the Council also prepared a contract with developers County Developments Northampton Limited ("CDNL") and NTFC for the Sale of Freehold Land with Vacant Possession Conditional on Planning Permission for Land at Sixfields Northampton, and a Counterpart Lease with CDNL relating to Land at Sixfields Northampton. A key part of this contract was the relocation of the athletics facilities and the availability of alternative facilities during the development stages, as the local Athletics Club used the facilities available on the land leased by NTFC. Also, in April 2014 an Agreement for Sale and Purchase of Land at Sixfields Northampton was made between the Homes and Communities Agency and the Council. The purpose of these additional contracts, leases and licences that the Council entered into was for the development of residential and commercial properties around Sixfields on land owned by the Council and the Homes and Communities Agency. The Council believed that receipts from this development and additional revenues arising from the improved facilities at the stadium would repay the loan.
11. However, in late 2014 the works to improve the East stand at the stadium ceased following a dispute between NTFC and the developers (1st Land Limited) resulting in the building contractors (Buckingham Group Contracting Limited) not being paid. The dispute was resolved when a new contract was signed with a new developer, CDNL, and work recommenced on the stadium in early 2015, but in the spring of 2015 work ceased on the stadium again when CDNL did not pay the building contractors. It was noted that CDNL was owned and run by two of the NTFC directors.
12. At this time loan repayments to the Council started to be late, but repayments were made until early autumn 2015 when all loan repayments from NTFC to the Council stopped. Consequently, the loan agreement was cancelled by the Council and the development company, CDNL was put into liquidation by the contractor, Buckingham Group Contracting Limited. During this period NTFC was placed under the threat of a winding up petition from HMRC which could have resulted in NTFC going into administration or liquidation. A Memorandum of Understanding between the Council and the new owners of NTFC was agreed in November 2015 to collaborate and work together to ensure the continued survival of NTFC.
13. The Council then decided to impair the loan within its 2015/16 Financial Statements and this was agreed by cabinet on 24 November 2015.

14. NTFC was then sold to a new buyer and a Memorandum of Understanding was put in place with the new owner.
15. The Council confirmed in the 2015/16 Statutory Accounts that “reviews and investigations with regards to the loan and the land development at Sixfields are ongoing and encompass: an Internal Audit review by NBC’s Internal Auditors PwC into the Council’s processes and procedures, to be reported to NBC’s Audit Committee; an External Audit review by NBC’s External Auditors KMPG (*sic*); and a Police Investigation into any potential criminal activity behind the previous owners of NTFC and associated companies.”

An explanation of the project and the loan values

16. A summary of how the above proposal was intended to proceed (as documented in the paper to Cabinet on 17 July 2013) follows below:
 - (a) The Council would incur no net initial or later costs for setting up, administering and servicing any borrowing it in turn makes, whether via the Public Works Loans Board (PWLB), or from any other external source (the Council ultimately decided to borrow from the PWLB);
 - (b) The Council would make an overall loan of up to £12m (later increased to £13.5m – see (c) below) to NTFC in order that they could rebuild the East Stand to increase capacity and add conference facilities and build a hotel next to the Stadium;
 - (c) Following the approval by the Cabinet in July 2013, the specific breakdown of loan amounts were as follows: a First Facility Agreement of £7.5m (for the Stadium); a Second Facility of £1.5m (additional monies for the Stadium); and a Final Third Facility of £4.5m (for the Hotel);
 - (d) NTFC would make payments (mostly interest, but some capital) to the Council from the additional revenue generated by these developments;
 - (e) The Council would buy land from the Homes & Communities Agency (“HCA”) that was adjacent to the Sixfields Stadium and the athletics track (which the Council already owned);
 - (f) The Council would enter into a Joint Venture Agreement with a private company, HCA (as necessary) and NTFC for the development of that land forming part of Sixfields Stadium, together with other adjoining HCA land, on the basis that an agreement relating to a disposal at nominal initial value of the freehold interest to the private party concerned may be required to be

completed prior to the commencement of physical development. The private company was later agreed as CDNL, which would build houses and retail properties on the site and sell them for profit;

- (g) That subject to the legal considerations (including State Aid), that the net value generated for the Council from any Joint Venture Agreement that may be entered into, may be used in whole or part to reduce any levels of debt owed by NTFC to the Council. Following approval by Cabinet, it was agreed that CDNL would re-pay the Council £5m (later increased to £6.5m) payable over the sales period of the development, as individual properties or land (both residential and commercial) were disposed of for value by freehold transfer or grant of a lease at a premium. The Council would use the £5m receipt from CDNL to reduce the amount of the loan outstanding from NTFC;
 - (h) As part of the agreement with CDNL following approval by the Cabinet, it was agreed that in addition to the repayment amount from CDNL (on behalf of NTFC) to reduce the loan, there would additionally be an "overage agreement" (i.e. when the sales revenues of the development exceeded an agreed value of £110m, then the Council would be entitled to receive half of the difference between the sum of £110m and the actual realised gross sales revenues, with these sums paid on completion of each property disposal);
 - (i) NTFC would, at some stage in the future, refinance the loan (i.e. borrow from another source) and repay the remaining loan balance to the Council;
 - (j) In the event, £10.25m is the amount that was actually drawn by NTFC under the three loan agreements; and
 - (k) £10.22m is the amount that was outstanding at the time the Council impaired the loans (as reported in the 2015/16 Financial Statements).
17. The original Cabinet report included reference to loan finance of "up to £12m"; however, the subsequent loan facility agreements entered into eventually totalled £13.5m.

Stage 1 - Making the loans

18. Whilst there was no form of initial loan request from NTFC provided to us by the Council, the development of Sixfields has been subject to discussion at Executive and Cabinet for a number of years. Examples of the previous papers presented to Cabinet were recorded within the decision-making paper to Cabinet on 17 July 2013. These two papers from 28 January 2008 and 11 July 2012, considered formally changes to the lease agreement with NTFC to allow for the development of a hotel and latterly

the development of land at Sixfields, whereby the paper presented to Cabinet on 11 July 2012 at 3.1.4 stated "NTFC wish to expand and improve Sixfields Stadium and the Council supports this aspiration." NBC confirmed that ongoing discussions had been held with NTFC in the years before the paper was delivered to Cabinet. Neither of these previous papers were included in the pack for decision making at the 17 July 2013 Cabinet meeting.

19. Additionally, in the paper presented to the Cabinet meeting on 17 July 2013, there was no reference to a previous paper which had also been presented to Cabinet on 5 August 2009. This 5 August 2009 paper, included an earlier proposal from NTFC and an unnamed development partner, requesting that the HCA and NBC transfer the freehold value of the Sixfields Stadium and land around the stadium for development. Proceeds from the residential and commercial development would then be used to build a new athletics track within Northampton, with remaining proceeds being shared between NTFC, HCA and NBC. The proposal also requested that NBC and HCA would then re-invest its share of the final proceeds into the re-development of the football stadium. HCA had stated any potential support to NTFC would be on the proviso that there would have to be clearly demonstrable community benefits and it was more appropriate for the Council to decide on what these would be. The Cabinet supported the Council entering into a development agreement with the HCA, NTFC and a development partner, on the basis that:
- (a) there would be no conflict with preserving and enhancing the commercial vitality of the Town Centre;
 - (b) that the stadium itself continues to be used for Association Football and other uses described under the existing lease; and
 - (c) that replacement athletics facilities are built to UK Athletics Competition Standard for track and field, within Northampton prior to any redevelopment of the existing facilities.

The Cabinet at the time supported the principle that the Council should transfer its freehold interest of the Sixfields Stadium only in part, prior to physical development taking place on that land, but only in circumstances where the Council was first satisfied that there would be sufficient legal safeguards and financial guarantees to protect the Council's position. The Cabinet supported in principle NTFC's aspirations to improve the facilities at Sixfields Community Stadium and noted the request for the Council to invest, however the Cabinet agreed to resolve not to "*fetter its discretion as to how it might spend any proceeds arising from its participation in any development agreement.*"

20. The key power for the Council to make the loan was the general power of competence under section 1 of the Localism Act 2011.
21. There was no formal financial business case submitted by NTFC until after the loans were agreed in principle by the Council's Cabinet on 17 July 2013. This meant there were worrying gaps in the Council's knowledge at that stage. Whilst capable of being cured by officers at the delegated decision making stage (Stage 2 in this report – see below), certain matters – in particular whether the Stadium improvements were actually needed and the financial sustainability of NTFC - would have been, in KPMG's view, better addressed by Council and the Director of Finance (S151 Officer) prior to the 'in principle' decision. Publicly available information from Companies House would have indicated that there were serious questions about the financial stability of NTFC (see further below).
22. Thus, NTFC's average attendance in each of the previous five years was around 4,500 and the capacity of the stadium was 7,500. Yet the Council never questioned whether there was really a need for a stadium that per the loan application seated 10,000 people, i.e. NTFC were asking for an additional 2,500 seats. Similarly, at that stage there was, in KPMG's view, inadequate critical review or challenge about whether there was demand for conference facilities or a hotel and/or the impact that additional provision might have on existing facilities elsewhere, with no clear partner agreements such as an agreed hotel developer for the site.
23. Furthermore, inadequate due diligence was undertaken by the then Director of Finance (S151 Officer). NTFC had received the lowest possible credit rating, had net liabilities of £7.5m and was only able to continue trading because of the assurances provided by the Directors. NTFC's external auditors had included an Emphasis of matter, drawing attention to note 1 in the NTFC financial statements, whereby the Company Directors believed that it was appropriate to prepare the financial statements on a going concern basis, due to their continuing support. These are matters that the Council should have known about.
24. NBC confirmed that the Stadium loan was a key element of the whole deal to redevelop the wider area. The report to Cabinet on 17 July 2013, noted that "the expansion of the stadia and ancillary facilities of both clubs would provide an important short term and longer-term boost to the local economy, with the Northampton Waterside Enterprise Zone. It would help to generate new employment and stimulate and sustain wider economic activity in the Town."
25. From the papers presented to the 17 July 2013 Cabinet meeting however no supporting business case was provided for members with a breakdown of the finances, or justification for the additional seating to be provided. This issue had also been

identified within the Internal Auditors report "Review of policies and procedures relating to the provision of loan finance to Northampton Town Football Club", November 2016, which stated the following:

'The recommendation to Cabinet should have contained a detailed analysis of the financial implications and associated sensitivity analyses of the business plan prepared by the Council. Instead, the cabinet paper prepared and presented in July 2013 identifies that "NTFC have indicated they would like to have an agreed facility with the Council for loan finance of up to £12million to support these stadium and hotel/ conference centre plans".'

26. There are no further, specific details about the form of this loan or potential repayment options in the 17 July 2013 report. The paper includes a high-level summary of the implications, including: resources, risk, legal and equality considerations. The legal considerations indicate that the Council has the powers to make a loan of this nature but does not analyse the actual exercise of the powers in the circumstances. Approval from the Cabinet was, as noted, a decision 'in principle' and relied on the officers with delegated powers exercising them in accordance with the conditions set out in the report. As noted above, whilst officers could consider these issues under delegated powers, it would, in KPMG's view given the significance to the Council, have been better had the full details been set out at this stage.
27. One further matter at this in principle stage was of particular concern. The agreement was to provide that the £5m proceeds of sale of the development would be used by the Council to offset the debt owed by NTFC. This was, in KPMG's view, inappropriate. A Principal Lawyer, at LGSS Law noted in an email on 4 July 2013 to the Corporate Asset Manager (copying in the Monitoring Officer) that in the 17 July 2013 Cabinet report, "*Para 2.5 ... reads as a tacit acknowledgement that the loan will not be repaid in full and is in effect a gift.*". As the sale did not, in the event, go ahead, no money was applied to reduce the debt and so no state resources were used for NTFC's benefit. As such no State Aid issues arose. However, if it **had** been applied as outlined in the 17 July 2013 report and the decision gone ahead, it would, in KPMG's view, have run a high risk of constituting unlawful State Aid to NTFC. There seems to have been no or insufficient benefit or any discernible rational reason to NBC (and the public purse in general) to reduce NTFC's debt in this way. NTFC had already/was about to benefit from a significant favourable loan and NBC had yet to reap the supposed benefits. This would quite simply have been the application of public funds to pay off the loan of a private company – see Appendix A for our further findings and analysis on State Aid.
28. Capita Asset Services prepared a report, at the request of NBC, dated 12 September 2013 (first provided to the Council on 16 September 2013) on the loan to NTFC, two days before the facility agreement for the stadium loan of £7.5m was signed. This

report was watermarked draft and we have not seen an updated or final version. This report concentrated on legal, including State Aid considerations and soft loan and capital accounting implications associated with the financial assistance. Capita Asset Services included a disclaimer, stating that they were not instructed to complete any work on securitisation/collateral or risk and due diligence associated with the proposed loan to NTFC. The Capita Asset Services report included a number of recommendations for NBC to consider prior to signing the facility agreement. NBC have provided an email trail evidencing a conference call with Capita and confirmed in response to a question placed by us that LGSS Law and LGSS Finance had reviewed the contents of the Capita Asset Services draft report. Emails seen by the internal auditors as part of their work entitled "Review of policies and procedures relating to the provision of loan finance to Northampton Town Football Club", November 2016, noted that correspondence on financial, legal and statutory duties in preparing for the facility agreements with due regard to taxpayers money had been undertaken between the Director of Finance/Section 151 Officer, Principal Lawyer for Property, Planning and Highways (LGSS Legal), Legal Contracts and Procurement Advisor (LGSS Legal) and Corporate Asset Manager, Monitoring Officer, Leader of the Council, Chief Executive and Director of Regeneration, Enterprise and Planning. However, as the draft Capita Asset Services report was only received two days before the facility agreement was signed, the internal auditors confirmed that "whilst appropriate professional advice was sought there was insufficient time available to ensure that all matters identified were adequately addressed and resolved before signing the agreements."

29. In the draft report prepared by Capita Asset Services it was stated that "Based on our interpretation of the State Aid requirements, the Authority needs to ensure that any loan provided to NTFC has a rate of interest in excess of the threshold set by the European Commission to be State Aid compliant." Capita Asset Services also provided the following in respect of their advice on State Aid:

"If State Aid is deemed to be an issue, the Authority would need to justify the rate it is charging on loan(s) provided to NTFC.

.....

To provide a view on applicable margins, we would need additional information about the credit rating of NTFC. But on the assumption that the entity has no credit history and the Authority used a Balance Sheet approach to assess the credit quality, it indicates the margin would not be lower than 400bps.

Adding the minimum margin of 400 basis points for a company with no credit history gives a reference rate of 4.99% for the loan."

30. Following the advice received, those with delegated powers to enter into the loan agreement with NTFC, took the decision to enter into the loan facility at the PWLB interest rate, with the draft loan agreement stating that the interest rate will be confirmed on the loan term sheet applicable to each advance, with no margin applied to the Authority's borrowing cost in respect of the credit risk associated with making the advance. As such, in our view, the Council did not ensure that it followed the correct steps to ensure that the loans were lawful and did not represent State Aid. We set out our further comments and analysis on State Aid in Appendix A.

Stage 2 - Managing the loans

31. The Cabinet approved the loans to NTFC in principle on 17 July 2013, giving delegated authority to the then Chief Executive, in consultation with the Director of Finance/Section 151 Officer, to approve the amounts and terms of any loan finance arrangements subject to certain conditions. As explained below, not all the conditions were met, yet the agreements were still entered into, which in our view calls into question the legality of the decision-making of the officers further to their delegated powers.
32. The Cabinet also approved the recommendation to enter into a joint venture agreement for the development subject to certain conditions. The Director of Regeneration, Enterprise & Planning was given delegated authority to enter into legal arrangements subject to certain pre-conditions. These pre-conditions were not fully met, yet still the Council entered into the arrangements. In the event, the land involved was not transferred from the Council, but that was despite the Council's actions rather than because of them.
33. Following the approval in principle, NTFC developed a number of business and financial models of the redevelopment of the Sixfields Stadium and for a hotel on the Sixfields site. The earliest version of these models was not received by the Council until August 2013, the month after Cabinet approval.
34. Each variation of the business and financial model was reviewed by the then Director of Finance/Section 151 Officer and LGSS Finance. The Council confirmed to us that the NTFC business plans were assessed via face to face meetings with the Director of Finance/Section 151 Officer and Chief Executive at NTFC. Updated business plans were provided afterwards via email and the Council confirmed that the Director of Finance/Section 151 Officer and a colleague from LGSS Finance challenged each iteration of the business plan and agreed it with NTFC.
35. There was, in KPMG's view, inadequate assessment by the then Director of Finance /S151 Officer of whether the work would generate assets that would be capable of being refinanced by NTFC at a later stage in order to repay the loans to the Council.

36. The then Chief Executive authorised loans totalling £13.5m which was in excess of the £12m quoted in the paper that was approved in principle by Cabinet. The Council advanced a further £1.5m for the stadium in April 2014 with inadequate due diligence undertaken by the then Director of Finance/Section 151 Officer as to why this extra money was needed nor what the previous £4.5m that had been loaned to NTFC up to that point had actually been spent on. The Director of Finance/Section 151 Officer fell short, in KPMG's view, of his duty to protect the financial interests of the Council (and its taxpayers/residents).
37. As stated, in the original 17 July 2013 Cabinet report, reference was made to loan finance of "up to £12m". Officers sought legal advice from LGSS which determined that although the background in the report referred to "up to £12m", since the recorded decision did not reference a specific figure additional Cabinet approval was not required and entering into facility agreements for up to £13.5m was in line with the existing decision. In KPMG's view this advice was incorrect, the decision went beyond the delegated authority and was therefore unlawful. Legality aside, it would in any event have been good practice and for the purposes of transparency and openness to obtain further Cabinet approval for the additional monies intended to be lent as this was a significant sum in excess of the £12m mentioned in the 17 July 2013 report.
38. The minutes of the Cabinet meeting on the 17 July 2013 moreover clearly identify that three opposition non-Cabinet Members who attended the Cabinet meeting raised concerns about the approval in principle. However, their concerns were noted as observations and there was no record of the matter being "called in" to the Overview and Scrutiny Committee despite two of the three non-Cabinet Members who raised concerns noting that the matter should be considered by the Committee. No information has been provided which identifies whether these concerns were investigated and then adequately resolved.
39. NBC confirmed that the due diligence undertaken included an assessment of an updated Business Plan and a development appraisal of the land. In addition, NBC confirmed that they had completed a full set of Dunn and Bradstreet searches in respect of the additional sum requested, on 26 March 2014. However, as noted above, in KPMG's view the checks would ideally have been undertaken before the Cabinet decision in principle. From the evidence reviewed, we could not confirm that even post that decision, the Dunn and Bradstreet reports had been subject to detailed discussion or consideration, despite one of the checks flagging a high risk of business failure.
40. NBC confirmed that a full assessment of the income projections was undertaken as part of agreeing the original stadium loan in September 2013. NBC also confirmed that the additional £1.5m loan was covered by the income projections within NTFC's business plan. NBC confirmed that the business plan was subject to a regular review in

meetings held between the Council and NTFC. The updated business plan was assessed by NBC's Director of Finance/Section 151 Officer and the LGSS Finance team. Evidence of meetings held, iterations of the business plan and emails covering the additional £1.5m were provided. The results of the review of the income projections was not however reported to any Committee, as Cabinet had delegated the authority to the Chief Executive, in consultation with the Section 151 Officer and the Leader of the Council, to approve the amounts and terms of any loan finance arrangements. In our view, the results of the income projection review should in all the circumstances have been reported back to Cabinet.

41. Loan security was to be provided from the proceeds arising from the Development Agreement. NBC commissioned an independent CBRE Viability Validation Report which was received on 12 September 2014. This was not reported to any Committee, given the delegated authority in place. Whilst not strictly required, in our view, as a matter of good corporate governance and the significance of the project overall to the authority's finances, this should have at some point been reported back to Cabinet.

Other areas of note

42. The Council was prepared to enter into a conditional agreement to sell land that was projected to generate £110m once it was developed, to a company (CDNL) that was proposed by NTFC, without going through any competitive procurement process. An issue considered below is how this could have been appropriate given the Council's duty under section 123 Local Government Act 1972.
43. There was clear self-interest for NTFC to propose the development company CDNL as they had Directors in common. This is a further issue with regard to legality and financial and corporate governance, which we would have expected the Council to have picked up on and considered the implications.
44. However, the Council continued to advance money to NTFC even when it was obvious that something was seriously wrong. Quite apart from the lack of progress on site, NTFC submitted a revised planning application on 1 August 2014 which significantly reduced the scale of the stadium expansion.
45. The project was championed by the former Leader and, other than the points raised by three non-Cabinet Members attending Cabinet meeting and noted at paragraph 38 above, it appears to have been agreed without having been subject to any robust challenge by his fellow Cabinet Members. None of the other Cabinet Members were even aware that the Paper they approved contained a provision where it was intended that £5m of Council Taxpayers' money loaned to NTFC was not going to be paid back. We were told by some of the officers and Members we interviewed as part of our review that there had been pressure to complete the deal (mainly from the Leader).

46. We have separated our further findings and then conclusions into **Financial, Legal, Regeneration** and **Governance** issues.

Financial issues

47. We have carefully reviewed the evidence as to the due diligence undertaken and sought the view of former officers. Mr Hammons, the former section 151 Officer has provided an explanation of this and given his view that it was sufficient taking into account the circumstances at the time. He has further rightly noted that under the terms of the delegated powers, his role in this particular respect was defined by the level of consultation undertaken with him by the Chief Executive.
48. In KPMG's view, nevertheless, taking into account the significance of the project and the amounts loaned (which were known at the time) there was:
- inadequate assessment by the then Director of Finance (S151 Officer) of whether the financial projections put forward by NTFC were reasonable;
 - inadequate assessment in advance of the loan by the then Director of Finance (S151 Officer) of the security over the loan put forward by NTFC. The Council took a charge on the land on which the stadium is built, but:
 - The Council owned the freehold over the land anyway;
 - The land was and is effectively worthless as long as it was and is used for its current purpose, and it would be very difficult to redevelop the site for alternative use; and
 - as proved when NTFC defaulted on the loan, it was highly improbable that the Council would have been able to realise any value from this security.
49. We were informed by the Council that LGSS had the legal obligation to provide Section 151 services from 1 June 2013. However, the decision as to who to appoint to this role was a matter for the Council. The Chief Executive wanted the Council to formally approve the appointment, so he reported to the Appointments and Appeals Committee on 25 June 2013 and to full Council on 15 July 2013 and obtained formal approval of Glenn Hammons to this role. It is therefore unclear who was the Section 151 officer in the lead up to the Cabinet decision on 17 July 2013 until the appointment of Mr Hammons on 15 July 2013.
50. Mr Hammons therefore became the Section 151 two days before the Cabinet approval in principle was obtained. Mr Hammons has told us that he did not receive a detailed handover from his predecessor Section 151 Officer and was not apprised of any

detailed background in relation to this loan. However, Mr Hammons had been engaging with the Council in relation to the Cabinet report from early July 2013 prior to his formal appointment (including commenting on draft versions of the report and making changes which were included in the final version). By the time he commenced his role as Section 151 Officer it is clear from the documents that he was reasonably well informed. In KPMG's view, even though newly in post given the reasonable knowledge base he already had, he should have ensured either that he obtained in the two days before approval by Cabinet, a sufficient understanding to carry out his senior finance role or he should have sought to defer the decision. Mr Hammons has told us that he was satisfied at the time that he had performed his role effectively in line with his statutory obligations and did not consider that a delay was required.

Legal issues

51. The Council had available to it power under the Part 1 of the Localism Act 2011, namely the General Power of Competence.
52. The main legal advice as to whether the exercise of the power was lawful in the circumstances, was received from LGSS Law on 17 September 2013, the day before the first loan agreement was signed and four days after the Conditional Sale of Land was signed. The provision of loan finance to NTFC to support stadium expansion formally commenced on 18 September 2013 with a facility agreement for £7.5m. This was subsequently followed with an additional facility agreement signed 14 April 2014 for £1.5m and a final facility agreement signed on 23 July 2014 for £4.5m to support the hotel redevelopment. This all came to a total of £13.5m.
53. The external advice also contained advice that it was necessary for the Council to charge NTFC a rate of interest that was higher than that at which the Council borrowed the money, in order to ensure that the loan did not constitute State Aid. In the event, the Council loaned the money at exactly the same rate (i.e. 2.5%) that it had borrowed it from the PWLB, for the stadium development. In respect of the £4.5m Hotel facility agreement made on 23 July 2014, this was at an assumed interest rate of 4.1%. See Appendix A for KPMG's views on State Aid.
54. As part of the project, the Council was to enter into an arrangement with a third party to sell a piece of land adjacent to the stadium (this is described more fully under Regeneration, below). The intention was that part of the receipt from the third party would be used to reduce the amount to be repaid by NTFC. At the outset this was intended to be £5m, which in our view, was a decision that, on public law and State Aid grounds (had the sale gone ahead), would have run a high risk of being unlawful.
55. We have summarised above the conditions set for the exercise of delegated authority in the Background section of this document (at paragraph 8). These are the conditions

by which, in effect, any decision taken under the delegated powers would have had they been satisfied, been lawful.

56. Whilst one of the conditions required of the Chief Executive was satisfied and two conditions could be deemed as being partially satisfied; two were in our view definitely not satisfied. Specifically, these were:

That there was sufficient tangible security. We have concluded, and subsequent independent reviews, reports and events have borne out, that the security provided by NTFC was neither sufficient nor tangible; and

That there were robust contractual arrangements between NTFC and a financially sufficient third party (i.e. a hotel chain). There was no such arrangement.

57. The Council cannot demonstrate that it fully, properly and formally evaluated and considered whether the five conditions placed with the CEO had been met before proceeding to make the loan payments to NTFC. In the event, failure to meet the two conditions mentioned above, for the exercise of delegated authority, in our view, rendered the decisions taken by the officers further to the delegated powers unlawful.
58. Of the three conditions placed on the Director of Regeneration Enterprise & Planning, in KPMG's view two were satisfied but one was not – namely and specifically *“that the Council should not be exposed to any risk of financial loss or liability from its participation within the JV agreement.”* As a result of the JV partner (the developer, CDNL) being liquidated, the Council has incurred significant cost in ensuring that it still has control of the land and it has meant that the land has not been developed (which means that the Council has still not realised any financial benefit from the development). In KPMG's view, the Director of Regeneration Enterprise & Planning should have been able to foresee the risk of the Council being exposed to financial loss or liability, and should have mitigated that risk accordingly. Thus, again failure to meet a condition for the exercise of delegated authority, in our view, rendered the decisions taken by that officer further to the delegated powers unlawful.
59. Whilst Cabinet in principle approved the decision to loan up to £12m to NTFC, the Council subsequently entered into loan agreements totalling £13.5m. This happened because NTFC reported to the Council that costs for the stadium development were higher than anticipated and that they needed additional finance. The Council's officers (and especially the then Section 151 Officer) and Cabinet made inadequate attempts to validate this assertion or any impact it might have on the project overall, and instead went ahead and loaned an additional £1.5m to NTFC. It is KPMG's view that although the Cabinet delegated authority to the Chief Executive to *“approve the amounts and terms of any loan...”* this was subject to the overall limit of up to £12m quoted in the report and in our view it is unreasonable to interpret this as being given authority to

approve any size loan. £1.5m extra is a significant increase (a 12.5% increase) and the reasonable course of action should have been to update the Cabinet on the decision as soon as practicable and the extension should have been subject to due governance and Cabinet should have been asked to approve this additional amount. So, in this respect, and notwithstanding the legal advice obtained from LGSS Law (see paragraph 37 above), and the fact that the Council actually lent less than the original £12m stated (i.e. £10.25m), we have concluded that in KPMG's view the Chief Executive exceeded his authority. This, in KPMG's view, rendered the decision to loan the additional funds unlawful.

Regeneration and Planning issues

Conditional sale of land

60. As part of the project, the Council entered into a conditional agreement to sell a large parcel of land adjacent to the Sixfields Stadium to a company (CDNL) which would develop the land for housing. The land comprised two areas: one which had always been owned by the Council (mostly the Athletics track – which NTFC had a long leasehold interest in) and one which the Council purchased from the Homes and Communities Agency (for £1) for the purpose of this project. If it had worked as intended, CDNL would have paid the Council an initial £5m from the proceeds of sale, which the Council would then have applied to reduce the loan balance outstanding from NTFC, with further “overage” payments of 50% of the sales value, if this were to exceed £110m. The officers of the Council believed at the time that this reduction (the £5m) was necessary and normal in such deals to ensure the agreement was financially acceptable to NTFC. We can see no such need for the Council to make such a payment on what was already a very favourable loan to NTFC, and when in fact NTFC had not really been able to demonstrate that it was a viable going concern when it applied for the loan. NTFC's accounts for the years ending June 2009, 2010, 2011 and 2012 all included an emphasis of matter about the existence of a material uncertainty that cast doubt on the company's ability to continue as a going concern - something the Council's due diligence, such as it was, singularly failed to appropriately pick up, report and act upon.
61. The conditions in the agreement were principally related to achievement of a satisfactory planning permission and the timescale in which that was achieved. However, the sale did not proceed because the conditions were not met.
62. The process which councils must follow when they sell land assets are set out in the Local Government Act 1972 section 123. Under case law interpreting this provision, a council/local authority will only have complied with its duties to its residents and protecting the public purse if it has (i) taken proper advice; (ii) followed that advice for reasons that can be justified; and (iii) not followed advice that was so plainly

erroneous that in accepting it the local authority must have known, or at least ought to have known, that it was acting unreasonably. Principal among the requirements is that the Council must achieve best consideration (which can include non-monetary factors). The obvious way of doing this is to go through some kind of competitive process to identify the developer. In this case, the development company was proposed by the officers of NTFC and it would appear that at the time the Council's officers, using their delegated authority, accepted the recommendation without question. In the Cabinet Report of 17 July 2013, reference to 'a developer' was made, however CDNL or its relationship to the owners of NTFC was not. We consider this was inadequate, and the Council's view that this does not matter because the sale did not go through is irrelevant because the Council did enter into a conditional agreement to sell and all the conditions could have been met without resolving this fundamental problem.

63. The company with which the Council entered into the conditional sale agreement was CDNL, whose Directors included David Cardoza and Anthony Cardoza. David Cardoza and Anthony Cardoza were also Directors of NTFC (Barry Hancock, Andrew Clarke, David Jackson and David Linnell were also Directors of NTFC during the period when the loan was negotiated and made) and who therefore stood to gain both through the proceeds of the development (to CDNL) and the £5m from the Council that would be used to reduce the debt owed by NTFC.

Planning approvals

64. The Council continued to advance money to NTFC even when it became clear that something was already fundamentally wrong with this project. Notwithstanding the lack of progress on site, NTFC submitted a revised planning application on 1 August 2014 which significantly reduced the scale of the stadium expansion. By this stage the Council had already advanced £7.5m for the stadium development and it subsequently advanced a further £1.5m on 19 August 2014 despite knowing that the proposed development had changed fundamentally. NTFC's original planning application, submitted in November 2013, was to increase capacity by 2,347 seats and add a conference facility, but their revised application reduced that to just an additional 422 seats and no conference facility.

Governance issues

65. Whilst we have concluded that there were failings by Officers of the Council in their duties, we have also concluded that, in light of the lack of objections raised, most of the then Cabinet Members failed to provide adequate governance.
66. However, the in principle decision to approve the loan to NTFC was a Cabinet decision.

67. All of the then Cabinet Members mentioned above stated that they were not aware that the report they approved (see paragraph 45) contained a provision where it was intended that £5m of Council Taxpayers' loaned money to NTFC was not going to be paid back, and which the LGSS lawyer subsequently referred as "a gift to NTFC". Whilst in terms of their duties, officers should inform Members if there were significant, unlawful or questionable issues, for an issue as significant as this we would expect Members to be more proactive than they were, in asking questions.
68. With regard to the former Leader, it is clear that he drove forward a number of projects that have benefited the Town. In this case however, the outcomes for the Council were poor and the basis for driving this forward insufficient.
69. The Leader led the Council's side of discussions with NTFC and many of these discussions were not minuted and not attended by any other Council representative. This resulted in a series of phone calls, texts and emails (on some occasions from a personal email account) from the former Leader instructing officers to take actions as he negotiated the Council's position. For instance, the project was still being changed significantly by NTFC in the run-up to the Cabinet meeting on 17 July 2013. A draft version of the 17 July 2013 Cabinet report, which was dated 7 July 2013 states that the loan was to be for £10m to NTFC (and £2.5m to the Rugby Club), but this was then changed to up to £12m to NTFC following a meeting between the then Leader of the Council and NTFC (also the loan to the Rugby Club had doubled to £5m by the time the report was finalised). Following our various interviews of Council Members, officers, and review of reports, we have seen no clear evidence to explain why the amount increased or that the Council considered the impact of the increase on, for example, the viability of the project or the security required.

Conclusions

70. We have identified what in KPMG's view are serious failings in the Council's arrangements when deciding to and subsequently making the loan to NTFC. In coming to our view that we should, acting proportionately, issue a public interest report under Schedule 7 of the Act, we have taken into account the NAO's guidance, including the loan made in the context of the Council (for reference, audit materiality for 2015/16 was £2.7m), and the Council's acceptance in discussions with us that its arrangements in relation to the loan fell short of the required standard in a number of respects, and that it has commissioned a complete review of Governance Arrangements in order to address the shortcomings. Whilst the Council has provided written assurances that it would include our report in the public domain on the agenda of its Audit Committee and its Full Council meeting, we consider it should be brought to the attention of the Council and the public by our issuing a public interest report further to our formal statutory powers. As a result, not only does the report itself need

to be publicised but there then needs to be a full Council meeting at which it is considered, and the Council's response also published.

71. In conclusion, this whole episode demonstrates poor decision making based on inadequate reports leading to public money being lost, and demonstrates the need for careful thought, structure, independent advice and monitoring in making such decisions on a transaction which was significant and unusual. There was a near complete lack of an approved business case, appropriate independent advice and documented risk management and proper governance process followed. Documents presented to Members for decision making purposes and records of decisions taken by officers were deficient. This is further demonstrated by the significant time taken by the Council in retrospectively gathering and providing information and evidence to us, which in itself points to inadequate governance, poor risk and poor performance management. Similarly, the fact that thousands of emails and sources of evidence had to be provided to us to attempt to demonstrate proper governance procedures were followed demonstrates the lack of ownership and the lack of an adequate control of the process.

Recommendations

72. Whilst carrying out our review, we have identified areas for improvement in the Council's arrangements, particularly in relation to procedures and practices across the Council. The Council has taken some steps to address a number of these areas already, but we include all recommendations here for completeness. Our recommendations to address these areas are set out in Appendix B. As noted at the start of this report, the Council is required to consider this report at a public meeting within one month, decide what action to take in response and publish a summary of that decision.



KPMG LLP

Appendix A

State Aid Analysis

Summary

1. In our view, if all the positive statements in the 17 July 2013 Cabinet Report had been followed up and substantiated/corroborated, a number of State Aid issues would have fallen away e.g. adequate security over the loan (such as by way of legal charges on NTFC's assets); concrete understanding that the loan was repayable in full; and substantiated income projections from NTFC's revenues (due to expansion of their stadium provision etc.) to service the debt. There would also likely have been no failure of the loan arrangements and so no external scrutiny.
2. However, in our view these would still not overcome the legal assessment that the loan was either State Aid or so very close to it so as to warrant an in-depth assessment. The terms of the loan either required amendment to reflect what NTFC would have been able to secure in the commercial market and that it was, in fact, a repayable loan or a robust legal case made out that either the loan would have no distortive effect on intra-EU trade with a purely local impact. There was also the possibility of delaying the loan to ascertain if it could be structured in such a way to fit in with a future European Commission ("EC") exemption for sport infrastructure which was being consulted on at the time.
3. None of these possibilities were pursued despite red flags being raised, particularly about the preferential loan terms and the need for a more in-depth analysis of State Aid issues by LGSS during summer 2013. If NBC did have policy procedures in place to consider State Aid compliance, it seems that not nearly enough time was allocated to it on this occasion. The brief trail of legal advice ends almost as soon as it starts as the lawyers run up against an escalated timeframe to sign the loan agreement.
4. The only other route open to NBC in September 2013 would have been to seek approval from the EC that the loan arrangements constituted lawful State Aid. A case could certainly have been made out for this with a fully worked-up impact assessment regarding the wide benefits which would accrue to the area. This could have covered improved sporting/leisure facilities shared across professional and non-professional clubs and other local sports organisations; public health benefits from increased engagement in sports; regeneration of the Waterside Enterprise Zone; job creation; related sports and other tourism, and monitoring mechanisms for ensuring that the loan was applied for the purposes for which it would be given (and that NBC would be receiving some form of compensation and other tangible benefits such as increased asset values).

5. In our assessment of NBC's actions as set out above, there is an apparent dearth of detail that would be expected and required to make out any of these compliance routes above.

Detailed analysis

6. *Is there State Aid?*

- 6.1 Re: the initial loan:

6.1.1 There does not seem to have been a competitive process for the various works – this could have dealt with the possibility that the end developer was also benefitting from State resources (flowing down from the original loan to NTFC) and thus that there was State Aid at that level too which likely should have been identified and dealt with adequately. This was flagged by LGSS on 18 September 2013 and would have been a necessary process to avoid the threat of unlawful State Aid and, if the loan had been delayed, for it to benefit as structured from the sport infrastructure exemption introduced in June 2014.

6.1.2 Article 107(1) Treaty on the Functioning of the European Union (TFEU) sets out the criteria for the existence of State Aid which must then either comply with the State Aid rules (e.g. fit into an exemption or aid scheme as authorised by the EC) or be approved individually by the EC before any aid is given. The criteria are cumulative. We paraphrase the criteria in context below as they become relevant.

6.1.3 The loan is without doubt from State resources (a PWLB item sitting on NBC's balance sheet) and confers an economic benefit on NTFC. There are however a number of levels of potential benefit (NTFC, the developers, any concession holders/operators exploiting the funded infrastructure to generate revenue for end users) as the funds flow down. These entities are all involved in 'economic activities' under the State Aid rules. The EC is clear that "exploitation of a sport infrastructure used by a professional sport club" (*Hungary C (2011) 7287*) is economic activity and financing by the State is subject to State Aid controls.

6.1.4 Whether this is "aid" here (a pecuniary advantage of some sort) depends on the terms of the loan. If it was provided by NBC under normal market conditions for example, there would be no element of "aid". The Cabinet Report seems to confirm that the loan is to be repaid in the shortest time possible. However the PWLB interest rate is passed on to NTFC without any added margin and so is considered to be lower than what NTFC could have secured under normal market conditions and so is a preference (or "aid") to a specific organisation(s). Low(er) interest rates can be permissible under the State Aid rules where other terms are adjusted e.g. by reference to workers' wages but there is no indication of that here. Plus, we would not have expected 100% funding

to be made available either but up to a percentage of the overall upgrade costs. Amendments to the loan agreement interest rate terms were made very close to signing of the agreement in September 2013 but these were, in our view, very much attempts to mitigate a problem should it arise and would not have been effective to avoid a risk of unlawful State Aid. The Council has also told us that the recitals to the facility agreements included that money will only be provided at PWLB rates if it is lawful to do so, and that the £5m proceeds would only be applied in part satisfaction of the amounts outstanding under the agreement subject to State Aid clearance. The Council's view is that the State Aid risk was therefore covered off in the agreements. However, the inclusion of this wording would not, in our view, render the loan lawful unless the Council did then analyse and ascertain whether it was lawful before providing the loan, which was not the case.

- 6.1.5 As mentioned above, all elements of State Aid need to be met before it can be determined that there is "State Aid". The key question (from our assessment) is the final criterion as to whether there is any potentially distortive effect on intra-EU trade. The threshold for this has been very low over the decades of State Aid case law (to ensure the efficacy of the regime) however there have been a few more recent cases where purely local "aid" has been held not to have a potentially distortive effect. We understand that NTFC does not (and has not generally) engaged in EU or other international tournaments. Therefore, with some modifications extolling the eventual public benefit and non-selective advantages of a burgeoning sports 'programme' to many sports clubs and organisations in the area (beyond football), NBC might have been able to make out a convincing case that the loan was not State Aid at all as there was no distortion of EU trade. (LGSS did refer to discounting 'aid' in this way in their brief advice note but it seems this option was not pursued.) With enough verifiable substance to this claim, NBC could have properly recorded its considerations and conclusions that the elements of State Aid were not met.
- 6.1.6 Beyond this, the appropriate consideration is the available exemptions or an individual application to the EC. Whilst sporting interests are promoted within TFEU generally for their social and educational function (Art.165), there are no State Aid sectoral guidelines for sport. LGSS did flag the possibility of a future exemption for investment in sport infrastructure which was being consulted on by the EC in 2013. This exemption was eventually introduced in June 2014 so some time after the loan agreement was signed and so could not have been relied upon ex ante by NBC in September 2013.
- 6.1.7 NBC could however have bided its time and ensured that the loan did fit within the exemption. However, the exemption is not for aid to individual clubs or non-sports related land development e.g. retail and hotels and so the purpose and scope of the loan and what it would eventually facilitate would have needed to have been expanded significantly. The criteria for the sports' infrastructure investment

exemption require 20% usage and access by third parties, application of future receipts back to the State and, crucially, the running of a public procurement process to appoint any developer. There was apparently no subsequent follow-up by NBC (with LGSS for example) to even try to 'retrofit' with the new exemption.

- 6.1.8 The only other elements of previous exemptions which might have been considered in September 2013 were those relating to employment, training and regional aid. Successful arguments from case law relating to sport infrastructure could also have been considered as part of a direct application to the EC. Our view is that this latter route would have been very difficult to do successfully as the loan was clearly benefitting certain companies (not a non-discriminatory swathe of sporting organisations and clubs in Northampton) and eventual claimed public benefits seemed intangible and far off.
- 6.2 Re: the £5m applied to NTFC's debt:
- 6.2.1 The sale of the land adjacent to the Sixfields site did not actually go ahead and therefore no money was applied to reduce NTFC's debt. Thus, from a State Aid perspective no State resources have therefore been used for NTFC's benefit, so no State Aid issues, in the event, arise. The Council has said that this issue is therefore academic and that, as noted above at paragraph 6.1.4, the issue was adequately covered in the facility agreements by the inclusion of wording in the recitals that the £5m was subject to state aid clearance. However, we have seen no evidence to support the view that State Aid was a real concern for NBC.
- 6.2.2 If the £5m had been applied as outlined, in our view this on the face of it would have run a high risk of being unlawful aid as there seems to be no rational benefit to NBC (and the public purse in general) to reduce NTFC's debt in this way. NTFC was about to (or had already) benefitted from a significant favourable loan from NBC and NBC had yet to reap any of the supposed benefits. This would have been quite simply the application of public funds to pay off the loan of a private company.
- 6.2.3 Whilst also a moot point if the sale did not proceed, there is doubt that NBC was seeking best value for the land disposal (cf. the NBC Cabinet Report refers to "nominal initial value of the freehold interest"). A sale at an undervalue can also constitute unlawful State Aid to the recipient of the asset if it is purchasing at a lower cost than would be the case in a commercial transaction. Here we would have expected a competitive public auction process or independent financial valuation.
7. *What processes should NBC have followed to assure itself of the potential State Aid angle before the loan was made? What should have happened after?*

- 7.1 We would have expected to see a fully worked up business case (as is usual for applying for public funds/loans/grants etc.) and a detailed economic impact assessment (including some form of adequate benchmarking to limit any perceived advantages to NTFC). Finally we would have expected NBC to seek a targeted, independent legal opinion on the State Aid aspects including risk assessments of the various options for forms of the loan. Then we would have expected NBC to come up with a State Aid compliant solution.
- 7.2 In terms of post-loan monitoring, we would have expected to see a robust, frequent monitoring mechanism in place to keep tabs on compliance with the terms of the loan or cross-subsidisation. Given the value in this case dispensed at a local level, and the possibility that the loan might take over 10 years to pay back, we would expect significant monitoring by NBC lasting the entire duration of the loan facility. There is no apparent 'higher public authority' involvement in the arrangement of this loan. We would have expected this particularly if it had been determined this was State Aid with back-to-back monitoring at all levels of benefit (NTFC, the developers, any other corporate beneficiaries).
- 7.3 We would also expect there to be transparent, separate accounts; details of the loan on both NBC's and NTFC's websites and details as to planned usage for public benefit and not its exclusive use e.g. making the stadium available to local schools for sports purposes or to the local community more widely for non-sport purposes. Beneficiaries of State resources should be incentivised to make available realistic plans as to what they are using the funds towards, addressing real and well-researched needs.

Appendix B

Recommendations

Recommendation	Response
<p>Recommendation 1 – Closing Cabinet Actions</p> <p>For the purposes of transparency and openness further approval should be sought from Cabinet for any additional monies, or any variations in the loan value that are subsequently agreed in respect of any loan decisions.</p> <p>In respect of concerns raised by Members, good governance practice would determine that these should be recorded as issues to be addressed by management. The outcome of these investigations should be supplied to Members at the following meeting to provide assurance that the concerns have been suitably addressed.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 2 – Completion of Delegated Conditions</p> <p>As part of good governance practice, the Cabinet should ensure that where conditions are placed on those with delegated powers, that there is a reporting mechanism in place whereby the results of the work undertaken by these individuals, including any results of further investigations, or decisions taken, is summarised in a report back to Cabinet to provide assurance that their requirements have been discharged.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 3 – Provision of Business Cases for External Loans</p> <p>Where Cabinet are required to make any future loan decisions, they should do so following receipt of a detailed business plan, which is accompanied by full due diligence, to support the decision-making process.</p> <p>This should include a clear and independent assessment of whether the work to be undertaken will cost the amount to be loaned. Additionally, any profiles of future income projections should also have been challenged and agreed, prior to being presented to Members.</p>	<p>Response and Due date for implementation</p>

Recommendation	Response
<p>Recommendation 4 – Depth of Due Diligence</p> <p>Reports to Cabinet for key decisions, should clearly include the results of the due diligence that has been undertaken by management, prior to the decision being undertaken.</p> <p>No activities of these significance should be delivered by senior officers in the name of Cabinet or Council, without the results of these activities being clearly reported to members.</p> <p>Where any future complex loan agreement includes the potential to receive monies back from say development or other activities associated with the loan agreement, this should be clearly reported to Cabinet or Council, to ensure that there is full disclosure of the arrangements to be put in place, thereby ensuring that the decision taken by Members is based on all available evidence concerning public funds.</p> <p>Any changes in the value or use of public funds should be reported back to Cabinet for transparency purposes.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 5 – Evidencing Decisions Taken</p> <p>Where legal or other professional advice is received, it would be both prudent and transparent for senior managers to produce a report containing the recommendations made by these advisers and how each recommendation has been assessed by the Council and how it has, or has not impacted on the final decision made. This report should sit above any supporting evidence via emails or minutes of meetings / conference calls.</p>	<p>Response and Due date for implementation</p>

Recommendation	Response
<p>Recommendation 6 – Reporting the Outcomes of Due Diligence</p> <p>The Council should prepare a summary report which concludes on the due diligence review undertaken into the finances, structure and ownership of any organisation it is intending on supporting with loan finance. The purpose of the report would be to discharge the duties of those given delegated authority and for transparency purposes the report should be presented to Cabinet.</p> <p>This should support the report prepared on any legal advice / recommendations that have been received.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 7 – Timeliness of Due Diligence Checks</p> <p>As part of entering into any key contract or business loan, the Council should undertake a thorough assessment of the personal / business interests of those charged with running the organisations, as well as completing due diligence on the finances of the organisation as a whole (see recommendation 6 above). These checks should be completed prior to any decision making and the results should be incorporated within the Council's business case.</p> <p>Where there are additional third parties, such as developers or contactors which will be employed by the loan recipient, the Council should include either its own due diligence on these additional organisations, or request the outcome of the loan recipient's due diligence, alongside the evidence of competitive tender to support a transparent approach to appointment.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 8 – Pressures within the sign off process</p> <p>The Council should ensure that officers are aware that if new information comes to light before or after a Member decision, that it may be appropriate to pause a process in order to seek further guidance.</p>	<p>Response and Due date for implementation</p>

Recommendation	Response
<p>Recommendation 9 – Overall Governance Process and link to Constitution</p> <p>The Council should review the procedures and guidance available to officers when considering the information to be provided to Cabinet and/or Committees in respect of loans made to third parties.</p> <p>This should include a clear stage by stage process, whereby evidence / reports should be prepared, reviewed and formally approved, and prior to moving to the next stage.</p> <p>Additionally, once the loan has been awarded there should be a transparent process for monitoring the recipient organisation and obtaining evidence to support that the loan is being used for the appropriate purpose. Periodic reports should be made to Council / Cabinet to summarise progress by the recipient. If at any point the recipient is not able to demonstrate progress, then no further payments should be made.</p>	<p>Response and Due date for implementation</p>
<p>Recommendation 10 – Sale of Land for Development</p> <p>Any future land sales should, other than in exceptional circumstances and where the law allows, be undertaken via means of a competitive process, in order that prospective parties are able to tender for the purchase, by submitting their plans for development. Each bid should be appropriately appraised, and consideration should be given to any relationships either with Council Members or related parties as part of the awarding process.</p> <p>The ultimate decision on who to award the sale to, should in a matter of this significance be undertaken by Cabinet following receipt of a formal tender evaluation process, which includes the results of the due diligence undertaken against each bid. When considering best value for the land, the Council may (in limited circumstances and subject to the particular facts) be able to take into account ethical considerations.</p>	<p>Response and Due date for implementation</p>

Draft Action Plan in Response to the Report in The Public Interest

A) All recommendations are accepted

B) Recommendations R1 to R10 are recommendations from the *The Report in the Public Interest*

<p>Recommendation 1 - Closing Cabinet Actions</p> <p>For the purposes of transparency and openness further approval should be sought from Cabinet for any additional monies, or any variations in the loan value that are subsequently agreed in respect of any loan decisions.</p> <p>In respect of concerns raised by Members, good governance practice would determine that these should be recorded as issues to be addressed by management. The outcome of these investigations should be supplied to Members at the following meeting to provide assurance that the concerns have been suitably addressed.</p>
<p>Portfolio Holder accountability:</p>

Action	Deadline	Accountability
R1.1 Review the Council’s policy in respect of loan agreements and associated amendments to loan agreements		
R1.2 Review the policy and process in respect of Member concerns raised at Cabinet meetings and associated feedback to Cabinet and Members raising concerns		
R1.3 Review the function and effectiveness of Overview and Scrutiny		
R1.4 A process will be documented to detail what should be included in reports to Cabinet with respect to loan decisions. This will include the considerations to be made where a request for additional monies over and above the original amount are to be agreed.		
R1.5 Full training on Cabinet decisions will be given to Councillors on the information they should expect to be presented to ensure openness and transparency when asked to make decisions on variations to loan values.		
R1.6 Concerns raised as part of the Cabinet decision process will be recorded and addressed by management. Follow up and actions on the issues raised will be supplied to members once resolved.		

Recommendation 2 – Completion of Delegated Conditions

As part of good governance practice, the Cabinet should ensure that where conditions are placed on those with delegated powers, that there is a reporting mechanism in place whereby the results of the work undertaken by these individuals, including any results of further investigations, or decisions taken, is summarised in a report back to Cabinet to provide assurance that their requirements have been discharged.

Portfolio Holder accountability:

Action	Deadline	Accountability
R2.1 Review constitution and delegations (Legal and Financial)		
R2.2 As part of the process to be documented for Cabinet members in respect of decision making, the delegated powers will be recorded per decision and will be updated to show what work has been undertaken, the actual results against expected results and the reason for any deviation from the agreed actions.		

Recommendation 3 – Provision of Business Cases for External Loans

Where Cabinet are required to make any future loan decisions, they should do so following receipt of a detailed business plan, which is accompanied by full due diligence, to support the decision-making process.

This should include a clear and independent assessment of whether the work to be undertaken will cost the amount to be loaned. Additionally, any profiles of future income projections should also have been challenged and agreed, prior to being presented to Members

Portfolio Holder accountability:

Action	Deadline	Accountability
R3.1 Review the NBC Governance Action Plan arising from PWC (internal Audit 2016) recommendations.		
R3.2 Review external loan policy/process to ensure it is fully documented to reflect the necessary use of external resources to ensure full disclosure following due diligence work, based on more recent experiences. This links to 1.1 above		

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Recommendation 4 – Depth of Due Diligence

Reports to Cabinet for key decisions, should clearly include the results of the due diligence that has been undertaken by management, prior to the decision being undertaken.

No activities of these significance should be delivered by senior officers in the name of Cabinet or Council, without the results of these activities being clearly reported to members.

Where any future complex loan agreement includes the potential to receive monies back from say development or other activities associated with the loan agreement, this should be clearly reported to Cabinet or Council, to ensure that there is full disclosure of the arrangements to be put in place, thereby ensuring that the decision taken by Members is based on all available evidence concerning public funds.

Any changes in the value or use of public funds should be reported back to Cabinet for transparency purposes.

Portfolio Holder accountability:

Action	Deadline	Accountability
4.1 Review Cabinet Report process		
4.2 Review external loan policy/process to ensure the documented process includes detail on what information must be presented to Cabinet to ensure full transparency of all activity surrounding the loan and will include due diligence reports, and any recommendations made by external legal or professional advisors. This is linked to 1.1 and 3 above		

Recommendation 5 – Evidencing Decisions Taken

Where legal or other professional advice is received, it would be both prudent and transparent for senior managers to produce a report containing the recommendations made by these advisers and how each recommendation has been assessed by the Council and how it has, or has not impacted on the final decision made. This report should sit above any supporting evidence via emails or minutes of meetings / conference calls.

Portfolio Holder accountability:

Action	Deadline	Accountability
5.1 Review Cabinet Report and decision making process.		
5.2 Review of Finance Business Case requirements to ensure this information must be included with the Cabinet reports as supporting information where decisions are required.		

Recommendation 6 – Reporting the Outcomes of Due Diligence

The Council should prepare a summary report which concludes on the due diligence review undertaken into the finances, structure and ownership of any organisation it is intending on supporting with loan finance. The purpose of the report would be to discharge the duties of those given delegated authority and for transparency purposes the report should be presented to Cabinet.

This should support the report prepared on any legal advice / recommendations that have been received.

Portfolio Holder accountability:

Action	Deadline	Accountability
6.1 Review Cabinet Report and decision making process		
6.2 Review external loan policy/process Business Case requirements to ensure this information regarding the structure and ownership of any organisation must be included with the Cabinet reports as supporting information where decisions are required.		

Recommendation 7 – Timeliness of Due Diligence Checks

As part of entering into any key contract or business loan, the Council should undertake a thorough assessment of the personal / business interests of those charged with running the organisations, as well as completing due diligence on the finances of the organisation as a whole (see recommendation 6 above). These checks should be completed prior to any decision making and the results should be incorporated within the Council’s business case.

Where there are additional third parties, such as developers or contactors which will be employed by the loan recipient, the Council should include either its own due diligence on these additional organisations, or request the outcome of the loan recipient’s due diligence, alongside the evidence of competitive tender to support a transparent approach to appointment.

Portfolio Holder accountability:

Action	Deadline	Accountability
7.1 Review Cabinet Report and decision making process		
7.2 Review external loan policy/process as above		
7.3 A comprehensive process will be developed detailing what due diligence should include and the level of information in relation to personal/business interests and also those of third parties. This information will be included in the business case presented to Cabinet in the first instance to assist the decision-making process for Councillors.		

Recommendation 8 – Pressures within the sign off process

The Council should ensure that officers are aware that if new information comes to light before or after a Member decision, that it may be appropriate to pause a process in order to seek further guidance.

Portfolio Holder accountability:

Action	Deadline	Accountability
8.1 Review of Officer / Member Protocol		
8.2 Review Constitution and Cabinet Report process		
8.3 Additional training will be provided to officers to ensure they understand how to process additional information and ensure they know how to pause processes if required.		

Recommendation 9 – Overall Governance Process and link to Constitution

The Council should review the procedures and guidance available to officers when considering the information to be provided to Cabinet and/or Committees in respect of loans made to third parties.

This should include a clear stage by stage process, whereby evidence / reports should be prepared, reviewed and formally approved, and prior to moving to the next stage.

Additionally, once the loan has been awarded there should be a transparent process for monitoring the recipient organisation and obtaining evidence to support that the loan is being used for the appropriate purpose. Periodic reports should be made to Council / Cabinet to summarise progress by the recipient. If at any point the recipient is not able to demonstrate progress, then no further payments should be made.

Portfolio Holder accountability:

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Action	Deadline	Accountability
9.1 Review of Officer / Member Protocol to ensure roles and expectations are clear		
9.2 Review external loan policy/process, to ensure the process is documented for both Officers and Councillors in respect of information presented to Cabinet for any decisions. The process will include monitoring how any monies that have been loaned are used and compared against the original reason for the loan through reference to the business case. Any deviation from the agreed use will be reported through to management and Cabinet.		
9.3 Review the role of Overview and Scrutiny		

Recommendation 10 – Sale of Land for Development

Any future land sales should, other than in exceptional circumstances and where the law allows, be undertaken via means of a competitive process, in order that prospective parties are able to tender for the purchase, by submitting their plans for development. Each bid should be appropriately appraised, and consideration should be given to any relationships either with Council Members or related parties as part of the awarding process.

The ultimate decision on who to award the sale to, should in a matter of this significance be undertaken by Cabinet following receipt of a formal tender evaluation process, which includes the results of the due diligence undertaken against each bid. When considering best value for the land, the Council may (in limited circumstances and subject to the particular facts) be able to take into account ethical considerations.

Portfolio Holder accountability:

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Action	Deadline	Accountability
10.1 Review Constitution – note that there is no legal obligation to tender land disposals under section 123 Local Government Act 1972. However, in such cases a professionally qualified valuer (or more than one) should provide a valuation report. The Council is unable to take into consideration ethical or moral considerations in determining what is best consideration (<i>Regina v Somerset County Council Ex Parte Fewings and Others: CA 22 Mar 1995 R v Lancashire CC ex p Telegraph Service Stations, The Times, June 25 1988</i>)		
10.2 Review of Asset Disposals strategy, policies and processes		
10.3 A process for the sale of land for development will be developed for Officers to follow. The process for Cabinet reports for Councillors could, where appropriate, include a section for the sale of land for development and will include the steps to consider following the evaluation process.		

Governance Action Plan - Appendix 1

Headline Issue	Governance Action Plan	Progress To Date	Owner	
This action plan addresses each and every one of the eleven recommendations in the PwC report on Sixfields.				
Priority 1 – Risk Management				
a.	Review of all policy and procedures including risk	<ul style="list-style-type: none"> • Review and refresh current risk policy and framework <ul style="list-style-type: none"> ○ Ensuring effectiveness ○ Apply learning from the Internal Audit Report • Review and refresh all related policies and important policies • Risk management training of key officer and member groups • Review schedule for policies and procedures to be devised for 6 monthly/annual and bi annual reviews • Refresh and cascade risk strategy and framework 	<ul style="list-style-type: none"> • Policy and procedures index completed • Policies and procedures index published on the intranet • Review of risk policy and framework underway with the assistance of specialist external support 	<p>Borough Secretary</p> <p>Chief Finance Officer</p>
b.	Embedding of risk within the organisation through training	<ul style="list-style-type: none"> • Review and log all projects currently live and in the pipeline • Carry out in-depth risk, review of high value/high impact projects 	<ul style="list-style-type: none"> • PwC by 25th November 2016 will have assessed the 'As Is' risk management position; undertaken a gap analysis and devising a risk management action plan 	<p>Borough Secretary</p> <p>Chief Finance Officer</p>
c.	Proper reporting of risk through the current governance process	<ul style="list-style-type: none"> • Specialist risk management training to become mandatory for all Officers involved in projects. This to apply to current projects and future projects • Specialist training, workshops arranged and delivered with external and internal resources and in consultation with the Council's internal auditors 	<ul style="list-style-type: none"> <input type="checkbox"/> Northampton Alive project summary with pipelines projects are reviewed monthly for the Northampton Alive programme board <input type="checkbox"/> Re-provision of environmental services risk register reviewed by 25th November 2016 <input type="checkbox"/> Improvement project summary and pipeline projects are reported monthly <input type="checkbox"/> IT project summary with pipeline projects are reviewed bi-monthly by the IT Governance Board <input type="checkbox"/> Audit of Northampton Alive project risk registers underway as the first stage of high value/high impact projects <input type="checkbox"/> Specialist risk training in the process of being commissioned 	
d.	Review of current project risk processes	<ul style="list-style-type: none"> • Risk reporting to be reviewed ensuring that there is an effective cascade of risk through governance arrangements • Refreshed monitoring and tracking process <ul style="list-style-type: none"> ○ i.e. project/service risks may also become a corporate risk 		

		<ul style="list-style-type: none"> Clarity on risk exception reporting process <ul style="list-style-type: none"> Corporate, service and project risks reviewed monthly Establish and embed risk management surgeries 	<ul style="list-style-type: none"> Review of risk policy and framework 	
Priority 2 – Due Diligence (including Loans to Third Parties)				
a.	Review of current loans	<ul style="list-style-type: none"> Review existing loan agreements against lessons learnt identified by PwC 	<ul style="list-style-type: none"> A summary of existing loans and key documentation has been compiled and is in one centralised place All non-committed loans held pending due diligence checks All non-committed loans to comply with checklist Mandatory requirement for legal and financial close down reports implemented 	Chief Finance Officer Borough Secretary
b.	Review of due diligence process and implementation of enhanced due diligence	<ul style="list-style-type: none"> Establish an extensive due diligence compliance checklist for 3rd party loans Establish a due diligence and compliance Manual Review Treasury Management Strategy to ensure it is fit for purpose with regards to 3rd party loans Ensure that all future 3rd party loans are reviewed by an external advisor and that review considered in all decisions before loan is granted 	<ul style="list-style-type: none"> 3rd party loans checklist has been developed and reviewed by the Council's banker Barclays Treasury Management Strategy was updated to reflect 3rd party loans in Feb 2014 and has been refreshed annually. 	Chief Finance Officer Borough Secretary
Priority 3 – Project and Programme Support				
a.	Transfer of programme and project capacity from LGSS to NBC	<ul style="list-style-type: none"> Transfer to be completed on 1st January 2017 	<ul style="list-style-type: none"> Consultation underway Expedite transfer back through TUPE/secondment Reallocation of priorities to due diligence and compliance 	Borough Secretary
b.	Review of Corporate Governance for Programme and Project	<ul style="list-style-type: none"> Develop and implement enhanced Corporate Project and Programme Management framework and arrangements. To include a Corporate Governance & Support Officer Programme Board; Northampton Alive 	<ul style="list-style-type: none"> An enhanced Corporate and Programme management structure has been developed with expert external input Structure implemented with immediate effect 	Borough Secretary

121	Governance	<p>Officer Programme Board and an Efficiency/MTFS Officer Programme Board</p> <ul style="list-style-type: none"> • Increase officer capacity in programme/project governance • Mandatory gateway training for Officers involved in Programmes and Projects • All relevant projects will go through a “gateway” process: <ul style="list-style-type: none"> ○ Categorise and apply rigorous but proportionate methodologies and documentation ○ Requirement for a Project Initiation Document (PID), minuted project /programme meetings and a full risk assessment ○ Programmes/projects will be required to be maintained on central paper records, with clear documented minutes of meetings and professional advice received • Each project/programme will require the completion of a declaration of interests form by each participant (member or officer or advisor) • Mandatory training programme on the Council’s constitution, including contract procedure rules and financial procedure rules for all managers in the authority 	<ul style="list-style-type: none"> • JD and Person Specification for the role of Governance and Risk Manager in the process of being prepared <ul style="list-style-type: none"> ○ Input to be provided by PwC • Increased project support capacity agreed and currently being provided by a temporary staff member • Increased focus of Internal Audit activity on Programme and Project management, currently in the Regeneration area and this to continue for a minimum 3 years • Temporary Recruitment of project staff completed and operational • Transfer back of LGSS project staff currently underway 	
Priority 4 – ISA260 Recommendation Action Plan				
a.	Delivery of ISA260 Action Plan	<ul style="list-style-type: none"> • Implementation Action Plan agreed by Audit Committee on 14th November 2016 	<ul style="list-style-type: none"> • Progress was reported to Audit Committee at its meeting on 14th November 2016 • Further iterations prepared since 14th November 2016 and further action completed • Audit Committee agreed to receive update reports at future meetings 	Chief Finance Officer

Priority 5 – Internal Audit Recommendations				
a.	Review internal audit recommendations	<ul style="list-style-type: none"> Review all internal audit recommendations since June 2013 Assess delivery of all internal audit recommendations since June 2013 where not already delivered. 	<ul style="list-style-type: none"> All PwC audit reports since June 2013 were notified to Audit Committee at its meeting on 14th November 2016 All internal audit recommendations (PwC and LGSS) have been collated and are in the process of being reviewed 	Chief Finance Officer
b.	Improve reporting of internal audit recommendations	<ul style="list-style-type: none"> Improve internal audit reporting to Audit Committee Report progress on delivery of internal audit recommendations to Audit Committee Implement PwC audit recommendation tracking software, TrAction Regular reporting / monitoring to and by management board/audit committee 	<ul style="list-style-type: none"> At Audit Committee on 14th November 2016 reports were presented by both internal audit providers, PwC and LGSS demonstrating enhanced reporting Regular meetings between PwC, LGSS and Finance have been taking place to review audit plans to ensure they complement each other. TrAction internal audit recommendation tracking system has been implemented for all PwC recommendations and rolled out to appropriate staff at NBC LGSS internal audit recommendation have been tracked using their own software since June 2013 	Chief Finance Officer
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Priority 6 – Effective Decisions – Cabinet Clearance Process				
a.	Call over process	<ul style="list-style-type: none"> Revise and cascade changes to the call over process Evaluation period and process for the new arrangements Deliver training on standards requirements Deliver training on Equality Impact Assessments 	<ul style="list-style-type: none"> Call over process reviewed Two stage Call Over Process implemented with Management Board oversight of standards and content of reports Deadlines published on the intranet to assist Officers 	Chief Executive
b.	Outline of process			
c.	Report writing guide	<ul style="list-style-type: none"> Provide better Cabinet clearance report guidance Requirement for “frontloading” of full information at the Cabinet clearance stage 	<ul style="list-style-type: none"> Initial Cabinet report writing guide developed and issued More comprehensive guide addressing compliance issues to be developed and issued 	

			<ul style="list-style-type: none"> • Focus on compliance 	
d.	Cabinet clearance	<ul style="list-style-type: none"> • Review process for formal clearance • Review and refresh clearance process • Basic guidelines on Cabinet process circulated • Clearance subject to compliance with final Council business case • Reports to contain adequate and evidenced information to support decision needed • Requirement for regularly reporting back to cabinet on significant projects • Relevant decisions to have mandatory and financial business models produced by the Council 	<ul style="list-style-type: none"> • Cabinet report writing guide published and implemented to include issues raised in 6 d and e. • Recommendations in the PwC report on Sixfields, implemented and enforced immediately by statutory officers 	Borough Secretary Chief Finance Officer
e.	Report compliance	<ul style="list-style-type: none"> • Monitoring of Cabinet decisions, implementation and compliance, including delegated decisions. To include regular reporting to the Leader and Audit Committee. 	<ul style="list-style-type: none"> • 	
123	Priority 7 - Governance			
a.	Corporate Governance review	<ul style="list-style-type: none"> • Carry out fundamental review of all current NBC governance arrangements against the CIPFA/SOLACE 2016 standard <ul style="list-style-type: none"> ○ Full gap analysis and action plan to address any identified weaknesses ○ Update the local code with annual reporting against the Code to Audit Committee 	<ul style="list-style-type: none"> • Initial advice given by external expert • Review to be undertaken as a defined project • Scope, timelines and identification of resources for the review in the process of being prepared 	Borough Secretary Management Board
b.	CIPFA/Solace External Validation	<ul style="list-style-type: none"> ○ External validation support of progress against the standard 	Accreditation assurance options being actively considered	Chief Executive
Priority 8 – Financial Governance				
a.	Improve Purchase Order Process	<ul style="list-style-type: none"> • Communicate importance of raising purchase orders with budget managers • Enhance reporting of non-compliant 	<ul style="list-style-type: none"> • Finance team have communicated with all managers the benefits to financial governance and management of purchase 	Chief Finance Officer

		<p>purchase orders to Management Board, Directorate Management Teams and Service Management Teams by improving dashboard</p> <ul style="list-style-type: none"> • Write to suppliers to inform them they must request an order number for any NBC work • Review system controls and implement improvements 	<p>order, including training on the process through monthly meeting with budget managers.</p> <ul style="list-style-type: none"> • Monthly reporting of non-compliant purchase order is now part of the financial dashboard reported at management teams throughout the Council. • A letter to suppliers has been drafted. 	
b.	Review and improve reserves drawdown process	<ul style="list-style-type: none"> • Review the reserves drawdown process • Improve compliance • Improve reporting 	<ul style="list-style-type: none"> • Reserves drawdown form has been updated to include enhanced signed off • All reserve drawdowns are reported to Management Board as part of monthly financial dashboard • Quarterly Finance reports to Cabinet include a list of reserves drawdowns 	Chief Finance Officer
c.	Review and improve supplementary estimate process	<ul style="list-style-type: none"> • Review the supplementary process • Improve compliance • Improve reporting 	<ul style="list-style-type: none"> • Supplementary estimate process has been reviewed • A new supplementary estimate form has been introduced 	Chief Finance Officer
d.	Review and improve virement process	<ul style="list-style-type: none"> • Review virement process • Improve compliance • Improve reporting 	<ul style="list-style-type: none"> • Virement process is currently under review • Reviewed 	Chief Finance Officer
e.	Improve management of capital programme	<ul style="list-style-type: none"> • Establish a gateway process for progressing schemes through each stage of their capital programme lifecycle 	<ul style="list-style-type: none"> • Gateway approach in process of development as part of budget planning work for 2017/18 	Chief Finance Officer
f.	Raise financial awareness	<ul style="list-style-type: none"> • Mandatory training covering all aspects of financial management • Tailored training for specific staff depending upon requirements of role (budget management, business cases/plans, financial administration) • Establish approach to validate/evidence learning 	<ul style="list-style-type: none"> • Training material in process of being developed. 	Chief Finance Officer
Priority 9 - Miscellaneous				
a.	Whistleblowing	<ul style="list-style-type: none"> • Effective Whistleblowing arrangements 	<ul style="list-style-type: none"> • The current Whistleblowing Policy has been reviewed and uploaded on the 	Borough Secretary

			<p>intranet.</p> <ul style="list-style-type: none"> • Consideration being given to provide external whistleblowing reporting • Consideration being given to increase the profile of Whistleblowing 	
b.	Officer & Member hospitality	<ul style="list-style-type: none"> • Review policy and guidance • Publish guidance 	<ul style="list-style-type: none"> • Review of guidance currently underway • Compliance audit to be undertaken as part of the next internal Audit Plan • Regular Reporting to Standards Committee • Training on register currently being delivered to members • Training planned for Council Officers • Written guidance on registering interests being prepared for Officers and members 	Borough Secretary
c.	Cabinet process	<ul style="list-style-type: none"> • Review Cabinet clearance process • Identify risks from lack of compliance • Report writing Guide and compliance standards 	<ul style="list-style-type: none"> • Standards in place and adhered to • Financial clearing process in place • Timely reporting meeting legal requirement 	Chief Executive

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