

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest because it affects my financial position or the financial position of a person or body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or any person or body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/> <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but it relates to the functions of my Council in respect of: (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease. (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends. (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay. (iv) An allowance, payment or indemnity given to Members (v) Any ceremonial honour given to Members (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies.	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

'disclosable pecuniary interest' (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest

Employment, office, trade, profession or vocation

Sponsorship

Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;

"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI; "relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

'a connected person' means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

'body exercising functions of a public nature' means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

COUNCIL

HELD: 17 OCTOBER 2012

Start: 7.30 p.m.

Finish: 10.45 p.m.

PRESENT

Councillor Greenall(Mayor)
Ashcroft(Deputy Mayor)

Councillors	Aldridge	J. Hodson
	Mrs Atherley	L. Hodson
	Bailey	Mrs Hopley
	Baldock	Mrs Houlgrave
	Baybutt	G Jones
	Bell	Kay
	Mrs Blake	Mrs Kean
	Blane	McKay
	Cheetham	Ms Melling
	Cropper	Moran
	Davis	Nolan
	Delaney	Oliver
	Dereli	O'Toole
	Mrs C Evans	Owen
	Mrs R Evans	Owens
	Fillis	Pendleton
	Forshaw	Pope
	Fowler	Pryce-Roberts
	Furey	Pye
	Gibson	Savage
	Grant	Mrs Stephenson
	Griffiths	Sudworth
	Hennessey	West
	G. Hodson	Westley
		Wilkie
		Wright

Officers: Managing Director (People & Places) (Mrs G Rowe)
Managing Director (Transformation) (Ms K Webber)
Assistant Director Housing & Regeneration (Mr R Livermore)
Assistant Director Community Services (Mr D Tilleray)
Borough Solicitor (Mr T Broderick)
Borough Treasurer (Mr M Taylor)
Borough Planner (Mr J Harrison)
Deputy Borough Planner (Mr I Gill)
LDF Team Leader (Mr P Richards)
Assistant Member Services Manager (Mrs J Denning)

43. PRAYERS

The Mayor's Chaplain, the Rev Chris Jones, led Members and officers in prayer.

44. APOLOGIES

Apologies for absence were received on behalf of Councillors Coyle and Gagen.

45. DECLARATIONS OF INTEREST

The following declarations were received:

1. Councillors Aldridge, Bailey, Cropper, Mrs C Evans, O'Toole and Westley declared non pecuniary interests in item 8 (Major Service Review (MSR) 2013/14 – Response to Consultation) as Members of Lancashire County Council (who had responded to the consultation document).
2. Councillors Ashcroft, Mrs Bailey, Baldock, Bell, Mrs Blake, Blane, Cheetham, Dereli, Mrs C Evans, R Evans, Forshaw, Grant, J Hodson, Mrs Houlgrave, G Jones, Kay, Pope and Mrs Stephenson declared non-pecuniary interests in relation to item 8 (MSR 2013/14 - Response to Consultation), item 9 (Submission of the West Lancashire Local Plan 2012-2027) and item 10 (The Role of Parish and Town Councils and the Impact of the Localism Bill) in relation to Parish Council matters in view of their membership of Parish Councils and Parish Council responses.
3. Councillors Aldridge, Mrs R Evans, Gibson, L Hodson, McKay, Nolan, Owens, Pye, West and Wilkie declared non-pecuniary interests in item 8 (MSR 2013/14 - Response to Consultation) in respect of the Community Resource Centres to which they are appointed by the Council.
4. Councillors Mrs Atherley, Mrs Blake, Grant, Houlgrave, and Sudworth declared non-pecuniary interests in item 8 (MSR 2013/14 - Response to Consultation) in respect of the West Lancashire Local Strategic Partnership to which they are appointed by the Council.
5. Councillor Mrs Houlgrave declared a non-pecuniary interest in item 8 (MSR 2013/14 - Response to Consultation) in respect of Relate - Lancashire to which she is appointed by the Council and who had responded to the consultation document.
6. Councillors G and J Hodson indicated that if during consideration of agenda item 9 (Submission of the West Lancashire Local Plan 2012-2027) if reference was made to Linear Parks, they would declare a disclosable pecuniary interest and would leave the meeting at this time, as they are landowners in the Tarleton/Hesketh Bank area which would be affected in respect of Linear Parks as referred to in the Plan.

7. Councillor Bell declared a non pecuniary interest in respect of agenda item 9 (Submission of the West Lancashire Local Plan 2012-2027) as he is a member of Burscough Parish Council. He also explained that prior to becoming a Councillor he and his wife had made representations on the Local Plan Preferred Options in relation to Yew Tree Farm and Grove Farm, but that he did not consider himself to have predetermined these issues or the Local Plan. He indicated his willingness to take a different view to those expressed in those representations after taking into account all material matters.
8. Councillor Griffiths declared a non pecuniary interest in respect of agenda item 8 (MSR 2013/14 - Response to Consultation) agenda item 11 (Overview and Scrutiny Annual Report 2011/12) as a Director of West Lancashire Community Leisure Trust to which he is appointed by the Council.
9. Councillor Cropper declared a non pecuniary interest in respect of agenda item 12(b) Designated Public Places Order (DPPO), Blakehall Neighbourhood Watch – Motion, as a Member of the Lancashire Police Authority.
10. Councillor Dereli advised that she would be leaving the room during consideration of agenda item 9 (Submission of the West Lancashire Local Plan 2012-2027) as she owns a property near to Yew Tree Farm.
11. Councillor J Hodson advised that as he is a magistrate he would not take part in the debate in respect of agenda item 12(a) (Designated Public Places Order (DPPO), Blakehall Neighbourhood Watch – Motion).

46. MINUTES

RESOLVED: That the minutes of the meeting held on the 18th July 2012 be received as a correct record and signed by the Mayor.

47. ANNOUNCEMENTS BY THE MAYOR AND/OR THE MANAGING DIRECTORS

The Mayor announced the following events being held in aid of the Mayoress' Charities - North West Ambulance and Ormskirk and District Scouts:

1. Friday 19 October at 7.30 p.m. - Aughton Male Voice Choir were performing at the Faculty of Health Edge Hill University — Tickets £5 each.
2. Saturday 20 October, from 11.30 a.m. onwards – a Halloween Family Walk and Giant Pumpkin Festival would be taking place at Windmill Farm, Red Cat Lane, Burscough.
3. Sunday 25 November at 11.00 am - a Rudolph Run would be taking place at Edge Hill University. There would be 3 races, 400 metres for the very young, 1500 metres for teenagers followed by the main 5K run. Entry fee would be £5 per individual and £10 for a family
4. Sunday 16 December at 7.00 p.m. - the West Lancs Carol Concert would be taking place at Ormskirk Parish Church.

5. Wednesday 31 October at 5.30 p.m. - a Football Match would be taking place at the Blaguegate Lane Playing Fields between Members and Officers.

48. TO ANSWER ANY QUESTIONS UNDER THE PROVISIONS OF COUNCIL PROCEDURE RULE 10.2

The following questions were raised:

- (a) **Contacting the Benefits Service** - by Councillor Furey on Behalf of the Labour Group

“Customers telephoning our Benefits Section on 585080 have recently been experiencing difficulty in getting through. Could the Leader please explain why this situation occurred and if he is satisfied that the solution provided by One Connect Limited will ensure that customers will now receive a proper service?”

The Leader advised that there had been some technical issues initially with the Council’s telephony/switch system which meant that, on occasion during times of high call demand, customers were unable to get through or were delayed when trying to speak to a member of staff.

He informed the member that this problem has now been rectified so that in times of peak demand, should there not be enough lines free then a pre-recorded voice message will explain that the lines are busy and that staff will deal with the call as soon as possible, as was the case when the team were based at the council offices. However, at this time, the call routing system will immediately look to find an available extension so that the call can be dealt with as soon as possible by a member of staff.

He went onto to say that methods of improving services would always be a priority and in this respect the feasibility and benefits of using an outside line (i.e. a line which does not use the Council’s switch system) for the Revenue & Benefits service is being investigated in conjunction with colleagues at LCC/OCL, in order to further improve customer access.

- (b) **Customer Services, 52 Derby Street** - by Councillor Furey on Behalf of the Labour Group

“Could the Leader please indicate if there are any plans to improve face to face customer services at 52 Derby Street, including more interview rooms and improvements to comfort and privacy?”

The Leader advised that there were no plans to extend the number of interview rooms at 52 Derby Street, as these are able to accommodate the need for private interview space and that feedback from customers in respect of the current facilities had been very positive.

The Leader went on to say that from the satisfaction cards that were introduced in July 2012 at both Customer Service Points, 47 cards had been completed and provided the following results:

“How satisfied were you with how we dealt with your enquiry?” - 95% stated they were either very satisfied/satisfied.

“How satisfied were you with how long you had to wait?” – 91% stated they were either very satisfied/satisfied.

“How satisfied were you with the facilities available at the Customer Service Point?” – 91% stated they were either very satisfied/satisfied

He informed the Member that staff were in the process of assessing whether sound proofing of the interview rooms could be improved, following recent feedback from a Councillor, as the Council was always looking into methods of improving services.

49. MINUTES OF COMMITTEES

Consideration was given to the minutes of the undermentioned meetings of the Committees shown.

Councillor Owen referred to Minute 34 (6.) of the Planning Committee held on 6 September 2012 querying the reference to her leaving the room during consideration of application no. 2012/0704/COU relating to the Railway Tavern, Hoscar Moss Road, Lathom and requesting an amendment to the spelling of her name.

RESOLVED: That the minutes of the following meetings and any recommendations contained in them, be approved:

- A. Licensing and Appeals Committee – Tuesday 17 July 2012
- B. Licensing and Gambling Committee – Tuesday 17 July 2012
- C. Planning Committee – Thursday 26 July 2012
- D. Planning Committee – Thursday 6 September 2012 (subject to the Borough Solicitor investigating the issue raised by Councillor Owen above and the amendment in respect of Owens to Owen.)
- E. Audit and Governance Committee – Tuesday 25 September 2012
- F. Planning Committee – Thursday 4 October 2012

50. MAJOR SERVICE REVIEW 2013/14 - RESPONSE TO CONSULTATION

Consideration was given to the report of the Managing Directors, as contained on Pages 297 to 380 of the Book of Reports, which set out the results of the Major Service Review 2013/14 (MSR) consultation and sought approval to agree amendments to the MSR proposals as a result of that consultation.

Motion moved by Councillor Westley, which was seconded:

- “A. *That the results of the MSR consultation set out at Appendix D and response at Appendix E be noted.*

- B. *That the Policy Options set out at Appendix B as adjusted in the final column of Appendix B be agreed and taken forward, subject to the wording of the adjustment to Policy Option 6 'Extended Pay and Display Car Parks' being amended to read "After considering the results of the Consultation Exercise and taking due account of the feedback, this Policy Option be taken forward and the Assistant Director Community Services, in consultation with the relevant Portfolio Holders, be authorised to issue an appropriate number of all day annual/monthly permits similar to the scheme at Hants Lane".*
- C. *That the summary of potential savings and costs arising from 2.2 above set out in Appendix F, be also approved.*
- D. *That the Managing Director (Transformation) and Managing Director (People and Places) and Heads of Service be given authority to take all action in connection with the implementation of the above, and to effect the Council's redundancy and redeployment policies and procedures as required, and matters related to this, including the use of reserves to fund exit costs."*

An Amendment to the Motion was moved and seconded, which was LOST.

A vote was taken on the Motion moved by Councillor Westley, which was CARRIED.

- RESOLVED: A. That the results of the MSR consultation set out at Appendix D of the report and the response at Appendix E be noted.
- B. That the Policy Options set out at Appendix B to the report as adjusted in the final column of Appendix B be agreed and taken forward, subject to the wording of the adjustment to Policy Option 6 'Extended Pay and Display Car Parks' being amended to read "After considering the results of the Consultation Exercise and taking due account of the feedback, this Policy Option be taken forward and the Assistant Director Community Services, in consultation with the relevant Portfolio Holders, be authorised to issue an appropriate number of all day annual/monthly permits similar to the scheme at Hants Lane".
- C. That the summary of potential savings and costs arising from 2.2 above set out at Appendix F of the report be also approved.
- D. That the Managing Director (Transformation) and Managing Director (People and Places) and Heads of Service be given authority to take all action in connection with the implementation of the above, and to effect the Council's redundancy and redeployment policies and procedures as required, and matters related to this, including the use of reserves to fund exit costs.

51. SUBMISSION OF THE WEST LANCASHIRE LOCAL PLAN 2012-2027

Consideration was given to the report of the Borough Planner as contained on pages 397 to 418 of the Book of Reports, the purpose of which was to advise Council on the proposed new Local Plan for the Borough and sought approval to submit the Local Plan to the Secretary of State for Communities and Local Government for Examination.

A Motion to approve the recommendation at 2.1 of the report was moved and seconded.

At the request of a member before the vote was taken, the voting on the Motion was recorded as follows:

FOR: Councillors Ashcroft, Mrs Atherley, Bailey, Baldock, Baybutt, Mrs Blake, Blane, Cheetham, Cropper, Mrs C Evans, Mrs R Evans, Forshaw, Fowler, Grant, Greenall, Griffiths, Mrs Hopley, Mrs Houlgrave, G Jones, Kay, Mrs Kean, Ms Melling, O'Toole, Owens, Pope, Mrs Stephenson, Sudworth, Westley (TWENTY EIGHT)

AGAINST: Councillors Aldridge, Bell, Davis, Delaney, Fillis, Furey, Gibson, Hennessey, G Hodson, J Hodson, L Hodson, McKay, Moran, Nolan, Oliver, Owen, Pendleton, Pryce-Roberts, Pye, Savage, West, Wilkie and Wright (TWENTY THREE)

The Motion was CARRIED.

RESOLVED: That the West Lancashire Local Plan 2012-2027 Development Plan Document – Publication Version (Appendix 1) be approved for submission to the Secretary of State for Communities and Local Government for an Examination in Public.

(Note: Councillor Dereli left the room whilst this item was under consideration.)

53. THE ROLE OF PARISH AND TOWN COUNCILS AND THE IMPACT OF THE LOCALISM BILL

Consideration was given to the report of the Borough Solicitor as contained on pages 397 to 418 of the Book of Reports, the purpose of which was to receive the final report and the recommendations therein of the Corporate and Environmental Overview and Scrutiny Committee following an in-depth review conducted entitled "The Role of Parish and Town Councils and the Impact of the Localism Bill".

RESOLVED: A. That the final report on "The Role of Parish and Town Councils and the Impact of the Localism Bill", attached at Appendix A to the report, and the recommendations therein be endorsed and the Committee be thanked for their work.

B. That the final report be formally published.

54. OVERVIEW AND SCRUTINY ANNUAL REPORT 2011/12

Consideration was given to the Report of the Borough Solicitor, as contained on pages 419 to 439 of the Book of Reports, the purpose of which was to present the Overview and Scrutiny Annual Report 2011/12 and consider how Overview and Scrutiny is working in West Lancashire.

A Motion to approve the recommendations set out in paragraph 2 of the report was moved and seconded.

An amendment was moved and seconded, which was LOST.

A vote was taken on the Motion, which was CARRIED.

RESOLVED: That the Overview and Scrutiny Annual Report 2011/12 attached at Appendix A to the report be noted and the Overview and Scrutiny Committees be commended on their work.

55. MOTIONS

The following Motions were included on the agenda at the Request of the Members indicated:

56. COMMITTEE SYSTEM - MOTION INCLUDED ON THE AGENDA AT THE REQUEST OF COUNCILLOR R PENDLETON ON BEHALF OF THE LABOUR GROUP

The following Motion was moved and seconded:

“That, in accordance with the provisions available in the Localism Act 2011, to enable the Council to change its governance arrangements, Executive Overview and Scrutiny Committee be requested to establish a cross party Working Group to consider detailed proposals and timescales for reverting back to a Committee structure in place of the current Leader and Cabinet Executive (England) (Strong Leader Model).”

A vote was taken on the Motion, which was LOST.

57. DESIGNATED PUBLIC PLACES ORDER (DPPO), BLAKEHALL NEIGHBOURHOOD WATCH - MOTION INCLUDED ON THE AGENDA AT THE REQUEST OF COUNCILLOR FILLIS ON BEHALF OF THE LABOUR GROUP

The following Motion was moved and seconded:

“Following a history of anti-social alcohol drinking in the Blakehall Neighbourhood Watch area, which covers Martins Lane / Whistone Drive / Nixons Lane / Newlyn Drive, Skelmersdale, that the council consults with the Blakehall Neighbourhood Watch Group and others, regarding their request for an "Designated Public Places Order", as a pilot scheme (Section 13 of the Criminal Justice and Police Act 2001 (as amended by Section 26 of the Violent Crime Reduction Act 2006 and the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007) to designate a DPPO, to address potential problems of anti-social alcohol drinking in public places.)

Such an order would allow the Police to use their confiscation powers to enforce the restriction; therefore enforcement of a "Designated Public Places Order" is carried out entirely at the discretion of the Police. It is not an offence to consume alcohol within a designated area, but failure to comply with an Officer's requests to stop drinking, and surrender alcohol without reasonable excuse, is. Any orders made do not apply to any premises or land that has a premises license or a club premises certificate under the Licensing Act 2003 which permits the sale or supply of alcohol. Likewise if a temporary event notice, which allows for the sale of alcohol for limited periods, covers a piece of public land the order does not apply for that time and 30 minutes afterwards."

During consideration of this item, Councillor Fillis agreed to a suggestion that a report be submitted to a future meeting on the feasibility of taking this issue forward.

RESOLVED: That, following consultation with the Police and any other relevant bodies, the Assistant Director Community Services shall submit a report to a future meeting of the Council on the feasibility of placing a "Designated Public Places Order" in the Blakehall Neighbourhood Watch area, which covers Martins Lane / Whistone Drive / Nixons Lane / Newlyn Drive, Skelmersdale.

58. FLOODING - MOTION INCLUDED ON THE AGENDA AT THE REQUEST OF COUNCILLOR OLIVER ON BEHALF OF THE LABOUR GROUP

The following Motion was moved and seconded:

"That the Assistant Director Community Services be requested to submit a report to the next meeting of the Corporate and Environment Overview and Scrutiny Committee on the reported shortcomings in the Council's response to requests for help from residents during the recent flooding.

That the report to address the following :

What action has been taken to rectify the problem?

What support has the Council given to residents affected by the flooding?

What improvements are the Council and Utility providers proposing to implement to prevent such occurrences in future?

What is the timetable for these improvements?

What are the statutory duties and responsibilities of the Council in these flood situations?"

The following Amendment was moved and seconded:

"(A) That this Council extends its sympathies to those residents affected by the recent heavy flooding in West Lancashire and recognises, and places on record its appreciation to those from the emergency services, Council officers, Lancashire County Council, the Environment Agency and other relevant agencies together with residents, businesses and other organisations who assisted all those affected by the floods.

- (B) *That the Assistant Director Community Services be requested to submit a report to the next meeting of Council outlining the Council's and its partner agencies' statutory duties and responsibilities in relation to the recent flooding, the report to include the current partnership arrangements between the Council and relevant agencies and the support offered to the residents affected by the flooding.*
- (C) *That the minutes of the next Three Tier Forum in relation to the flooding, be submitted to the next Council meeting."*

A vote was taken on the Amendment, which was CARRIED and became the Substantive Motion.

A vote was taken on the Substantive Motion, which was CARRIED unanimously.

- RESOLVED: A. That this Council extends its sympathies to those residents affected by the recent heavy flooding in West Lancashire and recognises, and places on record its appreciation to those from the emergency services, Council officers, Lancashire County Council, the Environment Agency and other relevant agencies together with residents, businesses and other organisations who assisted all those affected by the floods.
- B. That the Assistant Director Community Services be requested to submit a report to the next meeting of Council outlining the Council's and its partner agencies' statutory duties and responsibilities in relation to the recent flooding, the report to include the current partnership arrangements between the Council and relevant agencies and the support offered to the residents affected by the flooding.
- C. That the minutes of the next Three Tier Forum in relation to the flooding, be submitted to the next Council meeting."

THE MAYOR

LICENSING AND GAMBLING COMMITTEE

HELD:23 OCTOBER 2012

Start:7.00pm

Finish: 7.05pm

PRESENT: Councillor Kay (Chairman)
Councillor Owens (Vice Chairman)

Councillors: Delaney Pye
Mrs C Evans Savage
Jones Mrs Stephenson
Mrs Kean Sudworth
Ms Melling West
Oliver Wright

Officers: Commercial, Safety and Licensing Manager (Mr. P. Charlson)
Principal Solicitor (Mr. L. Gardner)
Senior Licensing Officer (Mrs. S. Jordan)
Member Services Officer (Mrs. J. Brown)

16. APOLOGIES

There were no apologies for absence received.

17. MEMBERSHIP OF THE COMMITTEE

There were no changes to Membership of the Committee.

18. URGENT BUSINESS

There are no items of urgent business.

19. DECLARATIONS OF INTEREST

There were no declarations of interest.

20. DECLARATION OF PARTY WHIP

There were no declarations of Party Whip.

21. MINUTES

RESOLVED: That the Minutes of the meeting held on 17 July 2012 be received as a correct copy and signed by the Chairman.

22. MINUTES OF LICENSING SUB - COMMITTEE

The Minutes of the Licensing Sub – Committee held on 17 April 2012 and 20 August 2012 were submitted.

RESOLVED: That the above Minutes be noted.

23. SEX ESTABLISHMENT LICENSING POLICY

Consideration was given to the report of the Assistant Director Community Services as contained on pages 97 to 136 of the Book of Reports, the purpose of which was to approve the Statement of Sex Establishment Licensing Policy as attached at Appendix 1 to the report.

The Commercial, Safety and Licensing Manager outlined the report to Members and responded to questions from the Committee.

RESOLVED: That the Statement of Sex Establishment Licensing Policy as attached at Appendix 1 to the report be endorsed subject to the references in the Policy stated in Appendix 2 pages 125 and 127, Appendix 3 page 128 and Appendix 4 page 130 of the Book of Reports being amended to state that an operator be required to seek proof of age for persons appearing to be under the age of 25 and not 21 as stated in the Policy.

- CHAIRMAN -

LICENSING AND APPEALS COMMITTEE

HELD:23 OCTOBER 2012

Start: 7.30pm

Finish: 11.20pm

PRESENT: Councillor Cropper (Chairman)
Councillor Kay (Vice Chairman)

Councillors: Baldock Oliver
Cheetham Savage
Delaney Mrs Stephenson
Griffiths Wright

Officers: Commercial, Safety and Licensing Manager
(Mr. P. Charlson)
Senior Licensing Officer (Mrs. S. Jordan)
Principal Solicitor (Mr. L. Gardner)
Member Services Officer (Mrs. J. Brown)

33. APOLOGIES

There were no apologies for absence received.

34. MEMBERSHIP OF THE COMMITTEE

There were no changes to Membership of the Committee.

35. URGENT BUSINESS

There were no items of urgent business.

36. DECLARATIONS OF INTEREST

Councillor Kay declared a pecuniary interest in item 19 relating to an application for a Private Hire Driver Licence, application number WK/000166836 as he has previously been involved in prosecuting the applicant and therefore left the Chamber and took no part in the decision making process.

37. DECLARATION OF PARTY WHIP

There were no declarations of Party Whip.

38. MINUTES OF SUB-COMMITTEES OR WORKING GROUPS

There were no Minutes to receive.

39. MINUTES

RESOLVED: That the Minutes of the meeting held on 17 July 2012 be received as a correct record and signed by the Chairman.

40. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 2 (Identity of an Individual) and Paragraph 7 (Criminal Matters) Part 1 of Schedule 12A of that Act and as in all circumstances of the case the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

41. PRIVATE HIRE DRIVER - FAILURE TO DECLARE

Members were asked to consider the revocation of Private Hire Driver Licence number LN/000003348 having regard to the offences, which the Private Hire Driver failed to declare.

The driver attended the meeting and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: A. That Private Hire Driver Licence Number LN/000003348 continue and that a letter be sent reminding him of his future responsibilities and of his duty to report offences within seven days to the Licensing Service.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

42. PRIVATE HIRE DRIVER - FAILURE TO DECLARE

Members were asked to consider the revocation of Private Hire Driver Licence Number LN/000003808 having regard to the offences, which the Private Hire Driver failed to declare.

The driver attended the meeting and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: A. That Private Hire Driver Licence number LN/000003808 and Private Hire Vehicle Licence number LN/000004040 continue and that a letter be sent reminding him of his future conduct.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

43. PRIVATE HIRE DRIVER - FAILURE TO DECLARE

Members were asked to consider the revocation of Private Hire Driver Licence Number LN/000004315 having regard to the offences, which the Private Hire Driver failed to declare.

LICENSING AND APPEALS COMMITTEE

HELD:23 OCTOBER 2012

The driver attended the meeting and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Private Hire Driver Licence number LN/000004315 continue and that a letter be sent reminding him of his future conduct, particularly relating to speeding and that any future offences will result in further determination by the Licensing & Appeals Committee.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

44. PRIVATE HIRE DRIVER - FAILURE TO DECLARE

Members were asked to consider the revocation of Private Hire Driver Licence Number LN/000004325 having regard to the offences, which the Private Hire Driver failed to declare.

The driver attended the meeting and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: A. That Private Hire Driver Licence number LN/000004325 and Private Hire Vehicle Licence number LN/000004361 continue.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

45. PRIVATE HIRE DRIVER - FAILURE TO DECLARE

Members were asked to consider the revocation of Private Hire Driver Licence Number LN/000003419 having regard to the offences, which the Private Hire Driver failed to declare.

The driver attended the meeting and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: A. That Private Hire Driver Licence number LN/000003419 continue.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

46. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000169356

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000169356 having regard to the caution shown on the Criminal Records Enhanced Disclosure.

LICENSING AND APPEALS COMMITTEE

HELD:23 OCTOBER 2012

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000169356 be GRANTED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

47. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK000168041

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000168041 having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000168041 be GRANTED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

48. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000168740

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000168740 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000168740 be REFUSED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

49. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000170670

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000170670 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000170670 be REFUSED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

50. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000169923

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000169923 having regard to the caution shown on the Criminal Records Bureau Enhanced Disclosure.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000169923 be REFUSED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

51. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000166836

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000166836 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form, and the offence not declared which was identified on the DVLA report.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000166836 be REFUSED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

52. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - APPLICATION NUMBER WK/000168747

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000168747 having regard to the offences declared on the

Statutory Declaration which accompanied the Application Form and those offences not declared which were identified on the Criminal Records Bureau Enhanced Disclosure.

LICENSING AND APPEALS COMMITTEE

HELD:23 OCTOBER 2012

RESOLVED: That Application Number WK000168747 was withdrawn by the Applicant.

53. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000170960

Members were asked to consider an Application for a Private Hire Driver Licence Application Number WK000170960 having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK000170960 be GRANTED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

- CHAIRMAN -

AGENDA ITEM 7(c)

PLANNING COMMITTEE

HELD: 8 NOVEMBER 2012

Start: 7.30 p.m.

Finish: 8.55 p.m.

PRESENT: Councillor Pope (Chairman)
Councillor Mrs. Stephenson (Vice-Chairman)

Councillors: Aldridge Griffiths
Ashcroft Hennessy
Bailey J. Hodson
Mrs. Baybutt Mrs. Houlgrave
Bell McKay
Mrs. Blake Ms. Melling
Blane O'Toole
Davis Owen
Dereli Pye
Fowler Westley
Furey Wilkie

Officers: Borough Planner (Mr. J. Harrison)
Planning Control Team Leader (Mrs. C. Thomas)
Legal and Member Services Manager (Mr. M. Jones)
Principal Planning Officer (Miss. E.O. Woollacott)
Member Services Officer (Mrs. J.A. Ryan)

In attendance: Councillor Oliver (Knowsley Ward)

APOLOGIES

45. There were no apologies for absence received.

46. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the Committee.

47. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no urgent items of business.

48. DECLARATIONS OF INTEREST

1. Councillors Aldridge, O'Toole and Westley declared non-pecuniary interests in respect of planning application no. 2012/1032/CMA relating to Beconsall Exploration Site, Marsh Road, Banks by virtue of their membership of Lancashire County Council.

2. Councillor J. Hodson in respect of planning application no. 2012/1032/CMA relating to Beconsall Exploration Site, Marsh Road, Banks advised that he had a pre-determined view on this item and that accordingly he would not take part in the decision in relation to the planning application and would leave the Chamber during consideration of this item.

49. DECLARATIONS OF PARTY WHIP

There were no declarations of Party Whip.

50. MINUTES

RESOLVED: That the minutes of the meeting held on the 4 October 2012 be approved as a correct record and signed by the Chairman.

51. PLANNING APPLICATIONS

The Borough Planner submitted a report containing the Schedule of Planning Applications (all prefixed 2012 unless otherwise stated) as contained on pages 943 to 1032 of the Book of Reports and on pages 1083 to 1086 giving details of late information.

RESOLVED: A. That the undermentioned Planning Applications be approved subject to the conditions in the schedule and in the late information:-

1020/FUL; 0803/FUL; 0733/FUL; 0955/WL3

B. That planning application 0774/FUL relating to Bath Lodge, Dark Lane, Ormskirk, Lancashire be refused for the following reason:-

The retention of the double garage conflicts with Policy DS2 in the West Lancashire Replacement Local Plan, the Council's Supplementary Planning Guidance on domestic extensions, outbuildings and replacement dwellings in the Green Belt and advice given in the National Planning Policy Framework as it constitutes inappropriate development that detracts from the visual amenity and unduly reduces the openness of the Green Belt thereby conflicting with one of the purposes of including land within the Green Belt aimed at safeguarding the countryside from encroachment by inappropriate uses. No very special circumstances have been demonstrated to outweigh this identified harm.

C. That planning application 0976/FUL relating to The Beeches, Maltkiln Lane, Bispham, Ormskirk be refused for the following reasons:-

1. The proposed extensions conflict with Policy GD1 of the West Lancashire Replacement Local Plan and Policies GN3 and EN4 in the West Lancashire Local Plan 2012-2027 Publication document in that the design, size, scale, form, and massing of the extensions would dominate and compromise the existing architectural style and integrity of the house.
 2. The proposed development conflicts with Policy DS2 of the West Lancashire Replacement Local Plan and Policy GN1 in the West Lancashire Local Plan 2012-2027 Publication document together with Supplementary Guidance on Domestic Extensions and Outbuildings and Replacement Dwellings in the Green Belt in that the proposed extensions by virtue of their size, bulk, height and position result in inappropriate development which detrimentally impacts upon the openness and visual amenity of the Green Belt.
 3. The proposed development conflicts with Policy EN4 of the West Lancashire Local Plan 2012-2027 Publication document in that the proposed extensions by virtue of their design, size, bulk, height and position harm the character and appearance of the Conservation Area.
- D. That in respect of planning application 0628/WL3 relating to Coronation Park, Park Avenue, Ormskirk:-
- (i) The decision to grant planning permission be delegated to the Borough Planner in consultation with the Chairman and Vice-Chairman of the Planning Committee subject to a planning obligation under the Town and Country Planning Act 1990 being entered into to secure a contribution of £736.00 for off-site Public Open Space.
 - (ii) That any planning permission granted by the Borough Planner pursuant to recommendation (i) above be subject to the conditions as set out on pages 1005 to 1008 of the Book of Reports but subject to the amendment to Condition 13 as set out in the Late Information at page 1084 of the Book of Reports.
- E. That in respect of planning application 1032/CMA relating to the Becconsall Exploration Site, Marsh Road, Banks that the Council raise no objections subject to confirmation from the Department of Energy and Climate Change that the applicant is able to resume testing work and subject to imposition of the conditions specified on the original planning decision notice.
- F. That in respect of planning application 0611/OUT relating to The Polaris, 2A Blakehall, Skelmersdale:-

- (i) The decision to grant planning permission be delegated to the Borough Planner in consultation with the Chairman and Vice-Chairman of the Planning Committee subject to a planning obligation under the Town and Country Planning Act 1990 being entered into to secure a contribution of £26,970 towards suitable transport measures, £42,717 towards public open space and 25% affordable housing.
- (ii) That any planning permission granted by the Borough planner pursuant to recommendation (i) above be subject to the conditions as set out on pages 971 to 974 of the Book of Reports.

- G. That planning application 2011/1341/COU relating to Land South West of 2 May Cottages, Back Lane, Newburgh be refused for the following reason:-

The retention of the upgraded track (running west to east) and the turning area conflict with Policies GD1 and DS2 in the West Lancashire Replacement Local Plan, Policy GN3 in the West Lancashire Local Plan Submission Document and the advice in the National Policy Planning Framework in that these hard surfaced areas result in harm to the openness and visual amenity of the Green Belt and represent encroachment into the countryside, thereby conflicting with one of the purposes of including land in the Green Belt.

(Notes:-

1. In accordance with Regulatory Procedure Rule 7(b) Councillor Oliver spoke with regard to planning application no. 0628/WL3.
2. Councillor Ashcroft arrived during consideration of planning application no. 0628/WL3 and therefore took no part in the debate and decision making process.
3. Councillor J. Hodson left the Chamber during consideration of planning application no. 1032/CMA and therefore took no part in the debate and decision making process).

52. ENFORCEMENT ITEMS

The Borough Planner submitted a report containing details of enforcement items as contained on pages 1033 to 1058 of the Book of Reports.

RESOLVED: A. That in relation to Enforcement Items E/2011/0230/UF; E/2012/0065/UBW; E/2012/0323/UAU; E/2012/0145/UEW; E/2012/0294/UAU; E/2012/0253/UAU and E/2012/0321/UAU

- (i) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act as set out in the report, requiring the steps to be taken without the time periods and for the reasons as set out in the report.

- (ii) That the Borough Solicitor be authorised to take proceedings where any steps required by the notice are not taken within the period for compliance and the Borough Planner be authorised to enter the land and take those steps. In the event of the Borough Planner having to take such action, he be authorised to recover the expenses reasonably incurred.
- (iii) That the Borough Solicitor be authorised to withdraw, vary and re-issue notices if subsequent information indicates this to be necessary.

B. That in respect of Enforcement Items E/2010/0010/UBW; E/2011/0124/BCN; E/2011/0270/UF; E/2012/0137/UAU and E/2012/0256/UBW that no further action be taken.

(Note: Councillor G. Owen left the Chamber during consideration of Agenda Item 8 and therefore took no part in the debate and decision making process.)

- CHAIRMAN -

STANDARDS COMMITTEE

HELD: 26 NOVEMBER 2012

Start: 4.30pm

Finish: 5.10pm

PRESENT:

Councillors: Grant (Chairman)

Mrs Atherley Kay
Fillis Savage
J Hodson

In attendance: Mr S Ibbs (Independent Person)
Mr S Garvey (Reserve Independent Person)

Officers: Managing Director (People and Places) (Mrs G Rowe)
Borough Solicitor (Mr T Broderick)
Principal Overview and Scrutiny Officer (Mrs C A Jackson)

19. APOLOGIES

There were no apologies for absence.

20. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule 4, Members noted the termination of membership of Councillors Davis and Coyle and the appointment of Councillors J Hodson and Savage for this meeting only, thereby giving effect to the wishes of the Political Groups.

21. URGENT BUSINESS

There were no items of urgent business.

22. DECLARATIONS OF INTEREST

There were no declarations of interests.

23. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 16 July 2012 be received as a correct record and signed by the Chairman.

24. COMPLAINTS - STATISTICS

The Committee considered the complaint statistics to 2012/13 as set out at page 75 of the Book of Reports. Members were advised that one allegation had been considered in the relevant period under the previous standards regime complaints processes. The Assessment Sub-Committee met in June and found no breach in relation to the complaint.

RESOLVED: That the statistics be noted.

25. GUIDE FOR COUNCILLORS - OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor which gave details of the circulation of 'Openness and transparency on personal interests – A guide for councillors' issued by the Department of Communities and Local Government (DCLG) to all Councillors, Parish Councillors and Parish Clerks, as detailed at pages 77 to 88 of the Book of Reports.

RESOLVED: That the guide 'Openness and transparency on personal interests', attached at Appendix 1, be noted.

26. REVIEW OF NEW STANDARDS COMMITTEE BY THE MANAGING DIRECTOR (PEOPLE AND PLACES) IN CONSULTATION WITH THE LEADER AND LEADER OF THE LABOUR GROUP - 3 DECEMBER 2012

The Managing Director (People and Places) explained the background to the item in respect of the decision of Council on 19 June 2012 set down in the circulated Minute 16, in relation to the introduction of the new Standards regime as required by the Localism Act 2011 that established a Standards Committee and related arrangements and sought the views of the Committee in relation to the operation of the arrangements prior to the review scheduled to take place on 3 December 2012.

RESOLVED: A. That the decision of Council of 19 June 2012 be noted.

B. That a further review of the Standards Committee and related arrangements be undertaken in 18 months, subject to need.

27. ANNUAL MONITORING TRAINING REPORT

Consideration was given to the report of the joint report of the Managing Director (People and Places) and the Borough Solicitor which detailed training undertaken to date and its effectiveness in relation to the code of conduct and standards.

Members discussed the effectiveness of the training, particularly the seminar sessions, that had been undertaken and the case studies used within those training sessions. Members welcomed the continuation of this type of training with Borough and Parish Councillors and the circulation of the training packs which had acted as a good reference tool for Members, especially those recently provided in relation to the changes affected by the Localism Act 2011.

RESOLVED: That the training undertaken and the evaluation of it be noted and that the established approach to training be continued.

28. UNDERSTANDING THE LOCAL STANDARDS FRAMEWORK - WORKSHOP 23 OCTOBER 2012

Consideration was given to the feedback provided by the Independent Person (IP) and Reserved Independent Person (RIP) in relation to participation in a workshop 'Understanding the Local Standards Framework' on 23 October 2012. The presentation was supported by a report as contained on page 103 of the Book of Reports.

Following the presentation a discussion ensued into the role and responsibilities of the IP and RIP under the new Standards regime; the complaints procedure and proportionality of the work involved in relation to their investigation of complaints.

It was noted that the procedures in relation to the investigation of any complaints under the Code of Conduct were currently being updated.

RESOLVED: That the presentation by the Independent Person and Reserved Independent Person be noted.

29. DISPENSATIONS PARISHES

Consideration was given to the extract from Part 1 Localism Act 2011 (“the Act”) in relation to Dispensations. The Managing Director (People and Places) provided an overview of the regulations and the responsibilities in relation to dispensations at the Parish tier.

A discussion ensued in relation to the dispensations that may be granted by the Parishes under “the Act” and the role of the Parish Clerks in keeping the Monitoring Officer and Standards Committee informed of those dispensations. It was felt that to maintain standards and ensure transparency and consistency across all Parish Councils in the Borough that each Parish Clerk should ensure that the Monitoring Officer is kept abreast of any dispensations awarded by them.

RESOLVED: A. That all Parish Clerks be requested to inform the Managing Director (People and Places) of any dispensations that are granted to Parish Councillors (or co-opted members).

B. That the Managing Director (People and Places) write to the Parish Clerks informing them of the Committee’s decision and the process.

30. PARISH COUNCILS - ADOPTION OF THE CODE

Members noted the Adoption of the Code of Conduct under the provisions of the Localism Act 2011 by all Parish Councils in the Borough, as set down on page 97 of the Book of Reports.

RESOLVED: That the adoption of the West Lancashire Borough Council and Parish Councils Members’ Code of Conduct by all Parish Councils in West Lancashire be noted.

31. WORK PROGRAMME

The Committee considered the Work Programme for 2012/13. It was agreed that the Committee should meet every six months with additional meetings, to be held on an ad hoc basis, should the need arise.

- RESOLVED: A. That the Work Programme for 2012/13 be noted.
- B. That the Standards Committee be scheduled to meet every six months.

.....
Chairman

PRESENT: Councillor Cropper (Chairman)
Councillor Kay (Vice Chairman)

Councillors: Baldock Oliver
Cheetham Savage
Delaney Mrs Stephenson
Griffiths Wright

Officers: Commercial, Safety and Licensing Manager
(Mr. P. Charlson)
Senior Licensing Officer (Mrs. M. Murray)
Homelessness & Private Sector Housing Manager (Mrs. L. Lea)
Assistant Solicitor (Mr. M. Hynes)
Member Services/Civic Support Officer (Mrs. J. Brown)

54. APOLOGIES

There were no apologies for absence received.

55. MEMBERSHIP OF THE COMMITTEE

There were no changes to Membership of the Committee.

56. URGENT BUSINESS

There were no items of urgent business.

57. DECLARATIONS OF INTEREST

Councillor Kay declared a pecuniary interest in items 12 and 14 relating to applications for Private Hire Driver Licence application numbers WK/000172341 and WK/000171699, as he has previously been involved in prosecuting the applicants and therefore left the Chamber and took no part in the decision making process.

58. DECLARATION OF PARTY WHIP

There were no declarations of Party Whip.

59. MINUTES OF SUB-COMMITTEES OR WORKING GROUPS

There were no Minutes to receive.

60. MINUTES

RESOLVED: That the Minutes of the meeting held on 23 October 2012 be received as a correct record and signed by the Chairman.

61. LICENSING & REGISTRATION - FEES & CHARGES 2013/14

Consideration was given to the report of the Assistant Director Community Services as contained on pages 195 to 200 of the Book of Reports, which was to consider a proposed increase in licensing and registration fees and charges for the period 1 April 2013 to 31 March 2014.

The Commercial, Safety and Licensing Manager outlined the report to Members and responded to questions from the Committee.

- RESOLVED: A. That with effect from 1 April 2013, the proposed increase in Hackney Carriage and Private Hire licensing fees and charges contained in Table 1 to the report be approved.
- B. That delegated authority is granted to the Assistant Director Community Services to give notice under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 of the Council's intention to vary the fees and charges for vehicle, driver and operator licences.
- C. That with effect from 1 April 2013, Skin Piercing etc. registration fees are approved to increase from £91.33 to £93.34.
- D. That with effect from 1 April 2013, Second Hand Goods Dealers registration fees are approved to increase from £98.30 to £100.46.
- E. That with effect from 1 April 2013, Motor Salvage Operators Licences are approved to increase from £77.70 to £79.41.
- F. That with effect from 1 April 2013, Sex Establishment Licence fees are approved to increase from £6019.94 to £6152.28.

62. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 (Any Individual) Paragraph 2 (Identity of an Individual) and Paragraph 7 (Criminal Matters) Part 1 of Schedule 12A of that Act and as in all circumstances of the case the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

**63. APPEAL AGAINST THE REFUSAL TO APPROVE DISABLED FACILITIES GRANT FUNDING FOR A THROUGH FLOOR LIFT UNDER SECTION 24 OF THE HOUSING GRANTS CONSTRUCTION & REGENERATION ACT 1996.
(ANY INDIVIDUAL / IDENTITY OF AN INDIVIDUAL - PARA'S 1 AND 2)**

Consideration was given to the report of the Assistant Director Community Services as contained on pages 201 to 222 of the Book of Reports in respect of an appeal against the refusal to approve Disabled Facilities Grant Funding for a through floor lift under Section 24 of the Housing Grants Construction & Regeneration Act 1996.

The Homelessness and Private Sector Housing Manager outlined the report and responded to questions and comments raised by Members.

The Appellant's attended the meeting and presented their case and responded to questions and comments raised by Members.

RESOLVED: That Disabled Facilities Grant Funding for a through floor lift be refused under Section 24(3) of the Housing Grants & Construction & Regeneration Act 1996 on the grounds that the through floor lift is not necessary and appropriate to meet the needs of the disabled occupant. The property was purchased as an empty shell and the most reasonable and practicable course of action to meet the needs of the disabled occupant in this case is to provide facilities on the ground floor.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

**64. FAILURE TO DECLARE
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARA'S 2 AND 7)**

Members were asked to consider the revocation of Hackney Carriage Driver Licence Number LN/000003499 having regard to the offences, which the Hackney Carriage Driver failed to declare.

The driver attended the meeting with a representative and was interviewed by the Committee during which the driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Hackney Carriage Driver Licence Number LN/000003499 and Hackney Carriage Vehicle Licence Number PHV559 continue.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

**65. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK000172341
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARA'S 2 AND 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000172341 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK/000172341 be GRANTED.

(Note 1: Councillor Cheetham declared a pecuniary interest on this item as the Applicant is a customer of his and therefore left the Chamber and took no part in the decision making process).

(Note 2: Councillor Kay declared a pecuniary interest on this item as he had previously been involved in prosecuting the Applicant and therefore left the Chamber and took no part in the decision making process).

(Note 3: The Officers from Community Services left the meeting as Members considered their decision in this case).

**66. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000170978
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARA'S 2 AND 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000170978 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK/000170978 be GRANTED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

**67. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000171699
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARA'S 2 AND 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000171699 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting with his representative and was interviewed by the Committee, during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK/000171699 be GRANTED.

(Note 1: Councillor Kay left the Chamber for this item and did not return for the remainder of the meeting).

(Note 2: The Officers from the Community Services left the meeting as Members considered their decision in this case).

**68. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000171946
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARA'S 2 AND 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000171946 having regard to the offences declared on the Statutory Declaration, which accompanied the Application Form.

The Applicant attended the meeting with his representative and was interviewed by the Committee during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Application Number WK/000171946 be GRANTED.

(Note: The Officers from Community Services left the meeting as Members considered their decision in this case).

- CHAIRMAN -

PLANNING COMMITTEE

HELD: 6 DECEMBER 2012

Start: 7.30 p.m.

Finish: 9.35 p.m.

PRESENT: Councillor Pope (Chairman)
Councillor Mrs. Stephenson (Vice-Chairman)

Councillors: Aldridge Griffiths
Ashcroft Hennessy
Mrs. Atherley J. Hodson
Mrs. Baybutt Mrs. Hopley
Bell Mrs. Houlgrave
Mrs. Blake McKay
Blane O'Toole
Davis Owen
Dereli Pye
Fowler Westley
Furey Wilkie

Officers: Borough Planner (Mr. J. Harrison)
Planning Control Team Leader (Mrs. C. Thomas)
Deputy Borough Planner (Mr. I. Gill)
Legal and Member Services Manager (Mr. M. Jones)
Principal Planning Officer (Mrs. A. Veevers)
Member Services Officer (Mrs. J.A. Ryan)

In attendance: Councillor Forshaw (Portfolio Holder for Planning and
Development)
Councillor Pendleton

53. APOLOGIES

There were no apologies for absence received.

54. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule No. 4, the Committee noted the termination of Councillors Bailey and Ms. Melling and the appointments of Councillors Mrs. Hopley and Mrs. Atherley for this meeting only, thereby giving effect to the wishes of the Political Groups.

55. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no urgent items of business.

56. DECLARATIONS OF INTEREST

1. Councillor Mrs. Baybutt declared a pecuniary interest in respect of Application No. 2012/0860/COU relating to ORM Works, Railway Road, Skelmersdale as the applicant is a friend of hers and therefore left the Chamber during consideration of this item.
2. Councillor Mrs. Atherley declared a pecuniary interest in respect of Application No. 2012/1069/FUL relating to Blaguegate Playing Fields, Liverpool Road, Skelmersdale as a Director of the applicant is a friend of hers and therefore left the Chamber during consideration of this item.
3. Councillor Mrs. Atherley declared a pecuniary interest in respect of Application No. 2012/1000/FUL relating to Fir Tree Farm, Fir Tree Lane, Aughton as the applicant is a friend of hers and therefore left the Chamber during consideration of this item.
4. Councillor J. Hodson declared a pecuniary interest in respect of Application No. 2012/0297/OUT relating to 38 Moss Lane, Hesketh Bank as he owns property adjacent to the application site and therefore left the Chamber during consideration of this item.
5. Councillor Owen declared a pecuniary interest in respect of Application No. 2012/0936/FUL relating to Farmer Teds Farm Park, Worrall House Farm, Flatmans Lane, Downholland as her employer is a supplier to the applicant and therefore left the Chamber during consideration of this item.

57. DECLARATIONS OF PARTY WHIP

There were no declarations of Party Whip.

58. MINUTES

RESOLVED: That the minutes of the meeting held on the 8 November 2012 be approved as a correct record and signed by the Chairman.

59. PLANNING APPLICATIONS

The Borough Planner submitted a report containing the Schedule of Planning Applications (all prefixed 2012 unless otherwise stated) as contained on pages 1095 to 1208 of the Book of Reports and on pages 1267 to 1276 giving details of late information and on pages 1277 to 1280 giving details of additional late information and also on pages 1281 to 1282 giving details of additional late information (2).

RESOLVED: A. That the undermentioned Planning Applications be approved subject to the conditions in the schedule and in the late information and additional late information:-

0860/COU; 0881/WL3; 1069/FUL; 0919/WL3
0998/COU; 1132/WL3 0814/FUL; 0936/FUL

- B. That planning application 0193/OUT relating to Universal Bulk Handling Limited, Orrell Lane, Burscough be refused for the following reason:-

The proposed development conflicts with Policy GD1 in the West Lancashire Replacement Local Plan, Policy GN3 in the West Lancashire Local Plan 2012-2027 Submission Document (Oct 2012) and advice given in the National Planning Policy Framework in that it has not been satisfactorily demonstrated that an acceptable standard of residential amenity for future occupiers can be achieved (particularly in respect of noise generated by neighbouring commercial premises).

- C. That in respect of planning application 0866/OUT relating to land to the South of Ingram and to the South of Nye Bevan Swimming Pool, Southway, Skelmersdale:-

- (i) The decision to grant planning permission be delegated to the Borough Planner in consultation with the Chairman and Vice-Chairman of the Planning Committee subject to a planning obligation under the Town and Country Planning Act 1990 being entered into to secure
 - (i) the payment of a commuted sum for the improvement of sustainable transport measures within the vicinity of the site, if after 3 years from the date of grant of permission the development has not commenced and the payment of the commuted sum is considered at that time not to prejudice the viability of the development; and
 - (ii) the submission and implementation of a training skills plan
- (ii) That any planning permission granted by the Borough Planner pursuant to recommendation (i) above be subject to the conditions as set out on pages 1150 to 1176 of the Book of Reports.

- D. That planning application 1000/FUL relating to Fir Tree Farm, Fir Tree Lane, Aughton be refused for the following reason:-

The proposed development conflicts with the requirements of the National Planning Policy Framework together with the Overarching National Policy Statement for Energy (EN1) in that the wind turbine could potentially present a hazard to the safe operation of aircraft.

- E. That planning application 0297/OUT relating to 38 Moss Lane, Hesketh Bank be refused on highway safety grounds.

(Notes:-

1. In accordance with the procedure for public speaking on planning applications on this Committee:-
 - (a) Members of the public spoke in connection with application nos. 1069/FUL and 1000/FUL.
 - (b) Parish Clerk Mrs I. Roberts from Aughton Parish Council spoke in connection with application no. 1000/FUL.
2. Councillor Mrs. Atherley left the Chamber during consideration of planning application 1069/FUL relating to Blaguegate Playing Fields and was not present during consideration of this item.
3. Councillor Mrs. Baybutt left the Chamber during consideration of planning application 0860/COU relating to ORM Works, Railway Road, Skelmersdale and was not present during consideration of this item.
4. Councillor J. Hodson left the Chamber during consideration of planning application 0297/OUT relating to 38 Moss Lane, Hesketh Bank and was not present during consideration of this item.
5. Councillor Mrs. Atherley left the Chamber during consideration of planning application 1000/FUL relating to Fir Tree Farm, Fir Tree Lane, Aughton and was not present during consideration of this item.
6. Councillor Owen left the Chamber during consideration of planning application 0936/FUL relating to Farm Teds Farm Park, Worrall House Farm, Flatmans Lane, Downholland and was not present during consideration of this item.
7. Councillor Hennessy arrived during consideration of planning application 1069/FUL relating to Blaguegate Playing Fields, Liverpool Road, Skelmersdale and therefore took no part in the debate and decision making process.
8. The Borough Planner left the Chamber during consideration of planning application 0866/OUT relating to Land to the South of Ingram and to the South of Nye Bevan Swimming Pool, Southway, Skelmersdale as he is the Lead Officer on the Skelmersdale Vision Working Group.
9. Councillor Forshaw left the meeting at the conclusion of planning application 0866/OUT relating to Land to the South of Ingram and to the South of Nye Bevan Swimming Pool, Southway, Skelmersdale and was not present for the remainder of the meeting.

60. ENFORCEMENT ITEMS

The Borough Planner submitted a report containing details of enforcement items as contained on pages 1209 to 1222 of the Book of Reports.

RESOLVED: A. That in relation to Enforcement Items E/2011/0102/UBW; E/2011/0223/UEW and E/2012/0213/UBW

- (i) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act as set out in the report, requiring the steps to be taken within the time periods and for the reasons as set out in the report.
- (ii) That the Borough Solicitor be authorised to take proceedings where any steps required by the notice are not taken within the period for compliance and the Borough Planner be authorised to enter the land and take those steps. In the event of the Borough Planner having to take such actions, he be authorised to recover the expenses reasonably incurred.
- (iii) That the Borough Solicitor be authorised to withdraw, vary and re-issue notices if subsequent information indicates this to be necessary.

B. That in respect of Enforcement Items E/2011/0248/BC and E/2012/0258/UBW that no further action be taken.

C. That in respect of Enforcement Item E/2011/0325/UEW

- (i) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act as set out in the report, requiring the steps to be taken within the time periods and for the reasons as set out in the report.
- (ii) That the Borough Solicitor be authorised to take proceedings where any steps required by the notice are not taken within the period for compliance and the Borough Planner be authorised to enter the land and take those steps. In the event of the Borough Planner having to take such actions, he be authorised to recover the expenses reasonably incurred.
- (iii) That the Borough Solicitor be authorised to withdraw, vary and re-issue notices if subsequent information indicates this to be necessary.
- (iv) That the compliance period be changed to 6 months instead of 3 months as members felt this was a more reasonable period of time for the required steps to be taken due to the inclement weather to remove the material the subject of the enforcement notice.

61. APPLICATION TO CARRY OUT WORKS TO TREES SUBJECT TO TREE PRESERVATION ORDER (15) 2007

Consideration was given to the report of the Borough Planner as contained on pages 1223 to 1246 of the Book of Reports the purpose of which was to consider an application for the removal of a Sycamore Tree subject to the above Tree Preservation Order (TPO) and decide if the works should be granted or not.

RESOLVED: That application T/2012/0081/TPO to remove a Sycamore Tree be granted and a replacement tree is planted in the vicinity of the tree, and that the size and position of the replacement tree be agreed between the Borough Planner and the applicant.

- CHAIRMAN -



AGENDA ITEM: 8

CABINET: 13 November 2012

**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
29 November 2012**

COUNCIL: 19 December 2012

Report of: Borough Treasurer

Relevant Managing Director: Managing Director (People and Places)

Relevant Portfolio Holders: Councillors D Westley and A Owens

**Contact for further information: Mrs K Samosa (Ext. 5038)
(E-mail: karen.samosa@westlancs.gov.uk)**

SUBJECT: REVISED CAPITAL PROGRAMME AND MID YEAR REVIEW 2012/2013

Wards Affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To agree a Revised Capital Programme for 2012/2013 and provide Members with an overview on the progress against it at the mid-year point.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the Revised Capital Programme, including the virements and budget adjustments contained within it, be approved for consideration by Council.

2.2 That the progress against the Revised Capital Programme at the mid-year point be noted.

2.3 That Call In is not appropriate for this item as the report is being submitted to the next meeting of the Executive Overview and Scrutiny Committee on 29th November and Council on 19th December.

3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

3.1 That the Revised Capital Programme and progress against it at the mid-year point be noted.

4.0 RECOMMENDATIONS TO COUNCIL

- 4.1 That the Revised Capital Programme, including the virements and budget adjustments contained within it, be approved.
 - 4.2 That progress against the Revised Capital Programme at the mid-year point be noted.
-

5.0 BACKGROUND

- 5.1 The Capital Programme is set on a three-year rolling basis and the Programmes for 2012/2013, 2013/2014 and 2014/2015 were approved by Council in February, 2012.
- 5.2 In accordance with best practice, the Capital Programme is subject to revision at the mid-year point to ensure that it is based on the latest available information and to make monitoring of the Programme more meaningful. It enables Managers to review their schemes with the most up to date information and to review the resources available. It also provides a base upon which to build future Capital Programmes.
- 5.3 Members are kept informed of the financial position of the Capital Programme through regular monitoring reports. The last such report was presented to Cabinet and Executive Overview and Scrutiny in September 2012 and reported on a Capital Programme of £13.414m for 2012/2013.

6.0 REVISED CAPITAL PROGRAMME

- 6.1 Heads of Service have reviewed their respective schemes and are now proposing that changes are made as a result of more up to date information that has become available. This review process has incorporated a number of considerations including:
 - re-profiling of schemes
 - changes to external funding availability
 - levels of anticipated funding required
 - anticipated levels of demand
- 6.2 All of the proposed changes to the 2012/2013 Programme are analysed in Appendix A and show an overall reduction of £0.052m. This comprises:
 - a reduction of £1.102m from approvals reprofiled into future years
 - an increase of £0.603m in external funding from Environment Agency Grants and Disabled Facilities Grants
 - a reduction of £0.103m from transferring expenditure to the GRA to reflect the nature of expenditure
 - transferred additional funding of £0.525m from the HRA for a number of Housing Public Sector schemes
 - £0.139m of Capital receipt funding no longer required being transferred to the Capital Pot for consideration in the budget process
 - An additional £0.164m section 106 funding recently approved at Cabinet for parks and recreation areas.

6.3 The Revised Capital Programme totals £13.362m for 2012/2013. This is analysed by Service in Appendix B along with a summary of the revised capital resources available. These Programme figures may need to be amended depending on decisions taken by Members in relation to the Procurement of Kitchen and Bathroom Refurbishment Contracts Report which is a separate item elsewhere on the Cabinet Agenda.

7.0 CAPITAL EXPENDITURE

7.1 Generally, capital schemes are profiled with relatively low spending compared to budget in the early part of the financial year with increased spending as the year progresses. This reflects the fact that many new schemes have considerable lead in times, for example, because of the need to undertake the tendering process and award contracts at the start of the scheme. Other schemes are dependant on external partner funding and schemes can only begin once their funding details have been finalised. Other schemes include contract retentions or contingencies that will only be spent some time after completion of the contract. Most schemes then progress and spend in line with their approval by the year-end.

7.2 This pattern has been repeated in the current year with £4.034m (30%) of expenditure having been incurred by the mid-year. This is an improvement on previous years' performance: £3.14m (25%) at the same point in 2011/2012, £2.673m (24%) in 2010/2011, and £2.398m (19%) in 2009/2010.

7.3 There is also currently around £0.559m of committed expenditure due to take place over the coming months. Taking this into account would show an increase in the percentage spend against the Revised Programme to 34% which is a slight improvement on the performance of 33% at the mid year point in 2011/2012.

7.4 Appendix C provides the Heads of Services' comments on the progress of schemes against the Revised Programme. Housing Public Sector schemes represent 68% of the overall programme. Consequently, progress in this area will largely determine the overall spending position at the year end.

8.0 CAPITAL RESOURCES

8.1 There are sufficient resources identified to fund the 2012/2013 Revised Capital Programme as shown in Appendix A.

8.2 The main area of the capital resources budget that is subject to variation is in relation to capital receipts. These are the useable proceeds from the sale of Council assets (mainly houses under Right to Buy legislation) that are available to fund capital expenditure. These receipts can vary significantly depending on the number and value of assets sold.

8.3 Members are aware that, in recent years, receipts from this source have fallen dramatically. The budget for usable capital receipts to be generated from Council House sales in the year is £0.175m from 16 sales. At the beginning of October, 7 sales have been completed generating £0.075m. Consequently, it looks likely that this budget target will be not be met if the current pattern continues.

- 8.4 The Government have recently changed the rules relating to Right to Buy sales by increasing the discount cap to £75,000 (from £26,000). This has meant that the average receipt from each sale has reduced. However, this has not led to an increase in sales as it appears that potential buyers are still experiencing difficulties in obtaining mortgages, even at the reduced sales price.
- 8.5 In addition to receipts from council house sales, the Council budget includes £0.05m for receipts from land sales in line with the Asset Management Strategy. Following the success of the Strategic Asset Management Plan, which is discussed elsewhere on this agenda, to date one land sale has generated £0.015m and there are a further 4 potential sales due by the end of the financial year which could generate a total of £0.25m in receipts.
- 8.6 A full review of expenditure plans and funding availability for future years is progressing. This will be considered as part of the Budget process with a view to ensuring a balanced Programme that will be managed over a medium term timescale.

9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 9.1 The Capital Programme includes schemes that the Council plans to implement to enhance service delivery and assets. Individual project plans address sustainability and Community Strategy issues and links to Corporate Priorities. The Capital Programme also achieves the objectives of the Prudential Code for Capital Finance in Local Authorities by ensuring capital investment plans are affordable, prudent, and sustainable. This report provides an updated position on project plans and shows progress against them.

10.0 RISK ASSESSMENT

- 10.1 Capital assets shape the way services are delivered for the long term and, as a result, create financial commitments. The formal reporting of performance against the Capital Programme is part of the overall budgetary management and control framework that is designed to minimise the financial risks facing the Council. Schemes within the Programme that are reliant on external contributions and/or decisions are not started until funding is secured. Other resources that are subject to fluctuation are monitored closely to ensure availability. The capital receipts position is scrutinized on a regular basis and managed over the medium term to mitigate the risk of unfunded capital expenditure.

Background Documents:

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and/or stakeholders. Therefore, no Equality impact assessment is required.

Appendices:

- A Summary of Changes to 2012/2013 Capital Programme
- B 2012/2013 Revised Capital Programme Expenditure and Resource Budgets and Mid Year Performance
- C Heads of Services - Comments at Mid-Year
- D Minute of Cabinet – 13 November 2012
- E Minute of Executive Overview and Scrutiny Committee – 29 November 2012

SUMMARY OF CHANGES

		2012/2013	2013/2014	2014/2015
SCHEME	REASON FOR AMENDMENT	£'000	£'000	£'000
<u>Reprofiled Expenditure</u>				
Contaminated Land	Progress on hold pending Government guidance.	-18	18	
CCTV	Tender exercise due to commence November meaning expenditure will not take place until 2013.	-310	310	
Clearance Programme	Dependent on delays beyond the Council's control on the Lime Court scheme.	-45	45	
Affordable Housing (Private Sector)	Delay due to lead in time for Development Programme and problematic mortgage arrangements for Cash to Leave Incentive.	-544	544	
Affordable Housing (Public Sector)	Plans for this funding will be considered in the next financial year.	-105	105	
Parish Council Schemes	Project delivery dependent on Parish requirements.	-30	30	
Estates ICT System	New systems being reviewed.	-10	10	
Conservation Area Enhancement Grants	Reprofiled to reflect demand.	-40	20	20
		-1,102	1,082	20
<u>Budget Virements</u>				
Electronic Document Management	Completion of OR exercises in Housing and Environmental Services	27		
ICT Development Programme	Allocation of part of the budget held for small projects.	-27		
Environmental Improvements	Budget Realignment	103		
Windows and Doors	Additional works included at tender stage.	148		
Energy Efficiency Works	Pilots schemes unlikely to be considered this year.	-276		
Communal Areas	Budget Realignment	54		
Fixtures and Fittings	Reduction in demand for adaptations	-184		
General Contingency	Additional works required to relet void properties.	155		
		0		

SUMMARY OF CHANGES

		2012/2013	2013/2014	2014/2015
SCHEME	REASON FOR AMENDMENT	£'000	£'000	£'000
<u>Other Adjustments</u>				
Flood Alleviation Works at Calico Brook and Dock Brook	Additional funding from the Environment Agency to enable scheme completion.	261		
Disabled Facilities Grants	Additional Grant received from Central Government.	342		
Tarleton Carr Lane Recreation Area Refurbishment/Drainage	New scheme funded by section 106 monies approved at Cabinet September 2012.	44		
Ormskirk Parks	New scheme funded by section 106 monies approved at Cabinet September 2012.	50		
Aughton Parks	New scheme funded by section 106 monies approved at Cabinet September 2012.	70		
Housing Renewal Grants	Demand led scheme with demand being less than anticipated.	-129		
Parish Council Schemes	Project Delivery at lower cost and scheme termination.	-10		
Skelmersdale Vision	Transfer approval to revenue to reflect nature of expenditure.	-70		
Skelmersdale Town Centre	Transfer approval to revenue to reflect nature of expenditure.	-33		
Windows and Doors	Additional works included at tender stage.	525		
		1,050		
<u>Total Expenditure Adjustments</u>		-52	1,082	20
<u>Funded By:</u>				
Reprofiling		-1,102	1,082	20
Increase in Grant Funding		603		
Transfers to Revenue		-103		
Additional S106 Funding		164		
Capital Receipts no longer required		-139		
Funding transferred from Revenue Reserves in relation to pre-paying works no longer required		525		
		-52	1,082	20
<u>Previous Monitoring Report to Cabinet September 2012</u>		13,414	2,015	855
<u>Revised Capital Programme</u>		13,362	3,097	875

SUMMARY OF CHANGES

		2012/2013	2013/2014	2014/2015
SCHEME	REASON FOR AMENDMENT	£'000	£'000	£'000

The following schemes have transferred Services due to changes in management responsibility:

		£'000
Wigan Road Site Works	Transferred from Corporate Property to Community Services	123
Contribution to Capital Reserve	Transferred from Corporate Property to Financial Services	25
Skelmersdale Vision	Transfer scheme from Corporate Services to Planning to reflect updated management responsibility	108

2012/2013 CAPITAL PROGRAMME
EXPENDITURE AND RESOURCES BUDGET
as at MID YEAR REVIEW

Service	Budget Approval	Actual		Variance	
	£'000	£'000	%	£'000	%
EXPENDITURE					
Housing and Regeneration					
Public Sector Housing	9,058	2,168	24%	6,890	76%
Housing Strategy	150	0	0%	150	100%
Property Management	392	98	25%	294	75%
Community Services					
Private Sector Housing	882	319	36%	563	64%
Other Community Services	2,548	1,409	55%	1,139	45%
Planning	60	1	2%	58	98%
Corporate Services	273	39	14%	234	86%
	13,362	4,034	30%	9,328	70%
RESOURCES					
Capital Grants	2,051				
HRA Financing	9,059				
GRA	307				
Capital Receipts	1,945				
	13,362				

CAPITAL PROGRAMME 2012/2013
HEADS OF SERVICE COMMENTS
AT MID-YEAR POINT

Public Sector Housing

The Windows and Doors Programme, which is on target for completion this year, has been revised to include a projected overspend against the original budget which is being funded by projected underspends on other schemes and other funding adjustments as detailed in Appendix A.

Current levels of Occupational Therapy referrals are lower than expected meaning Disabled Adaptations are expected to outturn less than the original budget. This has facilitated part of the funding for the windows mentioned above. It is anticipated that the remaining budget will be fully committed this year.

There has been a significant reduction in the Energy Efficiency budget due to the pilot Green Energy Scheme not coming to fruition together with funding from the Energy Efficiency Contingency being utilised.

Tenders have been received for the Binstores and consultation is progressing. The Kitchen and Bathroom contract is discussed elsewhere on this agenda and has not been included in this report.

Heating contracts are scheduled for completion within the financial year and external funding grants which may be attributable to some of the heating schemes are being investigated. However, these grants are subject to certain conditions being met so will only be added to the Programme if they are secured.

The revised Capital Repairs Contingency will be used for enhancement works to voids and response enhancements. The Environmental Improvement budget is expected to be fully committed within the year along with General Sheltered Upgrades, Structural Works, Professional Fees, and Communal Area Improvements.

Housing Strategy

The Affordable Housing Development Project will support the development of up to 32 affordable homes in the borough. An appropriation exercise to secure the land has taken longer than anticipated so some of the approvals have been reprofiled in to 2013/2014.

The Cash to Leave Scheme has also been reprofiled as mortgages are proving difficult to secure and the scheme can no longer operate as originally intended. Prioritisation of this budget will be reviewed by the Affordable Housing Cabinet Panel along with next year's approval.

CAPITAL PROGRAMME 2012/2013
HEADS OF SERVICE COMMENTS
AT MID-YEAR POINT

Property Management
<p>Corporate Property has a number of larger schemes, such as Home Care Link Relocation, to implement. At this time it is anticipated that the Capital Programme, including schemes slipped from last year, will all be completed by the financial year end.</p>
Regeneration
<p>The approval for the Estates ICT System will be used to acquire a new asset register to support the Strategic Asset Management Plan. Whilst new systems are being reviewed, it is likely that expenditure will not be incurred this financial year. The budget has, therefore, been reprofiled into next year.</p>
Planning
<p>The Skelmersdale Town Centre/Skelmersdale Vision Project has been transferred to Planning Services. Approvals for the development phase have been transferred to revenue due the nature of the expenditure planned and there are commitments against the remaining capital scheme relating to the recent acquisition of land at the college.</p> <p>The remaining Planning schemes are demand led. The Free Tree Scheme has been advertised and expenditure should be incurred over the coming months. The Conservation Area Enhancement approvals have been reprofiled in anticipation of future demand.</p>

CAPITAL PROGRAMME 2012/2013
HEADS OF SERVICE COMMENTS
AT MID-YEAR POINT

Corporate Services

Progress made on delivering Parish Capital Schemes rests with individual Parishes which has led to the re-profiling of some budgets to 2013/2014. A saving of £10,000 has been recognised in the mid year review from the delivery of projects at a lower cost than the original estimates and from terminating schemes that have been unable to progress within the required timescale.

It is anticipated that the ICT Infrastructure budget will be utilised to fund the costs associated with the transfer of ICT related equipment etc. due to the demolition of Westec House along with the affordability model of the JVC.

The ongoing OR exercises in Housing and Environmental Health will mean that all related funding on the EDM will be spent by the end of the Financial Year.

The Capital Development Programme is set up to fund various projects, including, Web Improvements, Wireless Network, and set up costs for the Managed Payroll System, which are progressing.

Community Services - Private Sector Housing

Expenditure on the Renovation Grant budget is a demand led area. It is considered that all of the original budget is not required this financial year and an element has, therefore, been given back to the Capital Pot.

The majority of the approval for the Clearance Programme has been re-profiled due to delays beyond the Council's control on the Lime Court scheme.

The Disabled Facilities Grant received was higher than anticipated and has meant a larger programme than originally expected. It is, however, anticipated that the all of the funding will be either spent or committed by 31st March 2013.

A report identifying the use of the Empty Homes Initiative funding involving a Lease and Repair Scheme is included elsewhere on this agenda.

CAPITAL PROGRAMME 2012/2013
HEADS OF SERVICE COMMENTS
AT MID-YEAR POINT

Other Community Services

The Leisure Trust funding is part of an on-going agreement and will be spent as planned. Funding on the Environmental Health Computer system is due to be spent in the near future.

Building works have commenced for the CCTV Suite Relocation and camera replacements and upgrades are due to be completed by February 2013. The introduction of cameras into new areas will now take longer than originally expected and spending approvals have been re-profiled to reflect this development.

The Play Area Improvements Budget is an ongoing Capital Programme with new schemes planned for completion within 2012/2013. New schemes using section 106 monies have recently been approved by Cabinet and will progress in line with their new approvals.

Flood Alleviation schemes at Calico Brook and Dock Brook are complete apart from final account negotiations with the contractor. Environment Agency funding has been revised to take account of the final accounts.

Works on the Wigan Road Site are expected to be completed by the end of the financial year.

MINUTE OF CABINET – 13 NOVEMBER 2012

68. REVISED CAPITAL PROGRAMME AND MID YEAR REVIEW 2012/2013

Councillor Westley introduced the report of the Borough Treasurer which detailed the revised Capital Programme 2012/2013 and provided an overview on the progress against it at the mid-year point.

In reaching the decision below, Cabinet considered the details set out in the report before it and accepted the reasons contained in it.

- RESOLVED:
- A. That the Revised Capital Programme, including the virements and budget adjustments contained within it, be approved for consideration by Council.
 - B. That the progress against the Revised Capital Programme at the mid-year point be noted.
 - C. That call-in is not appropriate for this item as the report is being submitted to the next meeting of the Executive Overview and Scrutiny Committee on 29 November 2012 and Council on 19 December 2012.

MINUTE OF: Executive Overview and Scrutiny Committee: 29 November 2012

41. REVISED CAPITAL PROGRAMME AND MID YEAR REVIEW 2012/13

Consideration was given to the report of the Borough Treasurer that detailed the revised Capital Programme for 2012/2013 and provided an overview on the progress against it at the mid-year point.

During the ensuing discussion Members raised questions/queries relating to:

- Strategic Asset Management Plan – costs incurred so far; strategy related to land sales.
- Right to Buy sales – discount cap changes.
- Use of 106 monies.
- Windows and Doors Programme – adjustments.
- Affordable Housing Development Project – timescale adjustments.

RESOLVED: That the Revised Capital Programme and progress against it at the mid-year point be noted.



AGENDA ITEM: 9

COUNCIL: 19 December 2012

Report of: Borough Solicitor

Relevant Managing Director: Managing Director (Transformation)

Contact for further information: Mr P Holland and Mrs J Denning (Extn. 5384)
(E-mail: phil.holland@westlancs.gov.uk and jacky.denning@westlancs.gov.uk)

**SUBJECT: PUBLIC SECTOR HOUSING CAPITAL INVESTMENT –
PROCUREMENT OF KITCHEN AND BATHROOM REFURBISHMENT
CONTRACTS**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To consider the decision of Cabinet (13 November) in relation to the above and the decision of Executive Overview and Scrutiny Committee (29 November) following Call In of the item.

2.0 RECOMMENDATIONS

2.1 That Minute 39 of the Executive Overview and Scrutiny Committee (29 November), set out in paragraph 4 below and the comments of the Assistant Director Housing and Regeneration set out in paragraph 5, including the list of properties to benefit from new kitchens and bathrooms, identified in Appendix 2 and 3, be noted.

2.2 That the decision of Cabinet (13 November), set out in Paragraph 3 below be noted and resolution B and C of Minute 71 be approved.

3.0 DECISION OF CABINET

3.1 The report of the Assistant Director Housing and Regeneration (Appendix 1) was considered by Cabinet on 13 November, 2012. The minute of Cabinet reads as follows:

“71. PUBLIC SECTOR HOUSING CAPITAL INVESTMENT - PROCUREMENT OF KITCHEN AND BATHROOM REFURBISHMENT CONTRACTS

Councillor Owens introduced the report of the Assistant Director Housing and Regeneration which sought approval to invest in kitchens and bathrooms for some of the Council's public housing stock, commencing the programme of investment over the next five years.

In referring to bathroom refurbishments, Councillor Owens raised the concerns of the Landlord Services Committee over the replacement of baths with showers in ground floor accommodation as some of these properties had been allocated to young families. He submitted a motion in this regard proposing flexibility within the policy.

A copy of minute no. 27 of the Landlord Services Committee held on 7 November 2012 was circulated. A copy of a revised Appendix A was also circulated at the meeting.

In reaching the decision below, Cabinet considered Councillor Owens' comments, the minutes of the Landlord Services Committee, the motion circulated, the revised Appendix A and details set out in the report before it and accepted the reasons contained therein.

- RESOLVED: A. That the Assistant Director Housing and Regeneration be authorised to accept the successful tenders for the provision of both kitchen and bathroom refurbishments (2 separate tenders) for a term of 5 years, based on the tender evaluation methodology detailed in the revised Appendix A.
- B. That, in order to allow the prompt commencement of the extensive kitchen and bathroom contracts, Council be recommended to approve a budget allocation totalling £5.8m to allow for commencement in January 2013 (plus an additional £600K for void property kitchens) including any increase in temporary staffing resource. (This will be included in a further report to Council on 27 February 2013 along with the remainder of the public sector capital investment plans for 2013/14, and as part of the normal budget setting process).
- C. That Council be recommended to approve the policies in respect of kitchen and bathroom replacement as detailed in paragraphs 6.6 and 7.3 with the exception that bathrooms in flats or bungalows with 3 bedrooms or more are excluded from the policy of having baths replaced with showers.”

4.0 CALL IN

4.1 The decision of Cabinet was called in to the meeting of the Executive Overview and Scrutiny Committee on 29 November 2012. The minute of Executive Overview and Scrutiny reads as follows:-

“39. PUBLIC SECTOR HOUSING CAPITAL INVESTMENT - PROCUREMENT OF KITCHEN AND BATHROOM REFURBISHMENT CONTRACTS

Consideration was given to the report of the Borough Solicitor which advised that a decision in relation to the above item (minute 71 refers) had received a call in requisition signed by five members of the Committee. The report set out the reason given for the call in, together with a different decision put forward by the five Members concerned on the requisition notice.

In the ensuing discussion the following comments/questions were noted in relation to:

- Quality of Kitchens to be installed.
- Contribution by tenants to the decision making process.
- Kitchens of void properties – void standard
- Landlord Services Committee (Cabinet Working Group) – role/reporting mechanisms.

The Programme Works Manager attended the meeting and gave an overview of the processes that had led to the selection of the kitchen cabinets supplier and responded to questions referencing details as contained within the Assistant Director Housing and Regeneration report.

The Chairman made an undertaking to speak with the Leader in respect of the points raised by a Member relating to role/reporting mechanisms of the Landlord Services Committee (Cabinet Working Group).

RESOLVED: That the Committee does not wish to ask for a different decision.”

5.0 COMMENTS FROM THE ASSISTANT DIRECTOR HOUSING AND REGENERATION

5.1 The Stock Condition report produced by Savills identified a list of estates requiring kitchens and bathrooms. Officers have visited these estates and prioritised a list of addresses based on need.

5.2 The allocated budget based on estimates for this type of work will I consider to allow at least 918 bathrooms & 850 kitchens to be installed. In accordance with the stock condition survey I propose that the properties identified in Appendix 2 (kitchens) and Appendix 3 (bathroom) be installed. The void kitchens will be identified as and when they are surveyed.

5.3 Tenders for the programme will be received on 13 December 2012, if the prices are competitive, and I believe this will be the case, the estimated number of properties that can benefit from the work may be able to be increased. If this is the case a supplementary list will be provided prior to the council meeting.

- 5.4 For completeness I would like to draw member's attention to the Firbeck Revival Project which was approved in last year's budget. I propose to use the tendered works referred to above to benefit the houses in Firbeck and flats in Firbeck Court as part of the revival process.
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Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

An Equality Impact Assessment is attached at Appendix B to the report of the Assistant Director Housing and Regeneration.

Appendices

1. Report of the Assistant Director Housing and Regeneration.
2. List of properties (kitchens)
3. List of properties (bathrooms).



APPENDIX 1 TO AGENDA ITEM 9

CABINET: 13th NOVEMBER 2012

COUNCIL: 19TH DECEMBER 2012

Report of: Assistant Director Housing and Regeneration

Relevant Managing Director: Managing Director (Transformation)

Relevant Portfolio Holders: Councillor V Hopley and Councillor A Owens

**Contact for further information: Mr W. Berkley (Extn. 5259)
(E-mail: William.berkley@westlancs.gov.uk)**

**SUBJECT: PUBLIC SECTOR HOUSING CAPITAL INVESTMENT –
PROCUREMENT OF KITCHEN AND BATHROOM REFURBISHMENT CONTRACTS**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of the report is to seek approval to invest in kitchens and bathrooms of some of the Council's public housing stock and starts the programme of investment over the next 5 years.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the Assistant Director Housing and Regeneration be authorised to accept the successful tenders for the provision of both kitchen and bathroom refurbishments (2 separate tenders) for a term of 5 years, based on the tender evaluation methodology detailed in appendix A.

2.2 That to allow the prompt commencement of the extensive kitchen and bathroom contracts, Council be recommended to approve a budget allocation totalling £5.8M to allow for commencement in January 2013 (plus an additional £600k for void property kitchens, should recommendation in paragraph 2.3 be endorsed) including any increase in temporary staffing resource. This will be reflected in a further report to Council on the 27th February 2013 along with the remainder of the public sector capital investment plans for 2013/14, and as part of the normal budget setting process.

2.3 That Council be recommended to approve the policies in respect of Kitchen and Bathroom replacement as detailed in paragraphs 6.6 and 7.3.

3.0 RECOMMENDATIONS TO COUNCIL

- 3.1 That the decision of Cabinet dated 13th November 2012 as detailed in Appendix C to the report be approved.
-

4.0 BACKGROUND

- 4.1 Savills (stock condition surveyors) completed a 25% stock condition survey of the Council housing stock in 2011. This survey identified a capital investment need of approx £55M over five years, a substantial amount of which was for the refurbishment of Kitchens and Bathrooms.
- 4.2 As Members will be aware a new system for Council Housing Finance has been introduced from 2012/13. This replaced the previous system based on a national subsidy. This new system will allow the Council to significantly increase the investment in the housing stock, and a further report will be presented to Council in February outlining a rent strategy to address the investment need identified by the stock condition survey referred to in paragraph 4.1.
- 4.3 A further detailed 5 year investment plan is currently being produced alongside the rent strategy and an overall business plan which will be presented to Council in February.

5.0 KITCHEN AND BATHROOM PROCUREMENT

- 5.1 In order to allow for commencement of the Kitchen and Bathroom contracts early in 2013, due the volume of work, officers placed a Contract OJEU notice (Official Journal of the European Union) in June 2012 seeking expressions of interest. Following prequalification assessments, tender documents were sent out early in October, these are due to be returned in November.
- 5.2 As part of the tendering process, officers will benchmark the submitted tenders against established frameworks to ensure value for money. This will be achieved by asking tenderers to submit, along with their supply and fit price, a price to fit only. This will be reviewed alongside material costs the council could achieve utilising existing tendered frameworks.
- 5.3 Officers have worked closely with portfolio holders and tenants as part of a working group in the drafting of contract documents; once the tenders have been received it is proposed that this working group will also be involved in the tender appraisal process following the established criteria.
- 5.4 Once tenders have been received officers will be able to produce address lists detailing the areas we propose to carry out the works. This will be presented to Council as an update.

6.0 KITCHEN VOID WORKS

- 6.1 The Council's re-let standard for kitchens in empty properties is currently a basic one, which essentially maintains kitchens at their current level.

- 6.2 When properties are included in a kitchen replacement programme a full refurbishment is carried out including flooring, wall tiling, upgrading consumer units where necessary and fitting additional sockets to meet modern standards.
- 6.3 I am considering adopting the kitchen refurbishment standard detailed above in paragraph 6.2 for void properties where they are in need of considerable expenditure to meet the basic void standard.
- 6.4 The advantages of adopting the refurbishment standard for void properties are as follows:
- 6.4.1 there would be no disruption to sitting tenants
 - 6.4.2 we would avoid the duplication of works and potentially save money in the long term
 - 6.4.3 reduced demands on voids budget
 - 6.4.4 properties potentially more desirable
 - 6.4.5 potential to charge additional/target rent based on investment levels (Should this approach be agreed as part of the rent strategy / business plan).
- 6.5 The disadvantages of adopting the refurbishment standard for void properties are as follows:
- 6.5.1 reduced tenant choice
 - 6.5.2 increased re-let times
 - 6.5.3 existing tenants potentially having a lower standard kitchen than new tenants.
 - 6.5.4 the renewal programme becoming increasingly fragmented and unplanned
 - 6.5.5 significantly increased demand on the capital budget
- 6.6 I therefore recommend that a minimum amount of work is carried out in the kitchens of void properties in order to meet our void standard. However, should kitchens in void properties need repairs costing in excess of £500 to meet the void standard, these kitchens be upgraded to meet our latest standard as part of the kitchen capital programme.

7.0 BATHROOM REFURBISHMENTS

- 7.1 Each year a considerable number of disabled adaptations are carried out, at the request of occupational therapists to assist tenants with their bathing needs. In the 2011/12 financial year 83 Occupational Therapist requests of this nature were made. These requests can cost in excess of £3,000 each.

- 7.2 In order to reduce the number of these adaptation requests, officers are considering a change of policy in relation to bathroom refurbishments.
- 7.3 I feel it would be appropriate, when bathrooms are due for refurbishment, to remove existing baths and fit shower cubicles and showers in ground floor flats, bungalows and in sheltered accommodation.
- 7.4 In addition to reducing the number of adaptation requests, officers feel this change of policy would make properties more suitable for their potential occupants.
- 7.5 Consultation with the kitchen and bathrooms working group has been carried out and they are in agreement that alternative bathing provision for the type of properties outlined in paragraph 7.3 would be appropriate.

8.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY

- 8.1 Sustainability analysis of the Council's public sector housing stock has been carried out as part of our Asset Management Plan and no significant investment will be carried out where properties could have a negative effect on the business plan, pending a full option appraisal.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 9.1 This report seeks funding approvals of £3.6m for kitchens, £2.2m for bathrooms, and £0.6m for void property kitchens, which comes to £6.4m in total. If Members approve these schemes then it will commit a significant proportion of the capital resources available for the 2013/14 financial year (the total HRA capital programme approved for the current year is £8.531m). These approvals will then be taken into account in the HRA budget setting report to Council in February 2013. However, it is anticipated that no more than £300k for kitchens and £200k for bathrooms will be expended during the course of the current financial year.
- 9.2 Council will receive a report which identifies the properties that will benefit from these works as more accurate tender prices will be available at this stage.
- 9.3 Members are asked to note the kitchen and bathroom contracts will contain a break clause that will allow the Council to terminate the contract, subject to 13 weeks' notice, at any point after the first six months of commencement. This is to ensure that the Council does not commit any expenditure beyond annual budget approvals which will be met by the HRA capital reserve. (These figures are in addition to those identified for the Firbeck and Findon revival which has a separate budget allocation)
- 9.4 Should Council endorse the approach detailed in paragraph 6.6 it is estimated this would require in the region of £600k per annum to be allocated for void kitchen works as part of the capital plan. However, this would result in saving to the void budget of no less than £93k per annum.
(This is based on the review of 62 recent voids properties 15 of which had over £500 spent on kitchens, this equates to 25% of voids).

- 9.5 Should Council endorse the approach in paragraph 7.3, the costs associated with replacing baths with showers will be addressed within the draft business plan. It is envisaged that replacing baths with showers may cost marginally more however; the costs included within the business plan should be able to address this additional cost, with the added benefit that the adaptation costs will reduce.
- 9.6 Should any additional staffing resources be required to ensure the delivery of the kitchen and bathroom projects, this will be met from the established project budgets.

10.0 RISK ASSESSMENT

- 10.1 Failure to adequately invest in the Council's public sector housing stock may result in lowering demand for Council housing, poor conditions for tenants and statutory standards not being met.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders in relation to the proposed policy of changing baths to showers. Therefore an Equality Impact Assessment is required, a formal equality impact assessment is attached as Appendix B to this report, the results of which have been taken into account when undertaking the actions detailed within this article.

Appendices

Appendix A - Tender Evaluation Methodology (revised)

Appendix B - Equality Impact Assessment

Appendix C – Minute of Landlord Services Committee 7 November 2012

Tender Evaluation Methodology

Tenders for this contract will be evaluated in accordance with the following methodology: -

Price / Quality

The Price / Quality split will be 60 : 40

Pre-Qualification Questionnaire

Tenderers will be required to list, as part of their tender submission, any changes to their circumstances since completing the Pre-Qualification Questionnaire (PQQ). Should any of those changes be such that had they been included in the PQQ, the organisation would not have been included in the tender list, then the tender will be rejected.

Price

The figure to be used in this respect is the 'Tender Total' contained in the Form of Offer.

Prices for Supply and Fit Kitchens/Bathrooms and Fit only kitchens/Bathrooms will be extracted from the 'Tender Total' and the following methodology applied to both prices. For the purpose of evaluation the Supply and Fit price and the Fit Only price will be dealt with separately.

The mathematical calculations (as submitted with each tender) will be checked for mathematical correctness to ensure that the figure entered on the Form of Offer is the figure produced by the relevant maths. Any error, such that the amount of any tender is not substantiated by the relevant maths, will mean that the tender in question will be rejected.

The lowest figure (which passed the mathematical check) will score 100 points and all other figures (which have similarly passed the mathematical check) will have a score of 100 reduced by the percentage that the 'other figure' is greater than the lowest. The score for each figure will then be multiplied by 60% to produce a 'total price' score for each respective tender.

e.g. *If the lowest figure is £1000 it would score 100. Then a figure of £1100, which is 10% more than the lowest, would score 100 points less 10% = 90 points.*

*The price elements of these two tenders would then score as follows: -
100 points x 60% = 60 total price score
90 points x 60% = 54 total price score*

Quality

The quality element of the Tender will be scored in accordance with the regime set out in Method Statement contained at Section 3 of the Contract Documents.

The total possible score is 40 representing the 40% element of the tender evaluation.

The Method Statement is in two sections and the scores achieved will be common to both Supply and Fit and the Fit only prices:-

Contract Conditions
Quality

Contract Conditions

Council Officers will evaluate this section and the score awarded will be based on the tenderers comments made in relation to any changes they have proposed to the Council's Terms and Conditions.

Tenderers who fail to achieve 50% of the required score of 5 in this section will be eliminated.

Quality

A panel comprising Council Officers; Elected Members and Tenant Representatives will evaluate this section. Scores will be awarded for each question as set out in the regime contained within the Method Statement.

Tenderers who fail to achieve 50% of the score for any section will be eliminated.

Final Selection and Interview

From the rates submitted by the tenderer in the Form of Offer the Council will calculate a price for Supply and Fit (Option 1) and Fit only, including Class 2 materials (Option 2). The tenderer will also have submitted a Method Statement.

Tenders will be finally evaluated on the following basis: -

Option 1

The total score for price and quality will be added together to give a total evaluated score.

Option 2

The total score for price and quality will be added together to give a total evaluated score.

Average

Option 1 and Option 2 will be added together and an average evaluated score will be calculated for each tenderer. The 4 highest scoring tenderers will be short listed for interview.

The Council are looking to appoint 2 contractors to undertake the Works. Following the above, the Council will advise the tenderers not short-listed for interview that, at this stage, they are not likely to be considered further. A summary detailing the average scores from highest to lowest and listing all tenderers alphabetical order will be sent to these tenderers.

A panel comprising Council Officers, Elected Members and Tenant Representatives will undertake the interviews to clarify and amplify the information submitted in the Method Statements. The Quality scores may be adjusted accordingly.

Interviews will take place during week commencing 3rd January 2013

The Council will identify the 2 highest scoring tenderers following any adjustments and the 2 lowest scoring tenderers will be eliminated.

Letters advising them that they have been unsuccessful and detailing the average scoring ranking from highest to lowest and listing all tenderers in alphabetical order will sent.

The Council will award a Contract to the remaining tenderers on the basis of which of the two Options is the cheapest price for the Council.

Equality Impact Assessment – Replacing Baths with Showers

<p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: <i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/ nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p>It is anticipated that this policy will have a beneficial effect on the elderly and disabled.</p> <p>Potentially enabling them to bathe without the need of adaptations.</p>
<p>2. What sources of information have you used to come to this decision?</p>	<p>A substantial number of adaptations are carried out each year to council properties to assist tenants with their bathing needs.</p>
<p>3. How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p>Consultation with the Kitchens and Bathrooms task and finish group has been carried out additional consultation will be carried out with the SEG and their comments reported back verbally to Council.</p>
<p>4. Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:- Eliminate discrimination, harassment and victimisation; Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people); Foster good relations between people who share a protected characteristic and those who do not share it.</p>	<p>This decision will increase our ability to meet the needs of elderly and disabled tenants.</p>
<p>5. What actions will you take to address any issues raised in your answers above</p>	<p>The policy will have a positive effect on equality and will be limited to ground floor flats, bungalows and sheltered accommodation.</p>

LANDLORD SERVICES COMMITTEE (CABINET WORKING GROUP) - 7 NOVEMBER 2012

26. CONSULTATION ON RELEVANT DRAFT CABINET REPORT -

Consideration was given to the report of the Assistant Director Housing and Regeneration on the following report, as contained on pages 171 to 182 of the Book of Reports, due to receive formal consideration by Cabinet on 13 November 2012, and, where necessary, provide comments for Cabinet's consideration.

27. PUBLIC SECTOR HOUSING CAPITAL INVESTMENT – PROCUREMENT OF KITCHEN AND BATHROOM REFURBISHMENT CONTRACTS

Members considered the report of the Assistant Director (Housing and Regeneration) the purpose of which was to seek approval to invest in kitchens and bathrooms of some of the Council's public housing stock and start the programme of investment over the next 5 years.

In discussion comments and questions were raised in respect of the following:-

- Kitchen re let standard
- Advantages/disadvantages of adopting the kitchen refurbishment standards on void properties
- Kitchens in void properties costing in excess of £500 to meet void standard to be upgraded to meet latest standard as part of kitchen capital programme
- £600k per annum allocation for void kitchen works as part of the capital plan
- Savings of no less than £93k per annum to void budget as a result of the £600k per annum allocation for void kitchen works
- A trailer will go to estates to display the chosen top five types of kitchen doors, drawers, handles, worktops and tiles for tenants to look at
- Quality of kitchens
- Post inspections of kitchens and bathrooms
- Provision of shower cubicles and showers in place of baths to ground floor flats, bungalows and sheltered accommodation in order to make these properties more suitable for their potential occupants
- A potential reduction in disabled adaptation costs

Members raised concerns regarding families who live in certain ground floor accommodation that would require a bath rather than a shower. It was mentioned that tenants could have the option to choose to keep a bath in the property if they so wish. This would mean that any future tenants to that property would have to wait until the next schedule of programmed works or disabled adaptation request before a shower could be fitted in the property.

The Chairman advised that the concern raised would be considered at Cabinet.

The Members and Tenant Representatives thanked officers for their work on the Task and Finish Group.

As a consequence of the discussion on this item it was:

RESOLVED: That the following recommendations to Cabinet be endorsed:

- A. That the Assistant Director Housing and Regeneration be authorised to accept the successful tenders for the provision of both kitchen and bathroom refurbishments (2 separate tenders) for a term of 5 years, based on the tender evaluation methodology detailed in Appendix A.
- B. To allow the prompt commencement of the extensive kitchen and bathroom contracts, Council be recommended to approve a budget allocation totalling £5.8M to allow for commencement in January 2013 (plus an additional £600k for void property kitchens, should recommendation in paragraph 2.3 be endorsed) including any increase in temporary staffing resource. This will be reflected in a further report to Council on the 27th February 2013 along with the remainder of the public sector capital investment plans for 2013/14, and as part of the normal budget setting process.
- C. That Council be recommended to approve the policies in respect of Kitchen and Bathroom replacement as detailed in paragraphs 6.6 and 7.3 of the report.

Appendix 2
Kitchens

Asset Group	Area Narrative	Road	Stock Units
AUGH1	Aughton Town Green	Molyneux Road	10
AUGH1	Aughton Town Green	The Grove	12
AUGH1	Aughton Town Green	Town Green Court	19
AUGH1	Aughton Town Green	Town Green Lane	9
AUGH1	Aughton Town Green	Whalley Drive	46
AUGH2	Aughton Rothwell	Gaw Hill Lane	1
AUGH2	Aughton Rothwell	Liverpool Road	2
AUGH2	Aughton Rothwell	Rothwell Drive	19
ORM1	Ormskirk Derby	Crosshall Court	41
ORM2	Ormskirk Green Lane Est.	Pennington Court	6
ORM5	Ormskirk Bath Springs	Bath Springs Court	44
OSK1	Old Skem Central	Ash Grove	5
OSK1	Old Skem Central	Laburnum Drive	2
OSK1	Old Skem Central	Lilac Grove	2
OSK1	Old Skem Central	Lime Grove	12
OSK1	Old Skem Central	Liverpool Road	3
OSK1	Old Skem Central	Marchbank Road	6
OSK1	Old Skem Central	Oak Crescent	8
OSK1	Old Skem Central	Sherrat Street	10
OSK1	Old Skem Central	Tancaster	8
OSK1	Old Skem Central	Uppingham	50
OSK1	Old Skem Central	Victoria Court	29
OSK1	Old Skem Central	Welbourne	45
OSK4	Old Skem Woodcroft & Wallcroft	Wallcroft Street	1
OSK4	Old Skem Woodcroft & Wallcroft	Woodcroft	3
OSK6	Old Skem New Church Farm	Church Road	1
OSK6	Old Skem New Church Farm	Mill Lane	1
OSK6	Old Skem New Church Farm	The Winsters	14
OSK6	Old Skem New Church Farm	Windrows	79
SK10	Skem Little Digmaor	Abbeystead	12
SK10	Skem Little Digmaor	Abbeywood	25
SK10	Skem Little Digmaor	Acregate	48
SK10	Skem Little Digmaor	Alderley	80
SK15	Upholland Chequer Lane Estate	Chequer Lane	1
SK15	Upholland Chequer Lane Estate	Danbers	9
SK15	Upholland Chequer Lane Estate	Darfield	11
SK15	Upholland Chequer Lane Estate	Daybrook	5
SK15	Upholland Chequer Lane Estate	Ormskirk Road	10
SK17	Skem Glenburn	Yewdale	10
SK20	Skem Digmaor Remainder	Blakehall - Nixons Lane	2
SK20	Skem Digmaor Remainder	The Mount	1

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Appendix 3
Bathrooms

Asset Group	Area Narrative	Road	Stock Units
BICK	Bickerstaffe	Church Road	12
BICK	Bickerstaffe	Heyescroft	17
BICK	Bickerstaffe	Liverpool Road	1
BICK	Bickerstaffe	Stockley Crescent	15
HAL	Halsall	Heathey Lane	5
HAL	Halsall	Linaker Drive	23
HAL	Halsall	Plex Moss Lane	1
HASK	Haskayne	Riding Lane	11
HASK	Haskayne	School Lane	5
HASK	Haskayne	Sumner Avenue	19
SK1	Skem Birch Green 4,8 & 10s	Fairburn	12
SK1	Skem Birch Green 4,8 & 10s	Fawcett	36
SK1	Skem Birch Green 4,8 & 10s	Feltons	9
SK1	Skem Birch Green 4,8 & 10s	Inglewhite	91
SK1	Skem Birch Green 4,8 & 10s	Ivybridge	23
SK1	Skem Birch Green 4,8 & 10s	Ivydale	26
SK14	Skem Claybrow 3	Brierfield	33
SK14	Skem Claybrow 3	Carfield	98
SK14	Skem Claybrow 3	Castlehey	35
SK5	Skem Egerton & Ennerdale	Egerton	110
SK5	Skem Egerton & Ennerdale	Ennerdale	101
SK6	Skem Elmridge & Enstone	Elmridge	86
SK9 General Needs	Skem Tanhouse 5	Eskbank	49
SK9 General Needs	Skem Tanhouse 5	Eskbrook	6
SK9 General Needs	Skem Tanhouse 5	Eskdale	76
SK9 Sheltered	Skem Tanhouse 5	Eskdale	1
WEST	Westhead	Holly Close	15
WEST	Westhead	School Lane	2

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AGENDA ITEM: 10

COUNCIL: 19 DECEMBER 2012

Report of: Transformation Manager

Relevant Managing Director: Managing Director (Transformation)

**Contact for further information: Peter Blakey (Extn. 7187292)
(E-mail: peter.blakey@oneconnectlimited.co.uk)**

SUBJECT: LOCALISATION OF COUNCIL TAX SUPPORT

Wards affected: Borough wide

1.0 PURPOSE

- 1.1 To advise Members of the results of the recently concluded public and stakeholder consultation.
- 1.2 Taking into account the above, to propose a final localised Council Tax Support Scheme that will take effect from 1st April, 2013 for eligible West Lancashire Borough Council residents.
- 1.3 To advise Members of the potential effects on the collection and recovery of Council Tax resultant from the implementation of the Council Tax Support scheme.

2.0 RECOMMENDATIONS

- 2.1 That a localised Council Tax Support scheme be introduced in line with option c) as set out in para 3.10 of the report.
- 2.2 That the Government's offer of transitional funding grant be rejected for the reasons set out in section 5 of the report.
- 2.3 That the current policy not to give discretionary relief from Council Tax be maintained for the reasons set out in section 6 of the report.
- 2.4 That delegated authority be given to the Borough Treasurer in consultation with the relevant portfolio holder to implement suitable arrangements for passing on funding which the Government will pay to the Borough Council but which is intended for Parish Councils.

3.0 BACKGROUND

- 3.1 The Government announced its intention to abolish the current national scheme of Council Tax Benefit in the Spending Review of 2010. The Local Government Finance Bill introduced on 19 December 2011 paved the way for the implementation of localised Council Tax Support (CTS) schemes in England in April 2013. This requires local councils to design their own schemes to administer Council Tax Support, working within a framework set out in legislation. Billing authorities need to finalise their schemes no later than 31 January 2013. Failure to do so would result in the imposition of a default scheme which mirrors the provisions of the existing Council Tax Benefit scheme.
- 3.2 The Welfare Reform Act contains provisions for the abolition of existing Council Tax Benefits. In May 2012 the Department of Communities and Local Government (DCLG) issued additional documents to support local authorities in designing and consulting upon local schemes; these include a 'Statement of Intent' on the localisation of Council Tax Support.
- 3.3 The proposed replacement scheme is intended to support public spending deficit reduction by reducing the amount available to local authorities to spend by 10%. This equates to around £900,000 per annum for the West Lancashire area, with the reduction spread across those authorities that raise Council Tax – i.e. County Council, Borough Council, Police Authority, Fire Authority and Parish Councils. The Borough Council's exposure is £110,000 or just over 12% of this total, in line with its share of the overall Council Tax.
- 3.4 The new localised scheme will be based on a cash-limited grant – it will not be demand-led as at present. A consultation document on the grant formula was published in mid-May 2012 with consultation closing on the 12th July 2012.
- 3.5 Reductions in support only affect working age customers. Current and future pensioners will not be affected by these changes. For the purposes of Council Tax Support a pensioner is:
- 3.5.1 Someone who has reached the qualifying age for state Pension Credit. The qualifying age for state Pension Credit will be taken as the pensionable age for women - currently just over 61.
- 3.5.2 Currently in the case of a couple, one member of the couple needs to be of this age or older in order to be deemed a pensioner couple. Under the provisions of the Council Tax Support Regulations, both the claimant and their partner must have reached pensionable age in order to qualify under the prescribed pensioner provision unless:
- only one of them is a pensioner and neither is in receipt of one of the working age means tested benefits listed in the Regulations i.e. Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance or an award of Universal Credit. In these circumstances and providing the applicant is of pensionable age as described on 3.5.1 above and the liable person for Council Tax, they will be classed as a pensioner couple for Council Tax Support purposes.

- 3.5.3 There are currently around 10,600 claimants receiving Council Tax Benefit in the Borough, of which 4,850 are of working age.
- 3.6 The Government also confirmed that it is anticipated that local schemes should consider additional protection for vulnerable groups. Although vulnerable groups are not defined, disabled people and families with children are referred to in the documentation supporting the consultation.
- 3.7 The requirement to take into account duties in respect of equalities, child poverty, the armed forces covenant and prevention of homelessness has also been reiterated in a specific DCLG paper in relation to Council Tax support localisation; this is available at:
<http://www.communities.gov.uk/documents/localgovernment/pdf/2148567.pdf>
- 3.8 Detailed analysis work has been undertaken to help to identify the features of potential models for a localised scheme of Council Tax Support for low income households in West Lancashire. This is achieved by examining expenditure and claimant data. Data was used to help evaluate available potential options by identifying:
- Possible increases in charges to low-income tax payers;
 - Potential loss of revenue;
 - The volume of customers within specific groups.
- 3.9 A report was presented to a meeting of the Council on 18th July, 2012 which provided an analysis identifying:
- The numbers of claimants that may be affected by reductions in Council Tax Support;
 - The level of Council Tax that working age claimants might be required to pay based upon an assumption that Government funding is reduced by 10%;
 - The numbers of claimants falling within specific groups that might be considered in need of additional targeted support;
 - The extent to which it is practical and feasible to provide additional support to specific targeted groups;
 - The level of additional Council Tax that it will be necessary to collect based upon different scenarios;
 - Specific risks associated with data and financial modelling including possible increases in claimant numbers;
 - Risks associated with the design and implementation of the new scheme ; these include those related to project delivery, consultation and revenue collection
- 3.10 The main options considered in the above report related to the reduction of benefit by a given percentage (with a preference for (c) below), which could be achieved either by:
- a) Applying a 'flat rate' minimum charge to all claimants; for claimants currently in receipt of a 100% rebate this would represent the total charge, for those on lesser rates of benefit this would represent an additional contribution – for example all claimants pay an additional £3.53 per week in Council Tax. However this approach would also remove support from all customers entitled to less than the flat rate minimum payment. Such an

approach would eliminate all entitlement from those receiving below the target figure, therefore the actual reduction for other claimants would be greater than the indicative modelling suggests

- b) Reducing the maximum amount of Council Tax eligible for rebate – for example setting 78% as the maximum rebate;
- c) Using the existing CTB scheme to calculate benefit and then applying a percentage reduction of 22%.

3.11 Initial research by the LGA showed that almost 90% of councils propose to introduce a minimum payment for working age claimants, generally set as a fixed percentage of council tax. Fifty percent propose to set the minimum payment at 20 percent or more, and about another quarter propose to set it between 10% and 20%. Consequently the Council's proposed scheme, which would reduce the current entitlement of working age claimants by 22%, is similar to the approach that many (but not all) local authorities are adopting.

3.12 Failure to Implement – Default Scheme

- 1) If a billing authority fails to develop and agree a local scheme before the end of January 2013 a default scheme will apply. DCLG guidance states that the default scheme will operate in 'as close a way as possible' to the current CTB scheme. The default scheme will not achieve any reduction in expenditure and as a result there would be a shortfall in available funding. The level of the shortfall would be broadly equivalent to the CTB expenditure reduction which amounts to circa £900,000 for the West Lancashire area, with the impact for the Borough Council being around £110,000.
- 2) The default scheme would, if applied, become the Council's adopted scheme and, in accordance with requirements of the local scheme generally, would need to be reviewed annually.

4.0 CONSULTATION

4.1 Following resolution at the Council meeting on 18th July, 2012 a public and stakeholder consultation was undertaken from September 2012, closing on 19th October, 2012 and facilitated by Lancashire County Council's Consultation Team. This survey asked for views on the proposed changes, including the Council's main options relating to the reduction of benefit by a given percentage.

4.2 A postal survey form was issued to a random sample of 5,000 of the general West Lancashire Borough Council population and all 4,850 working age current Council Tax Benefit claimants.

4.3 An online survey was set up on the Borough Council website and all interested stakeholders were written to requesting that they complete the on line survey.

4.4 All major precepting authorities and Parish Councils were also contacted in writing to request their views on these changes.

4.5 Responses from all the above have been collated into a final report prepared by Lancashire County Council Communications Team, which has been signed off by Borough Council Officers and which is attached as Appendix 1 to this report along with a number other miscellaneous responses received from stakeholders. Further recent correspondence has been received from the West Lancashire Carers organisation requesting that the Council consider carers as a protected group when implementing the new Council Tax Support Scheme.

4.6 **Key Findings from Report:**

4.6.1 Respondents were given details of three options (as referred to in 3.10 above) for reducing Council Tax Support and were asked to select the option they think the Council should choose. A third of respondents think that the Council should choose option 3, reducing entitlement by a set percentage. Just over a quarter of respondents didn't know which option to choose (27%).

4.6.2 Around a quarter of respondents feel that the changes would have a significant impact on them or their immediate family (23%). Around two fifths of respondents feel that the changes would have no impact (37%). A quarter of respondents said they did not know what impact the changes would have on them or their immediate family (27%).

4.6.3 Respondents currently in receipt of Council Tax Benefit were more likely to say the changes would have a significant impact (36%) while those not receiving Council Tax Benefit are more likely to say the changes would have no impact (73%).

4.6.4 Around a quarter of respondents are satisfied with the Council's proposal not to provide extra support for claimants with children and those with a disability (27%). Around a third of respondents are dissatisfied (35%).

4.6.5 Around half of respondents are satisfied with the Council's proposal to continue to provide incentives to support people to make the transition from unemployment into work (52%). Around one in ten respondents are dissatisfied (9%).

5.0 **ADDITIONAL TRANSITIONAL FUNDING GRANT**

5.1 Department of Communities and Local Government (DCLG) have recently announced that they are now making available an additional £100M grant for one year only. The grant is payable in March 2013 but only if the local authority adopts a scheme that meets specific criteria. The government's stated intention is that local authorities ensure that 'low income households do not face an extensive increase in their council tax liability in 2013-14'.

5.2 DCLG guidance states that the additional £100m grant is to encourage local authorities to 'follow the example of those councils who are making the most of opportunities to find savings across their budgets to be able to develop schemes that protect the poorest'.

5.3 There are three key criteria that authorities will need to demonstrate in the design of their Council Tax Support (CTS) scheme in order to secure the additional grant funding. These are:

1. Those who currently receive 100% Council Tax Benefit are charged no more than 8.5% of their Council Tax liability.
 2. The taper rate does not increase above 25%. The taper is applied to the level of income above minimum living allowances and used to determine what portion should be used to meet Council Tax costs. The current rate is 20 pence in the pound; the government has stated this may not be increased to more than 25 pence in the pound to qualify for this additional support.
 3. There is no sharp reduction in support for those entering work.
- 5.4 The government has recently clarified that authorities would be permitted to reduce the amount eligible for support to 91.5% of liability. To model this in full will require detailed work; for the purpose of this report this has been assumed to equate to a total reduction in the amount of benefit payable of 8.5%.
- 5.5 There are also a number of “can’t do’s” that DCLG guidance refers to including:
- Imposing large additional increases in non-dependant deductions.
 - Reducing liability for all claimants by a set percentage over 8.5%.
 - Change capital limits as could mean those entitled to 100% support would no longer qualify.
 - A flat rate reduction for all claimants.
 - Restricting liability to a lower Council Tax band.

DCLG are not prescribing what authorities may do in relation to second adult rebate.

- 5.6 In terms of the financial impact for West Lancashire Borough Council, the total current Council Tax Benefit spend is approximately £8.9M. The 10% reduction in funding for the new Council Tax Support scheme will be approximately £0.9M.
- 5.7 If the Borough Council opted to adopt a scheme to take advantage of this additional government funding, this would result in additional benefit expenditure of £550,000 compared to passing on the grant reduction in full.
- 5.8 The additional government grant available would be £220,000, leaving a shortfall for the Borough Council to find of £330,000 in year 1 (the Borough Council’s exposure would be £40,000, the rest having to be met by the other major precepting authorities). As the additional funding is for one year only, the shortfall in year two would be £550,000. It is recommended that this transitional grant is not accepted as complying with the grant requirements would result in a funding shortfall. This position of not accepting the grant is supported by both Lancashire County Council and Lancashire Fire Authority who have written to the Council expressing their views.

6.0 DISCRETIONARY RELIEF

- 6.1 Under Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), the Council has the power to reduce liability for Council Tax in relation to individual cases or class(es) of cases

that it may determine and where national discounts and exemptions cannot be applied. It says:

1. Where a person is liable to pay Council Tax in respect of any chargeable dwelling and day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.
2. The power under subsection 1) above includes the power to reduce an amount to nil.
3. The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

There are financial implications to awarding any discounts other than those currently available under the statutory legislation and the financial burden of Section 13A discounts; these would have to be funded by the Borough Council.

- 6.2 This power to provide discretionary council tax relief has been in place for many years but it is appropriate to review it at this time given the changes that are now taking place. However given that the Borough Council would have to meet the full cost of any discount provided (even though it only receives around 12% of council tax income) there could be a significant cost implication. Consequently it is not recommended that any new discretionary reliefs are introduced at this time.
- 6.3 If it was decided that the policy on discretionary reliefs should be changed then this would be the subject of a further detailed report setting out costs, eligibility criteria and process.

7.0 RISK ASSESSMENT

- 7.1 The Borough Council has a statutory obligation to devise and implement a local Council Tax Support Scheme from 1st April, 2013, to replace the current national Council Tax Benefit Scheme. Failure to agree a scheme by the end of January 2013 would result in the imposition of a national 'default scheme' which would mimic the existing Council Tax Benefit scheme. This would then mean that the local authorities in the West Lancashire area that raise Council Tax would have to absorb the impact of the reduced funding.
- 7.2 Central Government has significantly reduced funding available for this new scheme which therefore presents a significant financial risk to local authorities, as any expenditure above Government funding levels must be met by the Borough Council.
- 7.3 The reduction in funding also presents a risk to claimants in that the amount of Council Tax Support paid to eligible claimants may be significantly less than under the existing Council Tax Benefit Scheme. Consequently these claimants will have to pay more Council Tax than under the present arrangements.
- 7.4 The new scheme is cash-limited. Economic changes which increase demand would therefore affect the Council's wider budget. This issue will be given specific consideration in drawing up the Reserves Policy that will be reported to Council in February 2013.

- 7.5 Critical risks that have been identified include the ability to deliver the new scheme on time, the possibility of challenge i.e. there could be a public challenge to a local scheme, reduced revenue and potential increases in demand.
- 7.6 The potential revenue loss for authorities would increase if there are issues with non payment for those claimants whose council tax support is reduced, and consequently have to pay more Council Tax. Further modelling will need to be undertaken on the likely level of collection rates as part of the development of the new scheme. Certain claimants may see a significant increase in their Council Tax bills, which they may find difficult to pay particularly in the current economic climate. Any arrears will be pursued in accordance with the Council's Corporate Debt Recovery policy.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 The recommendations in this report are likely to affect the level of poverty in the Borough as additional costs may need to be met from household incomes. However the actual amounts to be paid would depend on individual circumstances.
- 8.2 For example a working age claimant living in a Band A property who currently receives 100% Council Tax Benefit and therefore currently pays nil toward their Council Tax liability, would have to pay £220.80 per year or £4.25 per week if a 22% reduction in CTS was applied.

9.0 IMPACT ON COUNCIL TAX COLLECTION

- 9.1 The reduction in Council Tax Support compared to existing Council Tax Benefit for working age claimants, will mean that some people will pay more Council Tax than they currently do and some will pay council tax for the first time, the latter currently being in receipt of 100% Council Tax Benefit.
- 9.2 Taking into account the fact that the above customers are likely to be at the lower end of the income scale and some facing a Council Tax bill for the first time, it is likely that collection from these customers will be challenging.
- 9.3 Adding to this that the amounts due will be relatively small but high in volume, this will present an issue in terms of additional resources needed to collect and recover this debt.
- 9.4 The Borough Council must also make provision for the likelihood that it will not collect all of this debt, which will impact on the collection rate and the provision for bad debts.

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 10.1 The Borough Council's projected Council Tax Benefit expenditure for 2012/13 is just under £9M.
- 10.2 There are a total of 10,631 current Council Tax Benefit claimants with 4,850 of working age that could be affected, representing 46% of all Council Tax Benefit claimants in West Lancashire.

District	Number of Working Age	% Working Age
West Lancashire	4,850	45.62

Table 1: Volumes of Affected Claimants (Working Age)

- 10.3 The table below details the amount and percentage of current Council Tax Benefit (CTB) spend that is associated with working age claimants. This is the amount from which any reductions would need to be achieved (given that pension age claimants are protected), assuming reduction in grant are not funded from other sources.

% Working Age	CTB Spend	% Total CTB Spend
45.62	£ 4,143,303	46.51

Table 2 Percentage of Working Age Claimants and Associated Spend

- 10.4 The amount of reduction in expenditure has been modelled based on a 10% reduction on current gross CTB spend and equates to £890,811.
- 10.5 It is important to note that any model that only achieves the minimum level of saving (i.e. that equivalent to the assumed reduction in grant) would not allow for any growth in demand caused by economic conditions such as an increase in unemployment or a reduction in income levels.
- 10.6 Based on current projections, if the Council decides to implement its preferred option i.e. using the existing council tax benefits scheme but applying a percentage reduction in benefit at the end of the calculation – for example 22%, this would generate a reduction in expenditure compared to the previous Council Tax Benefit scheme of approximately £912,000.
- 10.7 For some customers this would be the total amount that they would be required to pay (i.e. those currently required to pay nothing) whilst for others it would be in addition to what they currently pay.
- 10.8 An example of this in practice could be: a working age claimant living in a Band A property with a gross Council Tax liability of £1,003.62, but who currently receives 100% Council Tax Benefit and therefore currently pays nil toward their Council Tax liability, if a 22% reduction in CTS was applied they would pay £220.80 per year or £4.25 per week under the new CTS Scheme.
- 10.9 The Revenues and Benefits Service will work with the Borough Treasurer to model the impact upon Council Tax collection rates and to amend bad debt provision as required.

10.10 Under the new system the Council will receive a specific grant from the Government, expected to be around £980,000, to help fund the localised council tax support scheme. In effect this new grant will replace the council tax benefit subsidy that was previously provided. However this specific grant will contain an element of around £70,000 that is intended for parish councils, and government guidance states that billing and parish councils should come to an agreement on the arrangements for passing down this funding to parishes. Consequently it will be necessary to develop a funding formula through discussion with Parish Councils, and it is proposed that the Borough Treasurer should complete this task in consultation with the relevant portfolio holder.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

<u>Date</u>	<u>Document</u>	<u>File Ref</u>
August 2011	Department of Communities & Local Government (DCLG) Localisation of Council Tax Support Consultation Paper	
8 June 2012	DCLG Localisation of Support for Council Tax – Updated Impact Assessment	
21 May 2012	DCLG - Localisation of Support for Council Tax: Vulnerable People - Key Local Authority Duties	
17 May 2012	DCLG - Localisation of Support for Council Tax: A Statement of Intent	
17 May 2012	DCLG - Localisation of Support for Council Tax: Funding Arrangements Consultation	

These can be found on the DCLG website at:

<http://www.communities.gov.uk/localgovernment1>

Equality Impact Assessment

It is anticipated that there will be a significant direct impact on members of the public and stakeholders. An Equality Impact Assessment is attached as Appendix 2 to this report.

Appendices

1. Final Consultation Report
2. Correspondence from British Legion, Fire and Rescue and Lancashire County Council
3. Equality Impact Assessment



West Lancashire Borough Council

Council Tax Benefit Consultation

Prepared for West Lancashire Borough Council

Prepared by Rebecca Robinson and Mick Edwardson
Corporate Research and Intelligence Team
Lancashire County Council

5 November 2012

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1 Executive summary

Council Tax Benefit is being abolished from April 2013 and will be replaced with a local Council Tax Support scheme that West Lancashire Borough Council will develop and implement. West Lancashire Borough Council is developing a scheme that helps people on low incomes to pay their Council Tax while saving 10% from the overall benefit bill.

The Council wishes to make sure that any changes to benefit are based on feedback from the people of West Lancashire. The Corporate Research and Intelligence Team was asked to conduct a consultation to gather the views of residents and stakeholders.

A survey was posted to 9,666 residents of West Lancashire borough on 12 September and the fieldwork ended on 19 October 2012. All 4,866 residents who are of working age and currently receive Council Tax Benefit (ie all those who will be affected) were sent the survey. Additionally, 4,800 residents who do not currently receive Council Tax Benefit (or who are pensioners receiving Council Tax Benefit) were randomly selected to receive the survey. In total, 1,323 paper questionnaires were returned, giving an overall response rate of 14%.

The survey was also made available online to any residents who wished to respond and was publicised through the West Lancashire Borough Council website. 47 online responses were received from residents. One online response was received from a stakeholder group. Additionally, a number of residents and stakeholders sent in comments by letter or email.

1.1 Key findings

- Respondents were given details of three options for reducing Council Tax Support and were asked to select the option they think the Council should choose. A third of respondents think that the Council should choose option 3, reducing entitlement by a set percentage (33%). Just over a quarter of respondents didn't know which option to choose (27%).
- Around a quarter of respondents feel that the changes would have a significant impact on them or their immediate family (23%). Around two fifths of respondents feel that the changes would have no impact (37%). A quarter of respondents said they didn't know what impact the changes would have on them or their immediate family (27%).
- Respondents currently in receipt of Council Tax Benefit are more likely to say the changes would have a significant impact (36%) while those not receiving Council Tax Benefit are more likely to say the changes would have no impact (73%).

- Around a quarter of respondents are satisfied with the Council's proposal not to provide extra support for claimants with children and those with a disability (27%). Around a third of respondents are dissatisfied (35%).
- Around half of respondents are satisfied with the Council's proposal to continue to provide incentives to support people to make the transition from unemployment into work (52%). Around one in ten respondents are dissatisfied (9%).

2 Introduction

Council Tax Benefit is being abolished from April 2013 and will be replaced with a local Council Tax Support scheme that West Lancashire Borough Council will develop and implement. The government has cut funding for the new scheme by 10%. In West Lancashire this means an annual reduction of around £900,000.

West Lancashire Borough Council is developing a scheme that helps people on low incomes to pay their Council Tax while saving 10% from the overall benefit bill.

Around 4,850 people of working age currently receiving Council Tax Benefit will see some changes in the amount of Council Tax they have to pay. Pensioners will not be affected by these changes. Their entitlement to Council Tax Support will be calculated in a similar way to the current Council Tax Benefit scheme.

The Council wishes to make sure that any changes to benefit are based on feedback from the people of West Lancashire. The Corporate Research and Intelligence Team was asked to conduct a consultation to gather the views of residents and stakeholders.

3 Research objectives

The research objectives are to:

- gather local people's views on the Council's proposed Council Tax Support scheme; and
- gather stakeholder views on the Council's proposed Council Tax Support scheme.

4 Methodology

The residents' survey was sent by post to 9,666 households on 12 September 2012 with a final closing date of 19 October. All 4,866 residents who are of working age and currently receive Council Tax Benefit (ie all those who will be affected) were sent the survey. Additionally, 4,800 residents who either do not currently receive Council Tax Benefit or who are pensioners receiving Council Tax Benefit were randomly selected to receive the survey. Stratified random sampling of the latter group was used to ensure that questionnaires were mailed in proportion to the population in each of the borough's wards. While response rates differed by ward, each household in each ward had the same chance of receiving a questionnaire. The lists from which the sample was selected were provided by One Connect Limited on behalf of West Lancashire Borough Council.

The survey was also made available online to any residents or stakeholders who wished to respond and was publicised through the West Lancashire Borough Council website. Letters were sent to over 300 stakeholder groups including community and voluntary organisations, public and private sector organisations and some local businesses on 14 September inviting them to complete the survey.

In total, 1,323 paper questionnaires were returned, giving an overall response rate of 14%. 48 online responses were received, 47 from residents and one from stakeholders. As only one stakeholder response was received, all results described in this report relate to resident responses.

In order to ensure that the survey reached people in all sections of the community, respondents were asked to provide information about their gender, age, disability, sexual orientation, religion and ethnicity. The breakdown of respondents by demographic groups is provided in appendix 1.

For each question in the survey, comparisons have been made between different sub-groups of respondents (eg age, gender, recipient of Council Tax Benefit, geographic area) to look for statistically significant differences in opinion. Statistically valid differences between sub-groups are described in the main body of the report. Some groups cannot be included in the sub-group analysis as there were too few respondents to allow statistically significant results (eg young people, ethnic minorities).

In this analysis, West Lancashire has been split into three areas by ward:

- **Skelmersdale/Up Holland:** Ashurst, Birch Green, Digmaor, Moorside, Skelmersdale North, Skelmersdale South, Tanhouse and Up Holland
- **Ormskirk/Aughton and Western Parishes:** Aughton and Downholland, Aughton Park, Bickerstaffe, Derby, Halsall, Knowsley, Scarisbrick and Scott

- **Northern Parishes:** Burscough East, Burscough West, Hesketh-with-Becconsall, Newburgh, North Meols, Parbold, Rufford, Tarleton and Wrightington

In charts or tables where responses do not add up to 100%, this is due to multiple responses or computer rounding.

5 Main research findings

Q1: Council Tax Support options

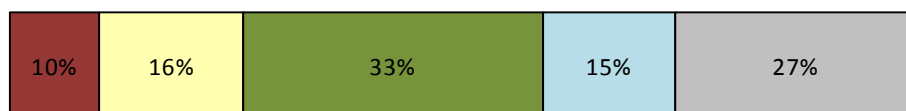
Respondents were given details of three options for reducing Council Tax Support and were asked to state the option they think the Council should choose.

The options were:

- Option 1: A flat-rate reduction in benefit for all working-age claimants of at least £184 a year, and possibly more. Those who currently receive less than this amount would not receive any benefit, and everyone of working-age would have to pay at least this flat-rate minimum amount towards their Council Tax bill.
- Option 2: Limiting the amount of Council Tax Support that can be received. This means that Council Tax Support would cover a maximum of 78% of the Council Tax bill.
- Option 3: Reducing entitlement by a set percentage, for example 22%. This means that Council Tax Support would continue to be calculated in the current way but a percentage reduction would be applied at the end of the calculation.

A third of respondents think that the Council should choose option 3 (33%). Just over a quarter of respondents didn't know which option to choose (27%).

Chart 1 - Please state which option you think the Council should choose.



- Option 1 - A flat-rate reduction in benefit for all working-age claimants of at least £184 a year, and possibly more.
- Option 2 - Limiting the amount of Council Tax Support that can be received.
- Option 3 - Reducing entitlement by a set percentage, for example 22%.
- No preference
- Don't know

Base: All respondents 1,311

Respondents who are currently in receipt of Council Tax Benefit and respondents from Skelmersdale/Up Holland are more likely to say they don't know which option the Council should choose (35% and 33% respectively).

Q2: Comments on the options

Respondents were then given the opportunity to make comments on the provided options in an open text box. 184 people responded to this question. Responses to this question have been categorised and categories with five or more responses are shown in table 1 with the number of responses to each category.

Responses to this question were varied. The most common category of responses was comments about the respondent's specific circumstances for example why they currently receive benefits (22 responses). This was followed by comments suggesting that the respondent would struggle to pay anything more toward Council Tax or that they were already struggling on a limited income (16 responses). A number of categories covered respondents lack of understanding of the proposals – 15 respondents were unsure how the proposals would affect them, 11 said they didn't understand the changes and 11 found the proposals too complicated or confusing.

Table 1 - Comments about these options

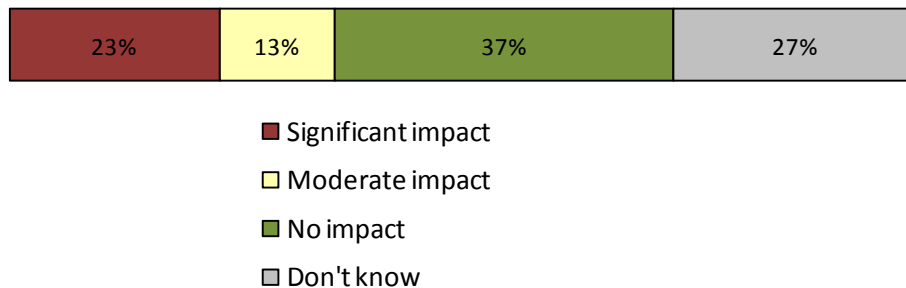
Category	Responses
Comment about specific circumstances	22
Would struggle to pay/already struggling	16
Not sure how it would affect me	15
Don't understand the changes	11
Too complicated/confusing/not clear	11
Should be means tested	10
People on low income/benefits will be hit again	10
Option 3 seems fairest/best	9
People will end up in poverty	8
Leave things as they are/think scheme should stay the same	8
Options are irrelevant to me	7
All options seem very similar	6
Everyone should make some contribution	6
Taxing poorest in society shouldn't be option	6
Council have the facts and should make the decision	5
Comment on the cost of the survey/survey options	5

Q3: Impact of the changes

Respondents were then asked what impact, if any, they thought the changes would have on them or their immediate family.

Around a quarter of respondents feel that the changes would have a significant impact on them or their immediate family (23%). Around two fifths of respondents feel that the changes would have no impact (37%). A quarter of respondents said they didn't know what impact the changes would have on them or their immediate family (27%).

Chart 2 - What impact, if any, would these changes have on you or your immediate family?



Base: All respondents 1,309

Respondents currently in receipt of Council Tax Benefit are more likely to say the changes would have a significant impact (36%) while those not receiving Council Tax Benefit are more likely to say the changes would have no impact (73%).

Respondents who receive Carer's Allowance or disability benefits are also more likely to say the changes would have a significant impact (35% and 34% respectively).

Respondents with no children and respondents aged 65 and over are more likely to say the changes would have no impact on them or their immediate family (43% and 61% respectively).

Respondents from Skelmersdale/Up Holland are more likely to say the changes would have a significant impact (31%).

Q4: Comments on the impact

Respondents were asked if they would like to give more information about the impact of the options or suggest how the impact could be minimised. 180 people responded to this question. Responses to this question have been categorised and categories with five or more responses are shown in table 2 with the number of responses to each category.

Most responses to this question came from current recipients of Council Tax Benefit (150 responses). The most common category of responses was respondents saying they are already struggling to cope on a low income or pension (67 responses). Again, many of the comments were about the respondent's specific circumstances (40 responses). There were also a number of responses from people saying that increasing what they pay towards Council Tax would mean having to cut back on other expenses which they predict will have an impact on their life or health (32 responses).

Table 2 - Comments on the impact

Category	Responses
Already struggling on low income/pension	67
Comment about specific circumstances	40
Increase in CT will mean saving elsewhere with impact on life/health	32
Will have huge impact on those already struggling	13
Don't know	10
Don't understand the impact on me	8
No impact as don't receive benefit	6
Scared about future/worrying about impact	6

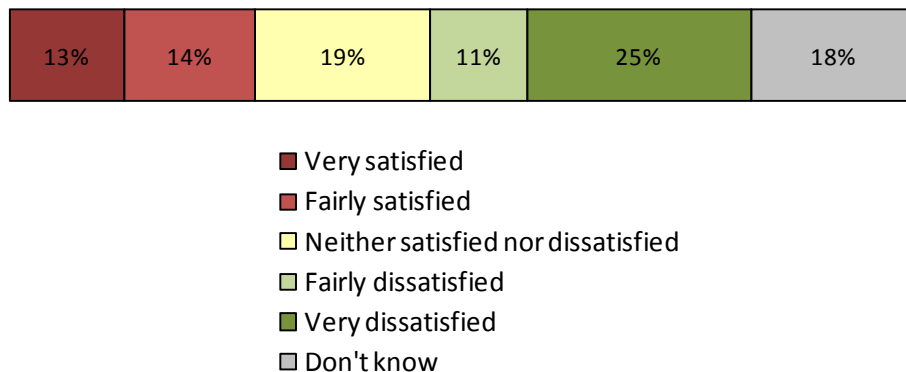
Q5: Support for claimants with children and those with a disability

West Lancashire Borough Council believes that the new Council Tax Support scheme will continue to provide support for claimants with children and those with a disability in the same way as the current scheme and that these groups will not be affected more than other working-age claimants by the proposed cuts in support.

Respondents were asked how satisfied or dissatisfied they are with the Council's proposal not to provide extra support for claimants with children and those with a disability.

Around a quarter of respondents are satisfied with the Council's proposal not to provide extra support for claimants with children and those with a disability (27%). Around a third of respondents are dissatisfied (35%).

Chart 3 - How satisfied or dissatisfied are you with the Council's proposal not to provide extra support for claimants with children and those with a disability?



Base: All respondents 1,321

Respondents currently in receipt of Council Tax Benefit, Carer's Allowance or disability benefits are more likely to be dissatisfied with the Council's proposal (45%, 51% and 54% respectively).

Respondents from Skelmersdale/Up Holland are also more likely to be dissatisfied (44%).

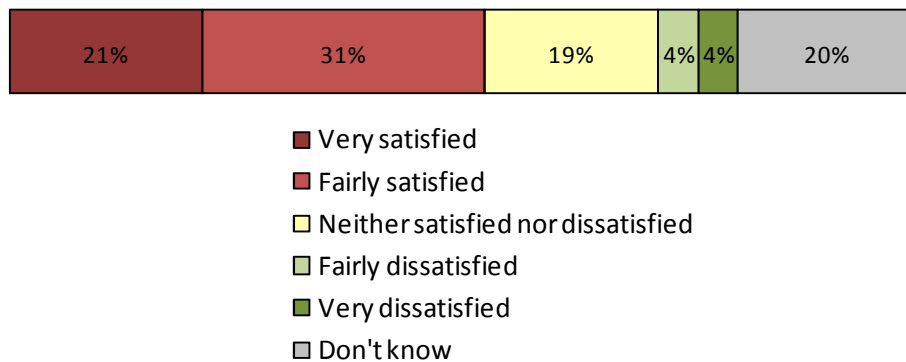
Q6: Support for claimants making transition from unemployment into work

The existing Council Tax Benefit scheme provides incentives to support people to make the transition from unemployment into work, and the Council proposes to continue these incentives.

Respondents were asked how satisfied or dissatisfied they are with the Council's proposal to continue to provide these incentives.

Around half of respondents are satisfied with the Council's proposal to continue to provide incentives to support people to make the transition from unemployment into work (52%). Around one in ten respondents are dissatisfied (9%).

Chart 4 - How satisfied or dissatisfied are you with the Council's proposal to continue to provide incentives to support people to make the transition from unemployment into work?



Base: All respondents 1,327

Q4: Comments on the support for vulnerable groups and people making the transition into work

Respondents were asked if they would like to make comments about the way the Council plans to provide support for vulnerable groups and for people making the transition into work. 122 people responded to this question. Responses to this question have been categorised and categories with five or more responses are shown in table 3 with the number of responses.

Again, the most common category of response was comments about the respondent's specific circumstances (13 responses). 11 respondents commented that they agree with actively helping people back to work and 11 respondents commented that they agree the newly employed still need help. Ten respondents commented that they agree with additional support being provided for vulnerable groups.

Table 3 - Comments on the support for vulnerable groups and people making the transition into work

Category	Responses
Comment about specific circumstances	13
Agree with actively helping people back to work	11
Agree newly employed still need help	11
Agree with additional support for vulnerable groups	10
Council should provide work/no jobs available to take	7
Don't agree newly employed should continue to receive support	7
Shouldn't continue to support long term unemployed who aren't trying	5
Comment against central government	5
Don't know what Council support is offered to get people back to work/not clear on what support will be	5
Disabled would like to be in position not to need support	5
Don't think disabled should be any worse off due to changes	5

6 Stakeholder responses and comments by letter or email

One online response was received from a stakeholder group. No comments were provided as part of this response.

A number of residents and stakeholders chose to respond through letters or by email rather than completing the consultation questionnaire. These responses have been included in full in appendix 2.

7 Appendix 1 – demographic breakdown

Question	Responses	Base	%
Q8 - Are you currently in receipt of Council Tax benefit?	Yes	1,334	61
	No		39
Q9 - Do you have children aged 16 or under?	Yes, aged between 0-5	1,345	6
	Yes, aged between 6-16		13
	Yes, aged between 0-5 and 6-16		5
	No		76
Q10 - Do you receive Carer's Allowance?	Yes	1,325	13
	No		87
Q11 - Do you receive any disability benefits?	Yes	1,333	28
	No		72
Q12 - What is your employment status?	Full-time paid employment	1,322	15
	Part-time paid employment		10
	Self-employed		5
	Student		1
	Retired		36
	Unemployed		22
	Other		11
Q13 - Are you...?	Male	1,330	52
	Female		48
Q14 - What was your age on your last birthday?	16-24	1,347	2
	25-44		23
	45-54		21
	55-64		23
	65+		31
Q15 - Are you a deaf person or do you have a disability?	Yes	1,340	29
	No		71
Q16 - Have you ever identified as transgender?	Yes	1,336	1
	No		96
	Prefer not to say		3
Q17 - What is your sexual orientation?	Bisexual	1,298	2
	Gay man		1
	Lesbian/gay woman		0
	Heterosexual/straight		91
	Prefer not to say		6

West Lancashire Borough Council – Council Tax Benefit Consultation

Question	Responses	Base	%
Q18 - What is your religion?	Christian	1,321	74
	Buddhist		0
	Hindu		0
	Jewish		0
	Muslim		0
	Sikh		0
	Other religion		5
	No faith		15
	Prefer not to say		6
Q19 - Which best describes your ethnic background?	White	1,330	99
	Asian/Asian British		0
	Black/Black British		0
	Mixed		0
	Other		0
			0

8 Appendix 2 - responses received by email and letter

Respondent	comments
Resident	<p>I would like to take the opportunity to submit my views by letter as part of the Council Tax Consultation. As a single person living in a Council flat, and claiming Job Seekers Allowance, Council Tax Benefit and Rent Allowance. If I am unfortunate enough to be still unemployed, when the Council Tax Benefit has been abolished and reductions in Rent Allowance have been brought in; I calculate I will have approximately <u>£20 a week less</u> disposable income. This will undoubtedly have a significant impact on me personally, but also on many other people in similar circumstances. The abolition of Council Tax Benefit and the reduction in Rent Allowance will represent a real cutback to my disposable income below what the Government presently says is the necessary minimum one needs to live on.</p> <p>The three options for replacing Council Tax Benefit, identified by the Council, offer no hope to the vulnerable groups of people that rely on this form of financial support. In order to pay the Borough Council the money owed (for Rent on my flat and Council Tax) I will have to spend less on food, not eating perhaps one or two days a week. I will also need to turn off the heating in my flat, not using it as often during the winter. The increases in the cost of electricity, food, and everything else will have a detrimental impact on my health and standard of living, pushing me further into poverty.</p> <p>This impact will also be acutely felt by a large number of families, who will find their incomes substantially reduced. There is no way the trauma inherent in the changes can be minimized, there is no way to disguise the fact that there is to be a significant reduction in support for vulnerable groups, and for people making the transition into work. Not one extra job, or, new business, will be created in West Lancashire by the Government pursuing these policies; indeed, jobs will be lost and businesses closed because there will be a contraction in economic activity in the Borough. Even people who are in full time employment are having their Tax Credits reduced so will have less to spend in local shops, or to pay for services from local businesses. Certainly, as reported by the BBC News, up to seventy organizations involved in delivering the new system think it is unworkable and will lead to all kinds of unforeseen and unwelcome negative consequences.</p> <p>The outcome of all this change is that many people in West Lancashire will have less disposable income, less money will be circulated in the local economy and particularly affected will be shops in our town centre's that will have less turnover and be in serious jeopardy of going out of business. The Borough Council will also be affected as more tenants will fall into Rent and Council Tax arrears. What is being enacted will cause upheaval in the lives of many people in West Lancashire. The outcome for the efficient running of the Council cannot yet be quantified.</p> <p>In my view it is absolutely morally wrong that the ordinary people of West Lancashire should be made to pay for the</p>

	<p>misdeeds of the Bankers and the mistakes of Government policy in failing to regulate the banking sector properly. The bankers still receive top pay and bonuses while the standard of living is reduced for everyone else. In my view West Lancashire Borough Council should oppose and challenge the reduction to its funding being imposed by Central Government. The Borough Council ought to be the champion of the people and families under its charge. It is not right to meekly accept as fait accompli changes that will have a devastating impact on the local community in our area.</p> <p>The Government is making certain economic choices that will undermine the quality of life of all in West Lancashire, it doesn't matter who you vote for at Elections, whether you consider yourself to be a Conservative, Liberal, or, Labour supporter, all will suffer equally the same negative consequences. It doesn't have to be this way. Speaking more personally, I feel despairing because no matter if I am unemployed – as at present – or, I am employed on a minimum wage; it is going to be increasingly difficult to make ends meet and to pay all the bills. And, it seems to me, no one in authority, no leader of local government, no politician whatsoever, is speaking up for the people who are hurting – and will be hurt by what is happening.</p> <p>It has been said that the Government has only made 10% of the cuts it is proposing to make and that 90% cuts is still to come. Has the Borough Council considered what this means for our area? Has anyone attempted to make an "Impact Assessment" of the likely consequences? I suspect not. I repeat, not one new job will be created, or, new business started as a result of abolishing Council Tax Benefit and the reductions in Rent Allowance, or the introduction of the new "Universal Benefit", on the contrary the reverse is the truth.</p> <p>I hope some of what I have written forms part of the Councils deliberations on what actions to take. Up to now I don't think many people are fully aware of the shocks that await them in the next few years. And it is probably beyond the financial and political resources of West Lancashire Borough Council to do much to ameliorate them.</p>
Resident	<p>I am a carer for my son who is epileptic and has severe dyspraxia. I am trying to keep him living independent. I manage his money most times as he gets into trouble with calculations and I am teaching him not to get into much debt. A few times he has made mistakes, many times I check and keep him from doing so.</p> <p>My son suffers from other ill health conditions and can easily get angry and depressed with his epilepsy and learning problems so this takes time to sort out and keep him positive for the future. He has been distressed by the news of cuts.</p> <p>Today persons on benefit do not get enough to live on and its enough to get by. The worry for next year is that we are asked to pay council tax and with higher fuel, food and other bills to pay we fear we will get poorer and poorer.</p> <p>I do not have the heating on in winter, I ration it when I do use it and in arrears from the last two years. My benefit I do not see, it goes on bills, mortgage and food, and clothes – school uniform for my youngest child.</p>

	<p>Next October he benefit is going to be frozen and lower paid. I therefore will not be able to keep my home. I am therefore not looking forward to next year.</p> <p>This move will result in suicides, debt, homeless, we have already cut back several living costs. We have every night sleepless nights and I too have been depressed the last four years on how to manage since the recession.</p> <p>As carers and disabled children and young adults, we find it difficult to find work because we have no money to use on travel and get out of this situation therefore many have thought about putting the children and adults into care. This will end up costly for the government in the end, and disabled who are in debt will end up in court and who will pay for that. We should not be the victims of yet more cuts from the government's way of thinking.</p> <p>Any of the 3 choices cannot be met by myself and thousands like me. I cannot afford holiday, day trip or nights out, what I receive goes on living costs. I do not have insurance, savings.</p> <p>This money should be found elsewhere, not from the poor and disabled, lots of people are going to starve, get into debt and will not have their heating on and this is going to send many over the edge.</p> <p>Prices are rising, people are struggling and I do not know where I will be living in future, I am just getting by now. I know a lot of people voicing the same problems.</p>
<p>Scarisbrick Parish Council</p>	<p>I refer to your letter and our subsequent telephone conversation regarding the above.</p> <p>The matter was considered at the September meeting of Scarisbrick Parish Council and I have been instructed to inform you that Option C would be the preferred option.</p> <p>Has the public consultation referred to in your letter "in early August for a 12 week period" been carried out?</p>
<p>Wrightington Parish Council</p>	<p>Further to your recent correspondence in relation to the development and introduction of the Council Tax Support Scheme the Parish Council raise the following issues:</p> <p>Whilst the preferred option, Option 3, seems the most equitable option the Parish Council would like to ask how the percentage reduction will be determined and on what basis and, who (which group) will be impacted by the proposals in this option?</p>
<p>Hesketh with Becconsall Parish Council</p>	<p>The Council considered your letter in detail last evening and wish to unanimously support the Council's preferred scheme – Option C.</p> <p>You may also wish to know that this Council has now met the Prescribed Conditions to adopt the "General Power of Competence" with regards to s8(2) & s235(2) of the Localism Act 2011 and has passed a Resolution to this effect</p>

Lancashire Police
Authority



Kim Webber
Managing Director (Transformation)
West Lancashire Borough Council
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Please ask for : Lisa Kitto
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Fax : (01772) 534870
E-Mail : lisa.kitto@lancashire.gov.uk
Your ref : KW/JAR
Our ref : LK/JA
Date : 06 August 2012

Dear Kim,

Council Tax Support Scheme

Thank you for your letter of 25th July 2012 consulting Lancashire Police Authority on the approach that West Lancashire Borough Council intends to adopt in establishing its scheme for Council Tax Benefit Support (CTB) from April next year. We very much welcome the opportunity to have the views of Lancashire Police Authority presented to the Council.

It is our view that the Council's proposed CTB scheme must:

- be affordable in terms of grant received, revenue loss and costs to operate;
- be as fair as possible
- be transparent, understandable to customers and practical to operate;
- be feasible to implement within the constraints of the timescales and available software;
- be simple in design, avoiding unnecessary complexity;
- avoid the costs and risks associated with collecting additional data.

Lancashire Police Authority is supportive of the overall recommendations you have set out within your letter, *on the understanding that the Borough Council intends to adopt an approach that ensures that the Council Tax Support Scheme adopted by the Council is affordable within the level of funding received.* Indeed, intelligence gained indicates that this approach is very similar to those likely to be implemented across the rest of the country.

Miranda Carruthers-Watt MBA, LLB(hons)
Chief Executive

Lancashire Police Authority PO BOX 653, PRESTON. PR2 2WB www.lancspa.gov.uk

It is important to make the point very clearly that Lancashire Police Authority could not support the adoption of a scheme which did not fit within the level of grant resources available. This would result in significant additional financial pressure on local government budgets, requiring additional ongoing savings to be made elsewhere to fund the additional costs. This would be unacceptable because it takes no account of the likely impact on other services, particularly those to the most vulnerable members of the community.

I would also make the following points.

Cost of administration

It is vitally important that in all aspects of local government we seek to minimise the cost of administration, in order that we may protect services to the most vulnerable members of our communities as far as possible. We consider it vital that the draft scheme considered by the Borough's Council must rely on existing data, and not add to the administrative burden funded by council tax payers.

Targeting of Support

As you set out in your letter, the current system of CTB provides further protection for vulnerable people and those in work. By adopting a scheme based on the current scheme, the Borough Council will continue to provide a level of protection to vulnerable groups. In particular, the existing CTB scheme already provides protection for certain groups within the underlying rules of the CTB scheme which provides for

- disability premiums;
- additional personal allowances for children; and
- a small amount of earned income to be ignored in the calculation of benefit.

It would appear to be the most fair and equitable approach that support is provided equally amongst vulnerable groups, with the level of support determined by the resources available.

The Basis of the Scheme

We note that if the Borough Council adopts a scheme reducing CTB across the board the preferred way of achieving this is Option 3 as set out in your letter. We support this option as it offers a more equitable and proportionate impact across all claimants, and would provide additional work incentives. This is a key consideration within the scheme.

In conclusion, Lancashire Police Authority is supportive of the approach set out by the Borough Council its proposals to adopt a scheme which fits within the financial envelope determined by the Government, and is based on principles of equity. I must stress however, Lancashire Police Authority would not support the adoption of a scheme that does not achieve this financial imperative, and passports significant financial pressures to services provide by local government, with the consequential impact on services across Lancashire.

Yours sincerely



Lisa Kitto
Treasurer
Lancashire Police Authority



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MANAGING DIRECTORS

Dr. Chris Simpkins DMA, Hon.DUniv, DL
Director General

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F 020 3207 2276
W www.britishlegion.org.uk

Ms K Webber
Managing Director (Transformation)
West Lancashire Borough Council
52 Derby Street
ORMSKIRK
L39 2DF

Date: 1 November 2012

Reference: 12/077

Contact: dmartin@britishlegion.org.uk

Dear Ms Webber

Localised support for council tax – consultation submission

As you will no doubt be aware, as part of the Government's localisation agenda local authorities are now required to design and operate their own council tax support schemes. As part of this process local authorities must consult stakeholders on the proposed design of their schemes. Please accept this letter as The Royal British Legion's submission to your authority's consultation process.

I strongly urge you to ensure that your local authority provides a 100% disregard of military compensation payments when calculating entitlement to council tax support. This includes all War Disablement Pensions, War Widow's Pensions and Armed Forces Compensation Scheme payments. These payments are not an income support payment but are paid as compensation for injury, illness or loss as a result of Service in HM Armed Forces. It is therefore not appropriate, nor a recognition of commitment to the nation, to include such compensation payments in calculations for means tested benefits.

Until the recent changes local authorities were statutorily required to disregard the first £10.00 of these compensation payments. However, following our campaigning work, almost every local authority in the country has used its discretionary power to fully disregard these payments, and this is an approach that we strongly support.

The Government, in its guidance to local authorities, provides a reminder that the discretion to provide a full disregard to them is still available under the new regulations. Indeed it encourages them to do so, in line with the principles of the Armed Forces Covenant¹.

An increasing number of authorities are signing up to the Armed Forces Community Covenant and we are very grateful to those who have done so, or are looking to do so. I believe that the provision of a full disregard of military compensation payments when it comes to calculating council tax support is an essential step in delivering on the principles of the Covenant at a local level.

¹ Localising Support for Council Tax: Vulnerable people – key local authority duties, Communities and Local Government, May 2012.

I would be very grateful if you could confirm to me that your local authority intends to provide a full disregard of War Disablement Pensions, War Widow's Pensions and Armed Forces Compensation Scheme payments in the design of your council tax support scheme.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Simpkins', with a long horizontal stroke underneath.

Chris Simpkins DMA, Hon.DUniv, DL

Director General



Fire and
Rescue.docx



Kim Webber
Joint Managing Director
West Lancashire Borough Council
PO Box 16
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ORMSKIRK L39 2DF

Phone: (01772) 533355
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Email: geoff.driver@lancashire.gov.uk

Your ref:
Our ref: GD/GK/AP
Date: 26 July 2012

Dear Kim

Council Tax Support Scheme

Thank you for your letter of 20th July 2012 consulting the County Council on the approach that West Lancashire Borough Council intends to adopt in establishing its scheme for Council Tax Benefit Support (CTB) from April next year. We very much welcome the opportunity to have the views of the County Council presented to the Council.

It is our view that the Council's proposed CTB scheme must:

- be affordable in terms of grant received, revenue loss and costs to operate;
- be as fair as possible
- be transparent, understandable to customers and practical to operate;
- be feasible to implement within the constraints of the timescales and available software;
- be simple in design, avoiding unnecessary complexity;
- avoid the costs and risks associated with collecting additional data.

The County Council is supportive of the overall recommendations you have set out within your letter, *on the understanding that the Borough Council intends to adopt an approach that ensures that the Council Tax Support Scheme adopted by the Council is affordable within the level of funding received.* Indeed, intelligence gained indicates that this approach is very similar to those likely to be implemented across the rest of the country.

It is important to make the point very clearly that the County Council could not support the adoption of a scheme which did not fit within the level of grant resources available. This would result in significant additional financial pressure on local government budgets, requiring additional ongoing savings to be made elsewhere to fund the additional costs. This would be unacceptable because it takes no account of the likely impact on other services, particularly those to the most vulnerable members of the community.

/Contd...

County Councillor Geoff Driver
Leader, Lancashire County Council
PO Box 78 County Hall
Preston PR1 8XJ



I would also make the following points.

Cost of administration

It is vitally important that in all aspects of local government we seek to minimise the cost of administration, in order that we may protect services to the most vulnerable members of our communities as far as possible. We consider it vital that the draft scheme considered by the Borough Council must rely on existing data, and not add to the administrative burden funded by council tax payers.

Targeting of Support

As you set out in your letter, the current system of CTB provides further protection for vulnerable people and those in work. By adopting a scheme based on the current scheme, the Borough Council will continue to provide a level of protection to vulnerable groups. In particular, the existing CTB scheme already provides protection for certain groups within the underlying rules of the CTB scheme which provides for

- disability premiums;
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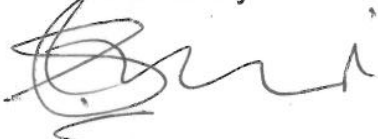
It would appear to be the most fair and equitable approach that support is provided equally amongst vulnerable groups, with the level of support determined by the resources available.

The Basis of the Scheme

We note that if the Borough Council adopts a scheme reducing CTB across the board the preferred way of achieving this is Option 3 as set out in your letter. We support this option as it offers a more equitable and proportionate impact across all claimants, and would provide additional work incentives. This is a key consideration within the scheme.

In conclusion, the County Council is supportive of the approach set out by the Borough Council in its proposals to adopt a scheme which fits within the financial envelope determined by the Government, and is based on principles of equity. I must stress however, the County Council would not support the adoption of a scheme that does not achieve this financial imperative but instead passes significant financial pressures on to services provide by local government, with the consequential impact on services across Lancashire.

Yours sincerely



Cty Cllr Geoff Driver
Leader of Lancashire County Council

West Lancashire Borough Council – Council Tax Support Scheme

Equality Impact Assessment - process for services, policies, projects_and strategies

1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:
- People of different ages – including young and older people*
Only benefit claimants of working age would be impacted by these changes
- People with a disability;*
Disabled people of working age currently claiming Council Tax Benefit could potentially be impacted by these changes
- People of different races/ethnicities/ nationalities;*
None identified
- Men;*
None identified
- Women;*
None identified
- People of different religions/beliefs;*
None identified
- People of different sexual orientations;*
None identified
- People who are or have identified as transgender;*
None identified
- People who are married or in a civil partnership;*
None identified
- Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;*
None identified
- People living in areas of deprivation or who are financially disadvantaged.*
Taking into account the fact that there is a higher incidence of people claiming benefits in areas of deprivation, people living in these areas may well be more likely to affected by these changes
2. What sources of information have you used to come to this decision
- a) The Government funding for this new scheme is cash limited and will be approximately 10% less (£900k) than that claimed in respect of the current Council Tax Benefit scheme which has been abolished from 1st April, 2013.
- b) The Borough Council has conducted a large scale public and stakeholder consultation survey, to collate views on the proposed new scheme and its preferred options. This consultation comprised:
- Issue of 5,000 postal surveys to a random cross section of non benefit claimants within West Lancashire Borough Council has a statutory responsibility to implement a localised Council Tax Support scheme from 1st April, 2013.
 - Issue of 4,850 postal surveys to all current working age Council Tax Benefit

claimants within West Lancashire

- Information sent to a range of interested stakeholders asking them to complete an on line survey.
- Publicity on the above on line survey encouraging residents within West Lancashire to complete this
- Correspondence to all the major precepting authorities and Parish Councils requesting their views on these changes

3. *How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?*

Please see Q. 2 above

4. *Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-*

Eliminate discrimination, harassment and victimisation;

Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);

Foster good relations between people who share a protected characteristic and those who do not share it.

The proposed scheme does not impact on the Borough Council's ability in this respect.

5. *What actions will you take to address any issues raised in your answers above*

A report will be presented to Members at its full Council Meeting in December 2012 which takes into account the findings of the public and stakeholder consultation, change in legislation and the challenging financial position the Borough Council faces and which proposes the preferred scheme option as referred to in the above consultation :

A localised Council Tax Support scheme for eligible working age West Lancashire Borough Council (WLBC) based on the existing Council Tax Benefit scheme including current disregards, to calculate benefit and then apply a percentage reduction of 22%, be prepared and implemented from 1st April, 2013.



AGENDA ITEM:

COUNCIL: 19th December 2012

Report of: Borough Treasurer

**Relevant Managing Director: Managing Director (People and Places)
Managing Director (Transformation)**

**Contacts for further information: Marc Taylor (Extn. 5092)
(E-mail: marc.taylor@westlancs.gov.uk)
Peter Blakey (Extn. 7187292)
(E-mail: Peter.Blakey@oneconnectlimited.co.uk)**

SUBJECT: COUNCIL TAX REFORMS – SECOND HOMES AND EMPTY HOMES

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To consider proposed changes to the council tax charged on second homes and certain types of empty properties.

2.0 RECOMMENDATIONS

2.1 That the proposed changes to council tax discounts and exemptions set out in Appendix C be approved subject to the results of a consultation exercise.

2.2 That the consultation results be reported back to the Council meeting in February 2013 when the budget and council tax level will be set.

3.0 BACKGROUND

3.1 Under the national council tax system, taxpayers in certain circumstances have been entitled to reductions in their council tax bills, with the most well-known types being the 25% single person's discount and the student exemption. However discounts and exemptions were also available on certain types of empty property and second homes.

3.2 Parliament has recently approved a Local Government Finance Act, that now

gives local authorities the power to determine the discounts that are applied to council tax charges on empty properties and second homes. Consequently the Council now needs to consider what discounts it wishes to provide from April 2013. For information a full list of current council tax exemptions are set out in Appendix B. For the avoidance of doubt the changes will only apply to the discounts on second homes and empty homes.

4.0 POLICY CONTEXT

4.1 The Council's Fees and Charges policy sets out a range of factors that need to be considered in making decisions on what discounts, if any, should be offered. Some of the key points to take into account are as follows:

- Decisions to offer discounts should be based on fair, transparent and objective criteria
- Discounts are likely to be more appropriate in relation to improving well-being, and encouraging changes in behaviour
- Any discounts offered should support the Council's corporate priorities
- All charges imposed by the Council should be reasonable
- The Council's approach and policy on charging should be clearly communicated to the public
- What evidence is there that the discount policy will be or is successful in benefitting the target groups?
- Can the cost of providing the discount be accommodated within the Council's budget
- Reasonable notice should be given to service users before any new charge is implemented

4.2 The proposed changes provide an opportunity to generate additional income from reducing the level of existing council tax discounts, which is an important consideration, given the difficult medium term financial position facing the Council. However it should be recognised that only around 12% of council tax income is received by the Borough Council, with the balance going to the County Council, Police Authority, Fire Authority, and Parish Councils

4.3 The proposed changes also provide a positive opportunity for the Council to consider how it can use the council tax system to provide financial incentives to discourage people from leaving properties vacant for long periods. Given the Housing issues within the Borough this could help to increase the amount of housing available, which is an important consideration.

5.0 PROPOSALS

5.1 Second Homes (a furnished dwelling that is not the sole or main residence of any individual) are currently eligible for a discount of between 10% and 50% under national rules. The Council has previously considered this area and decided to provide the minimum level of discount i.e. 10%. The changes set out in the Local Government Act will now provide the discretion to levy a full council tax charge. It is proposed that the Council take advantage of this new flexibility so that West Lancashire tax payers are not subsidising owners of second homes. This change would affect around 60 properties.

- 5.2 Currently empty properties undergoing structural work are eligible for a “Class A exemption”. This means they are fully exempt from council tax when there are major repairs underway or structural alterations. This lasts for up to 12 months, or 6 months after the works are completed, whichever is the shorter. However under the new rules the Council will have the discretion to provide a discount of between 0% and 100%. On average there can be around 15 to 30 properties receiving Class A exemptions.
- 5.3 It is considered that the council should continue to provide a reasonable but not excessive discount in order to promote property development, particularly supporting major upgrading and improvements to poor quality housing stock. Consequently it is proposed that the current Class A exemption (100% discount) be replaced with a 50% discount from April 2013. The additional cost of a 50% council tax charge to any project budget for such major works will be relatively small when compared with the overall cost for improvement works. It is anticipated that the retention of a discount, although not as generous as is currently the case, will not have an adverse impact on households / developers desire to invest in such work to bring properties back into use and therefore occupancy for Council Tax purposes.
- 5.4 Currently properties that are empty and unfurnished are eligible for a Class C exemption which gives them full exemption from council tax for an initial period of up to 6 months. On average there are around 500 properties in this category at any one time. After this 6 month period this type of property is then classified as a long term empty home and is eligible for a 50% discount on an ongoing basis. Over the last 2 years there have been between 740 and 850 long term empty homes in the Borough that fall into this category. Under the new Act the Council will have greater discretion on what discounts to provide in this area and a review of previously existing discretions has also taken place
- 5.5 Under the new legislation there will also be the ability to increase the council tax charge by up to 50% on an unfurnished home that has been unoccupied for a continuous period of over 2 years. This empty homes premium will mean that the council tax paid could be up to 1.5 times the normal amount.
- 5.6 It is proposed that in future empty and unfurnished homes will receive a 50% discount for a period of up to 6 months once they initially become empty. After this time, if the property continues to be empty the full council tax will be charged for the next 18 months, and then an additional empty homes premium of 50% charged if the property continues to be empty for over 2 years and is not being actively marketed for sale. The main consideration here is to encourage faster turnaround times on empty properties and thereby aid the reduction in properties becoming long term empty. This approach will though provide a reasonable but not excessive discount to support short void periods between tenancies.
- 5.7 The current and proposed arrangements are summarised in Appendix C for ease of reference.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 Financial modelling has taken place on the additional income that could be generated from the proposals set out in this report. This has identified that these changes could potentially generate around £600,000 of council tax income, of which around £70,000 would be received by the Borough Council. This is an increase of just over 1% of the total council tax income that is currently raised. However the actual amount of council tax income will depend on the number of properties in each category and this will vary over time. These figures do not include any income from the empty homes premium as it is difficult to estimate how many properties would fall into this category.
- 6.2 The Council could also benefit from an increase in its New Homes Bonus grant as a result of these measures. This grant is paid based on the number of new homes built and empty properties brought back into use. These changes would create a financial incentive to encourage empty properties to be brought into use more quickly and so there could be a further positive financial effect through this grant funding.
- 6.3 In considering these changes it should be noted that certain home owners and landlords, including the Housing Revenue Account, could see a significant increase in the amount of council tax that they have to pay. In particular there would be significant increases in council tax liability for owners of long term empty homes. Members will need to weigh the potential financial difficulties that this could cause these council tax payers against the incentive that this would create to bring those empty homes back into use and the additional income that would be generated for the Council.

7.0 CONSULTATION ARRANGEMENTS

- 7.1 It is recommended that consultation be undertaken with residents and stakeholders on the proposals contained in Appendix C. This would involve writing to stakeholders (including landlords and precepting authorities) to ascertain their views, and providing an opportunity for residents to comment through an on line web page. This would assist in identifying the possible impacts of these changes and the results would be reported back to Council in February 2013.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 Ensuring best use of the Borough's housing stock is a key consideration for these proposals as is encouraging development that improves the quality of that stock.

9.0 RISK ASSESSMENT

- 9.1 The legislative changes will provide the Council with the ability to determine the discounts it provides on second homes and empty homes. The Council could choose not to use this discretionary power and to keep the existing discounts in place. However this would miss out on an opportunity to address empty homes issues within the Borough and to generate additional income.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

Appendix A – Equality Impact Assessment

Appendix B – Current Council Tax Exemptions

Appendix C – Proposed Changes to Council Tax Discounts on Empty Homes

APPENDIX A

Equality Impact Assessment - process for services, policies, projects and strategies

<p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: <i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/ nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p>As the make-up of householders owning second homes or with an empty property is unknown, and may change over time, it is difficult to specifically comment on the effect of these proposals.</p> <p>The reforms could potentially affect all of the protected groups. However, as the proposals have purely financial implications, and are across the board, no one group should be disproportionately affected, although older people may be more likely to own property compared to younger people.</p> <p>The financially disadvantaged could also potentially be affected by a decrease in discounts and hence increase in council tax but it is difficult to see this group being in a financial position to own one or more homes.</p>
<p>2. What sources of information have you used to come to this decision?</p>	<p>This is a preliminary report, and a further report will be produced once the consultation work referred to in 3. below has been completed.</p>
<p>3. How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p>Consultation will be undertaken with residents and stakeholders on the proposals. This will involve writing to landlords and precepting authorities to ascertain their views and providing an opportunity for residents to comment through an on line web page. This will assist in identifying any possible impacts of these changes.</p>
<p>4. Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:- Eliminate discrimination, harassment and victimisation; Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people); Foster good relations between people who share a protected characteristic and those who do not share it.</p>	<p>It would neither help nor hamper.</p>
<p>5. What actions will you take to address any issues raised in your answers above</p>	<p>No further actions required at this time</p>

APPENDIX B - CURRENT COUNCIL TAX EXEMPTIONS

- A** Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to twelve months).
- B** Unoccupied dwellings owned by a charity (up to six months).
- C** A vacant dwelling (i.e. empty and substantially unfurnished) (up to six months).
- D** A dwelling left unoccupied by people who are detained e.g. in prison.
- E** An unoccupied dwelling which was previously the sole or main residence of a person who has moved into a hospital or care home.
- F** Dwellings left empty by deceased persons.
- G** An unoccupied dwelling where the occupation is prohibited by law.
- H** Unoccupied clergy dwellings
- I** An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and has moved to receive personal care.
- J** An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and has moved to provide personal care to another person.
- K** An unoccupied dwelling where the owner is a student who last lived in the dwelling as their main home.
- L** An unoccupied dwelling which has been taken into possession by a mortgage lender.
- M** A hall of residence provided predominantly for the accommodation of students.
- N** A dwelling which is occupied only by students, the foreign spouses of students, or school and college leavers.
- O** Armed forces' accommodation.
- P** A dwelling where at least one person who would otherwise be liable has a relevant association with a Visiting Force.
- Q** An unoccupied dwelling where the person who would otherwise be liable is a trustee in bankruptcy.
- R** Empty caravan pitches and boat moorings.
- S** A dwelling occupied only by a person, or persons, aged under 18.

- T** A dwelling which forms part of a single property which includes another dwelling and may not be let separately from that dwelling, without a breach of planning control.

- U** A dwelling occupied only by a person, or persons, who is or are severely mentally impaired who would otherwise be liable to pay the council tax or only by a one or more severely mentally impaired persons and one or more students, students' foreign spouses and school and college leavers.

- V** A dwelling in which at least one person who would otherwise be liable is a diplomat.

- W** A dwelling which forms part of a single property including at least one other dwelling and which is the sole or main residence of a dependent relative of a person who is resident in the other dwelling.

APPENDIX C - PROPOSED CHANGES TO COUNCIL TAX DISCOUNTS ON SECOND HOMES AND EMPTY PROPERTIES

SECOND HOMES

Remove the current 10% second homes discount so that all second homes are liable for full council tax from April 2013

CERTAIN CATEGORIES OF EMPTY HOMES

Property Category	CURRENT ARRANGEMENTS		PROPOSED ARRANGEMENTS FROM APRIL 2013		
	First Phase	Second Phase	First Phase	Second Phase	Third Phase
Class A Empty properties undergoing major repairs or structural alterations	100% discount for up to 12 months or 6 months after repairs are completed whichever is the shorter	50% discount applied indefinitely	50% discount for up to 12 months or 6 months after repairs are completed whichever is the shorter	Full council tax charged	Charge 150% of the normal council tax after the dwelling is empty for more than 2 years and if it is not being actively marketed for sale
Class C Empty properties that are substantially unfurnished	100% discount for up to 6 months		50% discount for up to 6 months		



AGENDA ITEM: 12

**COUNCIL:
19th DECEMBER 2012**

Report of: Borough Solicitor

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr John Ryding (Ext. 5022)
(E-mail: john.ryding@westlancs.gov.uk)**

SUBJECT: CONTRACTS PROCEDURE RULES - AMENDMENTS

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to seek approval to update the Council's Contracts Procedure Rules (CPRs).

2.0 RECOMMENDATION

2.1 That the Council's Contracts Procedure Rules attached as Appendix A to this report, be approved and incorporated in the Constitution.

3.0 BACKGROUND

3.1 The Council's Constitution at Section 12 contains the Council's CPRs. The purpose of the CPRs is to set out a framework to be used whenever the Council purchases anything. That framework is there to ensure both value for money and propriety. Adherence to the CPRs protects the Council, its officers and Members.

3.2 It is appropriate that the CPRs be examined and updated periodically to reflect emerging best practice, legislative change, lessons learnt, etc.

4.0 PROPOSED AMENDMENTS

4.1 Attached to this report as Appendix A is a copy of the current CPRs which have been updated by tracked changes (underlined text) to show the proposed amendments. The opportunity has been taken to make drafting refinements and those amendments are not described in any detail in this report.

- 4.2 Amendments to the advertising of tender opportunities are proposed; see Rules 8, 9 and 10. The current rules require that tendering opportunities must be published in one trade/professional publication or portal commonly used by persons or bodies which undertake such contracts. Experience has shown that in some instances no such trade/professional publications or portals actually exist. The amendment will allow that in such cases the publication of a notice in a local newspaper will suffice to advertise the tendering opportunity. Except where EU requirements dictate the amended CPRs will therefore require that tendering opportunities always appear in a local newspaper unless a trade/professional publication or portal is used, in which case the use of a local newspaper is optional.
- 4.3 It must be remembered that this process is applicable to lower value procurements or those where there is no perceived inter EU appetite for the procurement opportunity. For larger contracts where the European Procurement regime has to be fully followed, a notice advertising the tendering opportunity must appear in the Official Journal of the European Union (OJEU). Furthermore, even where the full EU procurement process does not need to be followed, case law has established that tendering opportunities must be advertised throughout the EU where that tendering opportunity would be of interest to organisations in another Member State. Note N4(iv) has been added to cater for this position.
- 4.4 Rule 12(iii)(b) has been deleted and replaced by revised wording covering the position where factors other than price are to be considered in a tender evaluation exercise. The details of this revision and its reasons are as follows:
- (i) Emerging good practice suggests that a price/quality split should be used in evaluating tenders. This is recognised in the Public Contracts Regulations 2006 (as amended) (i.e. the Regulations which bring the European Procurement regime into English law) and is termed the "Most Economically Advantageous Tender" (MEAT).
 - (ii) The current CPRs do not allow MEAT to be used without the prior approval of an authorised body (i.e. Council, Cabinet, Committee, Sub-Committee, Portfolio Holder and any officer with relevant delegated authority, as appropriate). Because the use of MEAT is becoming increasingly common, it is felt that the CPRs should cater for this position.
 - (iii) Enquiries have been made of other North West Local Authorities to establish how they addressed this position. Five authorities provided information, three of those were districts and two were unitary authorities.
 - (iv) Of the three districts, two allow a free choice of whether tenders are evaluated on the basis of lowest price or MEAT. The other district requires tenders to be evaluated on the basis of MEAT and lowest price can only be used by exception.
 - (v) Of the two unitary authorities, one requires that MEAT is used for all tenders over £50,000 in value (lowest price being used below that value)

and the other has lowest price for all tenders but MEAT can be used by exception.

- (vi) It is clear from the above that there is no uniform approach by other authorities to this issue.
 - (vii) The proposed amendment to CPRs would allow the appropriate Head of Service, in consultation with the relevant Portfolio Holder, to decide whether MEAT should be used in the evaluation process and to establish the criteria to be used; in this respect one criteria must be price which should account for at least 60% of the total score.
 - (viii) It is felt that this represents a pragmatic way forward, recognising the growing relevance of MEAT whilst maintaining strict controls upon its use including Member involvement.
- 4.5 A new Rule 15(ii) has been added to provide clarification that the position has always been intended to be that Rule 15(i), which has been in the CPRs for sometime applies equally to the position where the Council is procuring something as part of a consortium and another consortium member is acting as lead for the procurement exercise.
- 4.6 A new rule 17 has been added to allow construction contracts to be tendered without having to be advertised in accordance with Rule 8 as long as the tenderers are selected using "Constructionline." Some years ago the Government was instrumental in establishing a pre-vetted list of contractors who operate in the construction industry. The purpose of the list is that public bodies can select tenderers from that list in the confidence that the suitability of those organisations has already been checked. Furthermore, if contractors are on a central register like Constructionline, it means those contractors will not have to fill in an application form every time they want to tender for a public contract thereby reducing bureaucracy and cost. When Constructionline was relatively new, Members gave a general exception to Contract Procedure Rules to allow officers to use Constructionline; this proposed addition to Contract Procedure Rules now merely brings that long-standing exception into the body of the wording of the Contract Procedure Rule. (N.B. where construction contracts exceed the European threshold, currently £4,348,350, those contracts will still have to be advertised in OJEU).
- 4.7 An amendment has been made to note N1 which recognises the strict requirement of the EU Procurement regime that contracts must not be packaged in such a way as to avoid the application of the EU Procurement Regulations.
- 4.8 Note 13 has been amended to emphasise that when considering contract values against cost bands it is the cost of satisfying the particular procurement requirement which must be considered and this will include the value of any additional work ordered under a contract.
- 4.9 A new Note N22 has been added to give advice and guidance in respect of producing a MEAT evaluation methodology.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

5.1 There are no sustainability implications/community strategy implications associated with this report.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 The proposed amendments to CPRs will ensure that the Council continues to get best value from its procurement exercises and comply with all legislative requirements thereby mitigating the potential of receiving a procurement challenge, the defence of which is resource intensive.

7.0 RISK ASSESSMENT

7.1 Failure to adopt the proposed changes to CPRs could jeopardise the Council's ability to obtain best value and fully comply with legislative requirements thereby potentially exposing the Council to challenge.

8.0 CONCLUSION

8.1 The adoption of the amendments proposed in this report will ensure that the Council has up to date and fit for purpose CPRs which reflect good practice and retain proper control of the procurement process.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix A : Proposed amended CPRs.

APPENDIX A

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CONTRACTS PROCEDURE RULES

Definitions

1. In these Rules:

- (i) “authorised body” - shall mean the Council, Cabinet, committee, sub-committee, Portfolio Holder and any officer, with relevant authority. (e.g. authority to take the decision or undertake the relevant action).
- (ii) “contractor” - shall mean any organisation or individual with whom the Council enters into a contract whether that contract is for the provision of materials, goods or work of any kind including professional services
- (iii) “quotations” - shall mean written, e-mail, facsimile or telephoned bids received from potential contractors in response to a written specification or other description of the works required
- (iv) “spending Service” - shall mean that Service of the Council which has responsibility for the budget which will pay for the contract in question or will be credited with any income emanating from the contract in question.
- (v) “Senior Officer” – shall mean a Managing Director or Head of Service.

Deleted: delegated

Deleted: , as appropriate

- (vi) "contract" – when the Council purchases any goods, services and/or building works that procurement is a contract irrespective of the value. (Note 19).

General

2. Every contract made by the Council shall comply with the EU Treaty, with any relevant Directives of the EU and with UK law and, except as hereinafter provided, these Rules. (Note 1 and 2)
3. It shall be a condition of any contract between the Council and any person (not being an officer of the Council) who is required to supervise a contract on their behalf that, in relation to such contract, he/she shall comply with the requirements of these Rules as if he/she were a Senior Officer of the Council.
4. (i) Any of the following provisions of these Rules may be waived by Council, Cabinet, committee, sub-committee or a Managing Director where that body or person is satisfied that to do so is justified in special circumstances and that those special circumstances are identified in the relevant minute or record of decision dealing with that contract. (Note 12).
- (ii) Any exercise of the power in (i) by a Managing Director shall be reported in the relevant Members' Update.

Deleted: an authorised body

Deleted: enacting such Directives for the time being in force in the United Kingdom

Contracts £10,000 or less

5. Where the estimated value or amount of a proposed contract will not exceed £10,000 the appropriate Senior Officer shall ensure that when the contract is entered into its value should offer good value and reflect competitiveness (in appropriate circumstances this could involve obtaining three quotations). The provision of these Rules shall have no application in respect of such contracts insofar as they relate to the invitation, submission, custody, acceptance or opening of tenders. (Notes 2, 8, 13, 17 and 21)

Contracts over £10,000 but under £50,000

6. Where the estimated value or amount of a proposed contract will exceed £10,000 but will not exceed £50,000 the appropriate Senior Officer shall obtain not less than three written quotations and accordingly, these Rules shall have no application in relation to such contracts insofar as they relate to the invitation, submission, custody, acceptance or opening of tenders. (Notes 2, 3, 8, 13 and 21)

Contracts over £50,000

7. Where the estimated value or amount of a proposed contract exceeds £50,000, and in any other case where an authorised body determine or where required by legislation tenders shall be invited in accordance with either Rule 8, 9 or 10 and shall be the subject of a contract signed by both contracting parties. (Notes 2, 3, 8 & 13)

Selective tendering - ad hoc list

8. (i) This Rule shall apply where an authorised body has decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice. (See Rule 17).
- (ii) For the purposes of this Rule, public notice shall be given:
- (a) in at least one local newspaper unless the public notice appears in accordance with 8(ii)(b) in which case the appearance of the public notice in the local press is optional; and Deleted: (
- (b) where appropriate in at least one trade/professional publication or portal commonly in use by such persons or bodies who undertake such contracts or in the Official Journal of the European Union. (Note 4) Deleted: where appropriate)
- (c) at the discretion of the authorised body, to all or a selected number of persons or bodies named in the list maintained under Rule 9.
- (iii) The public notice shall:
- (a) specify details of the contract into which the Council wishes to enter;
- (b) invite persons or bodies interested, to apply for permission to tender; and
- (c) specify a time limit, being not less than 14 days, within which such applications are to be submitted to the Council. *(Note 4)*
- (iv) After the expiry of the period specified in the public notice invitations to tender for the contract shall be sent to:
- (a) not less than 4 of the persons or bodies who applied for permission to tender, selected by the Senior Officer of the spending Service or *(Note 4)*
- (b) where fewer than 4 persons or bodies have applied or are considered suitable, those persons or bodies which the Senior Officer of the spending Service considers suitable. *(Note 4)*

Selective tendering - standing list

- 9. (i) This Rule shall apply where an authorised body has decided that invitations to tender for contracts for certain categories of work are to be limited to those persons or bodies whose names shall be included in a list compiled and maintained for that purpose. (Note 15).
- (ii) The list shall: (Note 5)
 - (a) be compiled and maintained by the authorised body;
 - (b) contain the names of all persons or bodies who wish to be included and who are approved by the authorised body; and
 - (c) indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given
- (iii) At least 4 weeks before a list is compiled, notices inviting applications for inclusion in it shall be published: (Note 4)
 - (a) in at least one local newspaper unless the public notice appears in accordance with 9(iii)(b) in which case the appearance of the public notice in the local press is optional; and Deleted: (
 - (b) where appropriate in at least one trade/professional publication or portal commonly used by such persons or bodies as undertake such contracts. Deleted: where appropriate)
- (iv) The lists shall be kept under constant review and shall be compiled again at intervals of not more than 5 years. (Note 6)
- (v) Invitations to tender for a contract shall be sent to:
 - (a) not less than 4 of the persons or bodies selected by the Senior Officer of the spending Service from among those approved for a contract of the relevant category and amount or value; (Note 4) or
 - (b) where fewer than 4 persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies. (Note 4)

Open tendering

- 10. (i) This Rule shall apply where an authorised body has decided that tenders for a contract are to be obtained by open competition. (Note 3)

- (ii) At least 14 days prior to the closing date for the submission of tenders a public notice shall appear (*Note 4*)
 - (a) in at least one local newspaper, unless the public notice appears in accordance with 10(ii)(b) in which case the appearance of the public notice in the local press is optional; and
 - (b) where appropriate in at least one trade/professional publication or portal commonly used by such persons or bodies as undertake such contracts or in the Official Journal of the European Union.

Deleted: (

Deleted: where appropriate)

The notice shall express the nature and purpose of the contract, state where further details (if any) may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

Submission of tenders

- 11. (i) Where in pursuance of these Rules an invitation to tender is made, every invitation shall state that no tender will be received unless it is enclosed in a sealed envelope to be supplied by the Council, for this purpose, which shall bear the word "Tender" - followed by the subject to which it relates but no name or other mark indicating the sender. (*Note 7(ii)*)
- (ii) The tenders shall be addressed to the Managing Director (People and Places) at 52 Derby Street, Ormskirk, Lancashire and shall be kept under lock and key in the custody of the Borough Solicitor or such other officer of the Council as may be duly authorised by him in that behalf until the time and date specified for their opening.
- (iii) No tender received after the time and date specified in the invitation shall be accepted or considered under any circumstances unless the Borough Solicitor is satisfied that there is clear evidence of it having been posted by first class post at least the day before tenders were due to be returned or clear evidence of it having been delivered to the Council's office at 52 Derby Street, Ormskirk by the time specified in the tender documents. (*Note 7(i) and (ii).*)

Opening and acceptance of tenders

- 12. (i) Tenders received under either Rule 8, 9 or 10 shall be opened at one time and in the presence of:
 - (a) two Members of the Council. Each tender will be initialled by the Member present.

- (b) a representative of the Borough Solicitor together with the appropriate officer(s) of the spending Service(s).
- (ii) All tenders received shall be dated and time stamped on receipt and recorded consecutively in a register maintained for this purpose by the Borough Solicitor.
- (iii) A tender other than the lowest tender if payment is to be made by the Council or the highest tender if payment is to be received by the Council shall not be accepted except
 - (a) as agreed by an authorised body (other than an officer), having considered a report by the appropriate Senior Officer; or
 - (b) where a Senior Officer decides that best value for the Council would be achieved by considering factors in addition to cost in the tender evaluation process and the Senior Officer in consultation with the relevant Portfolio Holder, has established the criteria and methodology to be used in the tender evaluation process. In such a case the criteria must include price which shall account for at least 60% of the total score. The remaining criteria shall be relevant to the tender exercise and shall be weighted appropriately but together must not exceed 40% of the total score (Note 22).
 - (c) where, in the opinion of the Senior Officer of the spending Service, the consideration of sustainability issues, associated with the product/service being procured, means that best value would be obtained by accepting a tender other than the lowest (or highest if payment is to be received by the Council). In such circumstances, the tender which is accepted must not exceed the lowest (or highest) by more than 15% to a maximum amount of £10,000. Where a tender other than the lowest (or highest) is accepted then a written record must be kept of the rationale for the acceptance and this must be initialled by the appropriate Senior Officer. Where a Senior Officer wishes to accept a tender (for sustainability reasons) which exceeds the lowest (or highest) by more than 15% or by more than £10,000, a separate exception to Contract Procedure Rules shall be obtained on a case by case basis. (Note 7A).

Deleted: where prior authority has been given by an authorised body to a tender evaluation process which allows consideration of factors other than price and the tender to be accepted is the most advantageous to the Council having considered those factors.

Nominated sub-contractors and suppliers

- 13. Where a sub-contractor or supplier is to be nominated to a main contractor, the following provisions shall have effect:
 - (i) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £50,000 then, unless the Senior Officer of the spending Service is of the opinion in respect of any particular nomination that it is not reasonably

practicable to obtain written competitive quotations, such quotations shall be invited.

- (ii) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £ 50,000 then, unless the authorised body determine in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, such tenders shall be invited in accordance with either Rules 8, 9 or 10 as the case may be.
- (iii) The provisions of Rules 11 and 12 shall apply to tenders received under this Rule.
- (iv) Some standard forms of contract are prescriptive about how suppliers and/or sub-contractors must be nominated. Where such a standard form of contract is being used and where the requirements of that standard form as regards nomination are incompatible with this Rule then the requirements of the standard form shall take precedence.

Contract conditions

14. (i) Every contract which exceeds £10,000 in value or amount shall: *(Note 2)*
- (a) be in writing and signed by an officer of the Council duly authorised in that behalf EXCEPT THAT where the Contract exceeds £50,000 it shall be made in writing and must either be signed by at least two officers of the Council or made under the common seal of the Council attested by at least one officer.
 - (b) specify the goods or services to be supplied or the work to be executed; the price to be paid together with the statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties, and
 - (c) in appropriate cases, to be determined by the Senior Officer of the spending Service, where a contract exceeds £50,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified in the contract or any amendment thereto made in accordance with the terms of the contract. *(Note 9)*
- (ii) The Senior Officer of the spending Service may also require a contractor to give sufficient security for the due performance of any contract. *(Note 10)*
- (iii) When specifying the standard of goods/services/works to be provided under a contract the following shall be observed *(Note 11)*.

- (a) where a mandatory technical standard is required under UK Law and where that requirement is compatible with EU obligations then that standard shall be specified
- (b) where there is no mandatory technical standard the following should be used in order of preference:-
 - British standards implementing European standards,
 - European technical approvals (e.g. for new construction materials),
 - Common technical specifications,
 - International standards, or
 - Other technical reference systems established by the European standardisation bodies.
- (c) where neither (a) or (b) apply then the following can be used but must be accompanied by the words "or equivalent":-
 - British standards,
 - British technical approvals (e.g. Agreement certificates), or
 - British technical specifications relating to the design, calculation and execution of the work or works and the use of the products.

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- (iv) The Senior Officer shall be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the corporate offence of failing to prevent bribery; and the Council's Anti Fraud and Corruption Strategy (Note 20).

The following clause shall be inserted in every written Council contract:

"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in relation to the improper performance of any function or activity in respect of this or any other Council contract (even if the Contractor does not know what has been done), or
 - (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972, or
 - (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause".
- (v) In all appropriate circumstances the Senior Officer of the spending Service shall ensure that a contractor has appropriate insurances at levels relevant to the contract in question. In this respect regard should be paid to the guidance issued by the Borough Treasurer. (Note 14)

Bulk Buying Etc.

15(i) Where the Council wishes to procure via an existing contract which has been entered into by another public body or by a bulk buying consortium and that contract facilitates participation by public bodies (which include the Council) then the requirement of Contract Procedure Rules Nos. 5,6,7,8,9,10,11 and 12 shall have no application providing the following requirements are all satisfied (Note 16).

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(a) the contract has been the subject of a tender exercise which has involved the placing of Contract Notices in the Official Journal of the European Union which required organisations to notify their interests in tendering for the contract.

(b) the terms of that existing contract allow the Council to make a procurement(s) via that contract

(c) the procurement(s) are made in strict accordance with the terms of that existing contract.

Where a procurement (s) is to be made in accordance with the foregoing the Service Officer of the spending Service shall compile, sign and retain a file note which shall detail the nature of the procurement(s) to be made including values, the title of the existing contract which will facilitate the procurement(s), the name of the organisation which established that existing contract and that the requirements of this Contract Procedure Rule have been complied with. A copy of the existing contract shall also be retained with the file note.

A copy of that file note (only) shall be provided to the Council's Internal Audit Section for their retention.

15(ii) The requirements set out at Rule 15(i) shall also apply where the Council wishes to procure as part of a consortium and another consortium member will act as lead for the procurement process.

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Retention and Recording of Contracts

16(i). In respect of all contracts which exceed £50,000 in value

- (a) The signed contract documents shall be provided to Legal Services so they can be retained in the Council's central contract document filing system (Note 18).
- (b) Summary details of the contract shall be provided to the Purchasing Manager for inclusion in the Council's Contract Register (Note 18).

(ii) Where the value of a contract exceeds £10,000 but does not exceed £50,000 it is the responsibility of the spending Service to retain a copy of the signed contract documents. Those documents shall be retained in accordance with the Council's Retention and Disposal Policy.

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17. Where construction contracts are to be tendered, tenderers can be selected from those pre-qualified organisations listed on "Constructionline" rather than advertise the tender opportunity in accordance with Rule 8 and where tenderers are so selected the requirements of Rule 8 shall be deemed to be fully satisfied.

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NOTES – (All these “Notes” are prefixed “N” to make them easily distinguishable from the Contract Procedure Rule numbers).

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N1. Rule 2 requires compliance with the EU Treaty (the Treaty of Rome) and with any relevant EU Directives. One of the main principles of European procurement legislation is that nothing should be done which prevents a company in one member state tendering for public contracts in another member state.

European procurement legislation divides public contracts into three categories each with a threshold value below which the full EU procurement rules do not apply.

- (i) Works Contracts (broadly building and civil engineering work) threshold for 2012 and 2013 £4,348,350 (this threshold value will be reviewed 1st January 2014).
- (ii) Supply Contracts (for any type of goods and materials) threshold as for 2012 and 2013 £173,934 (this threshold value will be reviewed 1st January 2014).
- (iii) Services Contracts (applies to all contracts which are neither “works” or “supplies”) threshold for 2012 and 2013 £173,934 (this threshold value will be reviewed 1st January 2014).

These thresholds are the total value (not annual value) of all similar contracts which will be entered into in any one financial year. The E.U. procurement legislation is very strict about aggregating similar contracts in this way to check if a threshold value has been exceeded. EU procurement legislation is also very strict requiring that no one must do anything, the purpose of which is to avoid having to tender a contract in compliance with EU requirements.

If a threshold value is going to be exceeded then contact either the Borough Solicitor (Extn. 5001) or the Executive Procurement and Projects Manager (Extn. 5022) for further advice.

Even where the threshold values given above are not exceeded (or where the service being tendered falls under Section B) there may still be a need to advertise the tender opportunity throughout Europe. For advice on this matter Officers are referred to Procurement Procedure Note No.3 which is available on the Council’s Intranet in the “Document” Section under “Miscellaneous documents” see those documents listed under the sub-heading “Procurement”.

N2. The Local Government Act 1988 Section 17 (5) lists matters which it deems “non-commercial” and which no local authority should make reference to in any

contract documents and which no local authority should take any account of when deciding whether or not to accept a tender. These non-commercial matters apply to all local authority contracts. However, Statutory Instrument 2001 No. 909 gives local authorities some latitude in being able to address workforce related issues where this is necessary to achieve best value or to comply with TUPE. Circular 03/2003 contains advice in respect of work force matters and contracts. Officers who wish/need to address such workforce related issues in contract documents/tenderer selection/contract award, should contact either the Borough Solicitor (Extn. 5001) or the Executive Procurement Projects Manager (Extn. 5022) for advice.

- N3. (i) There are three main ways in which tender prices can be obtained: (This Note 3 also has some application to written quotations as required by Rule 6, see below).
- (a) selective tendering (covered by Rules 8 and 9)
 - (b) open competition (covered by Rule 10)
 - (c) negotiation.

Use of negotiation in cases where the estimated value or amount of a proposed contract falls within the threshold prescribed in Rules 6 and 7 would require formal steps to be taken under Rule 4. Generally, negotiation is acceptable where it is based on some preliminary form of price competition such as in two stage tendering, or continuation contracts where the earlier contract, for broadly similar work, was won in competition within a year or two of the later contracts. Under E.U. Procurement legislation there are only very restricted cases where negotiations can be used. Prior to use of this procedure contact either the Legal Services Manager Extn. 5001 or the Executive Procurement and Projects Manager Extn. 5022.

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- (ii) Open competition should only be used in exceptional circumstances. Again, if this procedure is to be used contact either the Borough Solicitor (Extn. 5001) or the Executive Procurement and Project Manager (Extn. 5022).
- N4. (i) In considering whether or not to depart from the periods indicated in Rules 8(iii)(c) and 10(ii), it is considered that 14 days shall be regarded as the minimum period. The principle to be followed is that a reasonable and sufficient period shall be allowed. Such reasonable and sufficient timescales can only be identified by officers who are familiar with the market in question and on a case by case basis. The period of 4 weeks in Rule 9(iii) shall also be the minimum period.
- (ii) Where the threshold values given in Rule 2 are exceeded the EU procurement legislation sets out the periods which must be allowed for organisations to apply for inclusion on the tender list and for tender periods

and specifies where tender exercises need to be advertised in the Official Journal of the European Union.

- (iii) Rules 8 (iv) and 9(v) require that a minimum of 4 tenders be sought. Furthermore where tenders are being sought for projects to which the National Joint Consultative Committee for Building's "Code of Procedure for Single Stage Selective Tendering" or "Code of Procedure for Two Stage Selective Tendering" apply then the number of tenderers shall, as appropriate, be in accordance with the respective "procedure". The EU Procurement legislation contains some requirements regarding minimum numbers, of tenderers in specified circumstances (see The Public Contract Regulations 2006, e.g. Regulation 16 (9) (b), Regulation 17 (11) (b), Regulation 18 (12) (b) Regulation 19 (7) (b).

(iv) Even where the respective EU threshold value (see N1) is not exceeded general EU procurement law requires that where a tendering opportunity may be of interest to an organisation in another Member State of the EU, that tendering opportunity must be advertised throughout the EU. In such a case an appropriate publication/portal must be identified and an appropriate advert/notice inserted (NB the Official Journal of the European Union is free to use, is accessible throughout the EU and can be used to "advertise" below threshold and Schedule B services if a Council so desires).

N5. In Rule 9 the list will detail the principles under which organisations contained on the list will be chosen for inclusion for individual tender lists.

N6. Generally, lists of contractors maintained under Rule 9 shall be kept under continuous review with provision for both deletions and additions at appropriate times. It is important that standing lists shall not become rigid and self-perpetuating and that the entry of new and rising firms be encouraged. In reviewing standing lists those firms who have shown interest in local authority contracts and whose performance has been satisfactory shall, subject to checks on their current viability, be retained. Those who have failed to show an interest or whose performance has been inadequate or whose financial position has become unsatisfactory shall be dropped.

N7. (i) In cases of late receipt of a tender then where that tender has arrived via the postal system only official postmarks shall be accepted as evidence of the day of the posting of a tender. Where such postmarks are illegible the tender shall be rejected. The envelopes of admitted late tenders shall be endorsed by the officer responsible and the envelope retained. Late tenders which are not admitted shall be returned to the sender as soon as possible.

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(ii) Where tenders are delivered to the Council's offices at 52 Derby Street, Ormskirk, Lancashire by hand then the person handing the tender in shall be given a receipt indicating the date and time at which the tender was delivered and showing clearly the title of the contract in respect of which the tender is made.

- N7A. That the Senior Officer shall in considering the sustainability issues associated with any products/services have regard to the Council's "Environmental Purchasing Guide for Staff". Where that document fails to resolve matters, consideration shall be given to the advice of the Environmental Strategy Officer.
- N8. Where the Council is acting as an agent for another body (e.g. highway work for Lancashire County Council or Department of Transport, sewerage work for the Water Company, etc.) then that body may have special requirements which must be taken into account (e.g. that a particular tendering method has to be used for contracts over a certain size).
- N9. In Rule 14(i)(c) provision is made for the Council to require, in appropriate cases, the payment of liquidated damages for failure to complete a contract, exceeding £50,000 in value, within the stipulated (or extended) time. The following points shall be borne in mind in connection with this Rule.
- (i) Where liquidated damages are provided for in a contract, the amount included for them shall be a genuine pre-estimate of the loss to the Council/client body which delayed completion is likely to cause. Amounts which are likely to be construed as a penalty shall not be inserted.
 - (ii) When considering whether it is necessary to provide for liquidated damages in a contract, the Senior Officer of the spending Service shall satisfy himself/herself that such damages are applicable to the type of work/supplies/services and the form of contract and that they are enforceable and administratively economic to recover, (e.g. in the case of standing-offer type contracts [term contracts] where there may be difficulties in genuinely pre-estimating the loss to the client they may not be appropriate). Where the Council is acting as agent for any other organisation then liquidated damages should be administered in accordance with their requirements.
- N10. Rule 14(ii) provides that the Council may take security for the due performance of a contract. The most common form of security is the performance bond, the cost of which is inevitably met by the Council via the tender. Where proper selective tendering procedures are used, including the investigation of the financial standing of firms, the need for bonds may be reduced. Each contract will, therefore, be considered on its merits and the need for a bond will be dispensed with wherever this seems reasonable. The question of bonding is at the discretion of the relevant Senior Officer and is to be exercised in the light of all relevant circumstances. Guidance on the use of performance bonds has been issued by the local authority associations.
- N11. Rule 14 (iii) requires that certain "standards" are specified in contracts; this is to comply with the general requirements of E.U. Procurement legislation (as set out in the Public Contract Regulations 2006 (as amended). If there are no mandatory technical standards compatible with E.U. obligations then it is best to use a British Standard which implements a European standard and these can be

recognised as they are prefixed by the letters “BS EN”. As this is a rather technical point of procurement law, should an Officer have any queries these should be raised with the Borough Solicitor (Extn 5001) or the Executive Procurement and Projects Manager (Extn. 5022).

N12(i).Rule 4 relates to the waiver of Contract Procedure Rules under special circumstances. Such special circumstances would include

- only one company makes the product which the Council wishes to purchase and no other product is a reasonable substitute
- a recent tender exercise has shown that one supplier/contractor provides significantly better value than anyone else for the product/work in question
- urgency, resulting from circumstances beyond the Council’s control, means that there is insufficient time to obtain tenders in accordance with the procedures set out in Contract Procedure Rules.

(ii) Furthermore where an Officer intends to ask Council, Cabinet, a Committee or Sub-Committee to provide a waiver of Contract Procedure Rule (s) then he/she must ensure that the body in question have the necessary authority.

(iii) When a Managing Director grants an exception to Contract Procedure Rules in accordance with Rule 4, that exception shall be recorded as a “record of decision taken under delegated authority” which is available from the Member Services Section. That record of decision shall then be included in the next relevant Members Update.

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N13. (i) These Rules consider contracts in three cost bands (up to £10,000; £10,000 to £50,000; over £50,000). These are not annual values, they are the value of the contract for its whole duration.

(ii) No attempt must be made to split a single contract into several lower value contracts to avoid the application of any aspect of these Rules. In this respect the figure which should be considered against the threshold is the total cost of engaging the particular contractor (operating in his/her particular profession/trade/field) to fulfil the procurement requirement which is the essential purpose of the contract. Advice on this matter can be obtained from the Executive Procurement and Projects Manager (Ext. 5022) or the Borough Solicitor (Ext. 5001).

(iii) Care must be taken where a low value contract is expanded to include additional work because if that additional work moves the contract value into another cost band a waiver of these Rules may be necessary if the requirements of these Rules are not to be breached. Advice on this matter can be obtained from the Borough Solicitor (Ext. 5001) or the Executive Procurement and Projects Manager (Ext 5022).

Deleted: (iii) Circumstances may apply where a number of low value contracts for similar work/supplies/services are given to one contractor. When the value of those contracts is aggregated the effect may be to move the total purchase from one cost band to another (the cost bands are described in item (i) of this Note 13). This may mean that a different procurement method needs to be followed to comply with these Rules. Where such circumstances arise it may be necessary to obtain a waiver of these Rules. **Where such circumstances apply always contact either the Borough Solicitor (Extn. 5001) or the Executive Procurement and Projects Manager (Extn. 5022).**

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N14. Rule 14 (v) requires contractors to have appropriate insurances. Advice on this topic is contained in a document entitled “Insurance Procedure: Checking

Contractors/Consultants Insurances” which is available from the Insurance Section.

N15. Rule 9 relates to “standing lists”. The Public Contract Regulations 2006 ([as amended](#)) which is the main English legislation to give effect to EU procurement legislation, provides for a category of contracts, called “framework agreements”. In specific circumstances, certain framework agreements, can be deemed to operate as standing lists. (True standing lists would generally only apply to tender exercises where the values are below the threshold values given in NI). For advice in respect of this matter contact either the Borough Solicitor (Extn. 5001) or the Executive Procurement and Projects Manager (Extn. 5022).

N16. In respect of Rule 15 the following advice is offered:-

- (i) where an officer wishes to make a procurement under the terms of an existing contract but where the requirements of Rule 15 are not satisfied it may still be possible to go ahead providing that existing contract was tendered and awarded in a fair, open and transparent manner and in full accordance with all legislation which applies to the Council. In such a case a specific exception to Contract Procedure Rules must be obtained in accordance with Rule 4.
- (ii) Some “Services” fall under Schedule 3 Part B of the Public Contract Regulations 2006 ([as amended](#)) which means that a Contract Notice, as described in Rule 15 (i), would not be required by procurement legislation, therefore, the requirements of Rule 15 (i) would not be satisfied. In such cases a specific exception to Contract Procedure Rules must be obtained in accordance with Rule 4.
- (iii) As compliance with Rule 15 is a fairly technical matter Officers are encouraged to contact either the Executive Procurement and Projects Manager (Extn 5022) or the Borough Solicitor (Extn 5001) whenever they are considering using Rule 15.

N17. Rule No.5 requires that where contracts are under £10,000 the relevant [Senior](#) Officer shall ensure that the accepted price offers good value and reflects competitiveness. The Rule goes on to say that in appropriate circumstances this could include obtaining three quotations. In such circumstances it would be acceptable to obtain quotations via e-mail. This requirement to offer good value and reflect competitiveness could also be satisfied where quotations/tenders have been obtained in the last 12 months for similar work when it would then be in order to award a new contract to the tenderer who was successful in the previous tender exercise providing the new work is the same or similar to the work contained in the previous accepted tender and the new work can be priced by reference to the rates in the previous accepted tender. Where it is proposed to award a contract below £10,000 in value and where value for money and competitiveness will be demonstrated (as required by Rule 5) other than by obtaining three quotes or by reference to a previous quotation/tender exercise (as detailed in this N17) then the advice of the Audit Manager (Extn 2603), the Borough Solicitor (Extn 5001), or the Executive Procurement and Projects Manager (Ext.5022) should be sought. In all

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cases reasonable evidence must be retained (as an audit trail) to demonstrate that the requirements of Rule No.5 have been complied with.

N18. Rule 16 requires that in respect of contracts over £50,000 in value:-

- (i) The signed copy of the contract documents shall be provided to Legal Services for filing. The Officer to be contacted in this respect is the Managing Clerk (Extn. 5422). Furthermore the contract documents to be provided to Legal Services are the original signed contract documents. The spending Service shall retain appropriate copy (ies) of the signed contract documents to facilitate the proper client management of the contract.
- (ii) Summary details are to be provided to the Purchasing Manager (Extn. 5426) for inclusion in the Council's Contracts Register. Those summary details in respect of each contract shall comprise; the identity of the spending division, the name of the contractor/supplier/consultant, the title of the contract, the total value of the contract over its life excluding any potential extension(s) to the contract period, the start date of the contract, the end date of the contract and any other details which would allow a better understanding of the contract.
- (iii) Should a contract be extended then the Purchasing Manager (Extn. 5426) shall be advised accordingly and shall be provided with appropriate revised summary details in respect of the extended contract.

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N19. Rule 1 contains a definition of the term "contract". In respect of that definition the following advice is offered. Many small value purchases are made through Council wide bulk contracts which have been put in place centrally. Such contracts have already been entered into in full accordance with Contract Procedure Rules and require no further quotation or tender exercise. It is the responsibility of the spending Service to ensure that the Council wide bulk contract being used allows the purchase of the goods/services/building works being purchased. Queries regarding this matter should be directed to the Purchasing Manager (Extn. 5426) or the Executive Procurement and Projects Manager (Extn. 5022).

N20. Senior Officers may choose to supplement the requirements set out at CPR 14 (iv) by specifying particular requirements, e.g. adherence to the Council's Anti Fraud and Corruption Policy (as amended from time to time), having regard to risks arising from any particular area of contractual activity. If so they are invited to discuss this with the Borough Solicitor (Extn. 5001) or the Executive Procurement and Projects Manager (Extn. 5022).

N21. Where quotations are to be sought, care must be taken not to always obtain quotations from the same organisations thereby discouraging the development of price rings. It is important that the entry of new and rising organisations be encouraged therefore where appropriate, when seeking quotations include within the organisations who are invited to quote, an organisation which is "new" to the Council (i.e. an organisation who the Council do not regularly do business with and/or invite to submit quotations). However, the relevant Senior Officer must be

happy with the financial stability and technical ability of any organisation before a contract is awarded to that organisation.

N22. Where a tender evaluation methodology is to include criteria other than price (Rule 12(iii)(b)) care must be taken to ensure that the evaluation methodology is relevant, objective and transparent. The production of a robust tender evaluation methodology is a rather technical matter and advice must be sought from either the Executive Procurement and Projects Manager (Ext. 5022) or the Purchasing Manager (Ext. 5426).



AGENDA ITEM: 13

COUNCIL: 19th December 2012

Report of: Borough Treasurer

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr M Kostrzewski (Extn.5374)
(E-mail: Mike.Kost@westlancs.gov.uk)
Mr J Smith (Extn.5093)
(E-mail: Jonas.Smith@westlancs.gov.uk)**

**SUBJECT: TREASURY MANAGEMENT AND PRUDENTIAL INDICATORS
MONITORING 2012-2013**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To set out details of Treasury Management operations in the year to date and to report on the Prudential Indicators for 2012/13, where available.

2.0 RECOMMENDATIONS

2.1 That the Prudential Indicators and Treasury Management activity in the year to date be noted.

2.2 That the list of approved counter parties for investment be extended to include UK based triple A rated money market funds, with a maximum investment limit of £3m per fund.

3.0 BACKGROUND

3.1 The Council has adopted the CIPFA Treasury Management Code of Practice in Local Authorities. One condition of the Code is that a report must be made twice yearly to the Council on the activities of the Treasury Management function and on the exercise of Treasury Management powers delegated to the Borough Treasurer.

- 3.2 The CIPFA Prudential Code for Capital Finance sets out a range of prudential indicators to assess whether an authority's financial position is prudent, affordable and sustainable. It is best practice that performance on these indicators is reported to Members on a regular basis.

4.0 PRUDENTIAL INDICATORS

- 4.1 One of the Council's main strengths is its healthy financial position, and the latest External Audit Report stated that the Council has a strong financial standing. This position is confirmed in this latest set of prudential performance indicators that are set out in the Appendix.
- 4.2 Appendix A Table 1 details the estimate and the projected outturn in relation to the principle of affordability contained within The Prudential Code for the current financial year. The first indicator shows that the financing costs on the GRA are small. This is due to the fact that interest earned has diminished during the economic downturn and is now slightly less than interest payments. The HRA position has markedly changed compared to the previous year due to the introduction of self financing in March 2012. The borrowing undertaken of some £88.212m attracts annual interest payments of £3.057m, which represents 13.28% of revenue. It must be borne in mind though that the self financing system means that the HRA retains all Council rents generated and no longer has to make subsidy payments to the government which were in excess of £6m per year.
- 4.3 Appendix A Table 2 details the Prudential Indicator in relation to capital expenditure, which fall under the principle of prudence. The Estimate with slippage, revisions and amendments, was reported at Cabinet on 13th November 2012. This report shows that expenditure is not being committed above budget targets
- 4.4 There is also a requirement to report upon the Capital Financing Requirement of the Council. This indicator details the authority's underlying need to borrow for a capital purpose. At the end of the financial year 2011/12 the capital financing requirement stood at £94.515m. Due to its nature this indicator can only be reported upon when the fixed asset accounts are closed, and the figure for the 2012/13 financial year will not be available until Summer 2013.
- 4.5 The Capital Financing Requirement has increased substantially compared to previous years due, once again, to the HRA self-financing payment made on 28th March 2012. It should be noted that whilst the CFR amount is used to calculate the minimum revenue provision, the Government, after some lobbying by Councils, gave an allowance to mitigate the self-financing payment effect on the general fund. Hence, the CFR amount used to calculate the minimum revenue provision stood at £6.303 at the end of the 2011-12 financial year. This compares more closely with previous figures reported.
- 4.6 With regard to the Treasury Management Prudential Indicators two of these relate to approved borrowing limits namely, the authorised limit for external debt and the operational boundary. Council agreed these limits at, £108m and £97.5m respectively at its meeting on 29th February 2012, and we are currently well

within these limits. Appendix A Table 3 details the borrowing structure and interest payments associated with our debt.

5.0 HRA SELF FINANCING

5.1 As mentioned above, the HRA have undertaken self financing in 2012-13 having made a one off payment to central government of £88.212m. This payment was financed entirely through fixed interest rate maturity loans arranged through the Public Works Loan Board (PWLB). The time to maturity of the loans ranges from 15 and 50 years at an average interest rate of 3.47%. The total annual interest payment in order to service the loans is £3.057m.

6.0 INVESTMENTS

6.1 The Treasury Management function within Local Government still remains very subdued, with a clear priority to protect principal invested as opposed to trying to obtain the highest returns. This scenario is very evident in our performance since April. There have been slightly higher funds available for investment during the current year compared to last year. The average amount of funds invested for the first 6 months of 2012/2013 was £22.6m compared to £22m in 2011/2012.

6.2 The Base Rate started the year at 0.50%, the position it still remains at today. Our financial advisors (SECTOR) are suggesting that this rate will remain the same until the end of 2014. It is anticipated that this year, we will earn less interest than in 2011/12. There are two reasons for this, firstly, Bank of Santander and Yorkshire Bank, which offered an advantageous rate of return when compared with other available counterparties, no longer meets our investment criteria as their credit rating has been downgraded. Secondly, the Bank of England's funding for Lending Scheme, which commenced on the 1st August 2012, has allowed banks to borrow from the government at a reduced rate of interest. This has meant that most of them have significantly reduced the rates they offer for fixed term deposits.

6.3 The Council's strict investment criteria combined with the current state of the financial markets means that there are currently only a very limited number of counter parties that we can invest in. To provide additional flexibility it is now proposed that the counter party list be extended to include instant access triple A rated money market funds. These are very secure investment options that are used by other local authorities. We have not used these type of funds previously because we have been able to obtain better interest rates from other sources. However given the current state of the market these funds would provide a secure investment route and a competitive interest rate.

6.4 The investment income earned for the first 6 months of 2012/2013 was £110,600 which is virtually the same level when compared to 2011/2012. Investment income in the second half of the year tends to be less than the first half year. This is due to the reduction in cash resources available, mainly due to Council Tax being billed over a 10 month period rather than a full year. Additionally the issues mentioned in para 6.2 above will have a greater effect in the second half of the year.

- 6.5 The following table provides details on investment activity during the first 6 months of this year and last year.

	Mid Year 2012/13	Mid Year 2011/12
Investment levels		
Average Funds invested	£22.6 million	£22 million
External Investment Interest earned	£110,600	£110,650
Turnover	£57 million	£48.7 million
Number of individual investments	41	49
Average Rate earned on all investments	0.931%	0.970%
<u>Number & type of organisations invested in</u>		
Local Authorities	0	0
Building Societies	1	1
Banks	4	4

- 6.6 As part of the ongoing work to achieve Best Value in Treasury Management, we continually monitor our performance against a benchmark figure of the average 3-month LIBID interest rate. The position at the end of September is that we have, once again, exceeded the target, achieving an average rate of interest earned of 0.931%, on all investments, against the benchmark average of 0.740%.
- 6.7 The Council uses Sector as its treasury management advisors and each year Sector undertakes a review of our treasury management activities. No major changes are planned as a result of their most recent review and steady progress is being made, building on from performances already achieved. Our contract with Sector expires at the end of December 2012, and we will market test this service to ensure that we continue to obtain high quality advice and value for money
- 6.8 There is still a situation of safety first and precaution in the banking and monetary sector. However, Members should note that investments are only made in very secure financial institutions with excellent credit ratings. We have continued with the policy of limiting investments to a maximum length of three months as a result of market volatility. We liaise closely with money market brokers and our treasury advisors in order to anticipate the investment landscape ahead, so that we are in a good position to safeguard our investments.

7.0 TREASURY MANAGEMENT FRAMEWORK

- 7.1 There have not been any significant changes made to the treasury management framework in the year to date. It is standard practice that credit rating and other

financial information are fully assessed before investments are made to ensure their security.

7.2 No changes have been made to the criteria used for deciding upon counterparties for investment purposes since last reported. Nor has the maximum amount and loan period for investing with a single organisation changed. In addition no changes have been made to the list of Brokers used for investment purposes.

8.0 SUSTAINABILITY IMPLICATIONS

8.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

9.0 RISK ASSESSMENT

9.1 The formal reporting to Council of Prudential Indicators and Treasury Management performance is part of the overall framework set out in Codes of Practice to ensure that the risks associated with this area are effectively controlled. Given the Council's strict investment criteria the risk of loss of investment funds is low, however given that the sums invested can be very large, treasury management activities are included in the Council's Key Risk Register.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

<u>Date</u>	<u>Document</u>	<u>File Ref</u>
2003	CIPFA Prudential Code for Capital Finance	Accountancy Office
2010	CIPFA Revised Treasury Management Code of Practice	Accountancy Office

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix A – Prudential Indicators

Appendix A : Prudential Indicators

Table 1 REVENUE

Estimate of Ratio of Financing Costs to net revenue stream

G.R.A.	Estimate	0.86%	
	Forecast		1.06%
H.R.A.	Estimate	N/A	
	Forecast		13.28%

Estimate/Forecast of the incremental impact of capital decisions on the Council Tax

Incremental increase Band D:		£	£
	Estimate	Nil	
	Forecast		Nil

Note: The estimated figures relate to the indicators agreed by Council on 29th February 2012 for 2012-13 financial year. Forecast indicators relate to the projected outturn for 2012-13.

Table 2 CAPITAL

Estimate of Capital Expenditure

		£ 000's
G.R.A.	Estimate with slippage	4,304
H.R.A.	Estimate with slippage	9,058
TOTAL		13,362

Table 3 Borrowing and Interest payment structure

All fixed rate loans:

£ Value	% Interest Rate	Period	Maturity date	£ Int p.a.
4,410,600	3.01	15	28/3/2027	132,759
4,410,600	3.30	20	28/3/2032	145,549
8,821,200	3.44	25	28/3/2037	303,449
8,821,200	3.50	30	28/3/2042	308,742
8,821,200	3.52	35	28/3/2047	310,506
8,821,200	3.53	37	28/3/2049	311,388
8,821,200	3.52	40	28/3/2052	310,506
8,821,200	3.51	42	28/3/2054	309,624
8,821,200	3.50	45	28/3/2057	308,742
8,821,200	3.50	47	28/3/2059	308,742
8,821,200	3.48	50	28/3/2062	306,977

Weighted average interest rate is 3.47%
Total interest charge p.a. is £3,056,986



AGENDA ITEM: 14

COUNCIL: 19 December 2012

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

Contact for further information: Paul Charlson (ext 5246)

(E-mail: paul.charlson@westlancs.gov.uk)

SUBJECT: SEX ESTABLISHMENT LICENSING POLICY

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To take the necessary action to approve a Statement of Sex Establishment Licensing Policy.

2.0 RECOMMENDATIONS

2.1 That, taking into account the minute of the Licensing and Gambling Committee held on 23 October 2012 attached at Appendix 2, the Statement of Sex Establishment Licensing Policy, as amended and attached at Appendix 1 to this report, be approved,.

2.2 That the Statement of Sex Establishment Licensing Policy attached at Appendix 1 to this report be published by 7 January 2013 and come into force on 11 February 2013.

3.0 BACKGROUND

3.1 Members will recall previous reports regarding Sex Establishments and that the licensing regime for such premises is contained in the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), as amended by Section 27 of the Policing and Crime Act 2009 (the 2009 Act).

3.2 To clearly set out the Council's requirements for such establishments, a draft Statement of Sex Establishment Licensing Policy (the Policy) was approved by Members and has been subject to public consultation.

4.0 CURRENT POSITION

- 4.1 The draft Policy was subject to public consultation between 22nd June and 17th September 2012. As there are no licensed Sex Establishments within the Borough, the consultation was not able to address existing operators. Therefore, a copy of the Policy and supporting information was published on the Council's website and a press release issued on the 9th July 2012. Details of the Policy were also provided to those Responsible Authorities named under the Licensing Act 2003.
- 4.2 Comments on the draft Policy were required in writing and accepted via letter, email or the Council's website. However, whilst the press release did attract local media attention and an article in the local press, no comments have been received regarding any aspect of the Policy.

5.0 ISSUES

- 5.1 Given the lack of responses, the final Policy attached as Appendix 1 to this report is largely unchanged from the draft version previously submitted to Members. Only minor amendments have been made to clarify the procedural requirements of the legislation and to include the dates by which the final Policy will come into force.
- 5.2 The final Policy was endorsed by the Licensing and Gambling Committee on the 23rd October 2012 and the minute of this endorsement is attached at Appendix 2 to this report. The Policy attached at Appendix 1 to this report has been updated accordingly.
- 5.3 If Members approve the final Policy, it is good practice to set dates on which the Policy is published and subsequently comes into force. By allowing at least 28 days between these two dates, any interested parties can make suitable arrangements prior to the Policy becoming operational. Accordingly, the recommendation to full Council is that the final Policy is published by 7th January 2013 and will come into force on 11th February 2013.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 This legislation has the potential to impact upon the Community Strategy. The contents of the report has the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 The contents of this report can be delivered within existing resources.

8.0 RISK ASSESSMENT

- 8.1 The Council is not under a legal obligation to publish a Statement of Sex Establishment Licensing Policy. However, given that it has already resolved to adopt the provisions of the 1982 Act (as amended by the 2009 Act), it is appropriate that a Policy is produced to provide clear guidance on the Council's requirements. If such a Policy were not adopted, the Council would still be required to determine legally submitted applications, but the Council's requirements would be ambiguous. This could lead to a lack of uniformity in decisions and potential increases in appeals against Council decisions.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached at Appendix 3 to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Statement of Sex Establishment Licensing Policy 2013
2. Minute of the Licensing and Gambling Committee held on 23 October 2012
3. Equality Impact Assessment

West Lancashire Borough Council

Statement of Sex Establishment Licensing Policy

February 2013

Introduction to this Policy Statement

For the first time, a national licensing scheme exists for the entire range of sex establishments. Legislation has responded to our changing society, where the public representation of sex has become more prevalent through advertising and popular culture. However, this change may also cause concern to many members of the public. Notwithstanding individual morality, many may take the view that the presence of such premises damages the character of an area, prevents further commercial potential or could lead to exploitation and reinforcement of damaging stereotypes.

The role of the Council as Licensing Authority is not to take a moral stance, but to assess these arguments in a local context, while aiming to ensure regulatory balance. Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries. However, it is appropriate that the Licensing Authority set out its objectives and the means by which application processes can address potential concerns. In contrast to other licensing legislation, the Council is not under an obligation to publish a policy for sex establishment licensing. However, by publishing such a document, the Council can clearly state the needs of its own area and dictate the requirements for licensed operations.

Without such a document, the Council could not set out the controls to deter or enforce against rogue operators or to impose conditions on licensed operations to ensure they are run by the right people to the right standards.

Before establishing this Policy, the Council undertook a consultation exercise, which aimed to take account of the opinions of all who could be affected by the legislation. The consultation took place from the 22nd June 2012 until the 17th September 2012 and has helped to shape this final version of the Policy. This Policy Statement will be reviewed at least every five years. It was agreed by the Council's Licensing and Gambling Committee on the 23rd October 2012 and by full Council on the 19th December 2012. This Policy Statement was published on the 7th January 2013 and came into force on the 11th February 2013.

Where and to what extent sex establishments may be permitted is addressed in this Policy. Our aim is to provide the means by which the arguments of commercial and individual freedom are balanced against the protection of the character of the Borough and the sensibilities of those who live and work in West Lancashire.



Councillor James Kay
Chairman of the Licensing and Gambling Committee

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1.0 Legal Background and Rationale

- 1.1** This Policy covers the licensing regime for Sex Establishments as contained in the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), as amended by Section 27 of the Policing and Crime Act 2009 (the 2009 Act).
- 1.2** Whilst the provisions of the legislation are not mandatory, the Council wanted to ensure it was legislatively equipped to address the needs of the community. West Lancashire Borough Council (the Council) has therefore adopted Schedule 3 to the 1982 Act (as amended by Section 27 of the 2009 Act), which allows the Council to licence Sex Shops, Sex Cinemas and Sexual Entertainment Venues in the Borough. In this Policy Statement, such premises will be referred to as Sex Establishments. The Council is designated as the Licensing Authority (the Authority) for the purposes of the 1982 Act and is responsible for administering all of the relevant provisions in respect of Sex Establishments.
- 1.3** In addition to the adoption of Schedule 3 of the 1982 Act, the Council has also passed a resolution to determine and licence Sexual Entertainment Venues. This resolution was passed on the 21st July 2010 in accordance with paragraph 2(2) of Schedule 3 of the 2009 Act. The Council published a notice to this effect on the 30th September 2010 and the 7th October 2010. The amendments made by Section 27 of the 2009 Act to Schedule 3 of the 1982 Act came into effect from the 1st November 2010.
- 1.4** The 2009 Act also required that a 12 month transitional period be established so that any existing businesses could make suitable provisions. The transitional period began on the date the resolution was passed (21st July 2010 – the ‘1st appointed day’). Six months following the 1st appointed day was the ‘2nd appointed day’ (21st January 2011) and the day on which the transitional period ended was the ‘3rd appointed day’ (21st July 2011).
- 1.5** After the 1st appointed day, new applicants would not be able to operate as a Sexual Entertainment Venue until they had been granted a Sexual Entertainment Venue licence. The 2nd appointed day was established to ensure applications for new and existing operations could be considered together and that each could be considered on their individual merits and not on a first come first serve basis.
- 1.6** Accordingly, no applications could be determined before the 2nd appointed day. After the 2nd appointed day, the Authority could decide what if any licences should be granted. If a new applicant were to be granted a licence, it will take effect immediately. If an existing operator were granted a licence, it would not take effect until the 3rd appointed day, up to which point they would have been allowed to continue to operate under their existing Premises Licence or Club Premises Certificate.
- 1.7** Notwithstanding the content of paragraphs 1.4 to 1.6, no Sex Establishments existed in the Borough at the time of the 1st appointed day and no applications were received during the transitional period.
- 1.8** This Policy Statement sets out the approach the Authority will generally take when considering, and making decisions on, applications for Sex

Establishments made under the 1982 Act - as well the enforcement of standards. The Authority may, if it considers appropriate, deviate from this Policy, and if such a deviation is taken, the Authority will provide full substantiated and justified reasons as why that decision was taken.

- 1.9** Nothing in this Policy Statement will undermine the rights of any person to apply for a Sex Establishment licence under the 1982 Act and have the application considered on its individual merits in accordance with the relevant legislation and this Policy Statement.
- 1.10** This Policy Statement shall be effective from the 11th February 2013 and shall remain in effect for five years; therefore this Policy Statement will be reviewed by the 10th February 2018.
- 1.11** This Policy Statement will also be kept under review during this five year period. The Assistant Director Community Services will maintain an Issues Log in which all issues pertaining to this Policy Statement will be recorded. Therefore the Authority will make revisions to the Policy Statement at such times as it considers appropriate, for example where relevant issues have arisen, or where matters recorded in the Issues Log indicate that that such a review is required.

2.0 Scope and Definitions

2.1 This Policy Statement covers all applications, notifications and authorisations provided by the 1982 Act for the licensing and enforcement of Sex Establishments, namely:

- Sex Shops;
- Sex Cinema;
- Sexual Entertainment Venues.

Sex Shops

2.2 This is defined in the 1982 Act as any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- a) sex articles; or
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.

2.3 No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

2.4 “Sex article” is defined in the 1982 Act as:

- a) anything made for use in connection with, or for the purpose of stimulating or encouraging—
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- b) anything to which paragraph 2.5 below applies.

2.5 This Paragraph applies:

- a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- b) to any recording of vision or sound, which:
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sex Cinema

2.6 This is defined in the 1982 Act as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or
- b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

- 2.7** No premises shall be treated as a sex cinema by reason only:
- a) if they are licensed under Section 1 of the Cinemas Act 1985, of their use for a purpose for which a licence under that Section is required; or
 - b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of that Act.

Sexual Entertainment Venues

2.8 Section 27 of the 2009 Act reclassified lap dancing clubs and similar venues into a separate category of Sex Establishment called a Sexual Entertainment Venue (SEV) and gave the Council the power to regulate such venues under Schedule 3 of the 1982 Act. Paragraph 2A was added to Schedule 3 of the 1982 Act to widen the definition of a Sex Establishment to include an SEV and Relevant Entertainment.

2.9 An SEV is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.”

2.10 The definition of ‘Relevant Entertainment’ is given as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).”

2.11 Both definitions aim to provide a pragmatic interpretation and therefore an audience can consist of just one person. Whilst the determination of each case will be judged on its merits, this Policy Statement considers the definition of Relevant Entertainment to apply to the following forms of entertainment as they are commonly understood:

- Lap dancing;
- Pole dancing;
- Table dancing;
- Strip shows;
- Peep shows;
- Live sex shows.

2.12 Paragraph 2A of the 1982 Act also defines those premises that would not be classed as a SEV, namely:

- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act)
- Premises which provide Relevant Entertainment on an infrequent basis. These are defined as premises where:
 - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - c) no such occasion has lasted longer than 24 hours.

- Other premises or types of performances or displays exempted by an order of the Secretary of State.

2.13 The matters detailed in paragraph 2.12 do not obviate a person from any other statutory requirements outside the remit of this Policy Statement.

2.14 The 2009 Act also amended the Licensing Act 2003 (the 2003 Act) to ensure that premises for which an SEV licence is required, or held, do not also require a Premises Licence, Club Premises Certificate or Temporary Event Notice in order to provide Relevant Entertainment. This is because such entertainment is expressly excluded from the definition of 'Regulated Entertainment' found in the 2003 Act. However, if the premises also provides other licensable activities (e.g. the sale/supply of alcohol or the provision of Regulated Entertainment that is not Relevant Entertainment), they will nevertheless require the relevant authorisation under the 2003 Act.

3.0 Aims and Purpose

3.1 The Authority does not take a moral stance in this Policy Statement. The Authority recognises that Parliament has made it lawful to operate a Sex Establishment, and that such businesses are a legitimate part of the retail and leisure industries. The Authority's role is to administer the licensing regime in accordance with the law. The Council adopted the legislation to licence Sex Establishments to set out the controls to deter or enforce against rogue operators or to impose conditions on licensed operations to ensure they are run by the right people to the right standards.

3.2 Therefore, the aims of this Policy Statement are to:

- Preserve the character of the Borough;
- Protect the public;
- Protect the staff employed in Sex Establishments;
- Promote good management standards in Sex Establishments;
- Promote gender equality.

3.3 Each of these aims is considered of equal importance for the purposes of this Policy Statement.

3.4 The purpose of this Policy Statement is to set out the objectives and the means by which the Authority can balance potential concerns of those who live and work in the Borough against commercial and individual freedoms established under the 1982 Act.

3.5 The purpose of the Authority's licensing duties is the control of licensed premises and operations defined under the relevant legislation. Where conditions are attached to a licence specific, these will focus on matters that are within the control of the individual Licence Holder and will centre on the operation of the business and employees, the premises and its location.

4.0 The Borough of West Lancashire

- 4.1** West Lancashire Borough Council is situated in the County of Lancashire, which contains 12 District Councils and 2 Unitary Councils, and is the most southerly of the Local Authorities within the County. The Borough has a population of 110,700 (National Census 2011) and covers an area of over 34,000 hectares, a large proportion of which is good and versatile agricultural land. The Borough has two market towns: Ormskirk and Burscough, with mainly rural parishes and villages to the north and the former New Town of Skelmersdale to the east.
- 4.2** West Lancashire is an attractive area and has a good transport links. The Borough benefits from social, retail and leisure links with the nearby urban areas of Liverpool, Southport, Preston and Wigan. These factors have led to Ormskirk and other parts of the Borough becoming popular areas to live for commuters.

5.0 Development Process / Consultation

- 5.1** This Policy Statement has been developed after proper consultation with the public, businesses and other agencies that may be affected by the operation of Sex Establishments within the Borough. A period of public consultation operated from the 22nd June 2012 until the 17th September 2012 and the Authority has given due regard to the responses from this consultation process when formulating this Policy Statement. The list of consultees is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 5.
- 5.2** In determining this Policy Statement, the Authority has given proper weight to the views of those it has consulted. This Policy Statement has not been developed in isolation. It has been developed in conjunction with other Lancashire Authorities and regulatory agencies involved, or affected by, the operation of Sex Establishments.

6.0 Integration

- 6.1** The Authority recognises the need to avoid duplication with other regulatory regimes. However, these general duties may not adequately address the unique circumstances that may arise within the Sex Establishment licensing regime. Therefore, the Authority has created a set of standard conditions (detailed in Appendices 2 and 3) that are designed to integrate these requirements into Sex Establishment licences.
- 6.2** Given that each new application will be determined by a Sub-Committee (see Section 7.0), the Sub-Committee will approve the attachment of these standard conditions to a licence. The Sub-Committee may also amend any of these standard conditions and/or add other condition(s) it considers necessary and proportionate to address the issues presented in a given application. The Sub-Committee may use the list of potential conditions detailed in Appendix 4 for this purpose.

Equalities

- 6.3** This Policy Statement also recognises Section 149 of the Equality Act 2010 and the Authority will have due regard to the need to eliminate discrimination, harassment and victimisation within the remit of the Sex Establishment licensing regime. The conditions listed in this Policy Statement are designed to reflect this requirement, whilst acknowledging the individual rights of any person who wishes to knowingly and freely work and/or perform within a Sex Establishment.

Crime and Disorder

- 6.4** The Council has a responsibility under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to reduce crime and disorder in its area by working closely with other key statutory partners.
- 6.5** The Police and Justice Act 2006 amended the Crime and Disorder Act 1998 to widen the statutory responsibilities under Section 17 to include anti-social behaviour and other behaviour adversely affecting the local environment and the misuse of drugs, alcohol and other substances.
- 6.6** Accordingly, it is recognised that prevention of crime and disorder is a vital element of ensuring the quality of life in a community and an important aspect of a successful and vibrant economy. Where there is evidence that premises may be a contributor to crime and/or anti social behaviour, the Authority will use its licensing powers to do all it can to reasonably prevent it. The Authority will use its Multi Agency Licensing Team (MALT) for this purpose (Section 13.0).

Planning Control

- 6.7** Applications for Sex Establishment licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. The Authority will therefore not normally process an application for permanent commercial premises unless it can be demonstrated that the premises either have an appropriate planning consent or an appropriate certificate of lawful use or development.

The Health Act 2006 – workplace smoking ban

- 6.8** The ban on smoking in all enclosed workplaces and public spaces came into force on 1 July 2007. This ban includes Sex Establishments.

Multi Agency Licensing Team (MALT)

- 6.9** The Authority will use its Multi Agency Licensing Team (MALT) (Section 13.0) to ensure that appropriate liaison arrangements are in place to ensure proper integration of the strategic and legislative regimes that impact upon Sex Establishment licensing.

7.0 Administration, Exercise and Delegation of Functions

- 7.1** The Authority is involved in a wide range of licensing functions and the Licensing and Gambling Committee will administer the responsibility for Sex Establishments. This Committee consists of 15 elected Members and has 1 chairman and 1 vice chairman. The Committee is further divided into Sub-Committee(s) of 3 elected Members.
- 7.2** A meeting of the full Licensing and Gambling Committee will be held when it is considered necessary to review the contents of this Policy Statement, to comply with legislation or to determine any other matter of relevance to the Authority.
- 7.3** All applications for the grant of a new Sex Establishment licence will be determined by a Sub-Committee, irrespective of whether objections are received.
- 7.4** A Sub-Committee will sit to hear all other renewal, variation and transfer applications for Sex Establishment licences, if they have attracted objections against the grant of the relevant application.
- 7.5** Where no objections have been received in response to renewal, variation and transfer applications for Sex Establishment licences, these will be approved by the Assistant Director Community Services, provided he is satisfied that such approval will not be inconsistent with any aspect of this Policy Statement. If the Assistant Director is not so satisfied, the application will be referred to the Licensing and Gambling Committee (or Sub-Committee) for determination.
- 7.6** All decisions made by the Licensing and Gambling Committee (or Sub-Committee) or the Assistant Director Community Services will be confirmed in writing to the applicant and any person who has made an objection forthwith.
- 7.7** Where no objections are made, the licence will normally be granted subject to the standard conditions set out in Appendix 2 (sex shops / sex cinema) or Appendix 3 (SEVs) as appropriate.

8.0 Limitations on licensed premises

8.1 The Authority can only refuse to grant or renew a Sex Establishment licence on one or more of the specific grounds set out in Schedule 3 to the 1982 Act. These grounds are detailed in Appendix 1.

8.2 Two of these grounds (against which there is no statutory right of appeal) are that:

(1) The number of Sex Establishments in the locality where they are situated at the time the application is made is equal to or exceeds the number which the Authority consider is appropriate for that locality;

and

(2) The grant or renewal of the licence would be inappropriate, having regard to:

- (i) The character of the locality where they are situated, or
- (ii) The use to which any premises in the vicinity are put, or
- (iii) The layout, character or condition of the premises in respect of which the application is made.

Number of premises

8.3 The first of the above grounds means that a licence application may be refused if, when a licence is considered, the number of Sex Establishments (or Sex Establishments of a particular kind) in the locality is equal to or exceeds the number that the Authority would consider appropriate for that locality. For this purpose, the Authority has set the following limits:

- The number of Sex Shops throughout the Borough is currently limited to 0 (zero);
- The number of Sex Cinemas throughout the Borough is currently limited to 0 (zero);
- The number of SEVs throughout the Borough is currently limited to 0 (zero).

Location of premises

8.4 With regard to the second of the above grounds, the Authority has decided, without prejudice to the generality of the statutory ground, that it would be inappropriate to grant or renew a Sex Establishment licence in any case where:

- The character of the locality is residential, or predominantly residential, in nature;
- The character of the locality is historically important;
- Premises in the vicinity are used for places of religious worship;
- Premises in the vicinity are used for schools, children's nurseries, youth clubs, children's centres or similar establishments which children under 18 years of age may reasonably be expected to attend;
- Premises in the vicinity are used for community facilities including, but not limited to, swimming pools, leisure centres, public parks, sheltered housing and accommodation for vulnerable people;

- The application premises are of a permanent character and do not have the necessary planning permission in place to enable the licensed activities sought to occur lawfully (paragraph 6.7).

8.5 The term “vicinity” is not defined in this Policy Statement. Whether or not other premises / activities can be regarded as being “in the vicinity” of a proposed licensed premises is ultimately a matter of fact to be decided by the Courts in cases of dispute. The Authority will, however, primarily focus on the direct impact of the activities taking place at the proposed licensed premises on the public living, working and engaged in normal activity in the area concerned.

8.6 The Authority cannot reject any application without first considering it – even if it breaches the limits detailed in paragraphs 8.3 and 8.4. As stated in paragraph 1.4, the Authority may, if it considers appropriate, deviate from this Policy Statement. Therefore, if an application breaches the aforementioned limits, a Sub-Committee will initially consider whether there is justification to deviate from these limits. Only where sufficient evidence exists and the Authority is able to provide full substantiated and justified reasons why a deviation away from these limits is warranted, will the application be further determined. If the Authority considers there to be insufficient evidence to justify such a deviation, the application will be refused.

Waivers

8.7 The Authority does not consider it appropriate to permit waivers from the requirements to hold a Sex Establishment licence, except in very exceptional circumstances considered by the Licensing and Gambling Committee (or Sub-Committee).

9.0 Duration, cancellation and revocation of Licences

Duration

9.1 Unless cancelled or revoked, a licence shall remain in force for one year or for such shorter period as the Authority may think fit when granting it.

Cancellation

9.2 The licence holder may submit a written request to the Authority to cancel the licence at any time.

9.3 In the event of the death of a licence holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

9.4 Where the Authority is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence holder, it may extend or further extend the period in which the licence remains in force.

Revocation

9.5 The Authority may revoke a licence:

- On any of the grounds specified in paragraph 1 of Appendix 1 to this Policy Statement;
- On either of the grounds specified in paragraph 3 (a) and (b) of Appendix 1 to this Policy Statement.

9.6 The Authority will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing and Gambling Sub-Committee. Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the Borough of West Lancashire for 12 months beginning with the date of revocation.

10.0 Applications and fees

Applications

10.1 The Authority has specified the form of application for the grant of a Sex Establishment licence. Applications will only be accepted using the specified application form. The application form requires detailed information about the proposed premises, its operation, management and staff. Applicants are advised to seek legal advice if they intend to submit an application to the Council. All relevant forms and guidance can be obtained from the Licensing Service (Appendix 5 – useful contacts).

10.2 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a Sex Establishment.

10.3 The premises may be subject to inspection by the Council's Licensing Officers (and/or any other authorised Officer) before, during and after the application process.

Public notices

10.4 A notice must be displayed (where it can be conveniently read from the exterior of the premises) at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the Authority.

10.5 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

10.6 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.

10.7 The notice must state:

- Details of the application and activities that it is proposed will be carried on or from the premises;
- The full name of the applicant;
- The postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified;
- The date, being 28 days after that on which the application is given to the Council, by which representations may be made to the Council and that objections should be made in writing;
- That it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.

10.8 A notice containing the above information must be published in a local newspaper(s) circulating in the Borough within 7 days of giving the application to the Council.

- 10.9** The applicant must give a copy of the full application to Lancashire Constabulary Licensing Unit (Appendix 5 – useful contacts) within 7 days from the date the application was submitted to the Authority.

Variation applications

- 10.10** The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 10.11** The process of applying for a variation is the same as that for applying for an initial grant, using the same application form and public Notice, except that a plan of the premises is not required unless the application involves structural alterations to the premises.

Renewal applications

- 10.12** The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
- 10.13** The process of applying for renewal of a licence is the same as that for applying for an initial grant, using the same application form, except that a plan of the premises is not required.

Transfer applications

- 10.14** A person may apply for transfer of a licence at any time. The process of applying for transfer of a licence is the same as that for applying for an initial grant, using the same application form, except that a plan of the premises and a public Notice is not required.

Fees

- 10.15** The application process involves paying a non-returnable application fee which includes the cost of inspecting premises, processing the application and Committee hearing.
- 10.16** A current list of all fees relating to the licensing of Sex Establishments can be obtained from the Licensing Service (Appendix 5 – useful contacts).

11.0 Contested applications

General

- 11.1** The Authority will determine all applications in accordance with Section 7.0. If an application is to be determined by a Sub-Committee, a report will be prepared which will contain all relevant information to the case. Copies of this report will be provided to all parties to the Committee hearing.
- 11.2** Each case will be determined on its individual merits and the Authority will give appropriate weight to:
- The relevant legislation;
 - The information provided by all parties to the Committee hearing;
 - This Policy Statement.
- 11.3** A legal advisor, advocate or a friend may represent any party to the Committee hearing, where such individuals choose not to represent themselves. Accordingly, in an effort to assist all parties when preparing for and participating in the Committee hearing, the Authority has prepared a hearing procedure. This procedure will be adhered to in all hearings and a copy will be provided to all parties in advance of the Committee hearing. The hearing procedure is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 5.
- 11.4** The applicant, licence holder or person to whom a licence is intended to be transferred will be given the opportunity to attend and be heard by a Sub-Committee. In accordance with the 1982 Act, objectors do not have the right to be afforded an oral hearing, but may do so at the discretion of a Sub-Committee.
- 11.5** Whilst a Sub-Committee will usually meet in public, Members do have the power to hear certain applications in private. Where this is required all parties to the Committee hearing shall be informed.
- 11.6** A public announcement of the decision will be made at the end of the relevant Committee hearing and a written copy of the decision will be provided to all parties to the hearing. The decision determined by Sub-Committee will be accompanied with clear reasons for the decision, having regard to relevant legislation.

Site visits

- 11.7** Prior to hearing an application, Members of a Sub-Committee may choose to conduct a site visit to the premises concerned and any other relevant locations. The visit is conducted to ensure Members have a full understanding of the application, the premises and the locality. To preserve the integrity of the Committee process, such visits will be carried out in accordance with a strict protocol. This protocol is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 5.

Objections

- 11.8** Objections may be made by any person to an application for the grant, renewal or transfer of a Sex Establishment licence. Objections may only be made within the period of 28 days following the date on which the application was submitted to the Authority.
- 11.9** Objections must be received in writing (including email) at the Licensing Service office (Appendix 5 – useful contacts). Objections must provide the following information as a minimum:
- The name and address of the person (or body) making the objection;
 - The grounds of the objection, including supporting evidence;
 - The signature of the person (or representative of the body) making the objection;
 - The date the objection was made.
- 11.10** The Authority will not consider any objection that does not contain the information contained in paragraph 11.9. The Authority will also not consider any objection that is of an abusive and/or defamatory nature.
- 11.11** The content of each objection will form part of a report to the Sub-Committee. All potential objectors must note that such reports are public documents and therefore subject to public scrutiny. Any matters of a confidential nature should be considered carefully. The Authority will remove any personal information (i.e. objector name and signature) from its reports; however, the Authority will provide copies of the objections to the applicant.

12.0 Appeals

- 12.1** Applicants, licence holders or objectors that are aggrieved by the decision of a Sub-Committee may (depending on the precise reasons of the decision) have a right of appeal to the Magistrates' Court. An appeal would normally be lodged with the Justices' Chief Executive of the South West Lancashire Magistrates' Court within a period of 21 days, beginning from the day on which the Authority notified the applicant of the decision (i.e. the day of the Committee hearing).
- 12.2** As soon as the decision of the Magistrates' Court has been made, the Authority will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example as a result of a judicial review).

13.0 Enforcement

General

- 13.1** Once licensed, it is essential that premises are maintained and operated to ensure continued compliance with the conditions of licence and relevant legislation. It is also important that illegal operations are prevented.
- 13.2** Where the Authority considers enforcement necessary, any such action will be taken in accordance with the Community Services Enforcement Policy (which is available from the Assistant Director Community Services, at the address given in Appendix 5). To this end, the key principles of consistency, transparency and proportionality will be maintained.
- 13.3** The Authority will make arrangements to monitor premises and take appropriate enforcement action. Enforcement visits will therefore be carried out as a response to a complaint(s) or as part of a proactive risk based inspection regime and/or targeted initiative.

Multi Agency Licensing Team (MALT)

- 13.4** The coordination of its enforcement duties requires the Authority to maintain close, and regular, liaison with other enforcement agencies as well other bodies involved in the licensing process. The MALT has been established for this purpose and is coordinated by the Authority. All Responsible Authorities (defined under the 2003 Act) are represented at the MALT, which meets approximately every 8 weeks (or more frequently if required).
- 13.5** The MALT ensures that a coordinated and proactive approach to the issues arising from licensed operations can be formulated and delivered. However, the role of the MALT is not solely focused upon enforcement activity. It also sees the promotion and encouragement of best practice within the industry as being fundamental in the development of responsibly managed licensed operations.

Complaints

- 13.6** Where possible and appropriate the Authority will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

Appendix 1: Reasons for refusal and revocation of licences

1. The Council must refuse to grant or transfer a licence to:
 - (a) A person under the age of 18;
 - (b) A person who is for the time being disqualified from holding a licence;
 - (c) A person, other than a body corporate, who is not resident in the European Economic Area or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
 - (d) A body corporate which is not incorporated in the European Economic Area;
 - (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

2. The Council may refuse:
 - (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below;
 - (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 3 (a) and (b) below.

3. The grounds mentioned in paragraph 2 above are:
 - (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (which may be nil);
 - (d) That the grant or renewal of the licence would be inappropriate having regard to:
 - i. The character of the relevant locality (which means, in relation to a premises, the locality where they are situated, and, in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment);
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Appendix 2: Standard conditions - sex shops / sex cinema

Management of the Premises

- The Licence Holder or responsible person over the age of 18 nominated by him and notified in writing to the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
- Where the Licence Holder is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change. The Council may require further written details in respect of the change of personnel to be provided within 14 days of any written request from the Council.
- A copy of the licence shall at all times be displayed in a conspicuous position in a public area inside the Premises.
- The Licence Holder shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be notified immediately in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licence Holder’s control of the Premises.
- The Licence Holder shall ensure that the public is not admitted to any part of the Premises that has not been licensed.
- No person under the age of 18 shall be admitted to the Premises and a notice to this effect shall be displayed on the outside of the Premises. No person under the age of 18 shall be employed to work at the licensed premises.
- Neither the Licence Holder nor any employee or agent shall seek to obtain custom for the licensed premises outside or in the vicinity of the Premises, by means of personal solicitation, flyers, handouts or similar.
- Access must be afforded at all reasonable times to authorised Officers of the Council, Police and Fire Service.
- The Licence Holder shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
- The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

Conduct of the Premises

- No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
- A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
- No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

External Appearance

- The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice containing the words ‘No person under the age of 18 allowed. People appearing to be under the age of 25 will be required to show proof of their age.’
- No external loudspeakers may be installed.
- Unless approved in writing by the Council’s Assistant Director Community Services, there shall be no advertisements, notices, photographs, illustrations, statements of

any kind or similar items displayed so as to be visible from the exterior of the premises.

- The design of the front elevation of the shop shall be approved by the Council which may include reference to the name of the shop, its postal address, opening hours, website address and any security grilles/shutters. The Council shall approve the final exterior signage, including the shop name which shall be of an inoffensive nature.
- The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the premises.
- There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order. Both doors shall be kept closed at all times except when being used for access or egress.
- On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:
“WARNING Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age”

State, Condition and Layout of the Premises

- The Licence Holder shall maintain the licensed premises in good order, repair and state of cleanliness at all times, which will include the need to maintain the front and rear of the premises in a clean and tidy condition.
- The Licence Holder shall take appropriate measures to ensure that refuse and discarded sex articles or waste stock from the premises are kept secure from public accessibility pending removal from site.
- No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
- Suitable lighting shall be in operation continuously during the time that the licensed premises are open to the public. Such lighting to be sufficient to enable persons therein to see clearly all parts of the premises and to easily read any literature or notices displayed to customers.
- Alterations or additions, either internal or external, shall be not be made to the licensed premises (including any facilities, lighting, construction, decoration, building services or furnishings) without prior written consent from the Council’s Assistant Director Community Services. Without prejudice to the foregoing, the areas provided for ingress, egress and circulation of the public within the premises shall not be reduced, obstructed or altered without prior written consent from the Council’s Assistant Director Community Services.
- Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
- No fastenings of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

Safety and Security

- The Licence Holder take the necessary action to check the age of customers entering the shop who appear to be between the ages of 18 and 25 in order to ensure that they are not younger than 18.
- Whilst the licensed premises are in use, no door or other barrier which exists within the areas provided for ingress, egress and circulation of the public shall be locked or bolted in any manner which prevents it being opened immediately and easily.

Goods Available in Sex Shops

- The Licence Holder shall without charge display make available free literature regarding counselling on matters related to sexual problems as may be published by the Family Planning Association, and by such other similar organisations from time to time and in particular any such material related to sexually transmitted diseases. Such literature is to be displayed in a prominent position adjacent to all payment points in the premises.

Appendix 3: Standard conditions - SEVs

- The Licence Holder or responsible person over the age of 18 nominated by him and notified in writing to the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
- A copy of the licence shall at all times be displayed in a conspicuous position in a public area inside the Premises.
- A minimum of 2 security staff, of which at least 1 must be female, shall be employed by the Licence Holder and located in the immediate vicinity of the entrance door to the premises to assist the Licence Holder in ensuring that good order is maintained in the premises.
- Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
- The Licence Holder must ensure that staff are employed to supervise the interior of the Premises including toilets whilst the premises are open for business.
- No person under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The Licence Holder must provide prominent notices at each entrance to the Premises to this effect.
- Performers and staff shall be aged not less than 18 years. The Licence Holder must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks. Proof of age checks shall be conducted at first employment of all employees and performers. A suitable record shall be maintained of all such checks.
- The employment records and eligibility to work in the UK of all employees and performers and staff shall be checked on first employment. A suitable record shall be maintained of all such checks.
- An appropriate room shall be set aside to provide a private changing and rest area for performers to which customers are not admitted.
- The Licence Holder shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises.
- The Licence Holder shall ensure to the satisfaction of the Assistant Director Community Services that the exterior of the premises is maintained to a satisfactory standard. At no point may performers be visible from outside of the Premises. Performers (or those implied to be performers) must not exhibit in the entrance way or in the vicinity of the premises.
- Performers shall only perform on the stage area, or to seated customers or in such other areas of the licensed premises as may be agreed in writing by the Council’s Assistant Director Community Services.
- Performers may not accept any telephone number, email address, address or contact information from any customer.
- Performers must never be alone in the company of a Customer except in an area open to the public within the Premises.
- The Licence Holder is to ensure a sufficient number of security staff are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
- The Licence Holder must ensure that during performances of any kind to which this Licence relates:

- (1) Customers do not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment
 - (2) Customers must remain appropriately clothed at all times.
- The Licence Holder shall prepare, implement, maintain and enforce the following:
 - (1) A written code of practice for performers
 - (2) A written code of practice for all other staff
 - (3) A written policy to protect the welfare of performers
 - (4) Written rules for customers
 - Rules for customers shall be prominently displayed within the premises and displayed at each customer table and in the bar area.
 - All staff and performers shall receive training on all codes of conduct, policies and rules prior to commencing their employment or first performance. A record shall be maintained of such training.
 - The Licence Holder shall provide upon request copies of any documents reasonably required by an authorised Officer of the Council in relation to compliance with this Licence.

Appendix 4: List of potential conditions

Protection of customers:

- Entry prices and any prices for compulsory purchases (such as beverages) to be clearly displayed on the exterior of the premises.
- All charges for products and services to be prominently displayed within the premises.
- No charge shall be applied unless the customer has had the opportunity to read and understand the tariff of charge.
- Rules for customers shall be prominently displayed within the premises. In Sexual Entertainment Venues, rules must be displayed at each customer table and in the bar area.
- DVDs shall not be sold or supplied unless the DVD (a) has been passed by the British Board of Film Classification, (b) is a reproduction authorised by the owner of the copyright and (c) bears certificates to those effects.
- No films may be shown at the premises unless they have been passed by the British Board of Film Classification.

Children / non customers:

- No customers or staff to be under 18 years old.
- The Licence Holder shall at all times keep and maintain at the licensed premises a written record of the names, addresses and dates of birth of all persons employed at the premises whether upon full or part time basis and be made available to an Authorised Officer of the Council, or Police, upon request.
- No display or advertisement shall be permitted on the exterior of the premises other than the name and / or address of the premises, the times of opening and suitable warning describing the nature of the activities of the business and that no one under 18 years of age is allowed to enter the premises.
- A 'Challenge 25' Policy shall be operated at the premises.
- A record of all public refusals shall be operated and maintained. The record shall be made available to an Authorised Officer of the Council, or Police, upon request.
- Controls on exterior advertising and signage.
- The Interior of the premises shall not be visible to passers by - i.e. the prevention of exterior visibility into the premises.
- Controls on leafleting.
- Controls on use of cruising cars to solicit customers.
- Controls on solicitation outside premises.
- Controls on other advertising.
- Staff trained in codes for conduct for performers and customers.

Protection for performers / prevention of crime and disorder:

- A performer on any stage area must at all times wear at least a G-string during the performance.
- Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
- Performers must dress fully at the end of each performance.
- The Licence Holder must ensure that during a performance:

- (1) Customers must remain seated during the entire performance
 - (2) At least one metre separation shall be provided and enforced between performers and audience, so that staff can police a 'no contact rule'.
 - (3) Performers must not part their legs, sit or straddle the customer
 - (4) Performers must not place their feet on the seats.
- The Licence Holder must ensure that during performances of any kind to which this Licence relates:
 - (1) Performers may not perform any act that simulates any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never perform with another performer;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) There is no audience participation.
 - A written code of conduct for performers shall be prepared, implemented, maintained and enforced at the premises.
 - Performers shall receive training in the written code of conduct. A record shall be maintained of such training.
 - Written rules of conduct for customers shall be prepared, maintained and enforced at the premises. Staff shall direct customers' attention specifically to the rules of conduct prior to entry to the premises.
 - All staff, performer and customer codes of conduct and rules shall be prominently displayed within the premises.
 - All staff and performers shall receive training on all codes of conduct and rules prior to commencing their employment or first performance. Suitable refresher training shall be provided on a [*insert frequency*] basis. A suitable record of all such training shall be maintained.
 - No contact is allowed between performers and audience, before, during and after performance.
 - At least one metre separation shall be provided and enforced between performers and audience, so that staff can police a 'no contact rule'.
 - Controls on levels of nudity.
 - Prohibition on use of sex articles.
 - Prohibition of performers touching their own sexual organs.
 - Performers confined to stage area.
 - Segregation of audience and performers.
 - No performance to standing customers.
 - Exit routes for performers to be kept clear.
 - No audience participation.
 - All alcohol service to seated customers only.
 - Control of gratuities.
 - Secure dressing rooms.
 - Separate sanitary facilities for performers.
 - Secure exterior smoking areas for performers.
 - Availability of free refreshments for performers.
 - Prevention of fining of performers.

- Drug monitoring.
- Secure transport from premises.
- Qualified 'house mother' to be employed to ensure the welfare of performers.
- No photography.

The premises:

- The Licence Holder shall ensure that CCTV is installed and maintained to the satisfaction of Lancashire Constabulary Licensing Unit and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.
- Suitable access and egress for disabled persons shall be provided.
- The provision and use of private booths within the premises is prohibited.
- Suitable means shall be employed to prevent of access by customers to non-public areas.
- No aspect of the premises or the licence may be altered without the consent of the Council.
- Suitable means of escape shall be provided and maintained to the satisfaction of Lancashire Fire and Rescue Service.

Potential Nuisance:

- The hours the premises shall be open to the public are: [*insert opening hours*]
- A notice shall be displayed prominently at each exit to the premises requesting customers to respect others and to leave the premises quietly.
- A documented dispersal policy shall be provided and maintained for the premises.
- A dedicated taxi service shall be provided for customers.
- Suitable door supervision shall be provided at all times the premises is open to the public. All door supervisors must be registered with the Security Industry Authority.

Legal compliance:

- Proof of age checks shall be conducted at first employment of all employees and performers. A suitable record shall be maintained of all such checks.
- The employment records and eligibility to work in the UK of all employees and performers shall be checked on a [*insert frequency*] basis. A suitable record shall be maintained of all such checks.
- Retention of payment / remuneration records shall be maintained.
- All performers shall be subject to a suitable job interview at first employment and written confirmation shall be maintained to ensure that performers are participating voluntarily. A suitable record shall be maintained.

Management standards:

- Training of Licence Holder and management.
- Presence of Licence Holder / written delegate at all times.
- Secure retention of CCTV recorded material and disclosure to authorised persons.
- Specific levels of door/floor supervision including performance areas.
- Training of door staff in club rules.
- Display of notices informing customers of presence of CCTV.
- Performers to sign for receipt of code of conduct.
- Prevention of solicitation.
- Maintenance of incident books, refusals books and list of any persons banned from the premises.

- The Licence Holder, or any person acting or purporting to act on his behalf, shall be responsible for ensuring that the conditions of the Licence are complied with and will be held responsible for any breach thereof.
- Admission shall be given at all reasonable times to the Police and to Authorised Officers of the Council.
- The Licence and attached conditions shall be displayed on the premises in such a position as to be readily visible for inspection.

Appendix 5: Useful contacts

Further information on this Policy Statement or the licensing of Sex Establishments can be obtained from the Council's Licensing Service. The Assistant Director Community Services, David Tilleray, has overall responsibility for the Licensing Service.

Licensing Service:

Paul Charlson – Commercial, Safety and Licensing Manager

West Lancashire Borough Council, Robert Hodge Centre, Stanley Way, Skelmersdale
WN8 8EE

Telephone: 01695 585015

Fax: 01695 585126

Email: licensing.enquiries@westlancls.gov.uk

Internet: www.westlancls.gov.uk/licensing

Other contacts:

Lancashire Constabulary:

Licensing Unit: C Division

County Police Office, St Thomas's Road
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Minute of Licensing and Gambling Committee - 23 October 2012

SEX ESTABLISHMENT LICENSING POLICY

Consideration was given to the report of the Assistant Director Community Services as contained on pages 97 to 136 of the Book of Reports, the purpose of which was to approve the Statement of Sex Establishment Licensing Policy as attached at Appendix 1 to the report.

The Commercial, Safety and Licensing Manager outlined the report to Members and responded to questions from the Committee.

RESOLVED: That the Statement of Sex Establishment Licensing Policy as attached at Appendix 1 to the report be endorsed subject to the references in the Policy stated in Appendix 2 pages 125 and 127, Appendix 3 page 128 and Appendix 4 page 130 of the Book of Reports being amended to state that an operator be required to seek proof of age for persons appearing to be under the age of 25 and not 21 as stated in the Policy.

Equality Impact Assessment - process for services, policies, projects and strategies – Appendix 3

<p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: <i>People of different ages – including young and older people</i> <i>People with a disability;</i> <i>People of different races/ethnicities/nationalities;</i> <i>Men; Women;</i> <i>People of different religions/beliefs;</i> <i>People of different sexual orientations;</i> <i>People who are or have identified as transgender;</i> <i>People who are married or in a civil partnership;</i> <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i> <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><i>No. The policy applies equally to all activities and premises prescribed by the relevant legislation.</i></p>
<p>2. What sources of information have you used to come to this decision?</p>	<p><i>The legislation requires that all relevant activities require a licence, without exception.</i></p>
<p>3. How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><i>The policy attached to this report has been subject to a period of public consultation, and the results have been submitted to the Licensing and Gambling Committee and full Council for determination.</i></p>
<p>4. Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:- <i>Eliminate discrimination, harassment and victimisation;</i> <i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);</i> <i>Foster good relations between people who share a protected characteristic and those who</i></p>	<p><i>No. The recommendations contained in this report apply equally to those activities required under relevant legislation.</i></p>

<i>do not share it.</i>	
5. What actions will you take to address any issues raised in your answers above?	<i>The policy attached to this report has been subject to a period of public consultation, and the results have been submitted to the Licensing and Gambling Committee and full Council for determination.</i>



AGENDA ITEM: 15

COUNCIL: 19 DECEMBER 2012

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr A Hill (Extn. 5243)
(E-mail: a.hill@westlancs.gov.uk)**

SUBJECT: DESIGNATED PUBLIC PLACES ORDER (DPPO) IN THE BLAKEHALL NEIGHBOURHOOD WATCH AREA, SKELMERSDALE

Wards affected: Moorside Ward

1.0 PURPOSE OF THE REPORT

1.1 To advise Members of the feasibility of placing a Designated Public Places Order (DPPO) on the Blakehall Neighbourhood Watch area Skelmersdale, as requested at Council on the 17th October 2012.

2.0 RECOMMENDATION

2.1 That due to the lack of evidence for a DPPO for the Blakehall area, no further action be taken.

3.0 BACKGROUND

3.1 At the last Council meeting in October a motion was raised in relation to the possibility of the Council designating a DPPO for the Blakehall Neighbourhood Watch area which covers Martins Lane, Whistone Drive, Nixons Lane and Newlyn Drive. As a result I was asked to bring a report to a future meeting, (minute 57 refers).

3.2 Local Authorities can impose Designated Public Place Orders (DPPOs) using powers under section 13 of the Criminal Justice and Police Act 2001 (as amended). The powers make it easier for Local Authorities to designate places where restrictions on public drinking (or "street drinking") will apply. A Local Authority can make a DPPO in a public place where there is evidence that

- Nuisance or annoyance to members of the public or a section of the public and/or
- Disorder

have been associated with consuming alcohol in that place.

- 3.3 Essentially, DPPOs offer one way of tackling “street drinkers”. The inference in the Home Office Guidance is that the term “street drinkers” does not cover people simply walking down the road consuming alcohol, it is used to describe a congregation of people who spend several hours in the same place or locality and can be anti social, abusive or even violent. Street drinkers, possibly of no fixed abode, are common in larger towns, however, they are not a common sight in West Lancashire. In general, they will be consuming cheap alcohol and this activity will be the focus of their lives.
- 3.4 A DPPO makes it an offence not to comply with a police officer’s request to stop drinking and surrender the alcohol. As a result, it does not actually make it an offence to consume alcohol in an area covered by a DPPO, the offence relates to not following the request. Therefore, within a DPPO if the consumption of alcohol is leading to anti-social behaviour etc. the police can step in.
- 3.5 The designation does not bring with it any additional resources, so issues in an area covered by a DPPO will still be prioritised with the rest of routine police work. Due to the fact that a designation relies on the local police to enforce it, it is recommended that the police are consulted in relation to any proposed designation. The designation of a DPPO has previously been requested twice for Ormskirk Town Centre. On both those occasions Community Safety staff consulted with both the Constabulary and the Community Safety Partnership (CSP) analyst. On both occasions there was not enough evidence of a problem to support the issue. Additionally, the constabulary made their position quite clear, that they felt they already had enough powers to deal with such issues. In addition to consulting the constabulary, Local Authorities must consult the Parish or community council, landowners and the public and take account of their comments.

4.0 BLAKEHALL NEIGHBOURHOOD AREA

- 4.1 Prior to this issue being raised by Councillor J Fillis as a motion at the Council meeting of the 17th October, it had been raised with me by Rosie Cooper MP. This was as a result of a request to her from the Neighbourhood Watch co-ordinator in August.
- 4.2 As a result of this initial request, the CSP analyst had been asked to look at the area in question. Their conclusion was that the area in question was around the County average in relation to alcohol related incidents. However, this would include all issues connected with alcohol and would include domestic violence, assaults etc. Thus, most of this information would be irrelevant in relation to the designation of a DPPO as it does not concern street drinking. As a result of the new request, the Geographic Inspector from the constabulary was asked to look at the issue. He provided a list of the crimes reported between 1.4.12 and 10.10.12 in the area in question. There were 14 issues reported, however, none of them were alcohol related. The Inspector specifically stated that “given the level of evidence, I would not support the Council in seeking a DPPO for this area”.
- 4.3 Clearly DPPOs are a tool available to help deal with a particular issue, but as has happened with Ormskirk, there is no support from the Constabulary for one in the

Blakehall area and without that support and the necessary evidence, it is extremely difficult to justify a DPPO for this area.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 There are no significant financial or resource implications arising from this report.

7.0 RISK ASSESSMENT

7.1 This report recommends that a DPPO is not designated. The evidence provided demonstrates that the risk of alcohol related nuisance problems in this area is minimal and this small risk is offset by the fact that other legislation is available to deal with such issues.

Background Documents

Guidance on Designated Public Place Orders for Local Authorities in England and Wales – The Home Office.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

None



AGENDA ITEM: 16

COUNCIL: 19 December 2012

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr Colin Brady (Extn. 5125)
(E-mail: colin.brady@westlancs.gov.uk)**

SUBJECT: FAIRTRADE STATUS FOR ORMSKIRK TOWN CENTRE

Wards affected: Scott, Derby and Knowsley.

1.0 PURPOSE OF THE REPORT

1.1 To advise Council as to the results of the recent consultation carried out with the Ormskirk business community as to the feasibility of Ormskirk achieving Fairtrade Town status.

2.0 RECOMMENDATION

2.1 That due to the overall lack of support for achieving Fairtrade Status for Ormskirk Town Centre from local businesses, Option C from paragraph 6 below is chosen and this matter is not progressed.

3.0 BACKGROUND

3.1 At the meeting of Council held on 11 April 2012 it was resolved:

“That, in the light of the Portas report and the desire to work with town centre traders, the Assistant Director Community Services seeks the views of town centre traders and the Town Centre Forum on the advantage to the town centre and to traders of Ormskirk becoming a Fairtrade town, so as to ensure the vibrancy and longevity of the town centre in difficult trading times and submit a report to a future meeting in September/October 2012 on the feasibility of Ormskirk Town Centre achieving Fairtrade status, similar to that previously achieved in Burscough”.

3.2 Fairtrade is a rapidly growing international movement which seeks to guarantee a better deal for farmers and workers in the developing world. A product that is Fairtrade certified carries a label, the Fairtrade Mark.

- 3.3 The Fairtrade Foundation is the independent certification body in the United Kingdom that licenses the Fairtrade Mark to products which meet Fairtrade standards. The Foundation is part of an international network of 20 organisations that are members of the standards setting and certification body Fairtrade Labelling Organisations International (FLO).
- 3.4 There are five guarantees behind the Fairtrade Mark, which the Foundation awards to products meeting internationally recognised standards:
- Farmers get a fair and stable price for their products.
 - Farmers and estate workers are guaranteed extra income to improve their lives.
 - Greater respect for the environment
 - Small farmers are guaranteed a stronger position in world markets
 - Closer links between consumers and producers.
- 3.5 There are currently over 4500 products licensed to carry the Fairtrade Mark which includes: tea, coffee, chocolate, bananas, biscuits, honey, jams, rice, wines, flowers and cotton products to name but a few.
- 3.6 Fairtrade is about bringing the farmer and the shopper closer together. It's about putting people at the heart of trade. Becoming a Fairtrade Town sends out a powerful message about how our community wants trade to work and will directly benefit some of the world's poorest farmers and workers through increasing awareness and sales of Fairtrade in the area.
- 3.7 A Fairtrade Town is a community that:
- Supports Fairtrade and deepens the understanding of the benefits Fairtrade brings.
 - Takes action by choosing Fairtrade products whenever possible and encourages others to do likewise.
 - Achieves and continues to take action on the five Fairtrade Town goals set by the Fairtrade Foundation.
- 3.8 The five goals for a Fairtrade Town are:
- The Council has to pass a resolution supporting Fairtrade, and agrees to serve Fairtrade products in its meetings and offices.
 - A range of (at least two) Fairtrade products are readily available in the towns retail outlets (shops, supermarkets, newsagents, petrol stations) and served in cafes, restaurants or pubs)
 - Local workplaces and community organisations (places of worship, schools, universities, colleges and other community organisations) support Fairtrade products wherever possible.
 - To raise awareness and understanding of Fairtrade across the community by local media coverage.
 - To convene a Fairtrade steering group to ensure that the Fairtrade Town campaign continues to develop and gain new support.

4.0 ISSUES

- 4.1 In order to achieve Fairtrade status the five bullet pointed goals as in paragraph 3.8 above need to be achieved, with the Council needing to pass a resolution to support Fairtrade as in the first bullet point. The Council would also need to look at having Fairtrade products available internally within the Council as appropriate.
- 4.2 For Ormskirk to achieve Fairtrade Town status, should the Council lead on the matter, it would require a significant amount of officer time to be spent on the project. Given the impact on service levels due to the recent Major Service Review (MSR) process and a general increase in workload there is currently no spare capacity available to progress such an initiative in the short term without making additional resources available.
- 4.3 Whilst the Town Centre Business Forum is supportive in principle of the Fairtrade initiative it feels that there are more important issues at hand which need to be addressed first such as dealing with the number of empty town centre shop units, branding and promoting the town centre and considering further ideas to generate increased footfall in the town centre. Not addressing these matters in the short term presents a real danger to the sustainability of the town centre.
- 4.4 Unfortunately the progressing of Fairtrade status for the town centre would not seem to address any of the above issues in the short term and would be better reconsidered at some more appropriate time in the future.

5.0 CONSULTATION

- 5.1 A consultation exercise was recently carried out involving 184 town centre business and traders, seeking their views on taking forward a Fairtrade initiative in Ormskirk town centre. The results are detailed in Appendix 1 below.
- 5.2 The returns from the consultation exercise were very poor with only 17 forms being returned out of the 184 being issued. Although the majority of the 17 returned forms indicated that they would support a Fairtrade initiative, with three of the businesses in the town centre already selling Fairtrade products, it is the view of officers that in light of the very poor response to the consultation, there would not appear to be the overall support of the businesses for such an initiative at this moment in time.
- 5.3 Also in telephone conversations during the consultation period between officers and representatives from some of the town centre businesses the feedback was that although the businesses were not against the Fairtrade movement as such, they could not, however, see any "immediate" benefit of such an initiative. The general view being that the Council would be better placed in supporting town centre initiatives, such as "Love Ormskirk", the market and street scene improvements, which look to generating increased town centre footfall thereby improving local business trade in the immediate near future, which would then help to secure a long term viability for the town centre.

6.0 OPTIONS

6.1 Option A.

The Fairtrade initiative is taken forward with the Council leading on the matter. There are currently no resources identified for this area of work and should Council wish to take forward this option then additional resources would need to be made available.

6.2 Option B

Discussions are held with Love Ormskirk, Town Centre Business Forum and local community groups with a view to engaging a representative group to lead on the initiative with the Council supporting the project. This option, however, would require agreement from third parties to resource and progress the matter.

6.3 Option C

The matter is not progressed. In this instance the status quo would remain within the town centre which would not be seen at this moment as overtly detrimental to the existing business community.

7.0 PROPOSALS

7.1 That Council select the most appropriate option from those listed in 6.0 above.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

8.1 Fairtrade products are more environmentally sustainable and will therefore have a positive impact on sustainability within the town and also across the Borough.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

9.1 There are currently no finances or resources committed to this initiative.

10.0 RISK ASSESSMENT

10.1 The Council currently has no spare resources available to take this matter forward. The initiative would therefore not be deliverable in the short term unless additional resources were made available or local external organisations were engaged to lead on and resource the initiative.

10.2 In taking forward the Fairtrade initiative there is a risk that sourcing cost effective Fairtrade could be difficult. This risk is however perceived to be very low as the number and competitiveness of Fairtrade product suppliers is ever increasing and improving.

11.0 CONCLUSION

11.1 It is feasible for Ormskirk to become a Fairtrade Town, however, this would require a firm commitment being made by the Council or representatives from the local community to lead and take the matter forward. There is not the appetite from the local business community to lead on and take this matter forward.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 Results of Fairtrade Consultation Exercise

Fair Trade Consultation Responses.

Hand Delivered 184 Letters	Names/Addresses	Questions 1-8	1. Are you aware of the fair trade scheme and its association products?	2. Have you seen fair trade products being sold in shops?	3. Do you think Ormskirk town centre achieving fair trade status would be an advantage to the local business community? Please give your reasons.	4. Do you think Ormskirk town centre achieving fair trade status would bring any disadvantages to the local business community? Please give your reasons.	5. Would your business be prepared to help support Ormskirk town centre in achieving fair trade status?	6. Would you be willing to sell fair trade products as part of your business?	7. Would you be prepared to become a member of a steering group to help obtain fair trade status for Ormskirk?	8. Do you think the Council should support the fair trade initiative and progress and obtain status for Ormskirk?	Additional Comments
1	Church Walks		yes	yes	yes the publicity would be very good, Keswick in Cumbria has benefited	yes It restricts your choices any limits ability to cut prices		yes we already do	no	yes	Need much more information to make an informed choice
2	Moor Street		yes	yes	yes will show customers that Ormskirk is actively doing something for the international community	no	yes	yes	yes	yes	
3	Burscough Street		yes	yes	yes if enough people signed up for it	no	yes	if they were available	no	yes	
4	Church Street		yes	yes	yes many people feel strongly about fair trade products so i think it could encourage them to shopping Ormskirk	no	yes	yes we already do	no	yes	We only sell fair trade coffee in blue juice & Java we've supported the movement for many years
5	Aughton Street		yes	yes	yes	no	yes	n/a	n/a	yes	
6	Church Street		yes	yes	? At moment in current financial crisis most consumers are looking for cheaper products just to survive fair trade products are often more expensive & unaffordable	no any amount of publicity is good for the town	yes	yes	no	yes	
7	Park Road		yes	yes	yes because it would enable even the smaller businesses to sell products that they have paid reasonable prices for it also guarentees quality that has not compromised the work force producing it	no	yes	yes	no	yes	
8	Church Street		no	no	no enough products are involved in it only coffee and the like	no	n/a	n/a	no	no	The council would be better spending the time and money to be allocated to this on sorting out the town centre problems of parking high rates which business cannot afford closing shops and lack of prime high street names less and less people are coming into Ormskirk

9	Moor Street		yes	yes	no because of cost implications with these products I don't believe this is an option for most shoppers	no all variants of products are a bonus and this important to a small minority of the public	see comments	see comments	see comments	yes	As this store is linked to a large company the decision regarding selling these is out of my hands personally I would support this
10	Swan Alley		yes	yes	y	no	yes		no	yes	
11	Aughton Street		no	no	not sure never heard of it		yes	yes	no	yes	I have never heard of it I would like to learn more so our business could take a interest in it
12	Moor Street		yes	yes Holland & Barrett		no		yes			Already sell fair trade stock
13	Church Street		yes	yes	no	no	no	no	no	no	
14	Moorgate		yes	yes	yes great message to community to shop locally & support fair trade	no	yes	yes we alkali do	yes	yes	
15	St Helens Road		yes	yes	yes increase tourism / day trips consumer confidence that businesses care about what products they sell	no	yes	yes	yes	yes	personally I take the time to buy fair-trade and would be more than happy promoting products/ingredients in the restaurant
16	Burscough Street		yes	yes	yes gives the consumer the opportunity to make an informal choice when supporting its local business		yes	yes	no	yes	
17	Moor Street		no	no	yes shows concern & responsibility	no	?	?	no	yes	



Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr Colin Brady (Extn. 5125)
(E-mail: colin.brady@westlancs.gov.uk)**

SUBJECT: FLOODING / DRAINAGE ROLES AND RESPONSIBILITIES WITHIN WEST LANCASHIRE.

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To clarify the roles and responsibilities of the main agencies in relation to responding to flooding events and the risks of flooding within the Borough.

2.0 RECOMMENDATIONS

2.1 That the contents of the report be noted.

2.2 That the Assistant Director Community Services (ADCS) further engages with our strategic partners with a view to identifying any improvements which could be made to existing communication strategies to assist the public when reporting severe weather incidents.

3.0 BACKGROUND

3.1 At the meeting of Council held on 17 October 2012, minute number 58 it was resolved:

“(A) That this Council extends its sympathies to those residents affected by the recent heavy flooding in West Lancashire and recognises, and places on record its appreciation to those from the emergency services, Council officers, Lancashire County Council, the Environment Agency and other relevant agencies together with residents, businesses and other organisations who assisted all those affected by the floods.

- (B) *That the Assistant Director Community Services be requested to submit a report to the next meeting of Council outlining the Council's and its partner agencies' statutory duties and responsibilities in relation to the recent flooding, the report to include the current partnership arrangements between the Council and relevant agencies and the support offered to the residents affected by the flooding.*
- (C) *That the minutes of the next Three Tier Forum in relation to the flooding, be submitted to the next Council meeting."*

The following report looks to address the issues as raised in part (B) of this minute.

- 3.2 With regard to part (C) of the above minute, it has not been possible to comply with this request as the Three Tier Forum is a Lancashire County Council initiative and I am advised the minutes are not available for publishing in the public domain.
- 3.3 The agencies who have responsibilities for reacting to or providing assistance in dealing with flood related incidents within the West Lancashire Borough, in no particular order are as follows: -

Environment Agency	Lancashire County Council
United Utilities	British Waterways
Lancashire Constabulary	Lancashire Fire and
Rescue	HM
Lancashire Ambulance Service	
Coastguard	Transco
Network Rail	West Lancashire Borough Council

- 3.4 In the event of a major flooding incident within the Borough, under the Emergency Planning umbrella and through the Lancashire Resilience Forum (LRF), there is a "Multi Agency Flood Plan" (MAFP) in place whose purpose is to collate information regarding the roles and responsibilities of the various organisations that respond to flooding within Lancashire and also helps provide a co-ordinated multi-agency response to any such flooding incidents. Also detailed within the MAFP is the command structure, which would operate in the event of a major flooding incident occurring.
- 3.5 In times of extreme rainfall events the surface water drainage network in parts of the Borough does not have the capacity to cope with the generated flows thus contributing to the widespread localised flood events which can occur, as in the recent flood event which occurred on 24 September 2012.

4.0 ROLES AND RESPONSIBILITIES

4.1 Environment Agency

- 4.1.1 The Environment Agency (EA) is the body with primary responsibility for proactive assessment and management of all types of flood risk in England. The EA will assist with the funding provisions for improvements required to the flood defence network to help reduce the overall risk to properties at risk from flooding.

4.1.2 The Environment Agency is also responsible for the management of all designated main rivers, including the maintenance of flood defences. They are also the responsible agency for the provision and operation of the regions Flood Warning Systems and Strategies and the distribution of flood prevention literature to the public.

4.2 Lancashire County Council

4.2.1 Lancashire County Council (LCC) is the operating Highway Authority within the West Lancashire Borough and as such they are directly responsible for the maintenance of the highway surface water drainage network, including all road gulleys and culverts passing under/through its highway network, for which they are the relevant riparian owner.

4.2.2 This maintenance liability deals not only with the drains within the actual highway itself but also with any roadside ditches for which they are riparian owners and the cleaning out of the road gulleys on the highway. Lancashire County Council will respond to flood events on the adopted highway network and close roads which are not passable due to flooding.

4.2.3 Under the terms of the Floods and Water Management Act LCC is also the designated Lead Local Flood Authority (LLFA) across the County and as such has a duty and responsibility for investigating flood events and serving relevant Notices under Section 25 of the Land Drainage Act for maintenance to watercourses.

4.2.4 Section 14 of the Land Drainage Act 1991 states “every local authority” has the powers to prevent/mitigate flooding. The term “local authority” includes a County Council as well as Borough/District Council. As such Lancashire County Council has the same general statutory powers in relation to flooding as West Lancashire Borough Council, should they wish to use them.

4.3 United Utilities

4.3.1 In general under normal dry weather flow conditions the foul sewers/sewerage treatment works within the West Lancashire Borough are capable of dealing with the flows generated within them. Also in non-intensive rainfall events the surface water drainage systems are also capable of dealing with the flows generated.

4.3.2 Sections of the foul sewerage network within the Borough can however surcharge in prolonged periods of heavy rainfall due to the large amount of surface water which discharges into the foul sewerage system. This can occur where older developments/properties are on “combined” drainage systems whereby both the foul and surface water discharges are connected directly into the foul sewerage system and the network does not therefore have the capacity to deal with the additional storm flows thus generated.

- 4.3.3 United Utilities role in relation to sewerage and sewerage disposal are controlled within the Water Industry Act 1991. The Director General of Water Services is charged with supervising the conduct of sewerage undertakers to ensure their compliance with certain stated aims of the Act. As contained within the Act, sewerage undertakers have to make sufficient return on their capital in order to properly finance the administration of their network of sewers. This means that all spending on the sewerage network particularly with respect to capital improvements is tightly controlled and must be budgeted for and prioritised within agreed forward capital programmes.
- 4.3.4 United Utilities (Wastewater) is responsible for the adopted foul and surface water sewerage network together with all associated sewerage treatment works and also for the supervision of private sewerage systems constructed under Section 104 Sewer Agreements. United Utilities will respond to flood events occurring due to blockages/surcharging of their sewerage network. United Utilities (Water Distribution) is also responsible for the maintenance of all reservoirs and water treatment works within its ownership.
- 4.3.5 By virtue of Section 94 of the Water Industry Act 1991, every sewerage undertaker, including United Utilities is under a general duty to provide, improve and extend the public sewer system so as to effectively drain its area. That duty is enforceable by the Secretary of State or the Director General of Water Services on his behalf. United Utilities has no right under Section 16 of the 1991 Act to refuse a connection to the public sewerage system because of the “state” of the public sewer as they are duty bound to provide, improve and extend the system as under Section 94 of the Act.
- 4.3.6 Where new development is being constructed/provided a developer can requisition the sewerage undertaker to provide a public sewer where non are currently available. All costs in association with the construction of such sewer are to be paid to the sewerage undertaker by the requisitioner. Again here it shows that United Utilities has to provide a public sewer for connection into by a developer where there may be none currently available because of its duty to “provide, improve and extend the public sewerage system”.

4.4 West Lancashire Borough Council

- 4.4.1 West Lancashire Borough Council (WLBC) is the relevant operating authority on ordinary watercourses within the Borough. As such we have permissive powers under the Land Drainage Act for the exercise of maintenance on watercourses to prevent flooding or to mitigate any damage caused, albeit that maintenance responsibility ultimately rests with the riparian owner.

- 4.4.2 The Council would not normally exercise its powers for ordinary watercourses outside urban areas and which are not deemed to be of critical importance in terms of flood risk. Outside of the urban areas the Council anticipates that flood risk will be minimised by the proper exercise of maintenance on watercourses/culverts by riparian owners. The Council offers technical guidance on drainage practice and where necessary will use its enforcement powers to ensure adequate maintenance work is undertaken on watercourses within the Borough. These enforcement powers have been diminished as of April 2012 in that the Council can no longer serve notice under Section 25 of the Land Drainage Act in order to make riparian owners undertake required maintenance works. This power has been transferred to the County Council, as Lead Local Flood Authority, under the Floods and Water Management Act.
- 4.4.3 In essence this means that this Council does not have any duties/responsibilities with respect to flooding/flood prevention (except as riparian owner of land within the Council's ownership) but does have permissive powers to assist as and when deemed necessary. This is however not how the public at large perceive the situation, they believe that this Council is directly responsible for flooding/flood prevention measures during times of heavy rainfall.
- 4.4.4 WLBC is also a Coastal Authority and we therefore also have responsibilities for the inspection of the designated primary sea defences within the Borough, however any maintenance responsibilities ultimately rests with the individual landowners of the sea defences in question.
- 4.4.5 We currently operate an out of hours service whereby there is an Engineer available to be contacted on a 24hour standby basis to assist with flooding and other emergency engineering matters which may occur outside normal office hours.
- 4.4.6 In relation to flood events, the generic response across Lancashire is documented in the Lancashire Resilience Forum's (LRF) Multi Agency Flood Plan (MAFP) Part 1. In addition Part 2 of this document details the specific arrangements for WLBC. This document states that in the event of a flood the Council's priorities are:-
- To ensure critical ordinary watercourses are freely flowing (we only have one in West Lancashire at Appley Bridge).
 - To assist partners in protection of critical infrastructure where possible.
 - To give assistance, where possible, to property owners and our partners in the protection and evacuation of water from properties, commercial premises and caravan sites.
 - To manage rest centres, as applicable.
 - To assist in the provision of access to properties.
 - To assist with the coordination of the recovery phase.

It also states the policy in relation to sandbags as:-

- West Lancashire Borough Council is unfortunately unable to provide sandbags to the community for flood protection.
- Householders should therefore be advised not to rely solely on the Council being able to respond to all needs in an emergency and to reflect upon measures that can be taken now to protect against and prepare for potential flooding to their property in the future.

4.4.7 Under the Civil Contingencies Act 2004 (CCA 2004), as a Category 1 responder West Lancashire Borough Council is also subject to the following civil protection duties:-

- Assess the risk of emergencies occurring and use this to inform contingency planning.
- Put in place emergency plans.
- Put in place Business Continuity Management arrangements.
- Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency.
- Share information with other local responders to enhance co-ordination.
- Co-operate with other local responders to enhance co-ordination and efficiency.
- Provide advice and assistance to businesses and voluntary organisations about business continuity management (Local Authorities only).

5.0 PARTNERSHIP ARRANGEMENTS

- 5.1 The Lancashire Resilience Forum (LRF) is a high level strategic partnership working across the County to which allows partners to consult, collaborate and disclose information with each other which facilitates a co-ordinated multi agency response to the planning and responses to emergencies. The LRF has a Multi Agency Flood Plan (MAFP) to define the trigger levels whereby all agencies are notified by the Police that there is an incident so that they can implement their own individual responses. In circumstances where there is widespread flooding across Lancashire, or if the resources from one organisation are overwhelmed, it may be necessary to hold a high level coordination meeting to determine the strategy for response, chaired by the Police.
- 5.2 The Multi Agency Flood Plan is written by the Environment Agency but contains contributions from the Police, Lancashire Fire and Rescue, the Ambulance Service, LCC, the Met Office and District / Borough Councils). Teleconferences between all partner agencies are also held at regular times during predicted severe weather events giving all partners the opportunity to be advised of and the ability to assess the potential impact of any severe weather on their infrastructure.
- 5.3 Each District / Borough Council has its own local version of the flood plan which details the trigger levels for response in their area, who to contact and how, recommended initial actions, and what support may be available to residents. This is known as the Multi Agency Flood Plan part 2 document, and

responsibility for developing this lies with each Council. The actual flood response on the ground is coordinated by the Police but is also likely to involve the Fire and Rescue Service and District / Borough Council as well as LCC Highways and/or United Utilities, as appropriate.

- 5.4 It is worth noting that each flooding incident is different and decisions about what to do and how to do it will be made dynamically by the responders in the light of the information available at the time. The primary aim in any emergency (including flooding) for all organisations is to prevent loss of life and all reported incidents will be prioritised with the assessment of this risk in mind.
- 5.5 Should residents require evacuation, the LRF also has a plan for humanitarian assistance and emergency centres, led by Lancashire County Council Adult & Community Services. The general principle followed for evacuee rest centres is that the premises are provided and managed by the district council, and the staff by LCC. In West Lancashire, the designated rest centres are Ormskirk Civic Hall (capacity 360 evacuees), Burscough Sports Centre (150-200) and Banks Leisure Centre (400). In each case the centre has agreed to being used as a rest centre and has provided a contact who is available 24 hours for opening up the premises and managing the facilities when in use by evacuees.
- 5.6 Each centre has a bag of basic resources such as registration forms, and they are routinely checked for supplies and any changes to layout, contacts etc. twice a year. Other locations may be used, especially if the Police have to evacuate small numbers of people before anything else can be arranged and LCC would provide staff accordingly, however the intention would always be to revert to using the designated centres where possible. If the evacuation were to continue for any length of time, the District / Borough Council would be responsible for finding alternative accommodation for the evacuees.

6.0 SUPPORTS TO RESIDENTS

- 6.1 During the recent severe weather events the Council offered guidance and assistance to residents across the Borough in relation to flood protection to properties. The Council also arranged for the rest centre at the Civic Hall to be opened and staffed in readiness. On the night of 24 September 2012 affected residents were offered the opportunity to be evacuated to this facility, however, none took up this offer.
- 6.2 Subsequent to the flood event officers have been in liaison with various residents to offer advice and assistance in dealing with the aftermath of internal flooding to properties and also liaising with partner agencies to investigate the causes of the localised flood events which occurred at the time.
- 6.3 In the first instance it is the responsibility of property owners to protect their property from flooding. Various proprietary flood protection measures are widely available and vulnerable property owners, particularly those close to open watercourses, should be encouraged to take all necessary steps to ensure that their properties are adequately protected from the threat of flooding.

- 6.4 The EA has available limited funds for the implementation of small scale property level resilience measures. These funds are bid for through their existing Medium Term Plan (MTP) process, with bids being submitted to this process by local Authorities. The work on property level resilience measures is normally led by local (flood action) community groups in conjunction with the relevant local Council. There are no such groups currently operating within West Lancashire.
- 6.5 The Department for Environment, Food and Rural Affairs (Defra) is also launching a grant scheme to support innovative community-led demonstration projects. A number of projects will be funded from the £5 million available in the period up to March 2015. The scheme is designed to enable and stimulate communities at significant risk of flooding to develop local solutions that:
- Enhance flood risk management and preparedness in ways which quantifiably improve the community's overall resilience;
 - Demonstrably improve the community's financial resilience in relation to flooding;
 - Have the potential to be applied in other areas.

The above initiative is being rolled out via a mini competition with Local Authorities having to first register interest in the grant scheme and then identify a scheme/schemes to bid for via the competition process.

- 6.6 In both cases there is a considerable amount of work involved in the development of flood action community groups and the preparation of robust property level grant bid submissions and should Members wish to explore either of these further then additional technical resources would need to be made available to lead on and develop matters accordingly. In the current climate the impact of this would mean reductions in other service areas across the Council and is therefore not recommended at this time.

7.0 COMMUNICATIONS

- 7.1 Detailed information in relation to floods and flooding is widely available on the Environment Agency's website and amongst other information contained are details of flood warnings / alerts which are in place, how property owners can prepare for flooding and also what to do in the event of flooding.
- 7.2 The Council's website, which is also linked to the Environment Agency's website, provides a general information page about flooding. In addition to this, during times of excessive rainfall and flooding, additional information is added to the site containing updates, specific advice to West Lancashire residents and also the effect that the flooding may have on Council services.
- 7.3 Subsequent to the recent flood events both within the West Lancashire Borough and across the County, communications during the events between partners and with the general public have again been identified as vitally important in both determining the appropriate co-ordinated multi agency response to the flooding and also providing the best possible advice to the public at such times.

7.4 Officers are therefore re-visiting existing internal communication processes and also liaising with external partner agencies to look at any improvements which could be made to communications which would be of greater assistance to local residents at such times. These include looking at the possibility of identifying a single point of contact for the public as well as improving co-ordinated responses from all affected strategic partners.

8.0 PROPOSALS

- 8.1 The ADCS continues to work with our partner agencies in further investigating the recent flood events which occurred across the Borough as a result of the extreme rainfall event which took place on Monday 24 September 2012.
- 8.2 The ADCS continues to work with our partner agencies in seeking potential improvements to joint communication strategies which would benefit the general public when reporting, or seeking advice, during flood events.

9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 9.1 The implementation of good asset management of the sewerage/drainage network infrastructure across the Borough is key to the achievement of a sustainable long-term flood risk management strategy, particularly when dealing with both existing developments and future development proposals

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 10.1 There are no additional financial or resource implications in relation to this report unless Members wish the Council to take the lead on investigating the implementation of local property resilience measures, taking these forward to bidding for grant funding from the EA / Defra.

11.0 RISK ASSESSMENT

- 11.1 The changes to the environment globally are contributing to the changing weather patterns occurring within the United Kingdom, such that storm frequencies and intensities are increasing, together with the associated risk from flooding to the West Lancashire Borough.

12.0 CONCLUSIONS

- 12.1 It is important in the long-term interests of both West Lancashire Borough Council and its community to work with our strategic partners to help ensure that a robust flood risk management strategy is in place which gives due consideration to all current, future flood risks and joint communication strategies.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

None.